

## CONSUMERISM: CONCEPT, CONCERN AND CONSUMER CARE

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Consumer movement is essentially a product of industrialised societies of the Western World. The socialist countries have also begun to recognise the need for a consumer movement. It is taking shape in the developing countries as well. The present economic and technological development have no doubt made perceptible social and economic market changes but the consumers' control over the market mechanism has gradually diminished. Consumers sovereignty in choice of goods and services has been greatly eroded by various forms of unfair, monopolistic and deceptive trade practices. The importance and utility of the consumerism and the concern for consumer care has considerably increased, perhaps, due to the change role of state as 'service state'. This demands that state and its sub-system must serve the people and that too with the best satisfaction. Satisfaction of the consumers generate confidence and in the confidence lies the credibility and respectability of the system. It would be worthwhile to consider concept of consumerism, its development, consumer protection in India and strategies for consumer care.

### II CONSUMERISM: CONCEPT CONSIDERED

Conceptually, 'Consumerism' is surrounded with suspicions, fears and irritations. The first serious problem with consumerism lies in its definition and the second in its practice. We find variations in definitions and conceptualisations of consumerism besides differences in approach and emphasis in its practice in countries having different socio-economic and political set-up. Sir Roy Griffiths says that it must be seen as part of a total management and organisational philosophy<sup>1</sup>.

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<sup>1</sup>Roy Griffiths, "Does The Public Service Serve? the Consumer Dimension", *Public Administration, UK*, 1988 Summer, Vol. 66, p. 195.

According to Jenny Potter, "Consumerism involves more than being nice to consumers...it demands a searching review of the relationship between providers and those for whom the services are provided".<sup>2</sup> Hambleton argues that "consumerism has so far been primarily a managerial phenomenon, and that its full benefits will only accrue if it is combined with participation through a strategy for local democracy and decentralisation".<sup>3</sup>

Consumerism is a process through which the consumers seek redress, restitution and remedy for their dissatisfaction and frustration with the help of their all organised or unorganised efforts and activities.<sup>4</sup> It is, in fact, a social movement seeking to protect the rights of the consumer in relation to the producers and providers. In its wider perspective, it seems as an item on the agenda of administrative reforms for accountability and responsiveness through the technique of decentralisation, debureaucratisation and devolved planning process.

In fact, consumerism is today an all pervasive term with meaning ranging from nothing more than people's search for getting better values for their money to challenging that goal of society that calls for an ever increasing amount of material goods through time. Consumerists of the first type believe that prices are too high, quality and safety of goods are not adequate and that service facilities need to be improved, the latter group of consumerists question whether the emphasis should be on increasing material wealth or whether it might be better to focus more resources on public welfare, health and education programmes and better leisure facilities.<sup>5</sup> However, consumerism has over the time developed into a sound force designed to aid and protect the consumer by exerting legal, moral and economic pressure on producers and providers in some of the developed countries.

### III CONSUMERISM: DEVELOPMENT AND CONCERN

The developed countries of the world have done a lot to protect the interest of the consumers. In USA for instance, the executive office

<sup>2</sup>Jenny Potter, "Consumerism and the Public Sector: How Well Democracy", *Ibid.*, p.149.

<sup>3</sup>Robin Hambleton, "Consumerism, Decentralization and Local Democracy," *Ibid.*, p.125.

<sup>4</sup>N.C. Joshi, "Consolidating Consumerism in India", *Yojana*, April 16, 1980, p.10.

<sup>5</sup>Kewal Soeny, "Promoting Consumerism", *Yojana*, July 16, 1978, p.25.

(President) has provided strong and explicit support for consumer interest. Many legislative measures supporting consumers have been sponsored by the President. The Consumer Product Safety Commission (CPSC) is a powerful body created by law. The fight against the monopoly and unethical practice of large companies was pioneered in the United States by Ralph Nadel. He initially took up cudgels against the automobile industry for violating safety standards and pollution control laws; and gradually extended his fight to other issues in which the consumer was receiving a raw deal.

