

Consumerism in the Globalized World

By

¹Shubhendu S Shukla

¹Asst. Professor M.Phil, MBA, MA, PGDCA, PGDIB
SRM Business School Lucknow

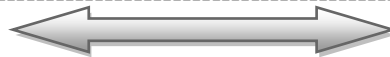
Abstract

It would be in fitness of the fact to recall the greatest of Arab historians, Ibn- Khaldun saying: “That in civilization there is a limit that cannot be overstepped. When prosperity and luxury come to a people, they are followed by excessive consumption and extravagance, with which the human soul itself is undermined, both in its worldly well-being and in its spiritual life”, particularly in context of globalization, liberalization and consumerism in India. This is what happening in India under the auspices of MNCs and trade policies of developed countries which are supposedly formulated to devour the third world consumer kingdom.

Indians have a particular tendency to imitate what western nation states do but in context of consumer rights and responsibility we turned out as losers even in this art of ours. It was in 1900 AD that the American consumer league was found in the USA, but we could not enact consumer protection law even after 40 years (1947-1986) of independence, though, in kautilya’s Arthashastra, there are references to the concept of consumer protection against exploitation by the trade and industry, short weight and measures, adulteration, and punishment for these offences.

Consumers are now participants in a global market, and possibly in a cyber market. Law can only protect them (or us-we are all consumers) through rules which are essentially national, and which can only be enforced within national frameworks. Most of those rules have been enacted through a democratic political process. If the rules are useless in practice, people may question the usefulness of democracy and nation states. Consumer protection laws enable the correction of market failures and the redress of inequalities of information and power. Recent cases indicate that consumer protection laws, for a number of reasons, will be of little practical use to protect consumers in the global economy and in cyberspace. That raises the question of whether democratic politics can ever be used to bring countervailing force against those who abuse their position in the global market or the cyber market. If so, what other national laws will be rendered useless: labor laws, environmental laws, other laws that result from an often vigorous political process? What functions remain for democratic politics?

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I. INTRODUCTION

Fighting for the consumer interests has been there since the time of Adam, but in the beginning it was restricted to self satisfaction due to absence of mutual belief and societal needs. The ups and downs of various cultures saw changes in the face of consumer revolution over a period of time. Relevant changes and due arrival of multi class welfare state from end of the last century, led the beginning of the present consumer movement. In India, the consumer movement found a clear conception during the freedom movement of the 40’s when Gandhi established the lead. Father of nation – *Mahatma Gandhi* has been defined as the greatest consumer advocate the world had ever seen. His various pronouncement in the consumer interests were even applauded by *Ralph Nader*, who himself has been considered the greatest consumer activist of USA in recent times. Gandhi’s concern for the consumer is reflected in the following dictum: “a customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption in our work he the purpose of it. We are not doing him a favour by serving him. He is doing us a favour by giving us an opportunity to serve him.”

1949 saw the first consumer organization in India established by a gandhian *R.P.Dalvai* in madras. Since then the consumer movement in India started taking shape and by assumed the role of pressure group, with few mass membership organizations. It was in 1962, on 15th march, when *John F. Kennedy* the US president speaking to the US congress, declared four consumer rights and the movement in the USA took root. Subsequently, various countries passed consumer interests laws of different kinds. 15th march, 1962 is the day in

the history of consumer rights. On this day Kennedy said: "it is the consumer's right to safety, information, and choice and hearing." On 9 April, 1985, the *General Assembly of the United Nations* unanimously adopted a set of general guidelines for consumer protection. The 1984 and the 1986 amendment in the monopolies & restrictive trade practice act 1969 and the 1986 consumer protection act in India formed the basis and fillip to consumer movement through legal measures in our country.

