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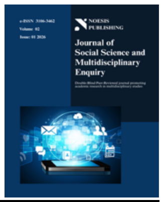

Research paper

Ensuring Consumer Rights in Bangladesh: An Analysis of Consumer Movement and Consumer Protection Law

Nasrin Lubna[a*]

[a] *Assistant Professor, Department of Law, North Bengal International University (NBIU), Rajshahi, Bangladesh*

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ABSTRACT

In the era of globalization in the twenty first century, consumer rights have emerged as an integral component of human rights. Consumer rights apply universally to all consumers; therefore, everyone is protected under the laws of consumer rights. In this context, the breaking of the consumer rights laws shall be treated in the same gravity and to the same extend as the breaking the human rights law. The United Nations Organisation (UNO) adopted Consumer Protection Guidelines in 1985 for ensuring consumer protection and provides its keen attention for establishing uniformity in upholding consumer rights in its member states. Thus, the issue of consumer rights and the consumer protection have taken statutory attention in different countries around the world. As a signatory of the UNO Guidelines numerous developed and developing countries which include many Asian countries have established legal provisions to guide their country towards consumer welfare. Although, Bangladesh has enacted Consumer Right Protection Act in 2009, its effect on consumer welfare is unclear. This paper analyses the context of consumer movement, existing legal framework on consumer protection and its execution in Bangladesh to find out the gaps between laws and its implementation process. A number of policy implications are drawn in order to improve consumer rights protection and align Bangladesh's legal system with the standards of industrialized nations.

1. Introduction

In the contemporary global marketplace, consumer protection has emerged as an essential legal and socio-economic concern. The globalisation, particularly the rapid industrialization, technological advancement and increasingly complex exchanges in trade and commerce offer the scope of a wide range of consumer choices, however, it also exposes consumers to a range of exploitations that include, profit mongering or deceptive trade practices, product adulteration, misinformation, and unfair pricing mechanisms (Howells & Weatherill, 2005). Consumers are often regarded as the central focus of market operations as of their functionality as the backbone of any economy. Ensuring consumers' right, therefore, becomes a fundamental issue for sustaining fair competition as well as maintaining fair economy and social justice.

Consumer protection is intrinsically linked to the constitutional obligation of the state to safeguard public welfare. In Bangladesh, constitutional principles provide a strong normative basis for consumer rights protection. The state is obliged to secure the provision of basic necessities, such as food, clothing, shelter, education, and medical care, thereby emphasizing the protection of citizens against economic exploitation as of Article 15 of the Constitution of the People's Republic of Bangladesh (Government of Bangladesh, 1972). In addition, the

* Corresponding author. Nasrin Lubna

E-mail address: dr.nasrin.lubna12@gmail.com

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Constitution of the People's Republic of Bangladesh also obliges the state to improve public health and nutrition by Article 18. This Article aligns states initiatives with consumer protection against adulterated foods, unsafe pharmaceuticals, and hazardous services. These Articles (Article 15 and Article 18) in effect established consumer welfare as a fundamental component of state responsibility.

Despite its recognition and adoption of protective legal mechanisms by the state authorities followed by numerous trade bodies, and international agencies including the United Nations Organisation (UNO), more often consumers are found to be deceived miserably by the immoral businessmen in various ways causing a straight violation of their rights. Although the consumer protection issue traced back to the closing phase of the 19th Century, the consumer rights movement has achieved a momentum in the 20th century indirectly by Rachel Carson (Carson, 1962), an influential environmentalist; and directly by Ralph Nader (Nader, 1965), an US consumer rights activist and lawyer (Bhattacharjee & Sheel, 2001) and also with the formal articulation of four consumer rights by the US President John F. Kennedy in 1962, namely, the right to safety, the right to be informed, the right to choose, and the right to be heard, is considered a landmark development occurred in consumer protection (Kennedy, 1962). These principles later evolved into globally accepted standards through the adoption of the United Nations Guidelines for Consumer Protection by the United Nations (United Nations, 2016).

