
CONSUMER TO CONSUMERISM: ANALYSIS OF LEGAL IMPLICATIONS AND LITERARY WORLD

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ABSTRACT

Examines the consumerism for its relevancy in today's world of complex commercialism. Discusses the genesis of the activities evolved around consumerism with legal aspects are dealt with brief history and latest features pertaining to it; the article communicates the first hand information about the literature available on the subject and presents an analysis that how growing awareness can be observed from studying the availability of literature. The increasing trend of writings on different untouched aspects of consumerism revealed that a better world of ever disciplined commercial environment is not far from reality and that fair competitive engagements would thrive both ends of commercial transaction.

Keywords : Consumer-India, Consumer Protection, Consumer Rights

Introduction

India – today framed as a country, earlier a region having undisputed reputation of being first center of development of humanity, sociology, culture, economics, astrology, linguistics and all that is required for civilization of Homo Sapiens. Pre Vedic era has seen the regulatory measures for disciplined behavior of all the segments of social stratification of those days. A constant scrutiny has been maintained since then in the form of rules, regulations and practices some of them in order to make mandatory practices associated with the “Dharma” i.e. “Act of Just” for all human being in its original, real and genuine perception.

Commercial India in its early days has been no exception to the rest of the world in terms of malpractices in business transactions for which early “Dharmopadeshas” have coined explications to regulate the order, like many conducts reflecting malpractices are termed “Adharma” *i.e.* “acts unjust for human at large” for the conducts reflecting undue lust and that results in sin. Ancient India also has penalties for such acts. The first recorded evidence found in 'Arthashastra' of Kautilya where a penal rule of 200-500 Panas (Currency of that time) for every 1/6th part of gold stolen by any goldsmith is specifically mentioned. Since then consumer exploitation has been an issue in human society and in present situation, consumer protection has assumed greater relevance culminating in terms of 'Consumer Movement'. Need to let it be a social policy lay in the fact that every person of society plays the role to be a consumer at every movement for needs are no different to those standing at customers' side, only time and event changes and rest remains subject to analysis at par.

Consumer Defined

The dictionary meaning of consumer is the one who purchases goods or pays for a service or the one who consumes (Oxford) *i.e.* one who uses the goods and so diminishes or destroys their utilities (Webster). Webster definition does not include service utilization. In present concept use of services should read 'uses of services and depletes the benefits to his favor'. The legal definition is rightly more explanatory than literary meaning for defined purpose of identifying the group of persons to come under consumer protection against malpractices of commercial world. In legal definition, consumer is known as the person who utilizes goods and/or services for consideration by purchase or hire under full, partial, or deferred payment and does not include such persons who do so for furtherance of commercial transaction relating to same goods and/or services, therefore a purchase of an article for resale is not a consumer purchase for the purposes of consumer protection. A person, who is self employed and purchases some goods and uses for running his conducts of business is a consumer, *e.g.* a purchaser of an electric bulb for use to light his shop so that he could run his business in the evening is liable to be protected for his purchase.

New terminology of words and phrases evolved around consumer protection includes 'Consumer Protection Movement', 'Consumerism', etc. Consumerism has been defined by N.

K. Jain as 'wide range of activities of government, business and independent organizations designed to protect rights of consumers. Consumerism is a process through which consumers seek redress '. It seems inappropriate in the sense that activities involved with consumers not requiring any remedial measure also comes under it if it dictates the economic world in any respect. Consumerism is the equation of personal happiness with consumption and the purchase of material possessions. The term is often associated with criticisms of consumption starting with Thorstein Veblen. Veblen's subject of examination, the newly emergent middle class arising at the turn of twentieth century, comes to full fruition by the end of the twentieth century through the process of globalization.

In economics, consumerism refers to economic policies placing emphasis on consumption. In an abstract sense, it is the belief that free choice of consumers should dictate the economic structure of a society ('Producerism', especially in the British sense of the term).

