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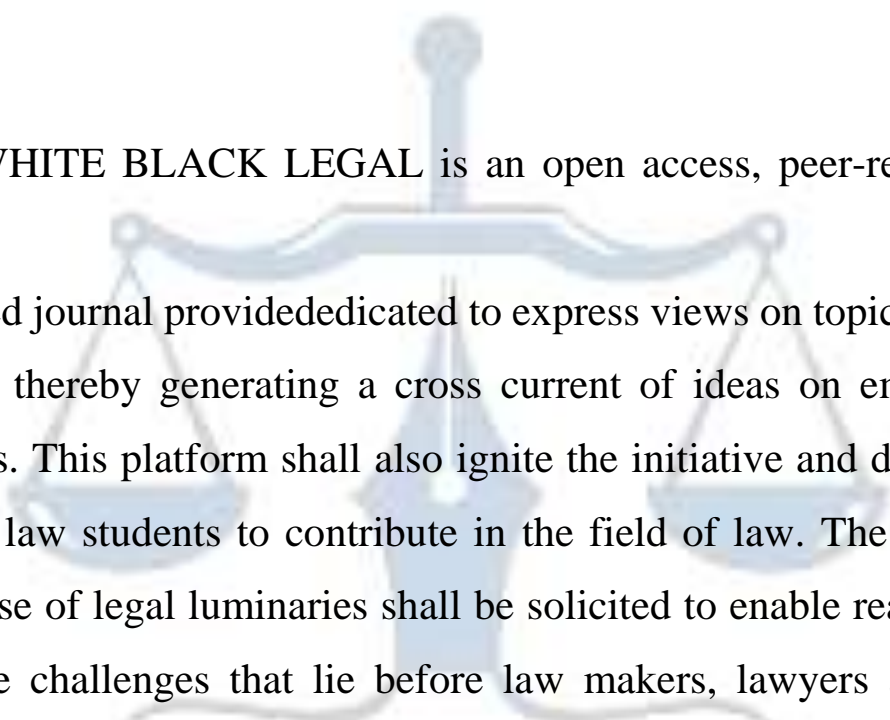


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ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CONSTITUTIONAL PROVISIONS RELATING TO CONSUMER PROTECTION

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Abstract

The Consumer Protection Act 2019, as a significant reform in Indian consumer law, aims to address contemporary challenges and strengthen consumer rights. Consumer Protection Act, 2019 is a law to protect the interests of the consumers. The term “consumer” means someone who buys or rents goods or service for own use rather than for resell or producing. The Consumer Protection Act 2019 was brought to safeguard interests of consumers rather than seller. This Act provides safety to consumers regarding defective products, dissatisfactory services, and unfair trade practices. The primary goal of the Consumer Protection Act of 2019 is to protect consumer rights by creating mechanisms for the prompt and efficient handling of customer complaints. This essay delves deeply into the topics of consumers, consumer rights, and the 2019 Consumer Protection Act. This essay uses a variety of recent and historical cases to present a critical viewpoint on consumer protection. This paper critically examines the constitutional provisions of consumer protection in India and the effectiveness of the 2019 Act in addressing these issues. These pieces of legislation have been replaced by the Act which also creates the CCPA, increases the penalty for false advertisements, and addresses e-commerce. This study further reflects on the relationship between constitutional rights and the consumer protection policies established and advanced by the judiciary. Besides, the paper explores the socio-economic impact of the Act focusing on how the vulnerable consumer groups are affected. While conducting case analysis and policy review the research notes down the lacunae and loop holes present in the existing legal structure and thereafter presents recommendations and suggestions for policy improvisation. Moreover, this paper considers the significance of such digitalization for consumer transactions and the resultant questions of law.