Subsequently many consumer groups have been formed and several legislations have been passed to protect the consumers' interest, from the violations by unscrupulous businessmen and their unethical tactics and unfair means of trade. The first modern legislative initiative specifically directed toward consumer protection is generally considered to be the Sale of Food and Drugs Act 1875 of the United Kingdom. The enactment of a recent law, The Digital Markets, Competition and Consumers Act 2024 of the United Kingdom represents one of the latest legislative reforms in the field of consumer protection. Consumer Product Safety Act 1972; and Federal Trade Commission Act 1914 of the United States and Australian Consumer Law 2010 may be considered as a strong statutory provision in the developed countries, however, the developing countries including the south Asian countries follow those initiatives of consumer protection and continue to provide legal supports of protecting consumer rights. For example, Consumer Protection Act 2019 (India); Islamabad Consumer Protection Act 1995 (Pakistan); provincial consumer protection laws such as Punjab Consumer Protection Act 2005 (Pakistan); Consumer Affairs Authority Act No. 9 of 2003(Sri Lanka); Consumer Protection Act 2018 (Nepal); Consumer Protection Act of Bhutan 2012 (Bhutan); Consumer Protection Act 1996 (Maldives); and Consumers' Right Protection Act 2009 (Bangladesh) are in effect to ensure consumer protection in the South Asian region.

In the early decade of the twentieth century, the law was established and concerned to a large degree with maintaining fair competition among businesses for the protection of consumer. The goal of the law or practice was to achieve the application of general equity principles prohibiting unfair competition by the statutory protection of certain practices such as trusts and conspiracies in restraint of trade; and by administrative regulation, as by the Federal Trade Commission to prevent unfair competition. In the recent years the law has become increasingly concerned with the practices of businesses with respect to consumer. Moreover, the concern of consumer protection had drawn environmental and human rights activist's attention as new movement to be initiated by different NGOs and civil society organisation as a part of human rights. Thus, different countries are interested to enact specific consumer legislation, rules and consumer policies and continue to changes in the existing laws to address the newly emerged perils and causes. For example, India has enacted Consumer Protection Act 2019 of India replacing the earlier Consumer Protection Act 1986.

Although consumers movement gained momentum in the 1990s and by enacting The Consumers' Rights Protection Act, 2009, a major legislative step toward establishing a dedicated framework for consumer protection, and the existence of multiple laws and regulatory agencies, the practical enforcement of consumer rights in Bangladesh remains inconsistent and often inadequate.

This study, thus, examines the evolution of consumer rights protection and critically evaluates the effectiveness of the existing legal framework with special attention to the Consumers' Rights Protection Act, 2009. The paper also identifies major gaps within the present system and proposes reformatory approach to strengthen legal mechanism and consumer welfare in Bangladesh.

2. Research Methodology

This study employs a qualitative research methodology to explore the historical evolution, statutory development, and practical effectiveness of consumer rights protection in Bangladesh. The research is fundamentally doctrinal and analytical, focusing on reviewing primary and secondary legal documents, policy papers, and scholarly literature.

2.1 Research Design

The research design is descriptive and analytical in nature. It traces the historical trajectory of the consumer movement globally and locally, with a special focus on legislative development in Bangladesh. It evaluates the statutory framework, institutional arrangements, and implementation challenges of the Consumer Rights Protection Act, 2009, and its preceding drafts.

2.2 Sources of Data

The study relies on secondary data drawn from the following sources:

- Statutory instruments such as the Consumer Rights Protection Act, 2009; Food Safety Act, 2013; and related laws.
- Reports and policy documents issued by the Consumers Association of Bangladesh (CAB), government ministries, and the Law Commission.
- Academic journals, books, and scholarly articles on consumer law and human rights.
- Newspaper articles and press releases (e.g., The Daily Star, The Financial Express) to assess public and expert opinion.
- Internet-based resources, particularly United Nations guidelines and comparative studies from other jurisdictions.