Alternatively this word takes another notation to denote welfare of consumers and individuals using services and aims to achieve solutions thought as regulatory measures. Cravens take it as a social force within the environment designed to aid and protect the consumer by exerting legal, morale and economic pressure on business. It is an organized reaction of consumers to have business unfair practices remedied (Stanton).

Consumerism as a term is related to the consumer movement launched in the mid 1960s by the concern triggered by Carson and Ralph Nadar and by then US president in an effort to establish the rights of consumer to safety, to be informed, to choose and to be heard. Thus, it also suggests about ensuring the satisfaction for getting the best returns to a consumer in exchange of the money he spends either for material goods or services.

Early Notes

In early Indian civilization a social stratification was formed who undertakes the responsibilities of providing required goods to the general masses as profession with the aim to be rewarded for his service of supplying the necessities at the doors or specified places called shops and produces of specific interests on specified days at settled place called 'Haat'.

This reward was in terms of exchange of materials necessary for livelihood or cognitive curiosity. Later on, a common element replaced the diversified types of goods scaling the quantity and quality of the goods of exchange called 'money'. With money, profit motive came in picture as a necessary facet to be the means of earning goods of human need but the ratio of profit was that equates the reasonable reward of 'the service providing goods with ease'. With the help of a shop needful persons were supposed to save their time and effort in acquiring goods of miscellaneous interests.

In due course of time the judgment of profit was shifted to availability of goods and its qualitative quantity. The less the availability, the more is the price that included natural cost of production or extraction, effort made to access, and quantum of produce against time elapsed. Morale however always maintained about what is being provided of what quality and that profit must fit the requirements of the vendor to the sufficiency of his needs. Today many of these elements are found missing and barely being observed by the end standing against customers. All possible efforts are being made to deceive the customer, 'demand and supply' theory has been vitiated by creating false scarcity, profiteering has become a common practice, consumers are being swindled by pelting ads 24/7 for their forced purchases emotionally and psychologically and monopolized clustering of specific goods at shops.

Genesis of Protection

Every living being is a real or potential consumer of the resources available on earth for his livelihood and needs be it cognitive, academic, affinitive or recreational needs pertaining to his lifestyle. When it comes to the matter of resource exchange sanity of such exchange remains the concerning issue. Improper exchange leads to dissatisfied end means and heterogeneous concentrations of resources at large. In such exchanges one end acts as a consumer who is the borrower of resource of need becomes the focal point of the commercial transaction and economic cycle as development activity revolves around him. It is therefore a real issue to have a public policy about his rights and protection thereof. Another end is of goods or service providers who find themselves in a position where they are not only known

to the sources of resources but in many circumstances have control over it. This puts a setback situation for consumers to those commodities.

Consumers in India are still a helpless non-entity ignored by the business organizations and neglected by the state despite having many laws due to expensive, tedious and cumbersome legal process. They are unorganized and cannot fight against the powerful business establishments be it national or multinational. Average consumer in India remains pathetic with unfair and deceptive practices such as selling of discarded products in quality control, second grade, sub-standard, defective and used goods on exorbitant brand new prices, little or misinformation about products, low-weighting and more such malpractices even by the government public utility services like telephone, telecommunication, electricity, water-supply, banking, insurance, rail or road transportation, aviation etc.

Sociology also senses this fact and if seen to the Indian legal enactments the same satisfies the criterion where regulatory measures take these issues in context. In the first half of the last century the protection measures only expresses the “caveat emptor” *i.e.* 'buyer beware'. It also tried to maintain the equal footings of both customer and vendor. To a general ethical behavior of customer and vendor tough supposed that both would protect their interests in reasonable appropriation, customer always finds at looser end due to insufficient information about how the commodity arrives to him and its stack against the actual demand. Vendors' duties and responsibilities hence become more significant to such context.

In 20th century in India the first formal protection movement was started by Gandhian inspirations in 1949 in Madras (*now* Chennai) and that followed establishment of Consumer Protection Council backed by C. Rajgopalachari which worked for limited people of Tamil Nadu. In 1956, nine housewives with some social workers formed Consumer Guidance Society of India in Bombay (*now* Mumbai). All these efforts strive to protect the consumer from unsafe or low quality products, any type of seducing, fraudulent advertising, labeling, seductive packing and 'business practice that limit competition' better termed as 'monopolization'.