KEYWORDS: Consumer Protection, Constitutional Provisions, E- Commerce, CCPA

Introduction

Consumer Protection Act (CPA) 2019 is a quantum leap from the earlier CPA of 1986. This modern regulation intends to tackle challenges for current consumers within a considerably harder marketplace. The Consumer Protection Act attempts to safeguard consumers against several malpractices like unfair trade practices, defective goods and deficient services rendering that consumer complaints are faced with efficiently as well promptly. Constitutional Philosophy in India advocates protection and preservation of individual rights & dignity; the overriding factor behind developing a State with no class division. A sound background for consumer protection in India is offered by the Indian Constitution which lays down a list of Fundamental Rights and Directive Principles of State Policy. Certain articles such as Article 14 (Right to Equality), Article 19(1)(g) (Right to Practice Any Profession) and, the most important one according to many consumer-rights activists — but never mentioned by name in relation with related rights is the “The Fundamental Right To Life And Personal Liberty“. These progressive provisions enshrine the principles of Consumer Rights as obligatory and generically mandatory due to protection against Unfair trade practices and ensure that no discrimination is shown in any economic activities. The constitutional architecture in India, especially the Fundamental Rights and Directive Principles of State Policy section contribute substantially to facilitate parts of Consumer Protection Act. The current paper focuses on the constitutional foundations of Consumer Protection Act while discussing how different provisions and judicial readings have bolstered consumer protection in India. By examining landmark case laws and the evolution of consumer rights, we gain a comprehensive understanding of the constitutional provisions that bolster the Consumer Protection Act.

Overview of the Consumer Protection Act, 2019

Act to provide relief for rapidly increasing burden of consumers is the Consumer Protection Act, 2019. This was brought in force on August. The features and provisions are establishment of Central Consumer Protection Authority (CCPA), product liability, penalties for misleading advertisements etc. The Act having recognized the difficulties created by e-commerce and digital transactions, makes several provisions to also address this social evil wherever it may manifest physically or virtually.

Central Consumer Protection Authority (CCPA) is a regulatory authority setup for the Promotion, protection and enforcement of consumer rights. It is empowered to fact-finding

inquiries relating consumer right violations, class action suits, and product recall of hazardous goods etc.

The introduction of product liability provisions makes manufacturers, service providers, and sellers accountable for any harm caused by defective products or deficient services. This ensures that consumers have recourse to compensation for damages suffered.

Fundamental Rights and Consumer Protection

The Fundamental Rights which have been enshrined in Part III of the Indian Constitution are unique as they guarantee equality before law and ensure no citizen is discriminated on grounds such sex, race, caste religion etc. Some of these rights are also identical to those as enshrined under Consumer protection.

Article 14: Right to Equality

Article 14 - The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.¹ It is an essential provision for consumers - it will protect them to assure that they are equally and not discriminatorily treated by service providers or businesses. Apart from equality and non-discrimination mentioned in **Vishakha v. State of Rajasthan**², it is the principle which extends to all branch even to consumer rights. This case decided the protocols for a safe way to prevent sexual harass in working place. Similarly, consumer protection laws ensure that businesses do not discriminate against consumers based on arbitrary factors, promoting fair treatment.

Article 19(1)(g): Right to Practice Any Profession

The skill to practice any profession or carry on any occupation, trade or business: Article 19(1)(g) This right nevertheless is subject to reasonable restrictions in the interest of public, as specified under Article 19(6). The two shall be balanced - we grant businesses the liberty to operate, provided they are not screwing consumers. The Consumer Protection Act uses a constitutional provision to ensure that businesses comply with ethical standards and combat unfair trading. The Supreme Court, in **S. R. Bommai v. Union of India**³ held that reasonable

¹ Article 14 of the Indian constitution, available at: <https://indiankanoon.org/doc/367586/> (last visited on 8th August 2024)

² AIR 1997 SC 3011

³ 1994 AIR 1918

restrictions serve the public interest which lies at the core of consumer protection laws as a founding pillar

Article 21: Right to Life and Personal Liberty

According to Article 21 of the Indian Constitution, “No person shall be deprived of his life or personal liberty except according to the procedure established by law.” The Indian judiciary has construed this provision broadly to encompass a range of aspects of human life that extend beyond physical existence.

