



RESEARCH PAPER

Consumer Protection Laws in Pakistan-Enforcement Barriers and Recommendations

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ABSTRACT

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The main objective of this study is to promote and preserve the rights and interests of consumers and in any economic system, this objective can only be achieved through proper, adequate and effectual enforcement of consumer protection laws. The economies where enforcement mechanism of consumer protection laws is weak, a consumer is left at the mercy of mighty manufacturers and traders who exploit him in form of expired products, faulty services, spurious drugs, undue prices, adulterated foods, illusory advertisements, phony manufacturing guarantees, short weights and measures, concealment of rate list and non issuance of receipt etc. Unfortunately, Pakistan is considered in one of such economies and that is why it is impossible to deny the importance of this topic. The mode of study is critical using the doctrinal research. The paper concludes that there is an urgent need for effective enforcement of consumer protection laws in Pakistan to protect the rights of consumer and makes some recommendations on how this is possible.

Introduction

For favorable outcome and better performance of any economic system, satisfaction of consumer with respect to quality, volume and value of products and goods is an essential requirement(Chadah & Mishra, 2012).

The prosperity of consumer is the primary responsibility of any government(Pratap & Joginder, 2013). A consumer is center of economic activities and in development of market, his role is valued(Corradi, 2015). The present era is called the era of consumer. No government can ignore the interest of

consumers(Sahoo & Chatterjee, 2009). In free market economy, consumers are the king but this concept is now a myth(Gupta, Mittal, & Gupta, 2011). Consumers are now victims of villainous and exploitative practices and they are exploited in form of poor quality, deficient services, hazardous products, hoarding, high prices, black marketing etc(Singh & Chadah, 2005). The dealers and manufacturers because of their profit motive exploit them through dishonest and corrupt market practices (Rajanikanth, 2017). In Pakistan, the area of consumer protection has remained neglected so far and in this line, no significant effort has been made(K. Khan, Mansoor, & Burki, 1996). Consumers in Pakistan are depressed sect of society(A. S. Khan, Ali, Saleem, Naznin, & Shah, 2014). Their status in this country is generally quite feeble(I. A. Khan & Waqas, 2011). Here mafias, who have developed their authority, are looting the consumers by their malpractices and contradictory competition but nobody bother to agitate these problems (Rafique, 2018). Consumer rights in Pakistan are essential part of civil rights but they present a bleak picture and consumers, both in public and private sectors, face multiple problems with respect to these rights (Consumer Rights Commission of Pakistan [CRCP], 2020, The Rational Behind).

In existence of strong institutional and legal framework regarding consumer protection in Pakistan, consumers have been left at the sympathy of traders and dealers and markets are full of substandard and expired products. The main reason behind that is the poor enforcement capacity of the state with regard to consumer protection laws. This paper discusses the barriers in way of effective enforcement of these laws and forwards recommendations to overcome these barriers.

Enforcement Barriers

- One of the main causes of violation of consumer protection in Pakistan is the lack of awareness in consumers with regard to their rights. A few people are aware of their rights, consumer courts and consumer councils. To create awareness regarding preservation of consumer rights is the first and foremost duty of district consumer councils but unfortunately, they have failed to perform their duties. Although a number of awareness movements were initiated but influence is minimal because of defective marketing strategy. This is the era of social, print and electronic media but councils are not utilizing these tools to create awareness among masses (Ali, 2016). Consumer protection laws are there but a few people know about these laws and do not know how to file complaints with respect to expired products and commodities available in market (Izhar Ullah, 2017). Consumers in Pakistan are the most defenseless class of people and lack of awareness about their rights as consumers play an important part in their vulnerability(A. S. Khan et al., 2014). In Pakistan, most of the consumers do not know the United Nations guidelines 1985 drafted for the protection of consumers. Under these guidelines, a consumer has right to basic needs including right to redress, healthy environment, education, safety, choice, information and of being heard (Hussian, 2015). The majority of people in Pakistan are ignorant of

consumer protection laws. The complaints are being registered by them in consumer courts but still there is need to educate them regarding consumer courts and their working (Bukhari & Haq, 2019). When we talk about the rural market, it is now growing fast and its impact on rural consumer is exceptional. As the majority of rural consumer is illiterate and ignorant, they have to live with sub standard products and services. That is the reason, the rural consumer is in more pathetic condition as compare to urban consumer because of his lack of awareness regarding consumer protection laws.

