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EVOLUTION OF CONSUMER PROTECTION ACT IN INDIA –CPA 1986

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ABSTRACT

Consumer protection is a socio economic activity that should be carried out by the government and business, with the satisfaction of the customer as the primary goal. Even before India gained independence, the country's leaders were charged with the duty of protecting the interests of the general public. But in 1986, a formal consumer protection law that only focuses on consumer protection was passed. The whole world focus on the creation of powerful consumer Acts was brought about by the consumer movement that grew in strength in the early and middle of the 20th century. In many developing nations, including India, consumer protection rules and practices were developed based on United Nations recommendations. The 1986 legislation known as the Consumer Protection Act of 1986 (CPA 1986), which was approved by Parliament, is regarded as one of the best consumer protection laws available. The article examines the development of consumer protection in India, the creation of the CPA of 1986, and its application.

INTRODUCTION

Consumer protection is an idea that has existed since the dawn of civilization. One of the business's top priorities is safeguarding the interests of the consumer. The consumer provides an opportunity for businesspeople to serve him, and he is the main goal of the business, according to Mahatma Gandhi, the Father of the Nation. However, the profit-driven nature of many manufacturers and dealers results in the exploitation of consumers through deceitful and immoral business practises.¹ Government and industry should work together to protect consumers as part of socioeconomic activities with the goal of increasing satisfaction among consumers. The main responsibility of the government is to safeguard the rights and interests of consumers by creating appropriate administrative frameworks, laws, and policies. To safeguard consumers, numerous

¹ (Singh Pratap and Grewal Jogender, jan 2013)

Acts and Laws have been implemented. However, the Consumer Protection Act of 1986 (CPA 1986) is seen as a turning point in India's history of consumer protection. This essay explores the history and development of the Consumer Protection Act across time. The study exclusively used secondary data. The background of CPA 1986, its implementation and revisions following implementation are all examined in this article.

1. CONSUMER PROTECTION IN INDIA

The three main areas namely, Ancient India, Medieval period and Post Independence.

1.1 Consumer Protection in Ancient India.

The idea of protecting customers against dishonest, unfair, and unethical practises and defending their interests has long been a component of Indian administration. Ancient Indian Dharmas like the Manu Smriti , Yajnavalkya Smriti, Narada Smriti, Brihaspati Smriti , and Katyayana Smriti provided an explanation of the way of life at the time and served as the foundation for the Dharma that was to be practiced.² They even served as the foundation for the current judicial system. One of the most significant scriptures in India that addressed numerous consumer issues was Manu Smriti. Arthashastra of Kautilya (there is a debate on dates of his life.)^a is considered as one of the oldest and a very useful literature on trade and business in ancient India. Kautilya talked about various penalties for various forms of exploitation, as well as improper actions and services. During their time, the common law had provisions for consumer protection. (1951; Shamasastri)

1.2 Medieval period and Pre-independence

Muslim kings that controlled India in the Middle Ages, such as Alauddin Khilji, Sher Shah Suri, and Akbar, among others,³ regarded consumer protection as one of their top priorities. They introduced the standardisation method for weights and measurements. A united national legal system with contemporary British localism was merged by British rulers with the traditional conventions and culture (dharma). They have implemented Acts like

- a. The Indian Penal Code, 1860

² (Prasad, 2008)

³ (Singh Y. , 2014)

- b. Carriers Act, 1865 Law of Tort
- c. The Indian Contract Act, 1872
- d. The Agricultural Produce (Grading & Marking) Act, 1937
- e. The Drugs and Cosmetics Act, 1940

1.3 Post Independence

After independence, India passed a number of laws to safeguard innocent consumers from unfair and restrictive business practises, such as exaggerating the strength and effectiveness of the goods, using false weights and measurements, and obstructing the flow of capital and resources into the production process. The Acts that were passed during India's independence are listed below:

- a. The Drug (Control) Act, 1950
- b. The Industries (Development and Regulation) Act, 1951
- c. The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954
- d. The Prevention of Food Adulteration Act, 1954
- e. The Essential Commodities Act, 1955
- f. The Trade and Merchandise Marks Act, 1958
- g. The Monopolies and Restrictive Trade Practices Act, 1969
- h. The Cigarettes (Regulation of Production, Distribution, and Supply) Act, 1975
- i. The Standards of Weights and Measures Act, 1976
- j. The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980
- k. The Standards of Weights and Measures (Enforcement) Act, 1985

But not any of these Acts had the expected impact, so the Indian government passed the Consumer Protection Act of 1986 (CPA) to better safeguard consumer interests and protect them from the perils of unfair trade practises. This Act (CPA) is an Additional Act and does not supersede any other Existing Law.

