A Study of Consumers Rights in India, Nepal and Bhutan

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Abstract

Consumer’s prime concern is not only the fast rising of prices and the absence of price control in India and Nepal. Whereas, there are many matters of equal importance such as quality of goods, correctness of the measure and the availability of goods for purchase at universal level. Many items of consumer goods like various types of dals, sugar and kerosene are in short supply. When goods are not available and the consumer has to stand in queues for hours to get what he wants there is little scope for complaint by him about quality and measures. The new scientific and technological advancement in hundreds and thousands of variety of consumer goods has now made the market more complex. The products are marked in a number of ways that it is often difficult for the consumer to judge their quality adequately. The advertisements regarding the taste, flavour, style, quality standards of the commodities and services of their products by the manufacturers and dealers always allure the consumer to purchase and use when consumers had cause to complain about the product or service. To deal with the consumer’s problems and their grievances the Parliament of India has passed The Consumer Protection Act, 1986 and the Govt. of Nepal has passed Nepal Consumer Protection Act 1998.

Key Words: consumer, goods, quality, complaint, dealer, purchase, grievance.
A. Definition of Consumer

Before proceeding further let us understand who is a consumer? Consumer is a person who buys the good for a consideration for his own use. The consumer has been defined separately for the purpose of goods and services. For the purpose of goods a consumer means a person belonging to the following categories.¹

(a) One who buy goods for consideration which has been paid or promised to pay.

(b) Includes any user of such goods other than the one who actually buys goods and such use are made with the approval of the purchaser.

B. Objects of Consumer Protection Laws

The objective of law is to provide maximum happiness to the maximum number.² As a welfare State Indian Parliament has enacted many beneficial legislation.³ The Act was enacted by the Parliament of India in the year 1986 and came into force from 1 July 1987. The year 1986 is a ‘Magna Carta’ in the history of Consumerism. However, the Act was amended in 1991, 1993 and 2002. The purpose of the Act is to provide for better protection of the interests of the consumers and to make provisions for the establishment of consumer councils and other authorities for the settlement of consumers’ disputes and for matter

¹ Section 2(1) d of the Indian Consumer Protection Act, 1986.

² According to Bentham, the objective of law is to provide maximum happiness to the maximum number.

³ Consumer Protection Act, 1986 is one of the benevolent pieces of legislation in India which intends to protect a large number of consumers from exploitation.
connected therewith. The first ever legislation in India of its kind which solely aimed at the grief staked consumers who are the victims of the unfair trade practices and sub standard services rendered to them. The setting up of the dispute redressal machinery was only to secure and enable speedy justice to the aggrieved consumers. An Act to provide for the protection of economic interest and safety of consumers and ensure better consumer products and services, to facilitate quicker redressal mechanisms, to avoid economic harm and adverse consequences in the course of acquiring and using goods and services made available in the market. The focus on consumers gained momentum only after disgruntled consumers started reacting and voicing their grievances against unscrupulous traders and manufactures of goods and services. Consumerism has become a national problem affecting every section of the society. It is the wholesalers and middleman who indulge in illegal activities like dumping of goods to create artificial scarcity and raise the prices of commodities which fetch them huge profits. The occurrence of widespread and spontaneous store boycotts by the consumers in several metropolitan cities ignited the consumer movement in other parts of the country. In 1983, United Nations passed some guidelines regarding consumerism. In order to follow the guidelines the Parliament of India enacted this

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4 The idea was to provide an additional forum providing inexpensive and speedy resolution of disputes arising between consumers and suppliers of goods and services.

5 The preamble to the Indian Consumer Protection Act 1986.


7 The preamble to the Bhutan Consumer Protection Act 2010.


Social Sciences and Humanities Review, Volume 01, No. 01, June 2013, ISSN: 2279-3933
Act to safeguard the interests of the consumers that have been abused time and again by the marketers. The United Nations Economic and Social Council recommended for implementing a coherent consumer protection policy based on the report submitted by the Secretary General on 27 May 1983.

Some of the Salient Features of the Act are as follows:

(a) There is no court fee.

(b) No need of an Advocate.

(c) Time limit is fixed for the disposal of the case.

C. Scope of Consumer Protection in Nepal

After long struggle and advocacy by the consumer organizations and civil society for a separate and comprehensive consumer protection law based on UN guidelines, the Nepalese Parliament finally enacted Consumer Protection Act in the year 1998. Before the enactment of the Consumer Protection Act, some laws, still in existence, have objective to protect the interests of the consumer in many ways. Among such laws, the Food Act of 1966 is the oldest legislation in the field of consumer protection. The basic objectives of this Act are to safeguard the health and comfort of the consumer, to prevent the adulteration of the food stuffs with undesirable elements, to prohibit the change of any originalities of the food and to maintain quality standard of food. The Act has strictly prohibited selling, distributing, storing and producing such food staple that is under quality or adulterated or harmful to human health. The Standard Metrology Act of 1968 protects the right of consumers by ensuring standard weight based on metric
system and quantity in every commercial transaction.  

