

Tracing the Evolution of Consumer Rights in India: A Journey from Antiquity to Contemporary Legal Framework

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Abstract: *A Business's primary obligation is to satisfy consumer demands by providing excellent products and amenities at the appropriate place, at the appropriate moment, in adequate quantities, and at a fair price. The necessity for the safeguarding of consumers has been acknowledged by lawmakers in our Country from antiquity. It was clearly understood that consumers are susceptible to exploitation by providers of goods and services. Protection of consumers is a societal and economic endeavour undertaken by government and industry to ensure consumer pleasure. Historically, safeguarding consumers has been a responsibility of rulers in India, predating independence. Commercial philosophy "Caveat emptor" (Let the buyer beware) dominates the country's market, absolving the vendor of responsibility for the quality of the goods provided. Consumers are trapped in a maze of immoral marketing strategies. Therefore, to safeguard fundamental consumer rights The federal government of India has implemented developmental initiatives through the enactment of several Acts and policies aimed at identifying, educating, and assisting customers. The Consumer Protection Act(CPA) of 1986 is a significant achievement in the domain of socio economic law in the nation. The Principal objective of the updated legislation is to augment consumer protection in contrast to current measures that are punitive or preventive. Consumers must recognise their position and importance. The CPA, 1986 demonstrates significant shortcomings in conforming to modern consumer protection standards, especially considering the rise of digitalisation and E-commerce platforms that provide new issues, comprising multi-level marketing, selling directly, telephone shopping, and electronic commerce.*

The Indian government has enacted the Consumer Protection Act of 2019 in order to strengthen safeguarding consumers and address deficiencies in the Consumer Protection Act, 1986. The CPA, 2019 seeks to optimise the processes for protecting fundamental consumer rights, therefore representing significant advancement in consumer empowerment.

Keywords: Consumer protection, Antiquity, unfair trade practices, sale of goods, Caveat Emptor, Consumer, Education, E-Commerce, Exploitation, India, Protection

I. INTRODUCTION

Mahatma Gandhi asserted that "A customer is the most significant visitor on our premises. He is not reliant on us. We rely on him. He is the *raison d'être* of our commercial endeavours. He does not disrupt our job. The customer should not be regarded as an outsider but rather as an integral member of the organisation. We are not benefitting him by providing service. Customers are doing us a favour by providing the opportunity to serve them."¹ The notion of

¹S.A Sherlekar, Trade Practices and Consumerism(Himalaya Publishing House,Bombay,1977) at 5

consumerism has been present since the inception of civilisation.² The State is defined by the rights it maintains.³ Indian legislators have recognised the significance of consumer protection since ancient times. A consensus emerged that consumers are susceptible to exploitation by providers of goods and services. Protection of consumers, which is as old as customer abuse, has recently gained more significance and relevance. Consumerism is a contemporary and global phenomena. It denotes a societal revolution. Consumerist behaviour emphasises the protection of consumer interests.⁴ Consumerism emphasises the protection of consumers from all parties engaged in exchange transactions.⁵

Consumer Protection in Ancient India

The ancient legal statutes in India not only governed societal dynamics but also regulated individual economic conduct by establishing ethical norms and commercial standards to protect consumer interests. The recent implementation of a comprehensive consumer protection law has become a vital component of economic administration in all nations. India, despite a delayed emergence, has recently achieved a state of consumerism, having made significant advancements throughout the ancient era.⁶ In Ancient India, all sections of society followed “*Dharma-sastras*”.⁷

“*Dharma*” which defined society norms and customs, served as the foundational concept guiding human interactions. The tenets of *Dharma* originate from the *Vedas*.⁸ The scriptures known as the Vedas were considered divine revelations, and the law was thought to have a heavenly source, imparted to humanity by scholars.⁹ Thus, the scriptures of the Vedas functioned as the primary legal sources in India.¹⁰ Manu, the primordial lawmaker, also recorded ethical business operations. He instituted a code of behaviour for merchants and specified punishments for individuals who committed specific acts against consumers. He addressed the issue of counterfeiting, stating, “A product mixed with another must not be sold as pure, nor may a substandard item be marketed as satisfactory, nor anything that is either overtly or covertly present, in amounts or weights below the prescribed quantity.”¹¹ The punishment for the counterfeiting of pure products, damage to jewels, or defective drilling was the least harsh.¹² Severe penalties were imposed for fraudulent seed corn transactions: “anyone who sells non-seed corn as seed corn, uproots already sown seed or removes a boundary marking shall be subjected to mutilation as punishment.”¹³