On the other hand with lesser legislation, but greater social awareness, the situation in Britain is equally good. Consumer Councils have organised laboratories and other means of experimentation to test validity of claims made by manufacturers.

Since the early 1960s, legislatures in many countries have been active in recognising the need to evolve effective measure designed to protect consumers in their transactions. Laws which have the effect of protecting the interest of consumers is not of course new. What is a relatively new phenomena is the development of institutional structures designed to deal with consumers problem and the enactment of substantive laws specifically aimed at improving the position of the consumer.

The increasing recognition of international dimensions of consumer protection reflected in the work of a number of international organisations and is also more and more being acknowledged in domestic consumer protection policy. The role played by the International Organisation of Consumers Unions (IOCU), in this direction, is of crucial importance. International cooperation on the consumer policy issues can, by the exchange of information and on developments in regulations and on experience gained in administering consumer policy, be of great values in enabling nations to draw on the experience of others and avoiding unnecessary duplication of efforts. The Global Consumer Protection Movement received an impetus when on April, 1985 the General Assembly of the United Nations adopted by consensus a set of General Guidelines for consumer protection and requested the Secretary General to disseminate them to Governments and other interested parties.

The Document annexed to the General Assembly's resolution is divided into the following four sections<sup>6</sup> :

<sup>6</sup>D.J. Harland, "Some International Dimensions of Consumer Law and Policy", *Journal of the Indian Law Institute*, Vol. 29, No. 4, October-December 1987, p.451.

1. Objectives,
2. General Principles,
3. Guidelines, and
4. International Cooperation.

The Guidelines themselves cover seven areas. These are:

- (a) Physical safety,
- (b) Promotion and protection of consumers economic interest,
- (c) Standards for the safety and quality of consumer goods and services,
- (d) Distribution facilities for essential consumer goods and services,
- (e) Measures enabling consumers to obtain redress,
- (f) Education and information programmes, and
- (g) Measures relating to specific areas (Principally food, water and pharmaceuticals).

Governments are urged to "develop, strengthen or maintain a strong consumer protection policy, taking into account the guidelines". The adoption of the guidelines was welcomed by IOCU as a major development, though in some respects they do not go so far as it would have wished. The IOCU is now working to encourage its member organisations to press their own governments to implement fully the principles of the guidelines. The guidelines are intended to be of particular assistance to developing countries where consumer policy may be at a relatively early stage of development.

#### IV CONSUMERISM IN INDIA

The concern for consumerism is not new to India. Way back, Mahatma Gandhi, attached great importance to what he described as the "poor consumer", who according to him, should be the principal beneficiary of the consumer movement. He said "A consumer is the most important visitor on our premises. He is not dependent on us, we are on him. He is not an interruption to our work, he is the purpose of it. We are not doing a favour to a consumer by giving him an opportunity. He is doing us a favour by giving an opportunity to serve him". In spite of these views consumerism is still in its infancy in our country, thanks to the sellers market and the government monopoly in most services. Consumer awareness is low due to the apathy and lack of education

among the masses. No one has told them about their rights—to be informed about product quality, price, protection against unsafe products, access to variety of goods at competitive prices, consumer education, etc. What consumerism lacks here is education and information resources, testing facilities, competent leadership, price control mechanism, and adequate quasi-judicial machinery.<sup>7</sup> The providers of goods and services have been reluctant to give due consideration for consumer interest.

Consumer protection entails protecting the right and interests of the consumers in matters of availability, quality, quantity and price of goods and services. Protecting the interest of the consumers from unfair and deceptive trade practices is one of paramount concern to the society. David Swankin of Consumers' Union of United States has rightly stated, "The Consumer interest is not the interest of individuals as such, but of all citizens viewed from the point of view of consumption...it concerns itself with the question of both, the best use of productive resources from the point of view of consumers and also the matters of distribution of these resources".

