

# Pakistan's Current Legal Regime of Consumer Protection

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## Abstract

Consumers have always remained in pursuit of their adequate rights. They depend upon the manufacturers and service providers to deal with prices, qualities as well as quantities of the products and commodities. They cannot emerge as a unified pressure group, just like manufacturers and cartels that create monopolies to build pressure upon the consumers as well as state. Unfortunately, in the given global scenario, Pakistan is yet way far behind in taking necessary steps, as taken by various other countries in this regard. When we observe the plight of consumers in Pakistan, it seems that there is no consumer protection practically existing, except for the recent provincial legislation. It is generally presumed here that customers are intelligent enough to make wise choices, while in many jurisdictions of the world it is presumed otherwise. Thus, the burden is upon commercial enterprises to disclose different details about their products instead of taking advantage of the innocence of their customers who include even illiterate, old and non-professional people. Consumers of products and services cannot be treated at par with parties of commercial dealing where one of the parties are presumed to be at an adversarial position with the other. While on the other hand a customer can never be expected to have the same level of expertise as a commercial entity. There is dire need to take it seriously in terms of implementation of existing laws in true letter and spirit and to take necessary steps for this purpose because consumer protection plays a vital role in

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social and economic justice as well as in building public morality.

**Keywords:** Consumer Protection Laws, Monopoly Control Authority, Consumer Rights, Commercial enterprises, Consumer exploitation.

## 1. Introduction

A man's instinctual incapability makes him dependent on others in many ways. No one can claim to be living a solitary life, where there is no need for others. Humans are dependent on each other by their nature and instinct. Trade forms a major part of their living, and every person is associated with the trade in one or the other way. From time immemorial human need took various forms, like exchange of required goods or selling & purchasing to acquire the needful. There is no fixation of the parties on one side. Everyone is a seller and buyer in certain aspects. If one is a producer, he is also a buyer of those things which he is not producing. So, we are all consumers and there is no difficulty to define the consumer. We are consumers when we buy something or use some service provided by others. However, the definition of consumer has been provided in various places. The definition of consumer as stated in Black's Law dictionary states consumer, "a person who buys goods and services for personal, family, or household use, without intention of resale."<sup>1</sup> Consumer has been defined in Provincial laws as:

Consumer means a person or entity who:

- i. Buys or obtains on lease any product for a consideration and includes any user of such product but does not include a person who obtains any product for resale or for any commercial purpose; or

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<sup>1</sup> Thompson West, Black's Law Dictionary (10th ed. 2014).

- ii. Hires any services for a consideration and includes any beneficiaries of such services.<sup>2</sup>

The existence of consumers is as old as human history itself. We find many ancient laws protecting consumers in different forms. In Islamic history we find many Qur'anic injunctions emphasizing the righteous dealings in trade. We find many Islamic injunctions which strongly prohibit the exploitation in financial matters. In the Holy Quran, Allah, the Almighty warns with the dire consequences which they will face in the Hereafter who cheat and fraud in weights and measures. Surah Al-Muta'ffifin reads as follows:

Woe to the defrauders. Who, when they take the measure (of their dues) from men, take it fully, but when they measure out to others or weigh out for them, they are deficient. Do not think that they shall be raised again, for a mighty day, the day on which men shall stand before the Lord of the worlds?<sup>3</sup>

Likewise, in other religions, such as the Hindu religious books Vedas and Manu Samaritan also ensure consumer protection. Along with the religious teachings we find many rulers who took very serious steps to make rights protected by one or other ways.<sup>4</sup> For the first time in parliamentary history John F Kennedy, the American President discussed the importance while addressing the congress on 15<sup>th</sup> of March 1962. First, he gave the definition of consumers in the following words: “consumers by definition include us all, they are the largest economic group in the economy, affecting and affected by almost every public and every private decision.” His speech stressed the consumer's interests with the

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<sup>2</sup> The Punjab Consumer Protection Act, 2(c) § (2005).

<sup>3</sup> Al-Qur'an, 83:1-6.

