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Protecting consumer rights

## Protecting consumer rights

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Consumer protection is a vital, but often ignored, issue in developing countries, and Bangladesh is no exception. However, in a country like Bangladesh, with a rapidly growing consumer-base, protection measures for consumers are of paramount importance. This has now necessitated giving high priority for the protection of the consumers and promotion of a responsible consumer movement in Bangladesh.

Consumer protection, in the broader sense, refers to the laws and regulations that ensure fair interaction between service providers and consumers. A consumer protection framework generally includes the introduction of greater transparency and awareness about the goods and services, promotion of competition in the marketplace, prevention of fraud, education of customers, and elimination of unfair practices.

**Current legal regime:**

Consumers in Bangladesh very often have to suffer from unsafe poor-quality products which break down just after purchase and are sometimes life-threatening. A number of cases have recently come to light in which consumers have bought fake, poor quality and/or goods ranging from vegetables sprayed with pesticides, cosmetics containing toxic chemicals and fake medicines. The problem of formalin, a toxic disinfectant and preservative, in fruits and vegetables has been an endemic problem of recent years, especially in the cities.

Even though until 2009, a unified consumer Act did not exist, about 40 different pieces of legislation could be attributed as forming the legal regime in the field of consumer protection regulating different goods and services in Bangladesh. Some notable laws include the Bangladesh Standard Testing Institute (BSTI) Ordinance, 1985, the Control of Essential Commodities Act, 1956, the Pure Foods Ordinance, 1959, the Sale of Goods Act, 1930, the Standards of Weights and Measures Ordinance, 1982 and the Accreditation Board Act, 2006. However, there was no unified and effective machinery for the enforcement of these legislative measures until 2009 and thus the consumers did not enjoy statutory rights to seek redress of their grievances arising out of the violation of the provisions of these laws.

Though the Consumer Rights Protection Act, 2009 (“CRPA, 2009”) has been enacted but it has got little sign of enforcement till date. Rules for the operation of the Act have only been made last year. However, significantly, Bangladesh's first Competition Act has been enacted in 2012, which has made way for a Competition Commission which is yet to be formed.

The CRPA, 2009 provides protection of consumer rights and also to prevent any acts against consumer right and interest and other relevant issues. The Act mainly deals with the obligations of “economic operators” and products safety. It enjoins state organs to punish the offenses of economic operators who violate consumer rights and interests. It provides for various actions to be taken by the respective ministries against the production of products or services that are likely to induce grave or imminent dangers. The CRPA, 2009 also sets out comprehensive procedures to be followed by inspection agents to ensure the quality and safety of products (goods and services). It also allows for the establishment of a specialised institution to be in charge of fraud repression and inspections of imported and exported goods.

However, a significant drawback of the Act is that it is mostly an administrative one and does not have a rights-based, bottom-up approach like other new consumer protection legislation around the world. To start with, despite the name of the act, “consumer rights” are not defined or listed, although a list of practices are termed as “anti-consumer rights practices”. The Act mostly concerns itself with the composition of the National Consumer Rights Protection Council and the National Consumer Rights Protection Directorate. Although it fulfils one function of a consumer law, which is to establish an institution tasked with consumer protection, it can barely be called a “citizen's

guide” as it does not define their rights as consumers and does not empower them to participate in the enforcement of those rights.

Another important criticism forwarded is that the CPRA, 2009 does not provide standard international precepts of strict liability and to prevent liability shifting through contractual means to protect the rights of the consumers. There is no provision in the CPRA, 2009 on unfair conduct or unfair contract terms to better ensure the safety of Bangladesh consumers in relation to services liability.

We can argue that the Act should be rights based defining the rights of the consumer, rather than making another bureaucratic mechanism which can promote corruption and be largely ineffective. Redress mechanisms and institutional capacity

Redress is one of the very important rights which include the right to receive compensation for misrepresentation of shoddy goods or unsatisfactory services and the availability of acceptable forms of legal aid or redress for small claims wherever necessary.

In India, the Consumer Protection Act, 1996 with the specific purpose of protecting consumers' rights and providing a simple quasi-judicial dispute resolution system for resolution of consumers complaints. Under COPRA, three-tier quasi-judicial machinery at the National, State and District levels has been established.

However, in Bangladesh CRPA does not allow either the Council or the Directorate created under the law to receive complaints from consumers. This is an uncommon feature for a consumer protection law. Most consumer laws allow receipt of complaints directly from the consumers under some institutional mechanism or the other. The Bangladeshi Act provides only for redress in the usual criminal and civil courts. As per the CPRA 2009, no complaint can be entertained by the Court without endorsement of the Director General of the Consumer Rights Protection Department. Therefore, only competent government officers are entitled to institute a case against any violation of such laws.

The Indian Act gives a redress mechanism which avoids the traditional legal system which consumers can use. The inherent problems with using the existing legal system include lengthy trials, difficulty of access without lawyers, high costs and enormous backlogs already existing. Most importantly, the traditional courts are not trained or aware of consumer rights and their applications. They are not a specialised centre of dispute resolution of this special kind. The CRPA bestows a rather confusing “supervisory” role upon the Directorate. It mentions that the Directorate will “supervise” the list of anti-consumer rights practices but does not essentially spell out how. There is no power given to the Directorate to direct specific agencies of the state to

carry out activities as necessary nor is it given sufficient institutional capacity to build a force for supervising the markets. How the institution will act with these constraints is yet to be seen.

### **The way forward**

Although the CRPA, 2009 is a bold recognition of the existing consumer rights issues in Bangladesh, it has failed so far in having any impact on the alleviation of rampant violation of those rights. The inherent drawbacks of the legislation as stated above have the potential to hold back any benefit that the Bangladeshi consumer could have reaped from it. Furthermore, the Government's slowness in establishing an authority under the Act also shows a lack of interest in the state machinery to give the legislation the desired effect.

In this situation, in order to make the legislation a meaningful one, it must be amended with clear statement of the consumer's rights, easy and cheap redress procedures and increased power of the Council and the Directorate to make use of state machinery in order to enforce orders, directives and judgments against violations of consumer rights.

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