Of late, the Government has accorded a high priority to the programme of consumer protection. Concern for consumer is included in Item 18 of the Twenty-Point Programme, 1986. The Central Government has initiated a number of steps to promote a responsible and responsive consumer movement in the country. Such measures include the use of mass media for education and information of consumers, involvement of increasing number of consumer organisations, etc.

#### V CONSUMER CARE: STRATEGIES

##### *Rural Consumers and Cooperative Societies*

Even though more than 70 per cent of our population lives in the villages yet no systematic efforts have been made to build up consumer movements in the rural areas. As said earlier our consumer movement caters generally to the urban population. The availability and quality of goods are so poor that the rural population is the most exploited one in terms of urban-rural consumer exploitation. The proper distribution of the consumer article would not only make them available to the rural

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<sup>7</sup>N. Mukherjee and Gautham Murthy, "Consumer Activism : An Emerging Force", *Parlance*, October 1988, p.11.

population but will also exert influence in the market in maintaining the price line.

Within the consumer movement, especially in the rural areas consumer cooperative occupy a vanguard role due to their resources, large membership and democratic management. They also possess the physical facilities where education and awareness can take place. Consumer Cooperatives have traditionally maintained a strong commitment to consumer protection due to their explicit dedication to the welfare of their members who are consumers. Therefore both the Government as well as the consumer associations aim at strengthening the consumer cooperative societies.<sup>8</sup>

Efforts have been made to encourage and assist rural consumer business on cooperative lines and to build up an effective channel of distribution under the existing structure. The National Cooperative Development Corporation (NCDC) introduced a scheme in 1976, under which financial assistance had been provided to the primary marketing societies or wholesale societies for undertaking the distribution of consumer goods through their affiliated 20 to 25 agricultural credit societies.<sup>9</sup> The National Cooperative Policy Resolution also states that "The consumer cooperative movement shall be built up to strengthen the public distribution system and act as a bulwork of consumer protection and instrument of price stability". The consumer cooperatives in the urban areas and primary agricultural cooperatives in the rural areas are expected to undertake distribution of essential consumer articles of mass consumption and implement a new system of production-cum-distribution.

Data available from Government sources indicate that at the end of June 1987, there were 22,035 primary cooperative stores at the base level, 660 central/wholesale consumer cooperative societies at the district level and 26 State Consumer Cooperative Federations/State Marketing-Cum-Consumer Federations at the state level. At the apex level, there is the National Cooperative Consumer Federation of India Ltd. These cooperatives have retail outlets for the urban population. In the rural areas, the distribution of consumer goods is affected by about 55,000 primary agricultural credit societies including Large Sized

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<sup>8</sup>Robert Sommer and Carla Fjeld, "Consumer, Protection Programmes in Food Cooperation", *Policy Studies Review*, Vol. 2, No. 3, February 1983.

<sup>9</sup>R.B. Paul, "Cooperative Stores for Rural Consumers", *Yojana*, April 16, 1980, p.10.

Multi-Purpose Societies (LSMPS) in tribal areas and Farmers Service Societies (FSS). What is of importance is that, for such a large rural population accounting for more than 70 per cent of India's total population, the number of cooperatives and marketing-cum-consumer federations that are to cater to their needs are totally inadequate.

#### *Consumer Protection Legislations*

In India, various Acts intended to protect the consumer against different forms of exploitation were enacted, such as, the Drugs Control Act, 1950; Industries (Development and Regulation) Act, 1951; Indian Standards Institution (certification marks) Act, 1952; Drug and Magic Remedies (Objectionable Advertisement) Acts, 1954; Prevention of Food Adulteration Act, 1954; Essential Commodities Act, 1955; Trade and Merchandise Marks Act, 1958; Hire Purchase Act, 1972; Cigarettes (Regulation of Production, Supply and Distribution) Act, 1975; Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act, 1980; Essential Commodities (Special Provisions) Act, 1981; Multi-State Cooperative Societies Act, 1984; Standard of Weights and Measures (Enforcement) Act, 1985; and Narcotic Drugs and Psychotropic Substances Act, 1985. Some significant consumer protection enactments of pre-independence time are: the Sale of Goods Act, 1930; Agriculture Produce (Grading and Marketing) Act, 1837 and Drugs and Cosmetics Act, 1940.