<sup>4</sup> Michael Pye et al., *Religious Harmony (Indonesia: De Gruyter Publishing, 2006)*, 173-196.

introduction of their certain rights and also sparked deliberation and subsequent legislation to protect consumers. Therefore, 15<sup>th</sup> March is celebrated as World Consumers Rights Day in the memory of Kennedy's speech.<sup>5</sup>

With the awakening speech of John F. Kennedy, a new legal regime was born with the name of consumer protection. Different countries started their legislation to serve this purpose, but it was not a world known area of legislation until the United Nations (UN) guidelines for consumer protection. The UN framed and passed these guidelines through its general assembly on 16<sup>th</sup> April 1985 with the aim to promote consumer protection worldwide. These guidelines are some principles which provide assistance to the signatory countries for the formulation and enactment of domestic and regional laws. The countries were set free to make their domestic laws keeping in view their economic, social, and environmental circumstances.

Pakistan being a member state of UN was under an obligation to legislate in this matter so the first ever legislation was Islamabad Consumer Protection Act 1995. By the enactment of this Act the provinces followed suit and started legislations suitable to their circumstances respectively. NWFP took lead in this matter and passed their statute in 1997 ahead of all other provinces. Then Baluchistan in 2003 and Punjab in 2005 but Sindh did not bother it until 2015. These provincial statutes also required consumer courts as well as district consumer protection councils. This was a major step towards consumer protection in actual sense because special courts and councils play a vital role in the protection. Consumer courts deviated from very lengthy civil procedure with the provision of summary trials and became a very effective tool for the early conclusion of petty

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<sup>5</sup> Richard Cordray, "The Evolution of the Consumer Movement: The Rise of Consumer Financial Protection" *The Journal of Consumer Affairs* 54, no. 4 (2020): 1375-1382.

nature cases. Similarly, consumer protection councils were also equipped with the powers to ensure statutory compliance in the marketplace.<sup>6</sup>

The need to protect the consumer's rights through special legislation is very obvious because general laws under which consumers seek remedies do not treat consumers as a special party while ignoring many other aspects. Generally, he seeks remedies under the contractual relationships like sale purchase agreements and contracts. The law of contract assumes that the parties of contract are legally equal in terms of power and information. Theoretically the contract of sale purchase is an act of free will but practically the legal consequences are attributed to the action by law without consideration whether the consumer knows or not or to what extent. In the real market the consumers have noticeably less power and information than suppliers. Because the consumer is vulnerable who depends upon the other party in many aspects. The situation is more critical in the case of developing countries like Pakistan where most of the people are illiterate and unaware of legal rights and implications.

Consumers face many risks in using fake or spurious goods, receiving misinformation, or suffering restricted choices and so on. The legal maxim *Caveat Emptor* also puts burden on consumers to buy the goods at their own risks. This maxim weighs more to the side of manufacturers and producers who are already socially and economically stronger than to consumers. They are adequate in resources to make circumstances in their favor by using different tactics. They are unified in most of the cases to create pressure groups. Moreover, in most of the cases the government is itself goods or service providers and at the same time it has regulatory powers. This situation is a glaring example of conflict of interests. This article highlights how the consumers are weak and lack

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<sup>6</sup> Consumer Rights Commission of Pakistan, [ww.crcp.gov.pk](http://ww.crcp.gov.pk), September 17, 2022.

resources and it will also discuss the gaps which need to be filled. Although consumers are big stakeholders in the marketplace, their interests are not secure due to certain facts which will be discussed in this article.

## **2. Disparities in the Provincial Laws**

As mentioned earlier, provinces enacted their legislations after the lapse of many years because the federation did not intend to implement the desired laws through national legislation and delegated the powers to the provinces that did not take it seriously as it was required. Consumer protection is a subject of center worldwide with the national laws<sup>7</sup>. According to the “United Nations Conference on Trade and Development (UNCTAD)” an approach and idea enunciates in relation to the protection of consumers.<sup>8</sup> Countries were given choices to make their legislations according to their economic and social needs by the UN but in the absence of national policies and the provincial scattered laws in Pakistan did not change the plight of consumers remarkably. In America there is Federal Trade Commission<sup>9</sup> which is a consumer protection agency that works alone throughout America with uniform policies. Similarly in India there is Central Consumer Protection Authority (CCPA)<sup>10</sup> having vast powers to regulate, enforce and to protect the consumers at federal level. This Authority can fine up to Rs.10 lacs for the first violation and Rs. 50 lacs on every subsequent violation and can also imprison up to 2 years to the manufacturer for false and misleading advertising. Similarly, there are a number of other countries' legislation which are central in their nature. Rather, central international cooperation has been advised by the UN. Chapter VI of the UN Guidelines is fully on