Indian customer stratification bears a great heterogeneous character in its composition as it is

marked by different economic groups, different languages, different cultural practices to use different set of products, different religion and hence different traditions and different uses of services. The added feature is tolerance, ignorance about their rights, illiteracy and avoidance or deterrence towards regulatory measures for which common feeling is 'tedious and burdensome' *i.e.* remedy is much delayed that any compensation seems trivial and abuse to the justice. A legal derision may be quoted here that a case of misappropriation of Rs. 2/- in 1952 was decided in 2007 to compensate with Rs.10/-. Mock in this decision is that on actual inflation rates the amount misappropriated (Rs. 2/-) was actually equal to Rs.20800/- in 2007. Thus this customer sect never goes for risks nor reacts legitimately when known to infringement of his rights. As a matter of natural justice consumers are thought of having following rights unveiled –

- Right to know about correct details of products.
- Right to variety selection.
- Right to be informed about quality, quantity and standard.
- Right to his safety against the product use.
- Right to be heard and redressed if unfair transaction revealed later.

At regulatory authority level the duties are accordingly providing rules, regulations, laws enacted to take effect in preventing abuse of customer rights as well as bring the product/service in the market with right prepositions *ab initio*. It includes regulating the product/service information dissemination through direct or indirect advertisements; declaring the availability without concealing vital facts and makes in accessible to the market for consideration. The legal development though looks indirect in providing relief to the customers, have tried to achieve the same up to 20th century.

Brief Legal History

Consumer protection started in USA in the late 18th century. In next century National Consumer League formed in 1899. The league aimed and worked for attaining justice at the

consumers' end. In 1906 the novel "The Jungle" written by U. Sinclair inspired by passing of Federal Food and Drugs Act of 1906. Bill of Consumer Rights in the US Congress was passed on 15th March, 1962. To mark the day, this 15th March has been observed as "World Consumers' Right Day" since 1973 (In India 24th December is observed as National Consumers' Day from 1989).

In 19th century, under European thought, the sanity of business transaction was considered maintained if both ends stand on equal information about the issue in negotiation and aware of the consequences and have their consent to further the transaction. This vision resulted in The Contract Act of 1872. The same came to colonial India under British rule. But there was nothing to make mandatory about providing right and full information about the product or services in issue. Evident was many forged and forced consenting in legal paper work which should not have been in reality, as the same was practiced in the frame of protecting British interests in colonial India. Since then many Acts have been passed which indirectly tried to safeguard the consumer's end.

In free India, the Constitution of India laid the foundation over which the consumer protection could be thought of. In chapter four of the Constitution, one of the directive principles conceded that "state shall direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment". Over this foundation in independent India, following are the Acts and regulations enacted with jurisdiction over India for the purposes of consumer relation or protection thereof which chronologically reads –

The Contract Act, 1872 regulates consented fair deal.

The Sale of Goods Act, 1930 only propounds 'buyers beware'.

The Dangerous Drugs Act, 1930 protects from hazardous use.

The Agricultural Produce (Granting and Marketing) Act, 1937 provides quality certification on edible products.

The Drug and Cosmetics Act, 1940 regulates the same against misbranding.

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The Emblem and Names (Prevention of Improper Use) Act, 1950 prohibits use of names of popular quality products to avoid misleading annotations.

The Drugs (Control) Act, 1950 provides measures to control, distribute and sale through proper guidance and rules.

The Indian Standards Institution (Certificate Marks) Act, 1952 now amended and known as Bureau of Indian Standards Act, 1986 safeguards standard and quality of the product.

The Prevention of Food Adulteration Act, 1954 keeps control over purity of edible items.

The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 protects against deceptive propaganda of products and boasting advertisements.

The Essential Commodities Act, 1955 ensures accessibility of essential goods of daily use or specific urgent use.

The Trade and Merchandise Marks Act, 1958.