Except for the Monopolies and Restrictive Trade Practices (MRTP) Act all the other Acts were mainly punitive and preventive in nature. The consumer could not seek remedy or redressal against the offending trader or manufacturer and negligent, careless providers of services. However, the MRTP Commission enabled the consumer to approach it in case of complaints. In spite of these Acts, the consumers did not have any effective mechanism or institutional arrangement for the speedy redressal of their grievances and also the lack of effective popular movement isolated the consumer and his plight only increased. Seeing the pressure mounting from various consumer protection groups and the consumers themselves the Government enacted the Consumer Protection Act in 1986.

#### *Consumer Protection Act 1986*

The Consumer Protection Act is of paramount importance and is the latest to be adopted in the series of consumer protection statutes.

The term consumer has been defined broadly, to mean a person who buys any goods for consideration but does not include a person who obtains such goods for resale or for any commercial purpose. A user of such goods, with the approval of the person who has obtained the same for consideration, is also to be treated as a consumer. It also includes a person who hires any service for a consideration or any beneficiary of such services when the beneficiary avails of such services with the approval of the hirer. One salient feature of the Act, which is certainly an improvement over other consumer protection legislations, is that it is applicable even to enterprises in the public sector, financial institutions and cooperative societies. This widens the scope of the Act as compared to others. Moreover, its provisions are in addition to and not in derogation of the provisions of other statutes and the rules/regulations framed thereunder.

The Consumer Protection Act also confers the following rights on the consumer:

- (a) right to be protected against the marketing of goods which are hazardous to life and property;
- (b) right to be informed about the quality, quantity, potency, purity, standard and price of goods so as to protect the consumer against unfair trade practices;
- (c) the right to be assured, wherever possible, the access to a variety of goods at competitive prices;
- (d) the right to be heard and to be assured that the consumers interest will receive due consideration at appropriate forums;
- (e) the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers; and
- (f) the right to consumer education.

The Act defines as to who is a 'complainant'. A complainant who can file a complaint before the appropriate forum can be:

- (a) a consumer or any voluntary consumer association register under the Societies Registration Act 1860 or under the Companies Act 1956 or under any other law for the time being in force, or
- (b) the Central Government, or
- (c) the State Government or Union Territory Administration.



The Act provides for an elaborate advisory and adjudicative machinery for seeking redressal for the grievances. It also provides inexpensive and speedy remedy to the consumers. Provisions exist for time bound disposal of cases which is very essential in the interest of Justice. The Consumer Protection Act envisages three-tier quasi-judicial machinery for redressal of consumer grievances, namely District Forum, State Commission and National Commission to entertain complaints up to Rs. one lakh and Rs. 10 lakh and above respectively.

These quasi-judicial bodies have been given adequate powers. Consumer Disputes Redressal forum will have the same powers as civil courts under the Civil Procedure Code in dealing with disputes. The state commissions will be presided over by a person of a High Court Judge and the national commission by a person of the status of a Supreme Court Judge. The Act also seeks to set up commission benches at Delhi, Bombay, Calcutta and Madras to deal with complaints directly lodged with the MRTP Commission.

The Central Government has by notification established a council to be known as the Central Consumer Protection Council. The Central Council shall consist of the following members, namely:

- (a) The minister in charge of the Ministry of Food and Civil Supplies in the Central Government is its chairman, and
- (b) A number of other officials and non-official members representing different interests.

The Central Consumer Protection Council meets as and when necessary, but not less than three meetings of the council should be held every year. Similarly, the states are also required to constitute state consumer protection councils. The object of these councils are to promote and protect the rights and interests of the consumers.