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<sup>7</sup> United Kingdom, “Consumer Protection Act” (1987).

<sup>8</sup> India, “Consumer Protection Act” (2019).

<sup>9</sup> “Federal Trade Commission,” Federal Trade Commission, November 15, 2022, <http://www.ftc.gov>.

<sup>10</sup>Shan Karias Academy, “Central Consumer Protection Authority | Current Affairs,” [Www.iasparliament.com](http://www.iasparliament.com), accessed November 7, 2022, <https://www.iasparliament.com/current-affairs/central-consumer-protection-authority>.

international cooperation which emphasizes regional and sub-regional cooperation for the purpose of consumer protection. The said guidelines are basically made to draw a comprehensive and efficient mechanism of domestic legislation in order to facilitate the consumers on a massive level.<sup>11</sup> “European Union Consumer Protection Cooperation Network (CPC)” which is a union of domestic officials and are working with purpose to keep an eye on the efficiency level of the laws of consumer protection in Europe. Similarly, “European Consumer Center Network (ECC-Net)” is an organization working with the purpose to facilitate and protect the consumers in terms of financial gains across the European Union and where the consumers benefited from a big financial market. The purpose of this network is to provide help the consumers for the purchasing across the borders.

Unfortunately, in Pakistan, unlike Europe where in 30 states of EU consumers have been provided a single market opportunity with the same rules, our provincial laws diversity can be seen in many material aspects. Irrespective of the fact that Balochistan enacted its legislation in 2003 but it still has been unable to establish any functional or operational policy. The situation of Sindh is not much different than KPK and Balochistan. A number of Consumer Courts are working in the province of Punjab with cooperation of District Consumer Protection Councils. District Consumer Protection Councils are aiming to spread awareness among masses and courts are there to ensure that no consumer is exploited by the manufacturers or service providers.

It is also pertinent to mention that the first ever legislation in this regard was enacted in 1995 but rules were framed in 2011 after passing of 16 years. Legislation is not much effective until its rules are framed. Similarly, KPK framed rules in 2007 after 10 years and it also did not spread

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<sup>11</sup> United Nations, “Guidelines on International Cooperation.

its courts and district council's network in its entire province and still there are four consumer courts in KPK. Punjab has led more than all of other provinces by making 17 special consumer courts and district councils. Sindh first time promulgated its Consumer Protection Ordinance in 2004 which was lapsed as the same was not presented in the provincial assembly which shows how less important matter is for the province. It went on for a long time and again in 2015 assembly did legislation but still there is neither any consumer court nor any district council to protect the rights of consumers in the whole of province. Despite the fact consumer laws make it mandatory to set up consumer courts as well as consumer councils in each district. Same situation is in Balochistan there is also neither court nor council except mere legislation. What is the purpose of those laws which only exist in books and no mechanism is there to implement them? The creation of rights through legislation serves no purpose until the state agency executes them and enforces them.

Apart from all the above mentioned, the provincial laws are not uniformed and aligned to each other. There is no uniformity in the original as well as appellate jurisdictions of the courts in all the provinces. In Punjab, District and Sessions judge is the first forum to file a complaint and High Court is first appellate forum whereas in KPK and in Balochistan Sessions court exercises the powers of appellate courts. In Sindh the story is quite different where the Executive District Officer of revenue has been vested powers to hear the cases at first place in consumer tribunals because the Act speaks about the establishment of special tribunals which still do not exist and appeal will lie to District Coordination Officer under section 24 of the Act.