2. SOME MAJOR CONSUMER PROTECTION ACTS:

The Indian Penal Code, 1860

- a. Carriers Act, 1865 Law of Tort
- b. The Indian Contract Act, 1872
- c. The Agricultural Produce (Grading & Marking) Act, 1937
- d. The Drugs and Cosmetics Act, 1940

Drug Control Act 1950 was the first bill to protect consumers that was passed after Independence. Following it were the Drugs and Magical Remedies (Objectionable Advertisements) Act of 1954, The Indian Standards Institution (Certificate Marks) Act of 1952, and The Industries (Development and Regulation) Act of 1951. Despite having the intention of protecting consumers, these Acts did not have the desired impact.

- i. Prevention of Food and Adulteration Act of 1954

In an effort to safeguard customers, the Prevention of Food and Adulteration Act of 1954 was passed. There were specific guidelines for food analysis, warranty promises from producers, distributors, and dealers, vendor name disclosure, food poisoning, summary hearings for cases, confiscation of property, etc. The Act was created in order to prevent adulteration of food and end this anti-social evil. The Central Food Laboratory, the Standard of quality, public analysts and inspectors, the ceiling, fattening and dispatch of samples, the colouring material, the packing and labelling of foods, the prohibition and regulation of sales, the conditions for sale and licence, preservative, poisonous metals, solvent-extracted oils and edible flour, etc. were all covered by regulations set forth by the federal government and the state governments. Following the passage of this Act, the vital goods Act was allowed to be expanded in order to regulate the manufacturing, distribution, and supply of specific vital goods.

- ii. MRTP Act of 1969

Monopoly and Restrictive Trade Practises Act (MRTP Act) of 1969 was another significant step the Indian government took to protect consumers. On the advice of the Justice K C Gupta Commission Report from 1965 and the Mahalanobis Committee Report from 1954, it was approved by Parliament. On June 1st, 1970, it went into effect. The Act was created to prevent economic power from becoming concentrated as a result of how the economic system functions and to outlaw monopolies and unfair trade practises. There were provisions for the creation of the MRTP commission to investigate monopolistic and restrictive trade practises and to award a

temporary injunction and compensation in order to achieve the goals and objectives. In 1982, 1984, 1985, and 1986, the Act was revised.⁴

iii. Some other Acts.

The Law of Contract (1872) and the Sale of Goods Act (1930) largely regulated the legal relationship and limitations between the buyer and seller. When consumers had complaints, they were unable to use these Acts. In order to safeguard consumers, the Tort Law and IPC 1980 provisions were also used. Around 40 laws, some of which were British statutes, were passed or strengthened after the country's independence to safeguard the rights of consumers. However, none of them were able to guard against consumer exploitation due to inadequacies in their implementation, inappropriate coverage of consumer rights, and the burdensome, sluggish, and accusatory nature of redressal through the existing civil court system.

3. THE CHURNING PROCESS BEFORE THE CONSUMER PROTECTION ACT WAS PASSED.

Despite a number of legislative actions taken in the years following Independence, consumers' rights were not fully guaranteed. In 1977, a private bill aimed at establishing a consumer protection law was presented, but it was rejected by the Parliament (CUTS report, 2001). Following the recommendations of the Morarji Desai-led Administrative Reforms Commission, Lokpal and Lokayukta were established to address public complaints. In its 105th Report on Quality Control and Inspection of Consumer Goods, published in October 1984 (Law Commission Report 1984), the Law Commission of India, presided over by KK Mathew, made the suggestion that a more effective system be put in place to protect the interests of consumers without forcing them to file expensive lawsuits that could drag on for a long time. During this time, the state of Madhya Pradesh introduced the "Madhya Pradesh Consumer Protection Bill 1984." It was the result of a thorough and in-depth investigation by the law commission's consumer protection subcommittee. A section in the bill established the State Fair Trade Practises Forum, the Consumer Prices Review Commission, and the State Institute of Consumer Education Research and Training. Additionally, a State action was suggested under the Unified Comprehensive Consumer Code. The measure advocated giving community activist's legal protection and providing punitive damages to anyone who had been wronged by unethical