The Act has a penalty provision as well. Section 27 provides for imprisonment ranging from one month to three years and/or and/or fine from Rs. 2,000 to Rs. 10,000 to punish the traders, who do not comply with the orders passed by the authorities. The most notable feature is that the Consumer Protection Act has within its ambit the services supplied by the government apart from goods. Most of the services like the electricity, transport, telephone, insurance, etc., are provided by the state which were hitherto immune.

The Act has been made into a mishmash of good intentions and bad draftsmanship. This is obvious from the Amendment Act of 1991 which

introduced changes in the parent Act of 1986. On such a vital issue of protection of consumers right a well thought out legislative planning was needed. Indeed judged by the overall impact of its scheme, the inadequate mechanisms created by it and the record of its working so far, it is threatening to become a non-starter.

However, if the enactment can be said to have any real teeth at all they are in the provisions relating to the establishment of "consumer disputes redressal agencies" without pausing to ponder, the mystery as to why the district level agency should be called a forum, and the other commission. The point to be made here is that the redress framework is so riddled with self-destructing snags as to make it nothing more than a shaky contrivance right from the start. Another point is that why should a state government be required to take the prior approval of the Central Government to constitute a district forum or state commission, when the law lays down clearly on their composition and jurisdiction.

It will be altogether erroneous to suppose that with the passing of this unplanned piece of legislation, the last word has been said on consumer protection. Its implementation is yet in its initial stages and the mechanisms envisaged by it are non-existent in many states. On September 19, 1989, the Supreme Court directed the state governments and Union Territories to set up within six weeks consumer grievance forums under the Consumer Protection Act 1986.

The state governments have been dragging their feet in regard to implementation of the provisions of the Act. Consumer disputes redressal forums headed by District Judges were to be set up in all 455 districts of the country. As in 1990 such forums have been set-up only in 48 districts, 23 of them in Andhra Pradesh. State Consumer Disputes Redressal Commissions (to hear claims of Rs. one lakh to 10 lakh) have been instituted in only seven of the 25 states and seven Union Territories. One of the reasons for the delay is a dispute over funding of the administrative costs of the forums and commissions. The state complain that the promised funds have not been forthcoming. Commenting on the implementation of Consumer Protection Act, Shri H.D. Shourie of the common cause says, "We are in the era of passing laws, implementation does not appear to be the concern of those passing them. They feel it is enough to give the public the sop of legislations".<sup>10</sup>

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<sup>10</sup>H.D. Shourie, "Pass Laws and Sleep", *Hindustan Times*, August 10, 1989. See also "Consumer Protection Act: Poor Implementation", *Hindustan Times*, July 18, 1990.

The feedback report received on the functioning of the redressal forums established under the Act is very encouraging according to the Ministry of Food and Civil Supplies. However, as per the information available from Bihar, 116 cases were filed in the state commission by January 1989, of which 61 have been decided. Similarly, 227 cases were filed in the district forum at Patna, out of which 124 were decided. In Delhi, 368 cases were filed in the district forum up to February 22, 1989, of which 47 have been decided. In Rajasthan, 340 cases were filed in 6 district forums up to January 1989, of which 32 were decided. In the state commission of Rajasthan, four cases were decided out of 20 filed so far. Similarly, the redressal institutions of Uttar Pradesh and Andhra Pradesh are responding to the complaints of the consumers. The above data in no way indicates encouraging trend. In fact, it reflects on the slow disposal of cases by the quasi-judicial bodies created under the Act. There is strong possibility of the increasing pendencies. If adequate measures are not taken on priority basis, it will result in the piling up of cases and affect the interest of consumers adversely and thereby question the very objective of the creation of these adjudicatory bodies.

#### *Consumer Resistance*

Governments do play a crucial role in protecting the consumers, it is one of their declared policies but no consumer movement can be successful unless consumer resistance forms its core. Surprisingly in our country even though the issues are plenty specially during the periods of shortages and spiraling prices yet consumer associations have failed to build up the consumer resistance.