Furthermore, Punjab and Sindh consumer laws focus on the defects in goods and services whereas all other laws including Islamabad do not directly talk about the defects but the false representation of the defects in



the goods and services. More importantly, none of the laws of the entire country make the manufacturers and producers liable against consumers on the omission of material information in the goods and services. This deficiency has been tried to be covered by the Competition Commission of Pakistan in Zong order.<sup>12</sup>

In addition, our current legal regime is also silent about online trade practices. The development and widespread use of the internet has brought out major changes in the shopping trends throughout the world. A remarkable increase in online shopping has been noticed in Pakistan. Consumers find more choices in goods while sitting in their homes and adopting the facility of cash on delivery. 3G and 4G have also played a very vital role in maximizing digital transactions including shopping. It was reported last year, out of total online shopping orders 44% were placed by the cell phones using 3G/4G in Pakistan.<sup>13</sup> It is a very fast spreading trend throughout the world including Pakistan but unfortunately there is not any single provision in any of our consumer laws relating to online transactions. A number of websites are looting the customers with the fake goods while displaying others. There is a need to regulate the electronic transactions wherein consumers could feel satisfaction, reliability, transparency and trust in information.

Above all, our consumer laws do not consider the special status of consumers. They define the consumer as diligent person<sup>14</sup> ignoring all the circumstances which make the consumer vulnerable. The rationale behind providing legal protection while adopting special rules for consumers is very obvious because of his inferior position. There are some classes of consumers including illiterate persons, children, sick persons and old people

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<sup>12</sup>“Zong Case,” Www.cc.gov.pk, n.d., accessed November 9, 2022.

<sup>13</sup>“Online Shopping in Pakistan,” Bargain Hunting, March 15, 2019, <https://www.picodi.com/pk/bargain-hunting/online-shopping-in-pakistan>.

<sup>14</sup> Competition Commission of Pakistan, “Capacity Building in Consumer Protection: Trends and Challenges,” October 15, 2016.

which stand apart from the discussion of equality of parties. Even a normal and an educated person cannot understand the communication of new technologies and the complex technicalities of financial services and many more. Consumers must not be seen with the contract eyes which demand equality of parties. To declare a consumer diligent implies to provide room to the manufacturers and service providers from mandatory information disclosure obligations. We can remember milk case<sup>15</sup> in which the Supreme Court of Pakistan directed all the milk companies to label it tea whitener rather than milk because all the companies were selling tea whiteners as milk. This definition of consumer itself makes the case of consumer weak and creates the situation imbalance towards consumer protection. In the legislations of various consumer laws of European and American countries this has been considered and followed by many case laws.<sup>16</sup>In a country like Pakistan where illiteracy and poverty rates touch half of the population and where the justice system is also not as efficient and responsive as compared to the developed nations, to state the consumer as a normal and diligent person is nothing else but to deprive him of many rights straight away.

### **3. Role of Competition Laws in Consumer Protection in Pakistan**

Competition laws were never part of Pakistan legal regime till 1970. The absence of competition laws resulted in the shrinking of wealth into certain hands in the early history of Pakistan.<sup>17</sup>When there were no anti-monopoly laws, twenty family groups were collectively holding two third of the industrial sector, eighty percent of banking as well as seventy percent in

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<sup>15</sup>“‘This Is Not Milk’ to Be Written on Tea Whitener Packaging,” The Nation, February 14, 2018, <https://nation.com.pk/14-Feb-2018/this-is-not-milk-to-be-written-on-tea-whitener-packaging>.

<sup>16</sup>Springer Nature, “Information Obligations and Disinformation of Consumers,” 2019.

<sup>17</sup>UNCTAD. “Voluntary Peer Review of Competition Law and Policy: Pakistan, Overview,” 2013.

insurance sectors before the year of 1970.<sup>18</sup> This situation, concentration of economic power into few hands, necessitated the introduction of competition laws in Pakistan.