- According to Constitution of Pakistan 1973, for items listed in federal legislative list, only parliament has power to legislate, for items in concurrent legislative list, either parliament or provincial assemblies have power to legislate and for item not listed in either list, provincial assemblies may legislate. Consumer protection does not come within the ambit of either list; therefore provincial assemblies have power to legislate regarding this area (Darr, 2009). For protecting consumers from evasive and deceitful practices of traders and dealers, to date, Pakistan has not tried to draft a single systematic piece of legislation applicative across Pakistan. This kind of interest clear shows that this area does not come within the priority list of any government. There is no single law available at federal level for protection of consumer rights unlike India and most other territories of the world (Ali, 2016). Consumer protection laws operative in Pakistan are: Islamabad Consumer Protection Act 1995, Khyber Pakhtunkhwa 1997, Balochistan 2003, Punjab 2005 and Sindh 2014 after an earlier ordinance lapsed. Iqbal (2018a) finds that when there is no suitable policy, it is very tough to audit whether disorganized pieces of provincial and federal legislation have played any important role in preserving the consumer rights and interests as mentioned in UN guidelines 1985.
- All five consumer protection laws are comparatively different from each other. A complete analysis of consumer protection laws clearly reveals that disparity is found in these laws. According to Darr (2019), in result of that disparity, preservation provided to consumers in Pakistan is unsymmetrical and a consumer who travels from one province to another province and gets a product or service does not know what kind of protection is available to him.
- The provisions exist regarding consumer courts in all consumer protection laws in Pakistan. Now the question is that whether these courts have been established or not?

In Punjab, there are 36 districts and only 17 consumer courts are working this time (Directorate of Consumer Protection Council [DCPC] Punjab, 2020, Consumer Courts, Directory of District Consumer Courts). "Sindh establishes CPCs" (2019) reported that accepting the order of high court, Sindh government has established

consumer courts in 29 districts of the province. Khyber Pakhtunkhwa has 34 districts but only 15 consumer courts are operational (Peshawar High Court [PHC], 2020, Special Court's Judges). Under Islamabad Consumer Protection Act 1995, there is no provision with respect to separate consumer courts. To redress the grievances of consumers, power has been granted to the session courts. Where there is matter of hoarding, black marketing, adulterated foods, damaged food items, profiteering etc. a special magistrate has been given power to hold inquiry and award penalty regarding these suits under section 8A of the Act. In Balochistan, law provision in shape of section 12 of The Balochistan Consumer protection Act 2003 exists regarding separate consumer court but to date; there is no separate consumer court. Under the Act, power has also been given to court of judicial magistrate to try the suits with respect to consumer protection. More than seventy years since the creation of Pakistan have been passed but the position with respect to consumer protection is very bleak. In Punjab, there are only 17 consumer courts for 36 districts. A consumer has to travel from one district to another district to seek the justice. He has to bear the expenses of travelling. In Sindh, the role played by Sindh High Court in establishing consumer Courts cannot be ignored. "Sindh govt sets up" (2019) reported that a petition was filed regarding non-enforcement of Sindh Consumer Protection Act 2014 by advocate Traiq Mansoor and Imran shahzad of a non-governmental organization. In response to that petition, Sindh High Court ordered to establish consumer courts. According to Sahoutara (2019), Consumer courts in Sindh are not fully operational because of shortfall of suitable facilities, staff and infrastructure. Even some judges do not have courtrooms. Newly established consumer courts are understaffed. In Khyber Pakhtunkhwa, there is also deficiency of consumer courts. In Balochistan and Islamabad, the position with respect to consumer courts is very pathetic. According to The Consumer Protection Act 1986 of India, consumer courts have been established at district, state and national level called as District Forum, State Commission and National Commission. Appeal against the order of District Forum can be filed in state commission and appeal against the order of State Commission can be filed in National commission. An aggrieved consumer can also file appeal in Supreme Court of India against the order of National commission. Under Pakistani consumer protection laws, an aggrieved person can file appeal in high court against the order of consumer courts. Against the decision of high court, where to go, the laws are silent about it.

- To provide information regarding services and products, coordinate with consumers, dealers, suppliers and manufacturers, remove damaged products and faulty services from the market, create know-how among consumers, recommend reforms, set guidelines for the labs established for testing a product or equipment and register or de-register laboratories are the main responsibilities of consumer councils (Ali, 2019).