There are a number of consumer items in the market which are substandard in quality or hazardous to the human health. The consumer organisations can educate the consumers about them and appeal for the boycott of such goods. It is consumer resistance alone which can discipline manufacturers and traders and infuse the sense of service in the public service. The consumer resistance is an area which provides unlimited scope for the genuine consumer protection activities. However, consumer resistance, should be organised in a peaceful and democratic manner. It is the duty of the organisers of resistance to ensure that the resistance should not take the shape of law and order problem and create hardships to the consumers instead of serving their cause.

### *Consumer Associations*

The consumer associations can be used in socio-economic terms as institutions which control the quality, price, availability, weights and measures, safety and hygiene of the products. They can mobilise social and political influence. Even though consumer associations are private organisations they are so closely associated with the public interest that there is increasing awareness for social accountability.

The consumer movement, strictly speaking is a voluntary effort. In our country, the movement is relatively new. There are some voluntary consumer organisations in the country but only a few of them are active. The voluntary organisations are confined to the metropolitan towns, there is a need for spreading the movement throughout the country, particularly in smaller towns and rural areas.

Some voluntary organisations in the country have come together to form the Indian Federation of Consumer Organisations as an apex organisation of the voluntary consumer societies at the national level. There are a number of organisations that are involved with the work of the IOCU. It is an independent, non-profit making, non-party political foundation linking the activities of 169 large and small consumer groups in 58 countries. It is represented at a number of United Nations Bodies.

Consumer associations engaged in the protection of interests of consumers are in a disadvantageous position in the absence of a law for the registration of these associations. To remedy the ill and provide impetus to the consumer care a private member Bill titled "The Consumer Associations (Registration) Bill, 1991", has been introduced in the Lok Sabha on February 22, 1991. The proposed bill contains elaborate provisions for the registration of associations and the matters incidental thereto.

The movement being social one is to be developed on voluntary basis through greater participation of voluntary consumer organisations. As per information available the number of voluntary organisation doing consumer protection work in the country has increased from 235 in 1986-87 to about 275 in 1987-88. The number had crossed 300 in 1988-89.\*

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\* *Annual Report*, Ministry of Food and Civil Supplies, Government of India, 1988-89.

### *Consumer Education*

Consumer education should be given an overriding priority among all the programmes, which the consumer organisations have before them. After all, an enlightened consumer is the best vanguard of his interest. Dissemination of information relating to various legal protections available to the consumers, misleading advertising and labelling, common forms of adulteration and trade malpractices, judicious choice of the consumer products and services at competitive prices and authorities concerned with enforcing various legal measures relating to consumer protection is of paramount importance where the federation and its members can render a useful service. Educating the consumers of their rights and duties will enhance their abilities to protect themselves. With proper information and education the consumers will have an awareness of their own needs which would help them to accurately assess qualities of products relevant to their needs.

A handful of consumer organisations like Consumer Guidance Society of India, Grahak Panchayat, Consumer Research and Education Centre, etc., are trying to educate the masses on their rights and some of them like the common cause take up cudgels on behalf of aggrieved consumers. The MRTP Commission too is handling consumer issues. A few trade and commercial organisations have opened consumer complaint redressal cells a tacit acknowledgement of the growing clout of consumers in business and trade in the country. However, there is as yet no consumer movement worth the name in a large country like ours and the impression of the consumer on the move created by more than 300 small and big consumer organisations in the country is an optical illusion.

### *Awards*

In a large country like India, the youth and women have an important role to play for the success of the consumer movement. To encourage their participation the government has instituted national awards on consumer protection.

To involve the youth particularly at grassroot level the Department of Civil Supplies, Government of India has instituted a "National Youth Award for Consumer Protection". The youth, including women in the age group of 15-35 years who have done really outstanding work in the field of consumer protection are eligible for this award. The award

comprises of prize money of Rs. 20,000, Rs. 15,000 and Rs. 10,000 alongwith a certificate of merits.