2.3 Method of Analysis

The collected data were subjected to:

- Content analysis of legal texts to identify overlaps, ambiguities, and contradictions among various consumer-related laws.
- Comparative analysis to evaluate Bangladesh's consumer protection laws against regional and global benchmarks (e.g., India, Sri Lanka, Sweden).
- Case and policy analysis to examine gaps in law enforcement, judicial recourse, and bureaucratic limitations.
- Critical analysis to interpret the structural and functional deficiencies in the legal framework from a rights-based perspective.

2.4 Ethical Considerations

This study has followed standard ethical procedures applicable to legal and social science research. All sources are properly acknowledged, and no human subjects were involved in data collection

3. Historical Development of Consumer Protection

The historical development of consumer protection reflects the gradual recognition of consumers as a central stakeholder in economic systems. The evolution of consumer rights can be broadly understood through three major phases: the early era, the information era, and the modern consumer movement era, each of which contributed significantly to shaping contemporary consumer protection frameworks (Aaker & Day, 1984).

3.1 Early Era

The early phase of consumer protection emerged during the late nineteenth and early twentieth centuries in response to industrialization and growing market exploitation. The establishment of the National Consumers League in New York in 1891 marked one of the earliest organized consumer advocacy efforts, focusing on fair wages, decent working conditions, and ethical trade practices (Aaker & Day, 1984). Public concern intensified after Upton Sinclair's The Jungle exposed unsafe industrial practices, leading to the enactment of the Meat

Inspection Act of 1906 and the Pure Food and Drug Act, which introduced federal oversight of product safety and labeling (Mowen, 1993). These reforms laid the legal foundation for consumer protection.

3.2 Information Era

The information era, spanning roughly from the late 1920s to the 1950s, emphasized consumer awareness through independent product information and market transparency. A significant milestone was the publication of Your Money's Worth by Chase and Schlink in 1927, which criticized misleading advertising and deceptive packaging practices while advocating for objective product testing and unbiased consumer information (Loudon & Della Bitta, 1993). During this period, consumer protection increasingly focused on empowering buyers through accurate information, encouraging the development of product-testing organizations and disclosure regulations.

3.3 Modern Consumer Movement Era

The modern consumer movement gained momentum during the 1960s, particularly after President John F. Kennedy's 1962 address to the U.S. Congress, which formally recognized four fundamental consumer rights: the right to safety, to be informed, to choose, and to be heard (Kennedy, 1962). This declaration became a global benchmark for consumer rights advocacy. Subsequent legislation, including the Consumer Credit Protection Act and product safety laws, strengthened legal safeguards (Mowen, 1993). International recognition expanded further when World Consumer Rights Day was first observed on 15 March 1983, institutionalizing consumer rights as a global concern (Consumers International, 2024). This era established the contemporary framework for consumer protection and continues to influence regulatory developments worldwide.

4. Consumer Protection in Bangladesh

The legal framework for consumer protection in Bangladesh has expanded significantly through the enactment of numerous statutes to regulate public health, food safety, market practices, product quality, and commercial accountability. The enactment of the Consumers' Rights Protection Act, 2009 is considered as the most comprehensive and specialized legislative initiative to to protect consumer rights in Bangladesh.

4.1 Development of Consumer Protection Act

Various bodies led by Consumers Association of Bangladesh (CAB) have raised their voice in favour of enacting a Consumer Protection Act in Bangladesh at the early 1990's. After a long time and performing a series of programmes including meeting, seminar-symposium and various awareness development programmes as well as workshops and round table discussions with the chamber representatives and Government concerns, a consumer protection law has been drafted and proposed for Government approval in 1998 (Ahmed 2001: p.3). In February 2000, the Ministry of Commerce sent the draft Act (with suggestion for some amendments to the initial draft) to the Law Reform Commission to do necessary research on it. On 29 October a complete report on Consumer Protection Act, 2000 has been prepared by the Law Commission of Government of the People's Republic of Bangladesh. The draft Act got the preliminary approval at the cabinet but was again sent to the Secretarial Committee meeting for further scrutiny. After that the draft Consumer Protection Act has almost been finalised in a meeting under the chairmanship of Additional Secretary, Commerce and again has been sent to the Cabinet for final approval.