The Patent Act, 1970 protects against false varieties to be marketed.

The Hire Purchase Act, 1972 regulates transactions.

The Standards of Weight and Measures Act, 1976 protects quantity against money spent for goods through the provisions of 'The Standards of Weight and Measures (Enforcement) Act, 1985.

The Prevention of Black Marketing and Maintenance of Supplies of essential Commodities Act, 1980 protects against illegal hoarding and induced scarcity of goods of general public's interests.

In last century, the demanded relief pictured in the form of Monopolies and Restrictive Trade Practice Act, 1969 which dealt with the subject in issue. In 1984, the Act was amended to include "Unfair Trade Practices" as a separate chapter but the accessibility was limited hence The Consumer Protection Act, 1986 was enacted to compensate the situation. This Act is

now “The Consumer Protection (Amended) Act, 2003 providing simple, quick and easy remedy to consumers. In succession “The Right to Information Act, 2005” brings another outline to transparent the transactional processes.

The Consumer Protection Act is revolutionary in terms of recognizing the rights of customers and providing direct relief measures through establishment of powerful administrative machinery viz. Consumer Protection Councils at district, state and national levels; National and State Commissions, District Forums.

About the Rights of consumers, the Act provides –

1. The Right to be protected against products/services hazardous to life and property and marketing of the same.
2. The Right to be informed about quality, quantity, potency, purity, standard and price of goods so as to protect the consumer against unfair trade.
3. The Right to be assured, wherever possible access to variety of goods at competitive prices and protection against unlawful denial of trade.
4. The Right to be heard.
5. The Right to seek redressing against unfair trade practices or unscrupulous exploitation.
6. The Right to consumer education. (Either formal or informal education may be the tool including advertisements of informative nature may well be a mode for the same which needs to be interpreted as the case law progresses).

Favorable features of the Act are that –

1. The remedy is cheap as it requires no initial cost. (To prefer an appeal requires nominal fee).
2. Speedy procedure is provided. The complaint must be answered within thirty days by other party and is required to be decided within ninety days (extendible to one

hundred fifty days where laboratory testing is involved).

3. Remedy is effective as civil court is authorized to pass the verdict as if same has heard and decided the case. Failing any of the above, a penalty is provided as imprisonment of a term not less than one month up to three years or a fine of rupees two thousand (2000/-) which may extend to ten thousand or both.

The case law since its inception has undergone several interpretations to define and include what may be covered by this Act as goods and services and to which aspects Medical services, Academic Institutions, Educational Examinations to provide degree or diploma are now within the ambit of the services under this Act. On passing this Act in India in 1986, a debate was started in Great Britain about having such provisions for their country too and that debate resulted in passing of an Act with same name in 1987. This depicts its importance and value to the world of legislation.

Literary Support to Consumer Protection

Literature about consumers and consumer protection is at dearth prior to second half of the last century but considerable support has been witnessed thereafter. To know the distribution worldwide several popular and reliable search sources with robust database are used. The largest book store having database storage links throughout the globe named Amazon was searched at amazon.com gave total 21274 references about the term 'Consumer Protection' *i.e.* the term appeared in the title of the book in the year 2009. In the same year the term 'Consumer Protection' AND 'Law' appeared in 4256 books. Since then 5129 books were also added to their collection (3133 in stack). All these books are found written in English language. About the books dealing with the subject and the terms may not appear in the title gave 33920 references in that year. Now these figures are 53420 {(33920+6100+9720+3680).*see T.2 infra*}.

These figures give an idea about how popular the issue has been and that much reading is in interest among learned people. About India the Google search was chosen as it has direct contracts to be the search engine for the sites hosted at Indian peninsula. English publications

referring the term 'Consumer Protection' in its title referring to India numbered 2507 till date. The term 'Consumer Protection' AND 'Law' appeared in 495 books in the year 2009, now reads 574 books. Books relating to the terms having any title are reported to be 6783 (Yr 2009) which is now 9770 (by Aug. 2012). The number of books found published worldwide entitled “Consumer Protection in India” (with or without a sub-title) is 3150. It would be interesting if and other title has been repeated so many times to be a world record?! A study of number of titles published in India including either of the above terms is made year wise and results are depicted as follows —

Table 1: The Number of Books Found Published Worldwide Enlisted Consumer Protection in India.