To encourage voluntary consumer organisations particularly the women organisations and those functioning in rural, tribal and backward areas the Department of Civil Supplies has instituted a "National Award on Consumer Protection". The voluntary consumer organisations which have done exemplary work in the matters of consumer protection are eligible for this award. The award comprises of prize money of Rs. 50,000, Rs. 40,000 and Rs. 30,000 alongwith the certificate of merits. The award will be for a calender year and commences from the year 1989. There is no doubt that such recognition to consumer groups particularly of women in the rural areas will go a long way in strengthening the consumer movement.

#### CONCLUDING REMARKS

The foregoing discussion reveals that consumerism is no more confined to the restricted aspects of duties and liabilities of the producers and providers. Consumerism is a concept of wider amplitude and implications. It has a direct bearing on the techniques which are essential to make the state and its sub-system responsive and responsible. Therefore, the requirements of decentralisation, debureaucratisation and devolved planning process are of direct concern to consumerism. In this way, it may not be inappropriate to place it as an item on the agenda of administrative reforms. It has also a bearing on the human rights and the dignity of individual. It is sometimes forgotten that human rights simply do not exist for large sections of the population in a developing country like India. Large numbers of men, women and children who constitute the vast majority of people are today living a sub-human existence in conditions of abject poverty. What fundamental rights are these poor, depressed, deprived and downtrodden sections of humanity going to enforce. The only solution for making fundamental rights meaningful to these large sections of society would be to improve their material conditions and restructure the social and economic order so that they may be able to realise the economic, social and cultural rights.

In order to safeguard the interest of the general public strong and permanent consumer protection movement should be built up. The major thrust of the movement should be on the availability, purity,

pricing of essential commodities, and the supply of essential services. With the rising economic hardship and inflation the need to protect the interest of the consumer has now assumed great significance.

The public systems in India provide a bulk of services to the consumers particularly the poorer among them. The public distribution system, the state transport organisations, the central railways, the state electricity boards, water supply organisations, the housing boards and similar other organisations provide a vast variety of services to the public. They leave much to be desired both in regard to their quality and efficiency of services. The consumer movement has not yet had any appreciable impact on them. Though there are indications that the consumer law is catching up with them, there is no perceptible indication that these organisations have developed consumer awareness and appreciate their responsibility towards the consumer. Many of them seem unhappy at their being made accountable under the consumer laws. A major change of attitude is called for in these organisations for which perhaps the initiative must come from the politico-bureaucratic leadership.

The consumer movement is still to take of in India in real terms even though the issues that effects the consumers is too large to mention. With the passing of the Consumer Protection Act, 1986 it was expected that the consumer movement would get a boost but the slow implementation of the Act specially in setting up the district forums has caste apprehensions on the ability and sensitivity of the policy farmers to protect the interest of the consumers. The movement is unable to develop the awareness and the organisational skills that are needed for an effective consumer movement.

No movement can be successful without the cooperation and coordination of the parties concerned, *i.e.*, government, consumer organisations, business houses and consumers themselves. A code of conduct if evolved suitably would avoid unnecessary litigation and frustration. The consumer as such would like to have quick relief which the present Act has so far not achieved. A proposal to set up conciliation boards below the district level may generate quick remedial relief to the consumer. Efforts should be made to educate the consumers as well. In this direction the mass media and the press have a great role to play. Voluntary associations and cooperative societies are no doubt the backbone of any strong consumer movement.

In a society which is highly stratified and suffers from severe economic and social backwardness, consumer protection has a larger role to play than in comparatively more affluent and equal societies. In societies like ours, consumer movement must be viewed as an essential and an integral part of wider socio-economic development encompassing education, health, employment and economic support. We must be on constant vigil for ensuring that the consumer movement also does not become another device to support the well to do. The consumer movement in our country need to constantly focus on the provision of goods and services to the weaker and poorer sections of the population. These need to be closely monitored for ensuring the broader objectives of the consumer movement in promoting and developing the country on the lines as envisaged in our Constitution.