After a long process the draft of Consumer Protection Act, 2004 was finalised for the approval of the cabinet. As it takes significantly long time to be evaluated and approved by the appropriate authority, the effectiveness and timeliness of the legislation relating to consumer protection become questionable. According to the legislation individual consumers can't sue against any wrongdoer which is a major implementation impediment of the law.

Allowing only selective government offices to move in favour of the aggrieved consumer made the legislative provision inadequate to settle a range of consumer deceptions and make ease in lodging complaints and progressing towards legal remedies by individual consumers. More clearly, since the individual consumer has no right to file a case against the unscrupulous traders and the wrongdoers in remedies against any kind of fraudulent and deceptive activities the existing legislation become as outdated and non-practiced which are required to be revised thoroughly to make them up-dated. In the age of 21st century, where people are habituated with online practices to get different services sitting in their rooms, it is logical to provide the legal support services particularly for consumer protection to the consumers' hand in a manner so that they can exercise it easily. Promulgation of Consumer Protection Act can provide this opportunity as according to draft Consumer Protection Act, 2004 a consumer can sue a case against wrongdoers.

The subsequent attempt was made by the business community to pass the Act after further modification titled as Consumer Protection Act, 2006. In observing the news in a daily, the Consumer Protection Act, 2006, the modification version of 2004 Act would pass very soon. The consumer activists monitored by CAB checked the issue and tried to find out what is going to be promulgated. It was surprising that in the new version of the law it didn't contain many provisions which were incorporated in the 2004 Act, to save the consumer from deprivation. The activists then termed the act as against consumer rights, thus it should be modified. A series of press conferences, workshops, seminars, roundtable discussions were organised to make the people aware and create their support to stop the new form of the Act which failed to protect consumer rights. A common voice was raised to reform the Act before it is passed and makes the Act people centric. Thus, the Act was further modified in participation of chamber representatives, consumer activists, civil society, and the government initiative representatives.

At last, with the co-operation of all parties a new version of consumer protection Act titled as Consumer Protection Act, 2007 has been finalised which is undergoing the final process for approval. The Caretaker govt has given the highest priority in promulgation of the Act to uphold the consumer right and save them from defective, fake, adulterated, high price product as well as from many types of misdeeds of the businessmen. Consumer Rights Protection Act 2007 is far more time appropriate in comparison to all the other previous draft of the Act. For an unknown reason the act was not passed but later on in 2008 the act was modified and finalized for it to pass. A fully comprehensive people centric law which was almost finalized to pass yet it why it didn't pass for a considerable amount of time, the general people wondered. The condition of the consumers within the nation continued to stay in the dark and remained questionable. Many bodies raised their voice and received mass support for the government to pass and implement the law. Even after many bodies raised their voice and received mass support the Act was still not implemented instead some more adjustments and new implications were brought to the draft. After the draft being in the fog for so long the act was passed in 2009.

4.2 Existing Laws that relate consumer protection

There remain a number of laws that collectively form the consumer protection framework in Bangladesh. For example, The Penal Code, 1860 primarily aims to prevent fraud, cheating, adulteration, and offences affecting public health by criminalizing deceptive commercial practices and the sale of harmful goods (The Penal Code, 1860).

The Special Powers Act, 1974 was enacted mainly to control hoarding, black marketing, smuggling, and artificial shortages of essential commodities in order to maintain market stability and protect consumers from price manipulation (Special Powers Act, 1974).

The Drugs Act, 1940 and the Drugs (Control) Ordinance, 1982 seek to regulate the manufacture, distribution, and sale of medicines while preventing counterfeit, adulterated, expired, and unsafe pharmaceutical products from entering the market (Government of Bangladesh, 1982).

Similarly, the Essential Commodities Act, 1956 authorizes government intervention to regulate the production, supply, storage, transportation, and pricing of essential goods so as to prevent artificial scarcity and unreasonable price increases (Essential Commodities Act, 1956).