Although competition laws are known with the different names that is antitrust laws, anti-monopoly laws and restraint of trade laws but it is basically a state policy the purpose is trade liberalization, privatization and such types of investment which foster the culture of competition in the economy<sup>19</sup>. William Covacic former commissioner of “American Federal Trade Commission (FTC)” said that “consumer protection laws are important complements to competition policy.” Similarly, Simon Sinek a renowned author also says, “believing that your competition is stronger and better than you, pushes you to better yourselves.” It can be said that the progress marked by humans and the shape of the world which we see today is the substantial result of the competition among humans. Likewise, businesses and trades are also not exceptions to this general truth. A healthy competition in trade works for the consumer’s welfare in many ways. It enhances the goods as well as which are available in the area. It promotes innovation, creation and production of a variety of new things in the market at competitive prices. It puts the market players into a continuing struggle toward betterment which ultimately ensures consumer satisfaction and liberty.<sup>20</sup>

The need for such laws was recognized in very early ages with the aim to regulate the competitive markets. The Roman legislature adopted the rule that is *lexjulia de annona*.<sup>21</sup> The purpose was to protect the corn price

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<sup>18</sup>Columbia University Press. “The Poverty Curtain; Choices for the Third World,” 1976.

<sup>19</sup>Jaipur Printers P. Ltd. “Competition Regime in Pakistan-Waiting for a Shake Up,” 2002.

<sup>20</sup> Federal Trade Commission, “Federal Trade Commission,” Federal Trade Commission, December 21, 2018, <https://www.ftc.gov/>.

<sup>21</sup> [www.legal-Lingo.net/Lex-Julia/](http://www.legal-Lingo.net/Lex-Julia/), n.d., accessed October 9, 2022.

and to curb unfair trade practices with heavy fines.<sup>22</sup> On the basis of such laws of Romans three notions were developed in Western Europe during medieval times: (i) transactions and markets should be subject to fairness, (ii) just and fair price for any transaction and (iii) prohibition of monopolistic control or market competition<sup>23</sup>. Following these principles an English common law doctrine 'restraint of trade' was evolved and it played a role as a precursor to the modern competition laws.

The United States was the first country in the parliamentary history which legislated following laws in this regard: (i) Sherman Antitrust Act 1890 which prohibited all those contracts which consequently creates trade barriers and enhances the market player's monopoly. The relevant sections of the said Act read as follows:

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.<sup>24</sup>

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<sup>22</sup>London Sweet & Maxwell. "The Law of Restrictive Trade Practices and Monopolies," 1966.

<sup>23</sup> D G Brian Jones, "The Routledge Companion to Marketing History" (Routledge New York, March 15, 2016).

<sup>24</sup> United States, "Sherman Antitrust Act," § 1 (1890).

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of the trade or commerce among the several States, or with foreign nations shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.<sup>25</sup>

Similarly, “Clayton Act 1914” and “Federal Trade Commission Act 1914” were also passed by US parliament to further strengthen the trade regulation by bringing a more stringent enforcement mechanism which provides the best results ever received during the consumer protection history in the past.

Keeping in view the concentration of economic power into certain hands, as above mentioned, and international trends of regulating the country's economy, the government of Pakistan also decided to make competition laws. For this purpose, the government constituted an “Anti-Cartel Laws Study Grouping 1963.”<sup>26</sup> The research done by this group further identified the certain issues within Pakistan legal regime such as unfair market hold and strong anti-groups lobbying.<sup>27</sup> On the recommendations of this report, inter alia, which also suggested dire need of “anti-monopoly and anti-cartel laws” in country, The “Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 1970” (“MRTPO”) passed and enforced in August 17, 1971. An organization

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<sup>25</sup> Ibid., § 2.

<sup>26</sup> “Prosecution and Law Enforcement - OECD,” [www.oecd.org](http://www.oecd.org/daf/competition/prosecutionandlawenforcement), July 13, 2022, <http://www.oecd.org/daf/competition/prosecutionandlawenforcement>.

<sup>27</sup> Joseph Wilson, “At the Crossroads: Making Competition Law Effective in Pakistan Symposium on Competition Law and Policy in Developing Countries” (Nw. J. Int’l L & Bus, May 10, 2006).

namely Monopoly Control Authority (“MCA”) was also established at the same time to implement this law.