Manu specified the requirements for parties to demonstrate competency to engage in a contract. He asserted, “A contract executed by an individual who is intoxicated, mentally incapacitated, significantly impaired (due to illness,

²Dr. S.Mustafa Alam Naqui, Consumer Protection Act, 1986 and Professional Obligations, 1stedn., Faridabad: Allahabad Law Agency Publishers, 2005 at 8

³J.S.Badyal, An Introduction to Political Theory (Raj Publishers, Jalandhar, 2006) at 45

⁴The new Shorter Oxford Dictionary, 1993, p.490.

⁵According to McMillan dictionary.

⁶Dr. Venugopal, “Historical Development of Consumer Protection Law,” @http://shodhganga.inflibnet.ac.in:8080/jspui/bitstream/10603/7831/10/10_chapter%202.pdf at 26

⁷Codes of morals, Also deal with the rules of conduct, Law and Customs.

⁸Shraddhakar Supakar, Law of Procedure and Justice in India, 38 (1986).

⁹*Id. at 39*

¹⁰*Id. At 41*

¹¹Manu, The Laws of Manu, 290 (George Buhler trans., 1990).

¹²*Id. at 393*

¹³*Id. at 394*

etc.), wholly dependent, a minor, or an elderly person, or by an unauthorised party is considered void.”¹⁴ In antiquity, the sovereign possessed the power to confiscate a merchant's whole assets under two conditions: (1) when the monarch upheld a monopoly on exported goods and (2) when the exportation of such items was prohibited.¹⁵ A system was implemented to regulate prices and penalise offenders. The sovereign established the pricing for the acquisition and disposition of all Marketable Commodities.¹⁶ Manu asserted, “An individual who behaves deceitfully towards honest clients or participates in price manipulation shall be subject to a fine, either as an initial penalty or a moderate amercement.” These indicators demonstrate the efficacy of ancient civilisations in managing the diverse injustices of the marketplace. These indicators also demonstrate the system's capacity to identify trader's market strategies. Consequently, Manu Smriti adeptly addressed numerous consumer concerns, many of which continue to be relevant in contemporary regulatory frameworks. Kautilya's Arthashastra is regarded as a seminal text and a primary source, outlining several concepts of Statecraft and the rights and responsibilities of individuals in ancient civilisation.¹⁷ Although its main focus is on issues of practical administration¹⁸. Safeguarding consumers holds significant importance in Arthashastra. It delineates the role of the state in overseeing commerce and its obligation to safeguard consumers from illegal activities. A trade director was chiefly accountable for monitoring market conditions. The trade director was tasked with overseeing fair trading practices. The trade director was required to be informed about the price differentials between high-value and low-value commodities, as well as the demand or lack thereof for particular goods, regardless of whether they were obtained from terrestrial or aquatic origins, and whether delivered by land or maritime means. The director must be cognisant of the optimal dates for dispersal or concentration, acquisition, or divestiture.¹⁹ The trade director advised against pursuing significant profits that may harm the subjects. He should refrain from imposing a temporal constraint or evaluating the adverse impacts of market saturation for goods that are consistently in demand.²⁰ Throughout this period, various steps were implemented to uphold official norms for measurements and weights.

Kautilya observed, “the supervisor of standardisation should enable the creation of factories for the manufacture of standard weights and measures.”²¹ He further asserted that “the superintendent must guarantee the stamping of the weights and measures takes place every four months.” The fine for unstamped weights is twenty-seven and one-fourth panas. Traders must provide a daily stamping fee of one kakani to the supervisor of standardisation.²² Kautilya asserted that trade guilds were forbidden from engaging in black marketing and unethical trading practices. Severe penalties were imposed for many types of cheating. For example, “in cases of fraud involving counterfeit cowrie shells, dice, leather straps, ivory cubes, or through sleight of hand, the penalty shall be amputation of one hand or a monetary fine.”²³ The privileges of the merchants were sufficiently protected. Kautilya stated, “Regarding the return of a purchased item or the reimbursement of its cost, there was a designated time frame beyond which the item could not be returned.” During the era of Chandragupta, when Kautilya resided, outstanding commercial practices were widespread. For instance, “Merchandise was prohibited from being sold at its point of origin, field, or factory.” The merchandise

¹⁴*Id. At 283*

¹⁵*Id. At 323*

¹⁶Rajendra Nath Sarma, *Ancient India According to Manu* 142 (1980).