1.1 Globalization, Liberalization And Consumerism

Positive implications

The process of development coupled with increasing liberalization and globalization across the country has enabled consumers to appreciate their increasingly important role in society and governance. Though it is said it to be 'self reliant' but in present scenario it seems unfeasible to tag along the same. In this day and age the world has transformed into 'global village' not only due to the advancement of trade and commerce but more due to technological advancement. Therefore liberalization is inevitable for a nation-state disposed to develop itself. It is very difficult for any nation to produce everything to satisfy its customer citizens, so the process of globalization and free trade is serving a noble cause for all the probable consumers by satisfying their otherwise unaddressed desires. Globalization is almost inevitable but mostly desired at the same time from the consumer's point of view. In fact it enforces consumer's 'right to choice', as envisaged by UNO in its guidelines for consumer welfare, in more sensible manner by exposing him to varieties of availabilities.

II. NEGATIVE IMPLICATIONS

Noam Chomsky, one of the world's noted intellectuals, describes globalization thus: "Insinuation of extension of transnational corporate tyranny... Their first interest is profit—but much broader than that it is to construct an audience of a particular type ... addicted to a certain lifestyle with artificial wants, an audience atomized, separated from one another, fragmented enough so that they don't enter the political arena and disturb the powerful." This, is what all about existing Indian consumer, who is now heading opposite to its own philosophy of consumerism when we compare and contrast it with that of the Gandhiji's which says that "while there is enough on earth for every man's need there is not enough for everyone's greed and that poverty is really the other face of the problem of possessiveness. "It is the consumerist mode of thinking."

Being the consumer of environment and nature today's punter of the third world is really underprivileged of his very deep-seated, fundamental and natural right in the newly evolved monstrous paradigm of globalization in which human well-being is equated with material consumption regardless of the impact of unregulated economic growth on social ties and the environment. 6% of the world's population in America is usurping 40% of the earth's non-renewable fossil fuel resources and non-fuel mining alone produces 1300 million tonnes of garbage annually. If everyone in the world were to enjoy the American standard of consumption, it has been estimated that three planets Earth would be needed!

In the World Economic Forum 1999 meet, Nobel laureate and UNDP Goodwill Ambassador, Nadine Gordimer, condemned the process of globalization for increasing consumption unprecedentedly, jeopardizing truly human prospects: "While those of us who have been the generations of big consumers need to consume less, for more than one billion of the world's poorest people increased consumption is a matter of life and death and a basic want--the right to freedom from want." She asserted that consumption is necessary for human development "when it enlarges the capabilities of and improves people's lives without adversely affecting the lives of others." This is how globalization turns out fatal for present and probable consumers as well as for national entities also.

III. LAW AND GLOBALIZE WORLD

The presence of an international or transnational element is likely to make the application of political will, translated into law, extremely difficult. International law does not operate directly on human behavior, or the behavior of corporations; the effective actors in international law are nation-states. Rights and remedies acquired under the law of one nation may be recognized and enforced in another nation, but this is not guaranteed. To obtain redress of grievances may be difficult and technically complex quite apart from the practical difficulties of language, location of parties, and finding a party with sufficient assets to justify initiating enforcement procedures. Even where nation-states have the political will to unify or harmonize their legal rules, there may be difficulties in securing an expression of the policy which produces the same effects. However, the crucial factor in achieving any political solution to the control of anti-social behavior lies in the effective application of legal rules by entities sufficiently capable of asserting sanctions to affect their efficacy.

If netizens can remove themselves from the scope of national laws, nation states may defeat the political process and it is not sufficiently clear what sanctions they may impose to assure compliance with rules they may themselves promulgate. Since 1960, most developed countries with common law legal systems, the nations of Europe and most recently of Asia have enacted significant consumer protection legislation (For example, Japan, Korea and Taiwan have all recently introduced product liability legislation which is based on the 1985 Product Liability Directive of the European Communities). Such laws are national, and operate only within the geographical limits of the enacting jurisdiction, except where conflict of laws rules permit them to be applied as part of the law of some other country. Attempts to apply such existing laws to activities outside the geographical boundaries of the enacting state might prove ineffective. Examples include marketing and sale of goods or services (including financial services) online through the Internet or satellite TV by suppliers who are in remote areas, often beyond the reach of legal process. If it is impossible to locate production, marketing, distribution and trade in goods and services in a defined physical and juristic locality, no legal control is possible.