Year	No. of Publications	Cumulated Total
Up to Dec 1999	192	192
2000	41	233
2001	33	266
2002	36	302
2003	34	336
2004	47	383
2005	40	423
2006	44	467
2007	310	777
2008	312	1089
2009	337	1426
2010	427	1853
2011	467	2320
Up To Aug. 2012	187	2507

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Number of publications this year has only been 187 is due to specific practice of publication world that new publications usually take place in May to July so that learned persons find themselves free to go for leisure readings of their interests or see the advancements prior to the commencing academic session. This lasts till December as per academic sessions of the universities of any year. The catalogs of these books start appear from last of September for May publication and last of February to March for December to January publications, also site updating activity remains neglected, *e.g.* book published in Feb. 2012 by 'Concept' ISBN 978-81-8069-874-3 appeared in September catalog but not on its site (conceptpub.com) till the date of writing this paper (20th September). Therefore, for any data presented here, it cannot be ascertained that it gives entire picture but suggests the sampled picture applicable to all the time. Data given in Table 1 has been graphed to judge the trend of literature production with the idea that direct proportional relation exists among readers' interest over any subject and the number of publications because publication of books is a commercial activity which cannot produce titles not in need or demand. The graph clearly depicts that reading interests have really shot up from 2007 onwards and dotted line used to exclude incomplete result for the year 2012.

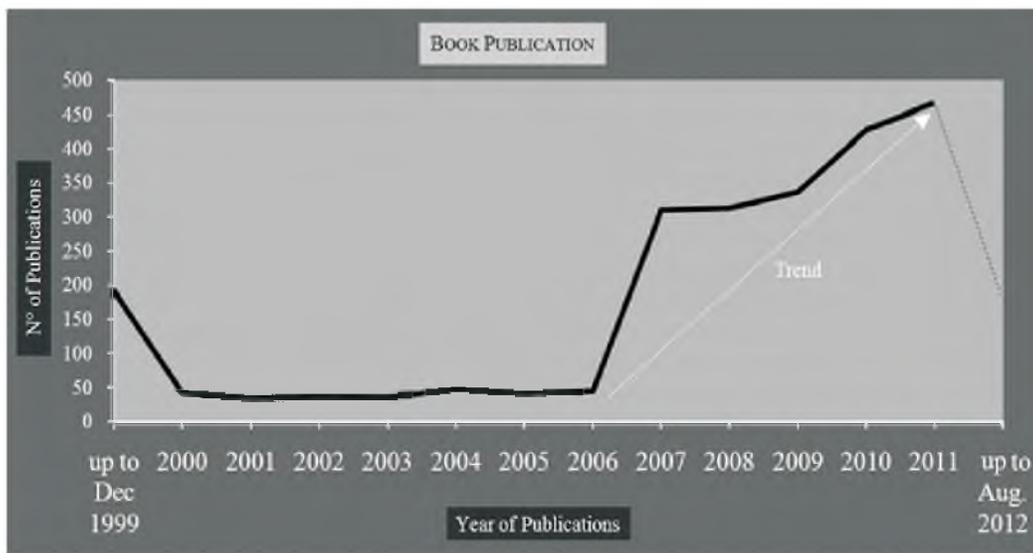


Figure 1: Graphical Representation of the Book Publication Distribution.