¹⁷R.P. Kangle, *The Kautiliya Arthashastra – Part II* (2nd ed. 1972)

¹⁸R.P. Kangle, *The Kautiliya Arthashastra – Part III – A Study* 116 (2000)

¹⁹Kangle Part II, at 127.

²⁰Kangle Part II

²¹*Id. at 134.*

²²*Id. at 137.*

²³N. Dutta, *Origin and Development of Criminal Justice in India* 26 (1990).

was to be transported to the designated markets (panya sala), where the dealer was required to provide details regarding the quantity, quality, and pricing of his wares, which were thereafter inspected and recorded in the ledgers.²⁴

All traders were required to get a licence for sales operations. A foreign trader was obligated to obtain approval. The trade supervisor established the wholesale prices of products upon their arrival at the Immigration Office. He established a profit margin to determine retail prices. Speculation and market manipulation intended to affect prices were forbidden. Consequently, the State had significant accountability for safeguarding the public from predatory pricing and deceptive activities. Severe penalties were imposed for smuggling and product contamination. Public health was protected by imposing penalties for the adulteration of various food products, including cereals, oils, alkalies, salts, fragrances, and pharmaceuticals.²⁵ Kautilya asserts that The king ought to address the problems of the townspeople and villagers in the afternoon. The mobile and circuit courts functioned at night if necessary. They likely worked on holidays for crucial operations. Ancient India demonstrated an effectively organised consumer protection system.

CONSUMER PROTECTION IN MEDIEVAL INDIA

During the mediaeval era, safeguarding the interests of consumers were a primary concern for the authorities. The inception of consumer protection can be dated to the Mughal era.²⁶ Numerous units of weight were employed in India throughout the Muslim era.²⁷ Local conditions determined prices during the Sultanate era.²⁸ Under the governance of Alauddin Khalji, stringent regulations were implemented in the marketplace.²⁹ Throughout that period, the city had a continuous influx of grain, with grain-carriers selling at prices dictated by the Sultan.³⁰ A system for price regulation was present in the market as well. Similarly, merchants incurred penalties for mismeasuring their goods.³¹ The roots of consumer protection can be traced to the Khilji period. Sultan Alauddin Khilji (1296 A.D to 1316 A.D) is known for enforcing rigorous pricing regulations based on production expenses. In his region, the selling prices of the majority of consumer products were established at reduced rates to enhance accessibility for the general populace. Severe penalties were imposed for infractions related to price of goods and services. A variety of measurement units were utilised in India throughout the era of Muslim rule. In the Sultanate era, prices were determined by the surrounding circumstances. Alauddin Khilji instituted rigorous measures to safeguard the state economy against the adverse effects of inflation and rising prices. The Sultan's pricing structure was not arbitrary nor swayed by variable supply and demand, meteorological factors, or the speculative inclinations of the business sector that modified prices to optimise profits.³²

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²⁴Radha Kumud Mookerji, Chandragupta Maurya and his Times 204 (4th ed. 1966).

²⁵*Id.* at 140.

²⁶J.N. Sarkar, *Mughal Administration*, 29 (MC Sarkar Publishers, Calcutta, 4th edn., 1952).

²⁷Maulana Hakim Syed Abdul Hai, *India-During Muslim Rule* 127 (Mohiuddin Ahmad trans., 1977).

²⁸S.R. Bakshi, *Advanced History of Medieval India* Vol. 1 287 (2003).

²⁹Irfan Habib, *The Price Regulations 'Ala' Uddin Khalji – A Defence of 'Za' Barani*, in *Money and the Market in India 1100-1700* 85 (Sanjay Subrahmanyam ed., 1998).

³⁰*Id.* at 88.

³¹*Id.* at 89.

³²J.L. Mehta, Vol.III *Advanced Study in the History of Medieval India*, 107 (Sterling Publishers Pvt.Ltd New Delhi, 1987).