IV. CONSUMER PROTECTION LAWS IN THE GLOBAL WORLD

Consumers have sought protection through legislation because the general laws and market forces have failed to provide it. Many consumer protection laws either relate to the terms and conditions of contracts that consumers make with suppliers for the supply of goods and services, or to conduct intended to encourage the making of such contracts (marketing, packaging, advertising and provision of information). Previous laws, especially the law of contracts, assumed that the parties to contracts are legally equal in terms of power and information. In substance, in real markets, almost invariably consumers have markedly less power and information than suppliers. The law deems the action of a consumer in buying a commodity to be the making of a contract - in theory a free, consensual act. In practice, the legal consequences are attributed to the action by the law without any consideration of what the consumer actually knows or wants. The common law of contracts simply cannot afford consumers the protection they probably would seek if they were rational, fully informed, and equal in economic power to the supplier. Because contract law offers an inadequate basis for an equitable legal transaction, it must be modified by legislation in order to afford greater protection to consumers than they can negotiate individually for themselves.

V. PROBLEM OF LEGISLATIVE JURISDICTION AND ITS WAYS OUT

Both public and private international law restricts the power of nation states to provide legal sanctions and remedies. United States anti-trust law provides a good example of Globalization being challenged in its earliest stages. The year, 1892, saw the passage of Anti Trust Laws which made the nascent Industries of the Big Business Era accountable to the people and the Government of the day. Recently, Bill Gates was brought to the book for Anti Trust violations, which turned out to be a big theme for the U S economy in the first tenure of George Bush. How law, politics and practicalities intersect in ways that destroy international goodwill. Attempts by any single nation to proscribe activities beyond its physical boundaries by people who are neither residents nor citizens are likely to create the problem of legislative jurisdiction. When this happens, a state may enforce its extraterritorial laws within its own boundaries, but other states will steadfastly, block any attempt to enforce those laws within their own territories.

A preferable solution seems to be bilateral or multilateral international agreements under which governments concur that each will make criminal, under its domestic laws, the conduct which all desire to prohibit. This process is sometimes called "unification" or "harmonization" of law. If any activities in the Network are to be made criminal, even though this process seems cumbersome, it may be the only acceptable means available. There are problems of securing agreement of uniform laws.

5.1 Consumer Protection Act 1986 (COPRA)

The consumer protection Act, 1986 (68 of 1986) is a milestone in the history of socio-economic legislation in the country. It is one of the most progressive and comprehensive piece of legislations enacted for the protection of consumers. It was enacted after in-depth study of consumer protection laws in a number of countries and in consultation with representatives of consumers, trade and industry and extensive discussions within the Government.

The main objective of the act is to provide for the better protection of consumers. Unlike existing laws which are punitive or preventive in nature, the provisions of this Act are compensatory in nature. The act is intended to provide simple, speedy and inexpensive redressal to the consumers' grievances, and relief of a specific nature and award of compensation wherever appropriate to the consumer. The act has been amended in 1993 both to extend its coverage and scope and to enhance the powers of the redressal machinery. It confers

upon consumers eight rights i.e.: basic needs, safety, information, choice, representation, redress, consumer education, healthy environment. It provides remedies to the aggrieved customer in form Replace, Remove, Refund, Redress.

5.2 Merits of COPRA

- Simplicity, straightforwardness and inexpensiveness.
- Swift disposal of disputes.
- Comprehensible to layman.
- Easily accessible.
- Consumer welfare oriented.

5.3 Loopholes in COPRA

- Devoid of practicability- legal technicalities which need lawyers to deal with.
- Irregular functioning of consumer council.
- Constrained powers of judges' i.e. magisterial powers (though enhanced by the amendment of 2003 but not yet implemented).
- No austere provision to dishearten proxy litigation.