The scope of MRTPO was threefold: to provide measures against unjustifiable deliberation of economic gains by individuals, therefore non-public undertaking along with benefits more than three hundred million rupees was barred by this law. Secondly, to curb the monopoly and thirdly to check the restraint trade practices. The Monopoly was defined geographically, and it was presumed an unreasonable monopoly in the law when competing undertakings. The said monopoly is geographical and characterized as unjustifiable in law where the shared value is twenty percent or above and controlled by people with mutual understanding. The same situation also lies where the company's directors as well as other office bearers carry twenty percent or more shares. In this context, the practices which create barriers in doing the free trade are also considered as illegal and disallowed by the law. The examples of such barriers include less production, price fixation and boycott to the market competitors.<sup>28</sup> This Act could not prove successful to meet the objectives due to various reasons listed below:

- I. The scope and jurisdiction of this law and MCA was only to the extent of private enterprises and did not extend to public undertakings.
- II. The scope of this Ordinance was severely constrained by the initiation of Economic Reform Order 1972 which started nationalization in the country.

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<sup>28</sup>Jaipur Printers P. Ltd. “Competition Regime in Pakistan-Waiting for a Shake Up,” 2002.

- III. The independence nature of MCA was also eliminated, and it was placed as a subordinate department of the newly formed Corporate Law Authority in 1981.
- IV. The Authority was not zipped with the adequate powers to cop up and control the gigantic economic powers and often it seemed helpless in many of the cases including the cement case. In which MCA found evidence of oligopolistic behavior and price fixing and ordered reduction of price of cement along with direction to deposit the undue collected money into Bait-al-Mal but it went all in vain. Instead of supporting the MCA and allowing the matter to go to the courts the government and the cement manufacturers came to a settlement.<sup>29</sup> Because MCA could only make recommendations<sup>30</sup> to the relevant government authority to take action and the nature of order to deposit in bait-al-mal was also moral in.
- V. It became out of date due to modernization and a rapidly transforming market economy.

Moreover, this law was neither effective from the beginning nor was it compatible with the arising new economic trends. There was an utmost need to update the competition policy with the liberalized economy to meet the objectives of growth in privatization and innovation. So the government of Pakistan thus launched a program to develop competition policy. Toward this end, the ministry of finance and the MCA worked with the World Bank and the Development for International Development (DFID) UK. As a result of these efforts “Competition Ordinance 2007” replaced the MRTPO.

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<sup>29</sup> M Sarwar K & A Hafeez, “Consumer Laws in Pakistan” (Consumer Rights Commission of Pakistan, March 15, 2006).

<sup>30</sup> The Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 10(e) § (1970).

After getting approval, the Competition Ordinance finally transformed into “Competition Act 2010”<sup>31</sup>.

This new law introduced major changes and averted from prescriptive to reasoned approach. In contrast to the MRTPO the Act does not seek to curb the dominant positions; it prohibits the abuse of dominant positions.<sup>32</sup> The Act also introduced provisions regarding deceptive marketing not only in the interests of consumer's welfare but business interests also to shun false and misleading information or advertising. The Act also considerably strengthened the investigative capacity of Competition Commission of Pakistan (CCP or the Commission) through adding provision of search, inspection and forcible entry and lenience powers.<sup>33</sup> Section 39 allows CCP to impose lesser penalties if an undertaking has made a full, truthful disclosure in respect of the alleged violations. Subsection 2 extends to full exemption. However, CCP may revoke leniency in cases of false evidence or failure to comply with leniency conditions.

The Commission was equipped with more powers of statutory mandate; issuing advisory or policy note and by the way of enhancement of severe penalties<sup>34</sup> than MRTPO. Another very major step was the introduction of the establishment of special independent Competition Appellate Tribunals.<sup>35</sup>

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<sup>31</sup> “Competition Commission of Pakistan - Commission,” [Www.cc.gov.pk](http://www.cc.gov.pk), October 9, 2022, <https://www.cc.gov.pk/index.php>.