The Nepal Standard (Certification Mark) Act of 1980 regulates a comprehensive quality control system within the manufacturing organization. With the objective of maintaining the health of consumers, offering facilities and economic benefits, maintaining the quality of goods and services, controlling the inflation, caused by monopoly and unfair trade practices, making arrangements to establish institutions for facilitating consumer complaints and redressing grievances, the Consumer Protection Act 1998 has been enacted and promulgated. This Act includes 30 Sections and it is the specific and comprehensive legislation protecting the rights of consumer as well as restricting unfair trade practices to some extent. Section 6 of Act assures and recognizes six rights of the consumer out of eight rights recognized globally. The Act has not included right to basic needs and the right to a healthy environment.

Government owned corporations in Nepal provides many goods and services to consumers. But they do not fully comply with the requirements as per the consumer protection laws. Government schools are free of charge in principle but in practice they charge fee and other amounts. The quality of government schools

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10 The Act empowers the authorities to check equipment of metrology used in commercial practices as per the standard. Similarly, Black Market and Some other Social Crime and Punishment Act of 1975 protect consumers from black marketing and hoarding of essential commodities.

11 The certification mark scheme under the Act has brought quality awareness among Nepalese consumers and producers alike.

12 Preamble, Nepal Consumer Protection Act, 1998

13 The Supreme Court of Nepal in Surya Prasad Sharma Dhungel v. Godawari Marble Industries (1995) has ruled that right to healthy environment is a fundamental right to life.
is lowering down. There are mushrooming nursing homes but inaccessible to common people and the government hospitals are models for negligence and unsatisfactory services. Safe drinking water has become another vigorous problem. Even the capital is deprived of the clean and hygienic drinking water, although consumers are paying charge to government owned Water Supply Corporation. The problem of drinking water was brought before the Supreme Court but the court could not recognize the rights of the consumers. However, it ruled that it is the duty of state to provide fresh and safe drinking water to the people.\textsuperscript{14} The tariff of electricity is increasing without rational grounds but there is no remedy available to consumers. In short, lack of good governance and pervasive corruption in government departments has created many problems to consumers to enjoy their rights.\textsuperscript{15}

The scope of the Consumer Protection Act may be summarized in the following sub-headings:

The Act has guaranteed the following rights to consumers:

(i) Right to protection of life, health and property from harmful consumer goods,

(ii) Right to be informed about price, quantity and quality of consumer goods in order to be protected from mal-business practices,

(iii) Right to choose the goods and services at competitive prices,

\textsuperscript{14} Prakash Mani Sharma v. Council of Ministers (Writ No. 2237/2046) 

\textsuperscript{15} Article by Mihir K. Thakur, “State of Consumer Protection in Nepal.”
(iv) Right to be assured on hearing by appropriate authority on consumer protection,

(v) Right to hearing and compensation and Right to consumer education.

D. Role of Consumer Organisations in Nepal

Consumer Organisations play an effective role for the protection of consumer rights. On the monitoring measures for implementing consumer protection law in Nepal, the findings reveal that consumer organisations are unhappy with the existing enforcement mechanism under the Government of Nepal. To ensure effective implementation of Consumer Protection Law in Nepal, consumer organisations suggested that Government Officials in respective departments need to be trained and more awareness needs to be generated to them to make sure that they conduct proper enforcement of the law. Impunity, corruption, unstable political situation and unfair politics are also the reasons that consumer organisations shared for weak law enforcement. On the role of consumer movement, the findings show that lack of coordination among the consumer organisations is a serious problem. The unified activism, they shared, will help the consumer Organisations to be a watch dog and pressurize businesses, service providers & stakeholders to make them accountable and enforce the law, which will ultimately ensure consumer rights in the country. Effective coordination will result in addressing cartelizing and countering business/ traders lobbying against consumers interests. Consumer Organisations not being unified and not coordinating together to work on common

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16 In Nepal 87% of citizens shared that business/ trader lobbying against consumers interests coupled with nexus between political leaders and busineesess are major problems for effective enforcement of CPA in Nepal. Around 78% asserted that there should be proper mechanism to deal with consumer redress/ grievance in the country to make consumer protection effective. In addition, many of them are of the opinion that there should be consistency in various provisions in different laws relating to consumer protection.
issues need to be addressed in Nepal. The unified approach will also help the Organisations to specialise their work and interests without competing with each other on common issues. It will further empower consumers and help them to increase consumers’ trust and participation, which can create a kind of pressure to service providers & stakeholders that will discourage violation of rights in the market place. Some of organisations believe that it will help to establish fair and equitable business practices where consumers will not be victimized and their rights will be protected. The coordination will also help to build the healthy relations and common understanding within themselves and increase their activities on a broader level. This common ground approach will also create the learning and sharing environment within Organisations that can be one step forward for the consumer rights movement. Almost all of the organisations admitted that there should be unity among the consumer Organisations to deliver effective services.