As regards free e-articles are concerned the 'find articles' reports 123000 references about consumer protection and only 12800 references about 'consumer protection' AND 'India' up to 2009 (Unfortunately “altavista” reporting that site has not been refreshed probably under reconstruction or migrated was not available for recent data) that again explains that talks about Indian condition on the issue is taken care to an extent of meager percentage. Hence the scholar group of Google was used and article references published in any journal under keyword on the issue (consumer protection) were found as follows—

Table 2: The Search Result of Google Scholar Regarding Articles on Consumer Protection

Year	No. of Articles	Cumulated No.
2005	5300	5300
2006	300	5600
2007	1000	6600
2008	1700	8300
2009	800	9100
2010	6100	15200
2011	9720	24920
2012	3680	28600

Thus a total of articles enlisted during the period 2000-2005 which is 25996 and 28600 during the year 2005-2012 equal to 54596 and of those referring to pure Indian context were merely 1071 (Google scholar results) *i.e.* during these years awareness ratio between India and rest of the English speaking world that is made available to this search engine under scholar category is only 1 : 50.98 or say only 1.96%. It can be well assumed that actual ratio would not deviate much than this result.

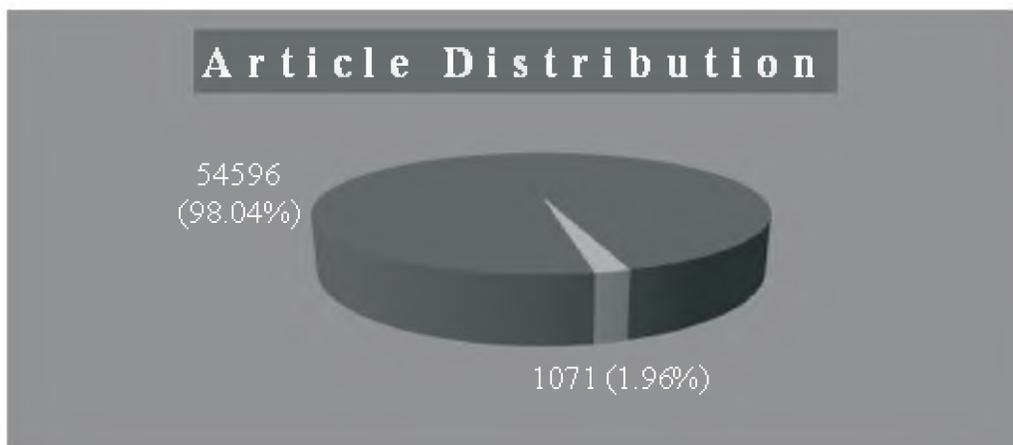


Figure 2 : Article Distribution on Consumer Protection

Working with 'Questia' the term 'consumer protection' as title gave only 156 entries but the same as keyword recalled 8471 entries : Category wise distribution depicts the following results —

1. As Title—

Books- 1, Journal Articles- 46, Magazine Articles- 48, Newspaper Articles- 61, Encyclopædic Articles- 00, Total = 156.

2. As Keyword—

Books- 2207, Journal Articles- 708, Magazine Articles- 1597, Newspaper Articles- 3958, Encyclopædic Articles- 01, Total = 8471.

This equation comes out of a database of collection of about 12.4 million reading material and documents. The recent India seems to have awakened to ponder about the issue and much alertness must be sensed by the business concerns while dealing with the consumers in India. World's biggest library 'The Library of Congress' has however only 527 titles that discusses about 'Consumer Protection' and its legal subject value, rest entries are under 'catalogue only'.

Consumer Awareness Trend

Cumulated data of Table 1 shows that while only 192 books were available to the readers prior to year 2000, which starts shooting up since 2007 and there are 2507 books available in print to the Indian literates till Aug. 2012. It is self explanatory that now people are tending to increased awareness about their rights and remedies provided by the law and administration for their role of consumer in the Indian commercial market. The Consumer Protection Act was passed in 1986 but the healthy amendment done in 2003. It took four years that results of this amendment started showing positive case law under new ruling and procedure and this seems basic factor that writers and publishers have started showing their interest in disseminating the necessary information about it. Finding of this study therefore suggests that a close watch on number of publications may be a very good tool for impact analysis of any issue related to legal amendments in Acts that if the amendment is aptly serving the purpose. Another important factor seems to be the efforts made by the government in India to propagate the awareness through attractive and alerting advertisements. Government realizing that much of Indian youth uses Internet frequently used this media for increasing the awareness and all the ads of consumer awareness are now been uploaded on “www.fcamin.nic.in” including other information.