<sup>32</sup> UNCTAD. “Voluntary Peer Review of Competition Law and Policy: Pakistan,” 2013.

<sup>33</sup> The Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 39 § (1970).

<sup>34</sup>“CCP”, [Www.cc.gov.pk](http://www.cc.gov.pk), October 9, 2022, <http://www.cc.gov.pk/images/Downloads>.

<sup>35</sup> The Competition Act, 43 § (2010).



#### **4. Importance of Improving Consumer Protection**

Consumer is the king. A statement which seems mockery in an underdeveloped country like Pakistan where the consumers are at the mercy of ruthless commercial enterprisers and indifferent and corrupt public organizations who take advantage of the ignorance of consumers and the lax law enforcement to exploit the poor and powerless public.<sup>36</sup> The government can play a role while creating the balance between weak and powerful because it is the primary duty of any government to provide protection to their people. But it seems quite the opposite in underdeveloped countries where the governments also seem cash starved and eager to pile its revenue by joining hands with the manufacturers and producers. We have watched a very glaring example of this association in the Vegetable Ghee Cartel Case.<sup>37</sup> The MCA started a thorough investigation during the year of 1998 when all of sudden the prices of cooking oils got very high unprecedentedly. In this regard, the relevant data was gathered such as the profit margins, prices, the manufacturer's ability of production as well as the costs incurred. It revealed that some of the brands holding more than 30% of market shares were Mujahid oil, Dalda oil, Habib cooking oil company, Tallo oil as well as Gull, Sharma oils. Such companies were deemed to be the market dominating and holding leaders of that time period. However, it was also revealed surprisingly during the same time period that the prices of imported cooking oils and raw materials were dropped and reduced up to 510\$ per metric ton and 405\$ per metric ton for soybean cooking oil. The regulatory duties were also dropped by the government during such a time period. In this situation as observed by the MCA, the government did not enter into any fruitful negotiations with the dealers and

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<sup>36</sup> "Status of Consumer Rights in Pakistan," Dawn, February 3, 2003.

<sup>37</sup> Jaipur Printers P. Ltd. "Competition Regime in Pakistan-Waiting for a Shake Up," 2002.

fixed the market price as Rs. 52/KG. This price fixation went fruitless and caused a huge loss to the consumers as the dealers did not act upon to reduce the prices. One of the main reasons for that failure is that the negotiations were made without the participation of consumers.<sup>38</sup>

It is quite a natural phenomenon that consumers are a weak party, and the situation becomes worse in underdeveloped countries where mostly people are also not educated and well informed. This situation leads toward another worst in the absence of any steps taken by consumers themselves for their rights unlike the consumers of developed nations. We find many examples of consumer awareness even in the beginning of the twentieth century. The US National Consumer League organized consumer boycotts against sweatshops, child labor and other inhuman conditions under which consumer production was made at the turn of the 20th century.<sup>39</sup> Similarly in the UK women's groups and labor organizations began organizing around consumer issues including safety standards in the 1880s.<sup>40</sup> The women organizations were concerned about the price and quality of household items. Contrary situation exists in Pakistan where there is neither consumer's unity nor consumer protection awareness. People of Pakistan seem fully at the mercy of ruthless commercial enterprisers and indifferent and corrupt public organizations who take advantage of the ignorance of consumers and the lack of a law enforcement environment to exploit the poor and powerless public.<sup>41</sup>

This early concern in the advanced nations regarding consumer protection showed the importance of this subject in the way of social and economic justice which is very basic to maintain the balance. Consumer's rights are mainly divided into the different categories which includes basic

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<sup>38</sup> Daily Dawn. "Status of Consumer Rights in Pakistan," February 3, 2003.

<sup>39</sup> Asean Australia Development Cooperation Program. "Road mapping Capacity Building Needs in Consumer Protection in Asean: Historical Background," 2015.

<sup>40</sup> Ibid.

<sup>41</sup> Daily Dawn. "Status of Consumer Rights in Pakistan," February 3, 2003.

needs, safety, information, representation, redressal, education as well as environment.