The assessment showed that there is a big gap in coordination between consumer Organisations and other NGOs working on consumer issues in Nepal. Consumer Organisations are of the opinion that to improve coordination among various consumer Organisations and other NGOs, there should be effective networking opportunities to share their work as well as scope for working together on common issues to implement the same at the grassroots level. They also suggested having joint program activities on the issue of consumer’s welfare can be the best means to increase the level of coordination within each other. Trainings, seminars and workshops for the NGOs activists on the consumer issue will be helpful to make them understand about the importance of consumers’ rights while working together
with consumer organisations. Regular discussion / dialogue and information sharing from time to time will help them to bring the groups to work in coordination on a long-term basis. Some organisations felt that Consumers International should play an effective role to unite, network and coordinate consumers and other Organisations in Nepal. Some organisations even suggested towards developing an alliance or a federation for good networking and coordination purposes Department of Commerce (DoC) is the authorized government body which has the authority to conduct market surveillance and take action against the service providers that violate consumer rights. On improving the coordination between DoC and consumer organisations, the assessment found that credible organisations should be recognised by DoC in conducting their work together whether in market surveillance or other activities. Political lobbying should be kept away in the work of DoC when working together with consumer organisations. It was suggested that regular dialogue and information sharing between DoC and consumer organisations should take place to work together for common interest to achieve consumer protection in Nepal. Some Organisations shared that DoC should organize trainings, seminars and workshops for consumer organisations to enhance their personal and Organisational capacity. On the DoC side, it was felt that there should be a separate cell within the Department to deal with consumer issues. In summary, consumer Organisations said that consumer Organisations should be unified and come up with strategic plan and evidence based on research to coordinate and activate the DoC and other stakeholders. On

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17 Consumers International (CI) conducted a national policy conference on Consumer Protection in Kathmandu, Nepal on 29 December 2011. This conference was a part of the UNIDO implemented EC-Nepal WTO Technical Assistance Programme, funded by the European Commission towards strengthening Consumer Movement in Nepal. The conference was organised to provide a platform for the Government of Nepal and consumer movement to chart out a roadmap towards strengthening redress mechanisms in the country.
general consumer activism, most of them expressed that consumers’ voice must be heard and their rights should be protected. They believe that establishment of consumer court should be done on a war foot basis with effective law implementation. In addition, consumers should be made aware of their rights for them to exercise their rights and to fight unethical and illegal practices in the market. Consumer education and establishment of consumer library can be effective means to educate and make consumers aware in Nepal. They said that the awareness program should also be targeting to the rural people in local languages so that they can understand the issues easily. In terms of taking forward the consumer movement, consumer organisations reiterated that they need support to strengthen themselves to implement the programs and Organisational functions effectively. Stabilizing their financial position through proper funding base either by getting donors support or Government’s assistance is a priority. It was felt that the current voluntary activism in Nepal by all consumer organisations would not give long-term results. Other challenges that were highlighted by consumer organisations in hindering them from conducting their work effectively are having no independent authority to monitor market, security issues and weak mechanism to penalize unfair market traders. It was asserted that skilled manpower within consumer organisations and DoC, evidence based research and eradicating impunity are necessary to improve consumer protection in Nepal in addition to addressing the above challenges. On harmonization of International standards in Nepal, consumer organisations shared that Government should start a mechanism involving all stakeholders to adhere to international practices which were already committed/signed by Government of Nepal to protect consumers’ rights. It was shared that the role of Consumers International (CI) in facilitating such process
would be a step forward where consumer Organisations could be involved in bringing the international expertise to Nepal.  

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18 Report of the Project, “Status of Consumer Organisations in Nepal” Conducted by Consumers International office of the Asia Pacific and Middle East
E. **Scope of Consumer Protection in Bhutan**

The Consumer shall have the right to:

(a) Protection of their lives, health and safety in the consumption of goods and services;

(b) True, sufficient, clear and timely consumer education including information on goods and services offered, as well as on prices, characteristics, quality and risks that may be encountered in the consumption of goods and services;

(c) Fair, non-discriminatory and equitable treatment by businesses which will include fair terms of contract and sale;

(d) Be assured, wherever possible, access to a variety of products, technologies and services at competitive prices;

(e) Get redress against unfair trade practices and unscrupulous exploitation of consumers;

(f) Form consumer associations;

(g) A physical environment that will enhance the quality of life for present and future generations; and

(h) Basic goods and services, which guarantee dignified living.  