⁴ (Pathak, 2007)

business practises. The legislation was designed to help roads achieve social and economic objectives where it was unable to do so directly. The bill also called for the creation of councils at the district, city, village, and ward levels to gather data and for the appointment of a Consumer Ombudsman who would be able to recommend laws and publications on safety and standards as well as policy and research. In the meantime, a bill for consumer protection had been introduced by the government of Delhi (at the time a Union Territory)⁵. One of the key components of Consumer Protection, the idea behind which was originally conceived by the then-prime minister Shri, Rajiv Gandhi was the Prime Minister's 20-point formula. Mrs. Indira Gandhi initially created the 20-point programme in 1975; it underwent a restructuring in 1982. In order to increase the productivity of the Indian economy and hasten the upliftment of the weaker sections, Shri Rajiv Gandhi updated the same. Consumer Protection was listed as the socioeconomic factors in that program's 18th point.⁶

3.1 International Standards.

Because of the consumer movement that grew strongly in the USA and Europe throughout the early 20th century, Formal Consumer Protection Acts were first created in the western half of the world. The American consumer movement went through three stages, according to Philip Kotler (1972). The United States government passed laws including the Pure Food and Drug Act (1906), the Meat Inspection Act (1906), and the Federal Trade Commission Creation Act (1914) during the first part of the early 1900s. The second wave of consumerism began in the middle of the 1930s as a result of the Detroit Housewives Strike, the Sulfanilamide Scandal, and an increase in consumer prices in the midst of the Depression. Ralph Nader was responsible for the 1960s consumer boom. In the majority of nations, the global consumer movement peaked in the late 1960s. President John F. Kennedy announced consumer rights in 1962, which came to represent consumerism. Japan, the UK, Belgium, Denmark, France, The Netherlands, Norway, and Sweden all experienced a growth in consumer activity.⁷ However, both consumers in developed and emerging nations fell prey to market forces. The Economic and Social Council of the United Nations (ECOSOC) requested the Secretary-General of the United Nations to continue previous consultations on consumer protection in July 1981 with the goal of pursuing,

⁵ (Pathak, 2007)

⁶ (Madan G. R, 1998)

⁷ (Rajanikanth, 2011)

among other things, the elaboration of general guidelines with a special consideration of needs of developing nations. The governments of the member nations received a set of draught guidelines in 1982 for comment. The Secretary-General sent a report with updated rules to ECOSOC in May 1983. The broad Assembly of the United Nations overwhelmingly endorsed these broad principles for consumer protection on April 9, 1985, and asked the Secretary-General to communicate them to the interested parties (Harland, 1987). These recommendations were primarily made for the member countries, particularly for newly independent and developing countries. The United Nations Secretary General, "Javier Pérez de Cuéllar," stated that these proposed principles are a beginning attempt to establish an international framework for developing national consumer protection laws and initiatives.

3.2 The Consumer Protection, 1986 and Consumer Bill.

A 28-member National Consumer Protection Council, made up of representatives from different ministries, held two meetings in accordance with UN guidelines before deciding to plan a national workshop on consumer protection with consumer representatives on March 11 and 12, 1985.⁸ A draught law was developed based on the guidelines, proposals, and ideas presented during the national seminar by representatives of State Governments, Voluntary Consumer Organisations, Central Ministers, and Officials of Different Government Departments. While drafting the Bill, the Laws of the United Kingdom, the United States of America, Australia, and New Zealand were carefully reviewed, analysed, and taken into consideration. On December 9, 1986, HKL Bhagat, who was the minister of parliamentary affairs and food and civil supplies at the time, drafted the final draught and presented it before the Lok Sabha. Shri C. Madhava Reddy, Shri Mool Chand Daga, Prof. N.G. Ranga, Shri Jainul Abedin, Shri Sharad Dhige, and Shri Thompson Thomas proposed some verbal and minor amendments, but these were retracted and passed on the same day⁹. Six more consumer protection statutes were modified at the same time to allow consumers and their organisations to bring criminal charges against offenders.