Maneka Gandhi case⁴ was the point of interest case which extended the scope of Article 21. In this case, the Supreme Court held that the right to life and personal liberty is not confined to mere animal existence, but it also includes the right to lead a life with dignity. The court observed that the right to life under Article 21 includes the right to travel abroad, and the government cannot arbitrarily restrict this right without giving appropriate reasons.

The meaning of this extends to different dimensions of customer safety which include protection from harmful products. The judiciary is committed to upholding consumers' right to a safe environment, as demonstrated by the case of **M. C. Mehta v. Union of India**⁵, which addressed environmental risks and the necessity for strict safety standards. The Supreme Court expanded the application of Article 21 in **Consumer Education and Research Centre v. Union of India**⁶ to encompass the right to health and medical care, which is inextricably tied to consumer protection in healthcare services.

Directive Principles of State Policy and Consumer Protection

One distinctive aspect of the Indian Constitution is the Directive Principles of State Policy (DPSP), which attempts to direct the country toward the creation of a fair and just society. They represent the principles of social and economic democracy and act as a guide for national governance.

Although not justifiable, these principles are fundamental in the governance of the country and significantly influence consumer protection laws.

⁴ AIR 1978 SC 597

⁵ 1987 SCR (1) 819

⁶ 1995 S.C.C. (3)

Article 38: Promotion of Welfare of the People

Article 38 mandates the state to establish a social order in order to further the welfare of the populace. It makes the following two provisions in this regard:

- By establishing and defending a social order in which social, economic, and political justice informs all national institutions, the State will work to further the welfare of the people.
- The State will specifically work to reduce income disparities and work toward eliminating status, opportunity, and facility disparities not only between individuals but also between groups of people living in various regions or pursuing different careers.

The legal precedent set by **Olga Tellis v. Bombay Municipal Corporation**⁷ declares the responsibility of the State to uphold social justice, which aligns with the principles of consumer protection that prioritize fairness.

Article 39: Principles of Policy

Article 39 directs the State to ensure Right to adequate means of livelihood for all citizens: Equitable distribution of material resources of the community for the common good, Prevention of concentration of wealth and means of production, Equal pay for equal work for men and women, Preservation of the health and strength of workers and children against forcible abuse and Opportunities for the healthy development of children.⁸

This idea backs the control of monopolistic behavior as well as the encouragement of fair competition, guaranteeing that customers can choose from a range of products and services at reasonable costs. This regulation is in line with the Consumer Protection Act's prohibitions on unfair trade practices.

In **Minerva Mills Ltd. v. Union of India**⁹, the Supreme Court underlines the importance of balancing economic policies with social justice, reinforcing the need for consumer protection measures.

⁷ 986 AIR 180, 1985 SCR Supl. (2) 51

⁸ Directive Principles of State Policy, available at: <https://www.nextias.com/blog/directive-principles-of-state-policy-dpsps/>

⁹ AIR 1980 SC 1789

Article 47: Duty of the State to Raise the Level of Nutrition and Standard of Living

Article 47 says that the State shall endeavour to bring about prohibition of intoxicating drinks and drugs which are injurious to health except for medicinal purposes.¹⁰ This directive serves a relevant case for consumer protection because it deals with health and hygiene products that affect people's lives. These issues are covered by the provisions on product liability and service deficiencies of the Consumer Protection Act with a view to guarantee that only safe products and services grant them entry onto markets accessible for consumers. Particularly, the precedence of **Bandhua Mukti Morcha v. Union of India**¹¹ which reiterated on right to health and welfare for workers shows its legal responsibility lying with state in public health management aspects.

Enforcement by the Court and Utilization of Consumer Rights

Over the years, judiciary has contributed towards interpreting and expanding constitutional mandates to strengthen protections available for consumer. In resolving the contradiction between Directive Principles and Fundamental Rights, the landmark decision of **L. C. Golaknath v. State of Punjab**¹² highlighted the judiciary's responsibility in balancing both principles to advance social welfare.

Indian Medical Association v. V. P. Shantha¹³

In this case, Supreme Court held that medical service is covered under 'service' as defined in the Consumer Protection Act. The landmark judgement expanded the consumer protection umbrella and enabled patients to seek remedy under medical negligence from this Act. The Court held, in effect affirming the right to life under Article 21 of our Constitution that all residents are guaranteed safe and effective medical treatment.

