

# Consumer Protection in the Context of Existing Laws in Bangladesh

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**Abstract :** Consumer protection is considered an essential part of human rights. In our country, consumers are still in the dark about their basic rights and obligations as consumers. The Consumer Right Protection Act 2009 might be first direct law to protect the consumers. This article analyses various existing laws which engaged to protect the consumers in Bangladesh. This article also analysis the possible redress mechanisms that are available in case of an aggrieved consumer. It concludes by giving some recommendation for the policy makers and point out some gapes of the existing law so that it can be taken into account in case of amendment.

**IndexTerms - Consumer, Consumer Protection, Consumer Rights, Legislation, Government**

## I. INTRODUCTION

We have to always aware about our rights and it will have to enforce strongly. Awareness of consumer rights as basic rights began when US President John F. Kennedy outlined in his special message to the United States Congress, on 15 March 1962, four fundamental rights ( Kingisepp M, 49). At the international level, eight fundamental consumer rights were first declared in the 1985 UN Guidelines for consumer protection and in 1999, UN Guidelines were supplemented by a new principle- the right to sustainable consumption (Aaker & George, 236). Neither the European Convention of Human Rights, 1950 nor the European Social Charter mentions consumer rights explicitly, such as Article 11 of the European Convention on Human Rights declares a freedom of assembly and association, and the European Social Charter refers to the right to health protection (Article 11), which might indirectly be considered a consumer right (Kingisepp M, 57). Consumer protection has also been recently inserted at European level as a modern human rights principle in Article 38 of the Charter of Fundamental Rights of the European Union. So, when we are cheated or our own right is violated then remedies will be followed by us, which remedies are available under the law. As a person, it is our responsibility. The main responsibility is to protect our rights from violation. If the rights are violated then as a conscious consumer, we have to receive the remedies, which exist in our law. Many people of the Bangladesh don't know about their rights and responsibility as a consumer and have no concept or education about it. For this reason, everyday they are being hunted by corruption and dishonesty. Bangladesh is a small country with largest consumer comparing its small area. Many sectors have been developed in Bangladesh after independence but consumer protection have not been improved properly. Though there is lot of organizations working for human rights but only Consumer Associations of Bangladesh (CAB) are working for consumer protection. In Bangladesh, consumers are treated negligently and their rights are violated in every sector. So, I am writing about consumer protection in the context of existing laws in Bangladesh.

## II. REVIEW OF LITERATURE

Academia is witnessing fairly great amount of research in the field of Consumer Protection. In this section, I will try to explore the literatures existing in order understand the basic features of Consumer Protection in Bangladesh and its legal resources.

- Ram Naresh Prasad Chaudhary, Consumer Protection Law: Provisions and Procedure. New Delhi :Deep & Deep Publications Pvt Ltd., 2005

This book clarifies the concept of consumer and consumer protection. The distinctive feature of the book is its critical analysis and commentary on the statutory provisions and judicial pronouncements.

- Ahamuduzzaman and Syeda Shamsia Husain, Consumer Protection Law, Law Book Company, Dhaka, 2011.

This book contains several concept of consumer rights and product safety, development of consumer protection law in various countries. Consumer rights protection: Bangladesh perspective, legal and religious perspective and principle of halal and haram in Islamic law.

- The Protection of Consumer Rights Act, 2009. Published by the Government on april 06, 2009.

This book contains about law of consumers and consumer's rights.

- Constitution of Bangladesh, the ministry of law, published by the parliament.

This book is mother of law; it contains fundamental principle of state policy and fundamental rights of citizens, and also several articles.

These books are not sufficient for research, it is needed more another books and sources.

### III. STATMENT OF PROBLEM

There was no specific law in Bangladesh for a long time on the protection of consumer's rights. In 2008 the non-party care-taker Government passed an ordinance in this regard and was enacted a consumer rights protection Act 2009 on April 06, 2009 without giving approval to the previous ordinance.

Therefore we can see that, the consumer protection Act 2009 provides that only competent Government officers are entitled to institute a case against the culprit for violation of such laws but a common consumer can not initiate any legal action against him except lodging a complaint to the department concerned. No court shall take cognizance if charge sheet is not submitted within 90 days from the date of complaint. Due to these legal flaws consumers are not duly protected. Therefore, these legal flaws are to be removed with a view to enabling the consumers to institute suit in a court of law identifying the violation of law.

In Bangladesh there is no mechanism through which the provisions of the laws, made to safeguard the rights and interests of the consumers, can be placed and explained to them in a simple and impressive manner.

The Government machineries from implementing point of view are very weak. As the Government machineries do not work smoothly, so non-Government organization should come forward with a program of helping the consumers.