At administrative level there are many ongoing programs depicting their utility viz. Jagriti Shivir, Yojana, setting up of District Information Center etc. Increased number of cases also explains that people of India now have started taking positive initiatives towards their rights provided as natural justice when they act as a customer and also that support of the government is positive and illustrates its commitment —

Table 3 : Case Registered

Name of Body	No of Cases	Decided	Pending	% Disposal
National Commission	69465	60504	8961	87.1%
State Commission	540082	439015	101067	81.3%
District Forum	2943240	2687151	256089	91.3%
Total	3552787	3186670	366117	89.7%

Source: India 2012 *see* chapter 'Food and Public Supply'/ref.

Developments and Suggestions

It is but proper to discuss the recent developments and efforts done by the administration to this end. On administrative part, periodical reports on the functioning of consumer forums, positions or better say progress of pending cases and utilization of one time assistance schemes are obtained for review and necessary action. Authorities of National Commission also have started touring the State Commission and District forum to see if the guidelines of Parliamentary Standing Committee are being implemented satisfactorily. Consumer Welfare Fund has been created in states for financial support and required is an incessant monitoring about the benefits to reach correct and specified needs.

Essential academic activities like organizing seminars, conferences, and workshops etc. on the issue are also initiated. Department of Consumer Affair and NCDRC (National Consumer Disputes Redressal Commission) is jointly working in this area since 2004. Training courses are being conducted, one by I.I.P.A. (Indian Institute of Public Administration). DCA (District Commission Authority) also interacts with such training programs. Setting up of District Consumer Information Center (DCIC) by District

Panchayat and voluntary consumer organizations is a good move to see the awareness reaches the villages.

Use of media for effective publicity of the issue and awareness drives are getting popularity like '*Jago Grahak Jago*' weekly program on radio and advertisements on television channels, *Gyanvati Channel* on FM radio, video programs like '*Grahak Dost*', publicity slides at cinema halls, quarterly magazine '*Upbhokta Jagran*' are some positive examples to it.

Most pragmatic way of inculcating the awareness is to set up consumer clubs in the colleges, universities and research institutions as the young urban India in majority is seen at these places (as suggested to IIPA through this paper of earlier version way back in 2009), learned enough to be the opinion leader for ignorant masses. A compulsory course may be included in the curriculum to meet the necessary requirements like already introduced moral studies and environmental science courses at school and UG level. The proposal of forming youth club is still pending with the government. Youth coming to the club would suppose to be the both ends of any commercial transaction. Knowing the responsibilities and vigorous practices about sanity in transaction would direct them to care the consumer and protect their interests thereof.

After all these exercise it is not easy to shatter the bad impression about legal proceedings where corrupt practices are endemic at courts and its premises at every step of movement. Consumer attitude towards remedy seeking behavior is marked by this prominent fact what makes them uncompromising with any progressive initiative then their reluctance in seeking just redressing. To protect such an uncompromising sect requires two basic things to make the central dipole – Awareness about Rights and Remedies; and Procedure *i.e.* how to achieve remedies quickly. The better would be to find a provision that starts working on the very information of misconduct brought to notice and culminates by mandatory procedures to let the reprisal reach the affected *i.e.* consumer in issue. Universities running the course of social work may pioneer a way out through voluntary accomplishment of present procedure till legal mandatory procedure gets formulated and enacted. Students of social work may

form a consumer cell in their universities where violation of consumer rights can be dealt with the help of legal supports from law department of the university who instigates the process of redressing the aggrieved consumer, like students or their parents or else who are not in a position to gather necessary information about how to be redressed. Expert training can also be organized jointly with the help of IIPA or DCIC by such student cell for consumer protection at the university. It is felt that if such a cell comes into existence, these students not only get skilled training about consumer protection but also flourish the idea among village India where they are assigned for voluntary services as part of their degree course curriculum. It is suggested that this influential and prominent resource, the students, should not be avoided any more if the objectives of quick and productive results are to be attained in the society.

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