The British legal system supplanted the traditional legal framework of India in the current age. A significant achievement of British rule in India was the creation of a unified, modern legal system across the region.³³ Notwithstanding the difficulties in integrating the British and Indian legal systems, “the core of modern Indian Law is distinctly Indian in its viewpoint and operation.”³⁴ Consumer protection is not exempt from this principle. The legislation enacted during the British colonial period pertaining to consumer interests includes the Indian Contract Act of 1872, the Sale of Goods Act of 1930, the Indian Penal Code of 1860, the Drugs and Cosmetics Act of 1940, the Usurious Loans Act of 1918, and the Agriculture Procedure (Grading and Marketing Act) of 1937. These statutes established unequivocal legal safeguards for consumers. For fifty-five years, the Sale of Goods Act of 1930 (SGA) served as the sole basis for consumer protection in India. The SGA, meticulously crafted, is “a model piece of legislation.”³⁵ It is additionally lauded as a “Consumer’s Charter” Section 16 of the Act delineates the primary safeguard for the consumer against the seller regarding defective merchandise.³⁶ It proposes exceptions to the doctrine of Caveat emptor (“let the buyer beware”), while giving sufficient protection for the buyer’s interests. Terms such as seller’s skill and judgment, reliance on seller’s expertise, and the standard of merchantable quality provide significant remedies for buyers. The courts interpreted these regulations to advantage the buyer.³⁷ The SGA was the sole consumer legislation until 1986, when the Consumer Protection Act of 1986 was established to augment the remedies provided by the SGA. Consumer protection was incorporated into India’s criminal justice system. The Indian Penal Code of 1860 has numerous statutes related to offences against consumers. It pertains to violations concerning the utilisation of fraudulent weights and measures,³⁸ the selling of tainted food or beverages, the sale of harmful food or beverages, and the sale of counterfeit pharmaceuticals.³⁹

Post-independence consumer protection legislation in India include the Essential Commodities Act of 1955, the Prevention of Food Adulteration Act of 1954, and the Standards of Weights and Measures Act of 1976. A benefit of these statutes is that they do not necessitate the customer to demonstrate mens rea. The offences are characterised by strict liability, irrespective of any specific intent or awareness.⁴⁰

Criminal law pertaining to consumer protection has gained considerable significance, as customers are increasingly reluctant to pursue civil litigation for minor claims. The significance of criminal law in consumer protection is substantial and has a noteworthy historical context.⁴¹ Besides the remedies offered by contract and criminal law, consumers have rights under tort law. Tort law, with its myriad legal intricacies, is not the most appropriate recourse for unhappy customers in India. The conventional notion of carelessness places a significant obligation on the plaintiff to establish every requisite ingredient. These conventional legal protections inherently motivate aggrieved customers to seek legal recourse under various legislation.⁴²

The conventional legal stipulations in tort and contract law required legislators to establish distinct legislation for consumer protection. The Consumer Protection Act 1986 (Here in after referred as The Act) was enacted to ensure “affordable, transparent, and timely” justice for consumers in India. The significance of the Act lies in fostering societal

³³Marc.Galanter, Law and Society in Modern India 15 (1997).

³⁴Galanter, *supra* note 41, at 49.

³⁵Gordon Borrie & Aubrey L. Diamond, The Consumer, Society and the Law 65 (1964).

³⁶S.16 of Sale of Goods Act

³⁷Borrie and Diamond, *supra* note 46, at 66

³⁸Indian Penal Code, No. 45 of 1860, ch. 13 §§ 264-67.

³⁹*Id.* at ch. 14 , 272-76.

⁴⁰D.N.Saraf, Law of Consumer Protection in India 169 (1990).

⁴¹Gordon Borrie, The Development of Consumer Law and Policy: Bold Spirits and Timorous Souls 3 (1984).

⁴²Wormell v. R.H.M. Agriculture (East), Ltd. (1987) 1 W.L.R. 1901

welfare by empowering consumers to engage directly in the market economy. It seeks to reduce the consumer's vulnerability to dominating enterprises.⁴³In December 1986, the Indian Parliament legislated the act. A legislative initiative aimed at enhancing consumer protection by instituting Consumer Councils and supplementary agencies for the adjudication of consumer disputes and related issues. The Supreme Court has clearly articulated the purpose of this Act in the case of Lucknow Development Authority v. MK Gandhi.⁴⁴