There is no political commitment and program as regards the protection of consumers. In some cases political parties can take help, subscription from the businessman, traders, industrialists, who in return hoard goods create artificial crises in the market and earn unlimited profits at the costs of suffering of the general electors.

It may be mentioned that, in Bangladesh some of non-Government organizations with regard to protection of consumers have been established and they have been campaigning movement for the legal protection of consumers, for some cases giving help in the way of legal aids.

### IV. OBJECTIVE OF RESEARCH

I have examined the objects for my research as under the following:-

- To take clear concept of consumer and consumer protection according to law.
- To analyze the legal problems related the protection of consumer rights.
- To evaluate the measure for enforcement of consumer rights.

### V. RESEARCH METHODOLOGY

The methodology adopted for the present research is doctrinal in nature. In case of doctrinal analysis emphasis is on black letter, and the researcher collected the required material from a variety of primary and secondary sources as journals, brochures and web-side also. My research will try to explore the consumer protection in the context laws in Bangladesh.

### VI. LIMITATIONS OF THE RESEARCH

Even though the aim of the research proposal is achieved, there were certain limitations that were unavoidable. First limitation was time limit, since the time period allowed to work on the research proposal was two months. As the area that will be researched on is currently consumer protection laws of Bangladesh, next limitation is the limited availability of research materials. The research area is a multidisciplinary perspective so to focus solely on the legal aspects is quite difficult. Nevertheless, research area is mainly narrowed down to the emerging issues and challenges aspect of consumer protection in Bangladesh. I intend to do further vast research about consumer right in the future.

### VII. IMPORTANCE OF RESEARCH

Consumer is the king of the market because company makes profit from them. They play a vital role in the economy of a country. The earlier approach of "Caveat Emptor" means "Let the buyer beware" changed to "Caveat Venditor"

means “Let the seller beware”. At present, in a competitive economy, manufactures may use exploitative and unfair trade practices like defective and unsafe products, adulteration, black-marketing, hoarding, false and misleading advertising etc to increase the sales and market share in Bangladesh.

So it will be very useful and helpful for consumers, to research the protection of consumer. When the consumers will be known with their rights they never suffer a loss but they will overcome any loss or injury of purchasing products.

### VIII. CONSUMER PROTECTION AND CONSUMER LAW

According to Sree Onil Chandra Acharjo on the subject, Laksmi sit in trade, again about six hundred year ago, a Bengali poet said, “In trade Capital and Deception is main thing, two statements are true, if we prolong these two statements that if trade or business is controlled by efficient/honest persons then the existence of Laksmi is definite in the house of the businessman but this way is not always conduct honestly and it is true that consumers are cheated in many ways in the trade or business for this to protect of the consumers, consumer protection has been evolved(Chandr 3).

According to the Cambridge Advanced Learning Dictionary, “Consumer protection is the protection of buyers of goods and services against low quality or dangerous products and advertisements that deceive people” (Naresh, 195). The purpose of consumer protection includes defining standards and rules which help to promote the interests of the consumers and educating them about their rights and responsibilities, and serving them to seek redresses of their grievances.

From Longman Business Dictionary, “Laws to protect people when they have bought goods or services, covering things such as price, quality or safety” (Naresh, 201). It define that when a people will buy any goods or services then the price will be accurate, the products or services quality will be perfect and safety will have to be insured from all sides or law will be enforced.

In the narrow aspect of consumer protection is- “Consumer law focuses mainly on citizens entering transactions to obtain products and services from commercial enterprises....it is what is generally regarded as the thrust of consumer protection legislation, such legislation confines itself to transactions involving goods and services”(Craston 7). And in the wider aspect- “Consumer interest is involved when citizens enter exchange relationships with institutions like hospitals, libraries, police forces and various government agencies as well as with business”(David and George XVII).

Consumer protection is a large area that covers different laws and policies to promote the interests of the consumer, to establish a balance of power between consumers and their economic partners and to protect citizens against injuries thought to occur in unregulated markets. Consumer protection evolved for the rescue of the common people and it provides inexpensive and speedy justice at their door (Craston 9).

Consumer protection consists of laws and organizations designed to ensure the rights of consumers as well as fair trade competition and the free flow of truthful information in the marketplace (Craston 10). The laws are designed to prevent businesses that engage in fraud or specified unfair practices from gaining an advantage over competitors and may provide additional protection for the weak and those unable to take care of themselves. Consumer protection laws are a form of government regulation which aims to protect the rights of consumers (Aaaker & George, 240). For example, a government may require businesses to disclose detailed information about products—particularly in areas where safety or public health is an issue, such as food. Consumer protection is linked to the idea of “consumer rights” (that consumers have various rights as consumers), and to the formation of consumer organizations, which help consumers make better choices in the marketplace and get help with consumer.