5.4 Suggestions And Annotations

- It is extremely imperative to encourage volunteers, who are gallant, audacious and forthright, concerned in consumer protection movements.
- Organizations, NGOs, institutions and agencies allied to consumer movements should hearten administrative advocacy in settling consumer disputes so the hitch of case pendency and delay in case disposal can be avoided.
- Govt. should come up with varieties of plans to establish and manage laboratories, equipped with latest available international standard technologies, for testing samples of consumer goods with a view to determining their quality, purity and relative merit.
- Government should enter into treaties with various countries in order to ensure extra territorial operation of the act.
- Government should be pro active towards the cunning policies of MNCs to exploit the consumer.
- A heavy sum should be taken from the multination companies in the form of security money at the time of their establishment and incorporation.
- Most of the Indian consumers know only COPRA but they are not aware about other laws and statutes which protect their right so along with the dissemination of COPRA consumer should be made aware about the existence of other laws i.e. MRTP, Essential Commodities Act 1955, Bureau of Indian Standard Act 1986 etc.
- Government should make efforts to create a consensus for 'global consumer policy.'
- Judicial activism should be increased in consumer related issues also and parental role should be played by the Supreme Court for consumer redressal agencies.
- Administrative advocacy should be encouraged in order to reduce the burden of consumer redressal agencies.
- Indian consumer suffers from lack of political willingness to enforce consumer rights emphatically. V.R. Krishna Iyer, former Chief Justice of India, expresses himself more stridently:” The country’s greatest enemy is GATT and the pro-MNC politics...leading to decolonization of India...Their capacity to corrupt, terrorize, propagandize, destabilize, colonies and subvert...has been the disaster of our country and of many others. And who invites them into our hallowed Bharat? The greats who have taken the oath of office under the secular socialist constitution and worship Gandhi as the Father of the Nation!

5.5 Consumer Responsibility

Strange as it may seem, most consumers do not know that the law is on their side. It is for the consumers to enforce the provisions of law by vitalizing enforcement. The machinery is available. It has to be used effectively. Marilyn Ferguson writes in *The Aquarian Conspiracy*, “Countries like ours are full of people who have all the material comforts they desire, yet lead lives of quiet (and at times noisy) desperation, understanding nothing but the fact that there is a hole inside them and that however much food and drink they pour into it. Therefore, being aware about rights a consumer should also understand his responsibilities for procuring the better outcomes.

5.6 How Consumer Fraud Might Be Addressed in the Network

The globalization of markets makes it very difficult for the laws of nation states to control the excesses of businesses operating outside of their physically defined territories. Computer mediated communication networks afford new opportunities for transnational marketing that may ignore the restrictions afforded by national consumer protection laws. How then could consumers be protected in this new virtual marketplace? A few possibilities are suggested, but none really offers promise of the level of protection which consumers receive under national laws.

- First, the most obvious step would be for nations to seek bi-lateral treaties that establish reciprocal arrangements for enforcing consumer protection laws between nation-states that have similar laws.
- Secondly, the most effective means, but most difficult to accomplish would be an international agreement concerning the rights of consumers online, similar to the international agreements governing transnational postal services and telecommunications.
- Thirdly, the World Trade Organization might determine that consumer fraud online constituted a threat to the viability of international trade. As sanctions may be imposed upon non-conforming nation-states.
- Fourthly, individual nation-states may enforce their own consumer protection laws unilaterally by inhibiting the travel of offending parties foreclosing entry into their territories.
- Fifthly, Information Service Providers and Internet Access Providers may themselves unite to establish industry norms for appropriate behavior in offering consumer transactions over their systems.
- Sixthly, major commercial interests that choose to offer products online may establish industry organizations that purport to guarantee an optimum level of consumer protection for purchasers of their products.

VI. CONCLUSION:

We believe the more guidelines are required because there are always two sides of a coin, each instance of Consumer affairs could be easily termed as another 'Consumer mistreatment'. By the time market forces have time to operate, far too many consumers are dead, maimed, or impoverished. Within a nation-state, national laws may prevent some of this harm, but once national boundaries are crossed, their effectiveness is limited, and consumers can hope for very limited protection. If online trade proliferates and consumer fraud becomes a major problem, nation-states and commercial interests that provide online access are fairly restricted in the action they may take to curb unacceptable and deleterious practices. Certainly if consumers perceive online commerce as a hazardous place to make purchases, they will not choose this alternative, and a major opportunity for electronic commerce may be forfeited. Consequently, there is strong motivation for reputable business to observe high commercial standards of behavior.

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