#### ISSUES FOR DISCUSSION

##### *Legal Lacunae*

1. Whether the word 'Service' under Section 2(o) of the Consumer Protection Act needs clear and unambiguous definition to eliminate confusion. Some forums, for example, have entertained proceedings against doctors for alleged overcharging of fees or professional negligence and the like. It is doubtful whether such matters were intended by the legislature to be dealt with by Consumer Grievance Redressal Forums.
2. Whether the words under Section 2(r) of the Consumer Protection Act 1986 needs an amendment in the light of amendments introduced under the MRTP Act, 1969 by the Ordinance issued on September 27, 1991 by which government undertakings, financial institutions including banks and chit fund; cooperative societies and real estate activities are covered by the MRTP Act.
3. Procedure for appointment of non-official members on the Central and State Consumer Protection Councils may be discussed.
4. Procedure for appointment of non-judicial members on the adjudicatory bodies — National Commission, State Commissions and District Forums — may be discussed with a



view to enhance the competence and effectiveness of these adjudicatory bodies.

5. Is Clause (g) of Section 13(1), which requires the "giving of a reasonable opportunity to the complainant as well as the opposite party of being heard....", conflict with the provision under Section 13(3) "No proceeding complying with the procedure laid down in sub-section (1) and (2) shall be called in question in any Court on the ground that the principles of natural justice have not been complied with".
6. Jurisdictional conflict of the High Courts and the State Commissions should be resolved.
7. Whether *suo moto* power should be given to the national and state commissions on the line of the power conferred recently to the MRTTP Commission.
8. Are improvements needed in the traditional fabric of Commercial Law? This fabric consists of large number of enactments, for example, law of contracts, sale of goods, the law of insurance and so on. It may be useful to consider one or two issues. Right now, the legal position seems to be that the dealer who has supplied goods simply acts as a post office. There is a case for consideration whether, in such a situation, the consumer should not be afforded a direct remedy against the dealer, who of course can seek indemnity from the wholesaler or the manufacturer.
9. *Exclusion Clause* – Some of these clauses are very harsh and unreasonable. Sometime, such clauses excluding liability appear in statutes. For Example, The Indian Post Office Act, 1898 bars totally a legal remedy for the non-receipt of a registered letter or packet and the sender or the intended receiver cannot claim compensation for non-receipt unless the article has been insured.
10. Whether there is a need for inserting a provision, somewhere at an appropriate place, whereby common man is heard before prices are fixed for products. The consumer is never heard before rates and prices are steeply increased or suddenly enhanced in the public sector.

*Apathy of the Government*

1. The Consumer Protection Act is characterised by its poor implementation. The district forums are required to be set up without further delay.
2. Consumer education programmes should be given high priority.
3. Efficiency and quality in public services are required to be ensured by the providers of public services. An effective and purposeful monitoring and supervision system should be evolved with a view to protect the interest of consumers.
4. Need of training of public personnel in the area of consumer protection laws and related matters with a view to enhance administrative responsiveness, accountability and sensitivity may be discussed.

*Infrastructural Facilities*

For the effective functioning of the consumer grievance redressal forums there is a strong need of strengthening the infrastructural facilities, for instance, adequate staffing, physical facilities, reasonable library and steno-typist, etc.

*Public Indifference*

Means and modes for more and more public support and their involvement should be evolved to make consumerism a powerful weapon for the protection of consumers rights and interests. Modicum to ensure public participation may be discussed.

*Lack of Voluntary Effort*

The consumer movement being social one is to be developed on voluntary basis through greater participation of voluntary consumer organisations. The present number of voluntary associations working effectively is in no way adequate. In a large country like India the youth and women have an important role to play for the success of the consumer movement.