In formation of local policies for the preservation and promotion of the rights of consumer, role played by provincial and district consumer council is very critical. These consumer councils draw their members from civil society, business community and government. To ensure trustworthy and praiseworthy trade

practices on part of dealers, traders, suppliers and manufacturers is the main duty of these councils (Iqbal, 2019b). In Punjab, 17 consumer councils are working at that time (Directorate of Consumer Protection Council [DCPC] Punjab, 2020, Consumer Councils, Directory of District Consumer Councils). . "Sindh govt sets up" (2019) reported that in addition to provincial consumer protection council, in 29 districts of Sindh, consumer councils have been set up headed by deputy commissioner with 3 official and 6 non-official members. There is no consumer protection council in Balochistan and Islamabad. The position with respect to consumer councils in Khyber Pakhtunkhwa is also very depressing. In such situation, how a consumer can be protected from the cruelty of manufacturers and suppliers. Apart from Islamabad, Balochistan and Khyber Pakhtunkhwa, Consumer protection councils in Sindh are still not functional. As per provisions of The Consumer Protection Act 1986 of India, there are district consumer protection councils, state consumer protection councils and central consumer protection councils. In Punjab, the consumer protection councils are, to some extent, active whereas in Sindh and Khyber Pakhtunkhwa, the performance of these councils is not satisfactory.

- An independent judiciary can play an effective role in enforcement of consumer protection laws in Pakistan but it has been observed that area of consumer protection is still under the management of executive authorities. Shabbir (2013) states that being a special court, a consumer court demands the judicatory administration, not the executive management. But it is still under executive control. That is the reason; the consumers' rights are being disregarded with liberty.
- Punishments provided under Pakistani consumer protection laws are non-deterrent. Only harsher penalties can create deterrent impact. Because of mild punishments, masses do not consider consumer protection violations as grievous offences. Ample discretion has been granted to judiciary with respect to damages. Minimal damages are awarded by the judiciary. These discretionary powers have played a great role in minimizing the deterrent impact with respect to consumer protection violations.
- As per Punjab Consumer Protection Rules 2009 , district consumer protection council consists of district coordination officer, assistant director legal, executive district officer finance & planning, community development, health, revenue, district officer agriculture, one tehsil municipal officer and district police officer/city police officer as official members whereas non-official members include six prominent citizens, president chamber of commerce and industry and four female social workers. "Sindh govt sets up" (2019) reported that district consumer protection councils in Sindh are headed by deputy commissioner with six non-official and three official members. In Khyber Pakhtunkhwa, district officers of directorate of industries & commerce have been appointed to deal with consumer protection related issues. Islamabad and Balochistan are still without

consumer protection councils. At the operational level, there is no specific agency to deal with consumer protection violations. We can establish dolphin force, anti terrorism force, excise police. But we are unable to establish consumer protection force. The regular administration is already overburdened. How can they protect the consumer rights? They consider it an additional duty. Due to other important works, they pay little attention towards this domain.

- Pakistani consumer laws do not protect e-consumer. According to Iqbal (2019), most of the people who use internet do not choose to shop online due to lack of trust. Definition of consumer in all consumer protection related laws in Pakistan is same but this definition does not include an e-consumer expressly.
- How the voice of consumers can be heard and how their rights can be protected when there is deficiency of consumers 'organizations in Pakistan as compare to India. A few consumer organizations are actively working on consumer issues in the country. These include The network for consumer protection, Consumer Rights Commission of Pakistan (CRCP) and HelpLine Trust-consumers protection council.
- Justice delayed is justice denied. According to Ansari (2013), presiding officers of consumer courts in punjab are not committed to the cause of consumer protection. They try to facilitate the lawyers in their delaying tactics. They adopt long procedure as laid down in criminal procedure code and civil procedure code. They record undue evidence and frame issues as civil nature suits. Under Punjab and Sindh consumer protection laws, mandatory period of six months has been granted to consumer courts to dispose off the cases. But the courts show reluctance. Doing so, they kill the spirit of consumer protection laws. Undue adjournments are granted to respondents and this thing is sufficient to shake the confidence of a consumer. Often a consumer has to wait for months in getting reports from laboratories and that delay plays a major role in disposing off the cases.
- Judges/magistrates who are working in consumer courts are not specialized in consumerism (Ali, 2016). Not only the judges but the staff of consumer courts does not have any expertise to deal with consumer issues related documents. Even the members of consumer protection councils are unaware of the concept of consumerism. According to Hussain (2015), inadequate staff, poor infrastructure, lack of funds, rented buildings, non-payment of utility allowances is the major reason which is badly affecting the efficiency of consumer courts. The staff of courts is receiving meager salary. When they approach the judicial authorities, they are told that they are employees of provincial government and when they approach the government, they are told that they are now employees of the courts. Nobody is ready to own them. This thing badly affects the working of consumer courts.