These laws are:

- a. Standards of Weights and Measures Act, 1976

⁸ (New Consumer Protection Bill to Ensure Timely Justice, 2016)

⁹ (M, 1999)

- b. Prevention of Food Adulteration Act, 1954
- c. Bureau of Indian Standards Act, 1986
- d. Agricultural Produce (Grading and Marking) Act, 1937
- e. Monopolies & Restrictive Trade Practices Act, 1969 and
- f. Essential Commodities Act, 1955 (CUTS Report, 2001)

The Consumer Protection Act of 1986 was passed by the parliament and signed by the Indian president on December 24, 1986. The Act aims to develop a three-tiered quasi-judicial redressal agency with a single, quick, and affordable means of resolving consumer complaints. According to Shri H K L Bhagat, the goal of this legislation was to give consumers who had complaints a timely and effective recourse. He emphasised that the efficient implementation of the Act by the federal and state governments as well as the growth of a broad-based voluntary consumer movement at the grassroots level are essential to the Act's success.

4. CONSUMER PROTECTION ACT 1986

The preamble of the Act says, "An Act to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith."

4.1 The Act's key characteristics can be summed up as follows: a. Except for items that the Central Government officially exempts, all goods and services are subject to its provisions. It includes all industries, whether they are public, private, or cooperative.¹⁰

4.2 The main aim:

- a. To grant consumers the right to protection from the advertising of products and services that poses a threat to their lives and property.
- b. Ensure that they have the right to affordable access to a variety of goods and services.
- c. Assure that they are aware of their rights, including the right to consumer education, and that consumer protection will receive the proper amount of consideration.
- d. To guarantee consumers' right to information about the products they choose to buy, including information regarding the products' contents, hazards, handling instructions,

¹⁰ (S.N. Maheswari and Dr S.K. Maheswari, 2008)

and what to do in the event of an accident. Give them the ability to look up information and file complaints about unethical business practises or the deceptive exploitation of customers.

4.3 Amendments:

A new amendment to the Consumer Protection Act of 1986 is expected. It was previously amended in 1991, 1993, 2002, and 2010. The 2002 amendment was approved by the Rajya Sabha on April 11, the Lok Sabha on July 30, 2002, with certain modifications, and the Rajya Sabha once more on November 22, 2002. The President of India gave his assent on December 17, 2002. Beginning on March 15, 2003, the Act's provisions will become operative. Despite the fact that the CPA of 1986 provides remedies for customers in the marketplace, these remedies are insufficient, and as a result, the consumer feels helpless.

To give consumers in the nation more protection, the Act requires additional changes.¹¹ Before Parliament, an amendment bill was introduced in the year 2011 but expired. In the year 2015, more amendments were suggested, and the law has been waiting for approval ever since. In the age of e-commerce, the government has recently taken a number of initiatives to strengthen the consumer protection system ("Major Proposed Changes in Consumer Protection Act," 2016). The bill's amendments were created following thorough consultation with all relevant parties, with a focus on ensuring that justice is delivered simply, quickly, easily, affordably, and on time (New Consumer Protection Bill to Ensure Timely Justice, 2016). A portal called Grievance Against Misleading Advertisements (GAMA) has been established to manage complaints against deceptive advertising, the issue of guidelines, and an online case monitoring system in the Consumer Fora. The government is even preparing for consumer forums to accept electronic complaints.

CONCLUSION

The Consumer Protection Act was established in March 1987. This Act was praised for providing easy, quick, affordable, and effective justice as well as for requiring fewer paperwork and formal processes. Compared to other comparable laws in the world, it was thought to offer consumers a more effective level of protection. Following its introduction, it was seen that there

¹¹ (Singh, 2008)

was an increase in consumer rights awareness and use of the Act's provisions. In both the public and private sectors, self-regulation increased. However, as time went on, customers began to lose interest in the redressal mechanism because the available remedies were insufficient and the legal system was inefficient. For those who are aware of it, the CPA is proving to be a relief, but its supporting agencies need to be strengthened. It also demonstrates the need for clarification of the wording and operation of redress bodies under the 1986 Consumer Protection Act in light of the evolving environmental context. The Consumer Protection Act of 1986 is regarded as one of the best consumer laws in existence, yet it is failing to achieve its intended objective of safeguarding the interests of the vast majority of consumers. It might be because the National and State Commissions did a poor job of promoting the Act and its contents to rural consumers. Many flaws could be fixed as the government continues to revise the Act. The newest revisions are anticipated to better assist consumers in the marketplace and demonstrate that the 'Consumer is King'.