Other organizations that promote consumer protection include government organizations and self-regulating business organizations such as consumer protection agencies and organizations, the Federal Trade Commission, ombudsmen, Better Business Bureaus, etc.

### IX. PARTIES OF CONSUMER PROTECTION

Consumer interest should be protected properly by taking appropriate steps. It is totally impossible for Consumers to do it alone. So, the question arise that who will take these steps?, should consumers depend on the government?, will businessmen do anything? (Haider,20). In fact, it is essential for effective consumer protection, three parties must be involved, a. Consumers, b. Businessmen, c. Government.

- a. Consumers: We know that self-help is the best help. A consumer can protect his/her own interest by his/her awareness. Dishonest businessmen will try to use their malpractices for their benefit by selling or serving hazardous things that makes injuries to the consumers (Asch, 56). As a consumer it's his/ her own responsibility to control the all scope in his hand for preventing the violation of his/her rights. Consumer should be aware for his/ her rights before and after buy (Haider, 23). Consumers in developing countries like India-Bangladesh are not aware about their rights to the satisfaction of basic needs. Most of the consumers in this area are illiterate and unscrupulous businessmen are getting benefited. Consumers are misleading by false advertisement and they are often getting substandard, inferior and defective goods and services. It is important that, as a consumer, he/she should know their basic rights (Rajyalakshmi, 126). Because, if there is an infringement on their rights then a complaint can be made for protection his/her rights. They should participate in training programmes that arranged by local consumer associations or by their own associations and invite consumer activities to discuss to them on consumer rights and remedies available under the law to protect them.
- b. Businessmen: The business which ignorance consumer interest slowly and gradually loses its goodwill and clients (Rajyalakshmi, 128) . Business firm should aim at long-term profit through their customer satisfaction. Customer satisfaction is the key to success of business and for this reason the businessman should make the best efforts to serve the



interests of consumers by providing them quality goods and services at reasonable price. Businessmen have social obligation to the consumers and it is their duty from their moral character to provide quality goods with reasonable price. If the businessmen practice ethics or a moral value that adds glory (Craston 10). No Consumer No Market, No Profit No Business, businessman should remember this word. The basic purpose of business is to make more and more customers and retain them and protect their interest. The foundation of business is the customer (Asch, 49). So, to prevent unfair practices, associations of traders, chambers of commerce and industry and manufacturers associations should entertain consumer complaints against their members and take proper action those guilty malpractices.

- c. Government: Consumer protection laws are a form of government regulation that aim is protect the right of consumer. Enforcement of various laws and amending existing laws to protect the interests of consumers (Naresh, 201). The government is responsible for creating marketplaces that are fair, efficient and competitive for producers, traders and consumers. Government intervention is necessary when a business tries to avoid consumer protection (Asch, 67). The business image will be spoiled if government intervention arises. Then, the consumers will be conscious about the businessmen and at time of buying, they will protect their rights from violation.

## **X. NATURE AND SCOPE OF CONSUMER PROTECTION LAW IN BANGLADESH**

It is generally accepted that consumer policy and consumer protection concepts are closely interlinked. The scope of consumer protection is quite vast and engulfs even newer interests and aspects.

In Bangladesh, According to Section 2(20) of the Consumer Rights Protection Act, 2009 states that “Acts against consumer rights means:

- a. Selling or offering to sell at a price heights then the price prescribed by any Law or Rule for any product, medicine or services;
- b. Knowingly selling or offering to sell any adulterated product or medicine;
- c. Selling or offering to sell any product which has mixture of any object that is dangerously harmful for human health and mixture of such object with food is prohibited by any Act or Rule;
- d. Deceiving people in general by false and untrue advertisement with the purpose of selling any product or services;
- e. Not to supply properly the product or services as promised in exchange price;
- f. To sell or supply in a weight lesser than that has been promised at the time of such sale or supply;
- g. The scale or instruments of weighing using for sale or supply of any product of a business establishment showing over weight than in actual weight;
- h. Using less than in promised weight in time of sale or supply of a product;
- i. The using ribbon for measuring length in any business establishment showing more length than in actual size;
- j. To make or manufacture any counterfeit product or medicine;
- k. To sell or offer to sell any date expired product or medicine;
- l. Commission of any act which is dangerous to the life or safety of the service consumer that is prohibited under any Act or Rule;

## **XI. CURRENT STATUS OF LEGAL PROTECTION TO CONSUMERS IN BANGLADESH**

It has already been mentioned that the current system of legal protection to the consumers in Bangladesh is inadequate and outdated (Ahamuduzzaman, Shamisa & Syeda, 190). Further whatever little laws are available; they are not strictly enforced for the protection of the rights of the general consumers. The consumers in Bangladesh are thus deprived of their rights at every sphere of their lives.