- The subject of consumer protection law was not taught to law graduates before 2015. In 2015, Higher Education Commission included this subject in curriculum at LL.B level as an optional course (Higher Education Commission, Pakistan (HEC), 2020, Curriculum Archive). At LL.M level, this subject has not been made part of curriculum even as an elective course. In Pakistan, there is lack of facilities of research and teaching regarding this course. Limited teaching faculty is available in the country to teach this subject.
- Irresponsibility of consumer is a major barrier in enforcement of consumer protection laws in Pakistan. According to Khan et al (2014), it is the responsibility of consumer to get all information and detail with respect to product or service he is going to buy. Bukhari & Haq (2019) express that most of the people verbally complain about unprofessional treatment on part of doctors, engineers, lawyers, airline officials, technicians, etc. but do not have courage to file claim against them.

Conclusion and Recommendations

As long as these above mentioned barriers remain and consumer protection laws are not effectively enforced, it is impossible to protect the interests of the consumer and the embarrassment of the consumer at the hands of traders and shopkeepers will be his destiny. Without consumer, the economic system of any country is useless. In order to strengthen the economic system of any country, its consumer must be strong and that is possible only when there is effective enforcement of consumer laws in that country. Some recommendations are forwarded to make the enforcement of consumer protection laws effective and productive.

- Awareness with respect to consumer rights, consumer laws, consumer courts and consumer councils should be created among general masses. This objective can be achieved through print, electronic and social media. To spread awareness among consumers in India, government is running a campaign title Jago Grahak Jago on electronic media. At present, rural markets are flourishing; special steps should be taken for the awareness of rural consumer. Because the rural consumer is in more pathetic condition as compare to urban consumer. The convocations and conferences should be conducted by the government and consumers' organizations should be invited in these conferences and convocations. In whole country, world consumer day on 15th of March of every year should be celebrated with keenness and spirit.
- For the effective protection of consumer rights, a single systematic piece of legislation applicative across Pakistan should be drafted.

- If a specific organized piece of legislation is impossible to draft, then disparity among consumer protection laws in Pakistan should be ousted so that a consumer who travels from one province to another province can get rid of variation with respect to consumer laws.
- For all districts of Punjab and Khyber Pakhtunkhwa, consumer courts should be established. In Sindh, consumer courts should be made functional as soon as possible. The judges should be provided court rooms and staff for the productive working of the courts. In Islamabad and Balochistan, separate consumer courts should be established on emergency bases.
- In Punjab, consumer councils should be established for all districts. The consumer councils should be made effective as soon as possible in Sindh. In Khyber Pakhtunkhwa, District officers of directorate of industries & commerce should be appointed for all districts to protect the rights of consumer. In Balochistan and Islamabad, consumer councils should be established on emergency bases.
- The consumer courts should be under the administrative control of judiciary. To put these courts under the executive control is against the spirit of independence of judiciary.
- Penalties under consumer protection laws should be deterrent. The discretion of judiciary with respect to award of damages should be minimized by remodeling laws. Minimal damages are awarded by judges that play a major role in killing the deterrent impact.
- The regular administration, due to other important works, pays little attention towards the domain of consumer protection. They take it as an additional duty. A separate enforcement agency should be established to preserve the rights of consumers. At divisional, district and tehsil level, consumer inspectors can be appointed. For this purpose, funding can be demanded from United Nations.
- Consumer protection laws in Pakistan do not preserve the rights of e-consumer. Globalization and liberalization of economy demands that issues of e-consumers should be addressed. Amendments in laws should be made to preserve the e-consumer from evasive and deceitful practices of traders and manufacturers.
- In Pakistan, a few consumer organizations are working whereas in India they are countless. As soon as possible, more consumer organizations should be established to protect the consumer from tyranny of dealers.
- The fast justice with respect to consumer cases would be helpful in effective enforcement of consumer protection laws in Pakistan. This thing will enlarge the confidence of consumer in judicial system.

- More laboratories under governmental control should be established so that the reports with respect to authenticity or inaccuracy of any product can be obtained by consumer courts within the stipulated time.
- Capacity building of judges and staff of consumer courts is inescapable for proper enforcement of consumer protection laws in Pakistan. Budget allocation should be plentiful for the proper functioning of courts.
- At school level, study material with respect to consumer protection must be made part of curriculum. At LL.B level, course of consumer protection laws should be taught as compulsory subject. In curriculum of LL.M, this subject should be included as an optional course. To teach this course, experts may be recruited in universities as faculty members.
- A consumer should keep away from filing frivolous and vexatious claims. The suitable enforcement of consumer protection laws in Pakistan is possible because of a responsible consumer.

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