The Food Safety Act, 2013 was introduced to ensure food safety, prevent adulteration, regulate food quality standards, and establish the Bangladesh Food Safety Authority for effective supervision of food-related activities (Government of Bangladesh, 2013).

The BSTI Act, 2018 empowers the Bangladesh Standards and Testing Institution to regulate product quality, certification, labeling, packaging, and safety standards in order to protect consumers from substandard and counterfeit goods (BSTI Act, 2018).

In addition, the Mobile Court Act, 2009 provides executive magistrates with authority to conduct instant inspections and impose penalties for offences such as food adulteration, overpricing, false labeling, and unfair business practices, thereby ensuring immediate enforcement against consumer rights violations (Mobile Court Act, 2009).

However, the Consumers' Rights Protection Act, 2009 represents the most comprehensive and specialized legislation in Bangladesh specifically enacted to safeguard consumer interests, prevent deceptive trade practices, ensure product safety and quality, establish institutional mechanisms for complaint resolution, and strengthen market accountability through the Directorate of National Consumer Rights Protection (Government of Bangladesh, 2009; Islam & Mia, 2021).

Although a wide range of diversified laws form the legal farmwork of consumer protection in Bangladesh, inadequate, varied and some cases conflicting penal provisions of many related laws create its implementation difficulties. In order to overcome the impediments some modifications and adoption of special provisions are essential to resolve overlapping legal provisions.

4.3 Shortcomings and Drawbacks of the Consumers' Rights Protection Act, 2009

The Consumers' Right Protection Act, 2009 has been promulgated as a comprehensive consumer protection legislation in Bangladesh. However, it suffers from several structural, procedural, and institutional limitations. The contemporary studies reveal a number of drawbacks and shortcomings of the existing consumer protection legal framework and its implementation in Bangladesh (Bhattacharjee & Sheel, 2001; Islam & Mia, 2021; OECD, 2016). The drawbacks and shortcomings are related to Overlapping Legal Framework and Jurisdictional Ambiguity, Limited Consumer Access to Justice, Bureaucratic Institutional Structure, Weak Enforcement Capacity, Inadequate Regulation of Digital Commerce, and Absence of Specialized Consumer Courts. Major shortcomings and drawbacks are stated below.

4.3.1 Overlapping Legal Framework and Jurisdictional Ambiguity

Bangladesh has enacted Consumers' Right Protection Act, 2009 (CRPA 2009) to make provisions for the protection of the rights of the consumers. According to section 3 of the CRPA 2009, "without prejudice any provision relating to the concerned matter of any other law for the time being in force, the provision of the Act shall be applied to the matter in addition to such provision." At present 61 different laws are effective in Bangladesh that contain some provisions relating to consumer rights protection. Interestingly, some laws contain provisions for protecting same offence; however, project varied penal provisions. Thus, it creates a big confusion to figure out which penalties or penal provisions are acceptable. As there remain a number of relevant laws dealing with the consumer rights and their protection mechanism in a sporadic way, it is not unlikely; sometimes some confusion and contradiction may be arisen with the varied provisions of those laws. For example, it is a debatable issue to select the appropriate law and/or its provisions to protect consumer rights if any consumer right is violated by making an offence which is punishable under more than one specific law.

4.3.2 Need for Supremacy and Removal of Ambiguity Clauses

Inclusion of a removal of ambiguity clause in the Consumers' Right Protection Act, 2009 may resolve any conflicts or confusions arisen from practicing many similar laws which contained varied ways and means of consumer protection. Following the provision of Section 88 of the Food Safety Act, 2013, the Consumers' Right Protection Act, 2009 may contain a clause like- "To give effect to any provision of this act, if any ambiguity arises, the government may, by notification in the official gazette, remove such ambiguity, subject to keeping consistency with the provisions of this act." It may also be resolved by inclusion of a section of Supremacy of the act which is evident in the Women and Children Repression Prevention Act, 2000. Supremacy of the act section of the CRPA (2009) may include following provision: "Notwithstanding anything contained under any other law for the time being in force, the provisions of this Act shall prevail."