The Constitution of Bangladesh, under its ‘fundamental principles of state policy’ part, recognizes the rights of consumers to a limited extent. The provisions of consumer protection can be found at Articles 15 and 18 of the Constitution. However, these provisions are mainly focused on the vital issues of ‘health’ and ‘food’ than on other consumer rights. Moreover, the said provisions are mentioned under the ‘fundamental principles of state policy’ part and not under the ‘fundamental rights’ part of the Constitution. Hence, they remain mostly non-enforceable in the courts of law.

Further, there are certain legislations, part of which has got direct bearings on consumer protection. For example, sections 264-267, 272-276, 478-483 of the Bangladesh Penal Code 1860, the Poison Act 1919, the Dangerous Drug Act 1930, the Trade Mark Act 1940, the Animals Slaughter (Restriction) and Meat Act 1957, the Special Powers Act 1974, the Standards of Weights and Measures Ordinance 1982, the Bangladesh Standards and Testing Institute Ordinance 1985, the Narcotics (Control) Act 1990, and the Safe Blood Transfusion Act 2002, etc.

(a) The current laws are faulty and do not meet the present needs;

(b) Under the existing legal regime, the aggrieved consumers themselves cannot go to the court to sue against the violators. It is only the designated government officials empowered under these laws, who can initiate and sue against the violators.

- (c) The provisions of penalty or punishment under the current laws are so negligible that nobody cares to abide by such laws; and
- (d) Finally, the laws are not effectively enforced.

## **XII. AN OVERVIEW OF THE BANGLADESHI LAWS ON THE PROMOTION AND PROTECTION OF CONSUMER RIGHTS**

The general protection of the consumers may be derived from principles enunciated in Articles- 15x and 18xi of the Constitution. This Articles, though non-justifiable in its nature, indicates the importance attributed to the nutritional status of the people and basic principles and measures for protecting consumers from products, processes and services, which can endanger their health and safety. This constitutional safeguard has been strengthened through promulgation of related laws and regulations so that consumption be proper and appropriate ( Hoq, 70).

Moreover, in the Constitution of Bangladesh some justifiable fundamental rights are incorporated which are connected with the rights of the consumers. As for examples, Article 32 provides that no person shall be deprived of life save in accordance with law; Article 38 provides that every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order; Article 40 provides that subject to any restrictions imposed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business( Hoq, 73). These fundamental rights inter alia are enforceable by the Supreme Court of Bangladesh in accordance with Article 102 read with Article 44 of the Constitution.

The Consumer Rights Protection Act, 2009 provided both civil and criminal remedies. A consumer is entitled to lodge complain to the Consumer Rights Protection Department for any violation of the Act. The DC's of different districts can exercise the same power as given to the department. A consumer although barred from filing a direct complains to the police station under the Consumer Rights Protection Act, 2009 can file a case to the Police station under other Laws.

The Bangladeshi laws provides for the establishments of different organizations to protect the rights of the consumers including various Courts or Tribunals such as-

(i) Consumer Rights Protection Department; (ii) National Consumer Rights Protection Council; (iii) Special Tribunal; (iv) Mobile Court (can work/ function under various Laws; It may be constituted by a special executive order); (v) Drug Court; (vi) Food Special Court; (vii) Ordinary Criminal Courts; (viii) Ordinary Civil Courts; (ix) Marine Courts; (x) BSTI; (xi) Claims Tribunal etc.

## **XIII. RECOMMENDATIONS**

In Bangladesh, consumer redress mechanism suffers from various problems. The problems may be summarized as follows:

- We have to promote consumer education aiming at empowering consumers with the knowledge and skills on protection of their rights.
- To enable consumers to organize themselves in establishing and protecting their rights and interests through organized action.
- Government must impose hard conditions on importing raw chemical.
- The proper punishment should be given to the criminal.
- Research should be undertaken by various government and Non-government organization.
- Ensure and undertake advocacy and lobbying with the policy makers and government.
- Consumer authority should publish educational materials.

## **XIV. CONCLUSION**

Consumer movement in Bangladesh is still in its infancy. Consumer education and awareness building activities must be increased in the first place to develop and utilize a meaningful consumer redress system. Bangladesh lacks both resources and awareness regarding setting up of an effective consumer redress mechanism. The Consumer Rights Protection Act, 2009 has now put a consumer, who has suffered "economic harm", to face "bureaucratic barrier" before seeking any monetary compensation. Consumer redress mechanism under informal justice system can remain informal but needs to be formally developed. Consumer courts should be established and be linked with informal ADR system. Amendment to the Consumer Rights Protection Act, 2009 is therefore a must and a necessity of time.

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