The law addresses the persistent need to safeguard individuals from injustices for which conventional legal remedies have proven ineffective. The plethora of laws and regulations enabling state intervention to protect consumer interests has created a conducive atmosphere for unethical behaviour, as the enforcement mechanisms either fail to act or operate ineffectively, for reasons that need not be detailed further. The framework established by The Act is as follows: Chapter 1 of the act comprises three sections. This chapter presents preliminary definitions and states that this Act shall enhance, rather than reduce, the provisions of any existing legislation in effect. Chapter 2 of the act comprises five sections. This chapter structures Central, State, and District Councils to enhance awareness among Indian consumers about their rights at different levels. Chapter 3 of the Act comprises nineteen clauses. The establishment of Consumer Dispute Redressal Agencies at the national, state, and district levels aims to address consumer issues. Additionally, it includes composition, the process for filing consumer complaints, jurisdiction, and appeals. A three-tier framework consisting of the District Forum, the State Commission, and the National Commission was established under the Act for the resolution of consumer disputes. Chapter 4 of the act comprises four sections. This chapter addresses various provisions, including the authority to eliminate obstacles, the authority to establish rules and regulations, and the National Commission's power to formulate regulations. This Act was enacted concerning the following essential components in the administration of consumer justice. The primary aim of this act is to enhance consumer protection by facilitating dispute resolution and establishing Consumer Dispute Redressal Forums in each district, a Commission at the state level, and a National Commission at the central level. The State and National Commission will possess the requisite appellate and revisionary jurisdiction. It promotes the creation of Consumer Protection Councils at the Central, State, and District levels to enhance and safeguard consumer rights.⁴⁵The Act enhances the existing Consumer Protection legislation. The Act was revised in 1991, 1993, and 2002 to enhance the authority of consumer redressal agencies in addressing customer grievances and to fortify consumer protection. Parliament passed the long-awaited comprehensive reform Bill to modify the act, which was enacted on December 17, 2002, as the Consumer Protection (Reform) Act, 2002.⁴⁶

The Act is a crucial piece of social legislation, regarded as one of the most significant laws established for the advantage of consumers. The phrase "Consumer" encompasses all persons, regardless of their specific affiliations or classifications. The term "Consumer" is equivalent to Public, while Consumer Interest parallels Public Interest. The Act prioritises the client and aims to safeguard their interests. The Act exclusively addresses business-to-consumer issues, excluding business-to-business disputes.⁴⁷ The Act, in effect for three decades, has been replaced with the Consumer Protection Act of 2019 (Here in after referred as The Act). This substitution was crucial for the modern Indian consumer. Statistics suggest that around 329 million individuals in India are projected to engage in online shopping, indicating that 70% of mobile internet users would participate in this activity,⁴⁸ An analysis of this number reveals that the act will substantially advantage Indian consumers.

⁴³V. K. Agarwal, *Law of Consumer Protection*, 99 (Bharat Law House Pvt. Ltd., New Delhi, 1989).

⁴⁴AIR 1994 SC 787.

⁴⁵Inserted by (Act 62 of 2002) Section 8 A

⁴⁶Act 62 of 2002.

⁴⁷1995 3 SCC 583.

⁴⁸Available at, <https://www.statista.com/topics/2454/e-commerce-in-india>

The recent consumer protection act includes various safeguards for customers. The aim is to assist clients and address issues related to the protection of fundamental consumer rights in the essential field of e-commerce.⁴⁹ The Act⁵⁰ was enacted by the Indian legislature to address infringements of consumer rights, unfair trade practices, misleading ads, and any circumstances detrimental to consumer rights. The Parliament sought to implement the Act to develop safeguards for e-consumers, as technical advancements have significantly augmented online commerce in recent years. The Act aims to enhance the safeguarding of consumer rights and interests by instituting Consumer Protection Councils to resolve disputes and ensure appropriate compensation for infringements of consumer rights. It facilitates the prompt and efficient resolution of client grievances using alternative dispute resolution methods. The Act additionally fosters consumer education to inform consumers of their rights, duties, and avenues for seeking redress.

II. CONCLUSION

The notion of consumer protection is deeply entrenched, underscoring the significance of human values and ethical ideals. The primary concern of the monarchs was the well-being of their subjects. They possess a significant stake in governing both the social conditions and the economic affairs of the population. Consumer protection encompasses many measures aimed at safeguarding customers against behaviours that may violate their perceived rights in the marketplace. Since antiquity, the necessity for consumer protection has been acutely recognised to preserve consumer rights. His protection is paramount due to the escalating inclination towards profit-driven avarice

⁴⁹ Available at, <http://vikaspedia.in/social-awareness/consumer-education/consumer-rights>

⁵⁰ Act 35 Of 2019