Lucknow Development Authority v. M. K. Gupta¹⁴

This case broadened the terrain of customer care by ruling that even statutory bodies and authorities supplying services are amenable to Consumer Protection Act. The Land Development Authority and the Housing Sector do fall under the definition of a consumer

¹⁰ Article 47 of the Indian Constitution, available at:

https://en.wikipedia.org/wiki/Article_47_of_the_Constitution_of_India

¹¹ AIR 1984 SCC 802

¹² 1967 AIR 1643

¹³ 1996 AIR 550

¹⁴ 1994 SCC (1) 243

under the Consumer Protection Act of 1986, said the court, after going into what the term means. Furthermore, these sectors' cases can be heard by state commissions as well as national commissions and district commissions which are in fact included in statutory boards while financial institutions such as banks provide such services to plaintiffs. In this case, the Court's interpretation of Consumer Protection Act pointed out the significance of service delivery being transparent and accountable.

Morgan Stanley Mutual Fund v. Kartick Das¹⁵

In this case, the Supreme Court rules that a person claiming damages for deficiency of services need not prove financial loss. This decision had expanded consumer protection to non-monetary compensations such as emotional distress or mental suffering.

Bhupesh Khurana v. Budha Dental College¹⁶

The Supreme Court in this situation showed that the deficiency in educational services came within the ambit of Consumer Protection Act. The judgment also stated that students could sue for any defects in teaching and learning institutions thus keeping with the constitution's obligation towards quality education.

Impact of the Consumer Protection Act, 2019

The Consumer Protection Act, 2019 brought in major changes to strengthen consumer rights and improve complaint mechanisms. It introduces different constitutional principles in order to give a stronger framework for consumer protection.

Central Consumer Protection Authority (CCPA)

A vital part of the 2019 Act is the establishment of the CCPA which is responsible for promoting, protecting and enforcing consumer rights. The CCPA has authority to conduct inquiries into violations of consumer rights in India, initiate class actions as well as recall unsafe goods or services. This regulatory body is critical to ensuring that businesses comply with consumer protection laws, thus conforming to the constitutional duty of safeguarding interests of consumers.

¹⁵ 1994 SCC (4) 225

¹⁶ (2009) 4 SCC 473

Product Liability

The 2019 Act introduced the concept of 'product liability,' manufacturers, service providers, and sellers are liable for harm caused by defective products or poor services. This provision reflects the constitutional principle enshrined under Article 21 on right to life and personal liberty. With defective product victims being compensated by businesses henceforth these companies will maintain very high standards when it comes to quality and safety improvements.

E-commerce and Digital Transactions

In 2019, the Act recognizes the challenges that come with digital transactions and e-commerce; thus extending its provisions to cover these areas. The guidelines for online retailers and digital platforms put in place ensure that consumers are protected against fraudulent practices as well as misleading advertisements. This is consistent with the constitutional principle of promoting social and economic justice in a way that guarantees consumer rights on a level playing field.

Enhanced Penalties and Redressal Mechanisms

The new Act provides for tougher penalties in respect of misleading advertisements or unfair trade practices so as to ensure businesses comply with ethical standards. It enhances redress mechanisms such as mediation and simplified procedures, which enable consumers to quickly and effectively solve their complaints. This reinforces the constitutional principle of ensuring justice to all citizens.

Challenges and Issues in Implementing the Consumer Protection Act, 2019

Although the Consumer Protection Act of 2019 represents a substantial advancement in consumer protection, there are still a number of obstacles to overcome in its execution.

Awareness and Accessibility

The main problem is that most customers do not know their rights in the Act or the available redress mechanisms. Despite many provisions of the Consumer Protection Act, a lot of consumers particularly those who live in rural areas have no idea of their rights. This ignorance makes consumer protection act ineffective since consumers fail to ask for compensation regarding their grievances. There is need for such campaigns and outreach programs aimed at creating awareness among consumers.