4.3.3 Bureaucratic Institutional Structure of the Consumer Protection Council

This act provisioned to form a National Consumer Rights Protection Council with 29 members from various sectors of the government. It seems that the council is controlled by the government as most of the members are drawn from various government ministries, which also indicates that it is highly a bureaucratic council. Avoiding bureaucracy and government red-tapism may result in the enhanced efficacy of the law. Thus, a member may be selected from the elected people's representatives.

4.3.4 Weak Enforcement and Administrative Inefficiency

A consumer can't sue a case directly under the provision of this act. According to the Consumers' Right Protection Act, 2009, a complaint can only be entertained by the court if it is initiated by the Director General of the Consumers' Right Protection Directorate on behalf of the consumer. Thus, a consumer stays quite away from the legal procedure of being protected from violation of any consumer rights which creates consumer in a sense powerless in getting protected.

5. Conclusions and Implications

Consumer rights protection has evolved as a fundamental measure of facilitating human rights issue within modern governance systems. This study examined consumer rights protection issues comprehensively. The evolution of the consumer movement, the constitutional and international foundations of consumer protection, and the legal mechanisms of protecting consumer rights in Bangladesh were analysed to attain the study objectives. The analyses reveal that although Bangladesh enacted the Consumers' Right Protection Act, 2009 (CRPA 2009) to safeguard consumer welfare, its practical implementation remains ineffective to support the general masses.

The study identifies several structural and institutional hinderances of effective consumer protection in Bangladesh. Firstly, the coexistence of numerous overlapping laws relating to consumer protection, some cases there remain variations in penal provisions for similar offence, creates ambiguity and inconsistency in enforcement mechanisms. Secondly, the bureaucracy engaged in the procedure of implementing the law weakens administrative efficiency and public accountability. Thirdly, inability of consumers to initiate proceedings independently under the CRPA 2009, substantially limits general consumers access to justice which also impacts consumer empowerment adversely. In addition, limited public awareness, weak monitoring systems, and inadequate coordination among regulatory agencies are detrimental to ensure consumer right protection in Bangladesh. The emergence of digital marketplace fraud, a recent phenomenon of consumer deprivation continues to undermine effective consumer protection (Islam & Mia, 2021; OECD, 2016).

The findings further identify that legal commitments and practical realities are not well aligned to ensure consumer protection. The administrative limitations, procedural barriers, and insufficient regulatory capacity make the consumer protection mechanism inconsistent, although there remain adequate constitutional provisions and statutory laws. As a result, consumers in Bangladesh frequently face a range of deceptions by adulterated and unsafe products, misleading advertisements, price manipulation, and deceptive trade practices.

The government should modify the Consumers' Right Protection Act, 2009 by incorporating a supremacy clause and a removal-of-ambiguity provision to resolve conflicts among various existing active consumer-related laws that have varied penal provisions. Permitting consumers direct access to courts and lodgement of complaints independently without any prior approval from administrative authorities may improve the consumer protection scenario. Furthermore, decentralization, reduction of bureaucratic complexity, and inclusion of representatives from civil society and elected public bodies within consumer protection councils may strengthen the legal ecosystem of implementing consumer protection legal mechanisms. A separate law should be enacted to mitigate e-commerce fraud, data privacy, online advertising, and cross-border consumer disputes which has been arising in the context of increasing digital commerce in Bangladesh. Maintaining international standards with these legal and statutory measures is the fundamental requirement for ensuring an effective legal system (United Nations, 2016; OECD, 2020).

Consumer rights awareness among the masses is a vital issue for establishing a consumer-friendly trade, commerce and governance systems. An effective environment of implementing consumer rights protections may be developed by mass public awareness campaigns, legal literacy programs, and coordinated initiatives and engagement of government bodies, consumer associations, and civil society organizations. Finally, this study offers a grounding for analyses of empirical data related to judicial procedure and experience, as well as consumer perception surveys to demonstrate a more robust and realistic forecast of the consumer protection scenario in Bangladesh.

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