These were set as minimum goals in the UN guidelines, shifting the responsibility of achievement on states by taking necessary steps. Apart from the state's responsibility it is also people's religious and moral duty to be fair. Ensuring they take the involved parties at optimum level of morality which means the widespread flow of truth in the society. To take the steps for consumer protection ultimately means to take the steps for the promotion of truthfulness and positive morality. Ethics, honesty, and veracity are words which are preached in every religion, society, homes and organizations and in countries like Pakistan having Islamic society it becomes our primary concern to follow the principles of fairness. Further on, it is also a worldwide known principle: honesty is the best policy. There is a need to accept this notion rationally rather than to be just spiritually. The people who took it sincerely and acted upon as per true letter and spirit have fared maximum benefits collectively rather individually.

Moreover, it is not only for the consumer welfare but businesses also. Days gone of caveat emptor; it is the time to share accurate information with the consumers for the betterment of both parties. Consumer protection contributes to dynamics and effective markets for businesses to grow.<sup>42</sup> Businesses that are known to treat consumers fairly will gain a good reputation and become more sought after. This increases their profitability and competitiveness, and this will also lead to economic growth in the long run. Consumer protection laws, policies, and regulation guarantee that businesses are kept in check. Now it is the time when the consumer is called

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<sup>42</sup>“Empty Post Consumer Protection,” Aseanconsumer.org, March 15, 2020, <https://aseanconsumer.org/cterm-consumer-protection/why-is-consumer-protection-important>.

king because there is no dearth of sellers who want to sell their goods with accurate disclosure.<sup>43</sup>

## **5. Conclusion**

Above all, consumer protection is very important for any society besides all the disagreements. To protect the consumer's rights does not simply mean just consumer protection but it means a lot more. It will promote a sense of honesty among the people. The dishonest elements are booming by exploiting consumers through defective products and faulty services without effective checks. Such unscrupulous elements can also cause threat to the health and security of the society. It is the basic responsibility of all regimes to protect the people from the deep-rooted exploitation in such an unchecked market system. A civilized society believes in the fundamental importance of consumer protection and the consumers are the largest stakeholders in any country, as they have the power to make or break any brand.

Notwithstanding the legislation made by provinces, consumer protection remains a challenge in Pakistan due to various factors. Initially, the legislation started very late compared to other countries and its importance. It was shaping out to be a growing concern worldwide but in Pakistan it remained unattended for a long time. Secondly, it was thrown out as a provincial subject, and moreover the provinces were not under any pressure and direction from the center to make laws and provide mechanisms of protection. The absence of any central policy regarding consumer protection has deteriorated it on a larger scale. Apart from the belated legislations, the provinces have not yet implemented them fully. All the provincial laws require the setting up of consumer protection district councils which are a main part of the consumer protection regime. A major

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<sup>43</sup> Ibid.

role of these councils is to create awareness among consumers about their rights and responsibilities of other parties. Their role is also to minimize the incidence of faulty products and unreasonable services in the marketplace. There are yet no consumer protection councils in Sindh and Balochistan and only few in KPK, while Punjab even being at lead has not met its target by spreading them in all districts which are nearly half in this time.

Furthermore, none of Pakistan's existing consumer protection laws specifically provide any remedy to consumers or raise liability for manufacturers committing unfair trade practices online. All over the world including Pakistan it is a growing trend of online shopping and it grows more in special circumstances like in the lock down situation, but our current legal regime is silent about it. Furthermore, the laws define an ordinary consumer as a reasonably diligent person which adds more woes in the plights of consumers in Pakistan. There is also a need to harmonize all provincial laws because the scope of rights and liabilities differ in all of them and the disparity in original and appellate jurisdictions also creates confusion and ultimately results in more violations.

Consumer laws should be constantly updated in order to deal with the new realities arising in the marketplace. The provincial governments after meeting the statutory requirements waiting for a long time also need to take timely steps to ensure that the consumer laws keep pace with the new real and virtual dynamics and also constantly shifting challenges faced by consumers as their economies develop and become more globalized. For example, with the advent of internet related services consumers are facing new forms of threat such as online deception and breaches of personal data and new security concerns and the like.

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