Backlog of Cases

Mostly, there are so many pending cases with consumer dispute redressal forums leading to the delays in judgments. The issue undermines the purpose of the Act to offer expeditious relief to consumers. Enhancing capabilities and efficiency in this tribunal system is important because it can reduce backlogs. Effective legislation could significantly enhance the efficiency of Consumer Protection Act by streamlining procedures and shrinking backlog of cases.

Order enforcement

However, enforcing the orders of consumer courts is a challenge, particularly when directed towards businesses that defy them. The strong enforcement mechanisms and adherence to consumer court orders by businesses are essential for effective implementation of the Act. By introducing stiffer penalties and compliance measures, enforcement of consumer protection laws can be enhanced.

E-commerce and Digital Transactions

Consumer protection faces new challenges with the fast growth of digital transactions and e-commerce. Robust regulatory mechanisms are necessary to protect consumers from fraudulence, data breach and unfair practices in the digital market place. As regards provision of the Act, it should continue changing so as to meet emerging challenges in digital economy. Developing comprehensive guidelines and regulations for internet transaction can see to it that consumers are protected while trading online.

Case Laws Highlighting Challenges and Implementation Issues

State of Karnataka v. Vishwabharathi House Building Co-operative Society¹⁷

The case reinforced the need for a dispersed service of justice to make sure that every consumer can access remedies, regardless of where they reside. The verdict has underscored the need to have a common and effective enforcement mechanism for entire country. That will make the process of Consumer Protection Act more effective by making it accessible in remoter areas or to those people who were yet unaware about their rights as a consumer.

¹⁷ AIR 2003 SC 1043

Amazon Seller Services Pvt. Ltd. v. Commissioner of GST¹⁸

The case drove home the point that laws are adopting their shape to fight one manufacturer, when at most they can be considered -- as is by definition of such existent laws-- theoretical constructs meant exclusively for implementation on paper. The Consumer Protection Act too, then has to be a dynamic instrument protecting the consumer in all sectors of an evolving economy. Comprehensive guidelines for e-commerce platforms and digital transactions – To object against consumers being cheated, stringent rules can be laid down such they are not exploited through fraudulent activities or misleading advertisements.

Charan Singh v. Healing Touch Hospital¹⁹

This case demonstrated the urgency of resolution of consumer grievances to keep up public confidence in redressal system. It is necessary to streamline the efficiency and capacity of consumer forums so as to ensure speedy redressal of grievance. The effectiveness of the Consumer Protection Act can be greatly increased by streamlining procedures and clearing out a backlog of cases.

Conclusion

The Consumer Protection Act, 2019 plays an important role in safeguarding consumer rights and ensuring justice, based on which the Indian constitution is backed. The goals of the Consumer Protection Act are supported by the Fundamental Rights and Directive Principles of State Policy thus creating a strong basis that underpins fair treatment of consumers. These have been strengthened by judicial interpretations to include a wider range of services, as well as to respond to issues in modern consumer markets.

However, much remains to be done towards proper implementation and enforcement of Consumer Protection Act for consumers' protection. Thus, it is important for consumers to know their rights better so that they can file complaints with ease. The nature of consumer markets is changing; therefore, there should be a flexible framework that accommodates new challenges and ensures total protection for shoppers.

The constitutional provisions forming part of the Consumer protection Act are commendable

¹⁸ 2021 (4) TR 4291

¹⁹ AIR 2000 SUPREME COURT 3138

in providing a fair and equitable variety with respect to consumer rights. It makes sure that consumers remain protected and their interests are safeguarded by harmonizing the principles of justice, equality, and fairness. Every dream said and every surreal image conjured up in consumer markets of a vibrant India emerging are inter-woven with the continued relevance that remains for years to come of the constitutional framework supporting Consumer Protection Act stand out as a backbone look at things. Consumer protection law has been one of most enlightened legislations in this respect and the judiciary plays pro-active role interpreting enforcing consumer protection laws simultaneously keeping an eye on principles enshrined in constitutions and adequate translating them into functions while ensuring that consumers interests are protected across the entire country.