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19 Section 4 of Bhutan Consumer Protection Act 2010.
F. Rights of the Consumers in India, Nepal and Bhutan

The Indian Consumer Protection Act, 1986 provides six rights to the consumers, which are common rights enumerated in Nepal Consumer Protection Act 1998 as well as in the Bhutan Consumer Protection Act 2010. They are explained below.  

(a) Right to Be Protected
The Act provides to the consumers a right to be protected against the marketing of goods and services which are hazardous to life and property’. Malpractices in areas like healthcare, food processing and pharmaceuticals, Automobiles, Travel, Domestic Appliances, Housing etc can take a toll on the customers’ lives. This right makes a process of verification and validation mandatory for all such goods before they are marketed.

(b) Right to be Informed
The Act provides to the consumers a right to be informed about the quality, quantity, purity, standard and price of goods or services so as to protect themselves against unfair trade practices. In order to know about the quality of the product advertisement disseminated proves to be highly unreliable. The actual cost of the product, inappropriateness for use, safety hazards, quality problems etc are unraveled only after the purchase is made by a consumer. This right ensures that all goods should be labeled in a standard pattern with the cost, the ingredients, the quantity and the instructions for safely use.

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20 The Indian Consumer Protection Act 1986 provides six rights to the consumers such as right to be protected, right to be informed, right to be assured, right to be heard, right to seek redressal and right to consumer education.

21 In order to provide the Right to be informed the manufactures should describe the product accurately in the advertisements, pharmacies should state the side effects of their drugs, and companies should provide reports about their products from testing laboratories.
(c) **The Right to be Assured**

The consumers have a right to know the variety of goods and services at reasonable prices. It assures a healthy competition, between the various brands selling the same consumer product. This is an effective regulator of the quality of goods being sold in the market.

(d) **The Right to be Heard**

By following the right to be heard the consumer can raise their voice against unsafe and sub-standard products. Their grudges will be paid heed to in appropriate forums.

(e) **The Right to Seek Redressal**

The fifth provision of the Consumer Protection Act, 1986 22 is the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers. These platforms have fiduciary jurisdiction and geographical authority to redress consumer’s cases. 23

(f) **The Right to Consumer Education**

This provision of Act allows the consumers to access information of the programs and resources that will enable them to make sound purchasing ideas. The sources of such information could be consumer awareness campaigns conducted by both Governmental and Non Governmental Organizations.

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22 The right to seek redressal has led to the formation of Consumer courts such as District Forums at the district level, State Commissions and National Commissions.

17. Section 37 of Bhutan Consumer Protection Act provides that consumer has a right of redress against a supplier of goods where the goods fail to comply with any of the implied guarantees.
G. Redressal of Consumers Disputes

The cases of consumer disputes are dealt by District Forums, State Commissions and National Commission.24

(a) The District Consumer Protection Council in India

By notification State Government shall establish for every district, a council to be known as the District Consumer Protection Council with effect from such date as it may specify in such notification. The District Consumer Protection Council (hereinafter referred to as the District Council) shall consist of the following members

i. The Collector of the district who shall be its Chairman; and

ii. Such number of other official and non-official members representing such interests as may be prescribed by the State Government.

iii. The District Council shall meet such as when necessary but not less than two meeting shall be held every year.

iv. The District Council shall meet at such time and place within the district as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

24 Being the quasi judicial tribunals, the District Forums, State Commissions and National Commission are vested with the power of civil courts.
(b) The State Consumer Protection Councils in India

The state Government shall by notification, establish with effect from such
date as it may specify in such notification, a Council to be known as the
Consumer Protection Council (hereinafter referred to as the State
Councils). The State Council shall consist of the following members, namely:-

i. The Minister In charge of consumer affairs in the State Government
who shall be its Chairman;

ii. Such number of other official or non-official members representing
such interests as may be prescribed by the State Government.

iii. Such number of other official or non-official members not exceeding
ten as may be nominated by the Central Government

iv. The State Council shall meet as and when necessary but not less than
two meetings shall be held every year.

v. The State Council shall meet at such time and place as the chairman
may think fit and shall observe such procedure in regard to the
transaction of its business as may be prescribed by the State
Government.
(c) **Central Consumer Protection Councils in India**

The Central Government shall by notification, establish with effect from such date as it may specify in such notification a Council to be known as the Central Consumer Protection Council (herein-after referred to as the Central Council). The Central Council shall consist of the following members, namely-

i. The minister in charge of consumer affairs in the Central Government, who shall be its Chairman, and

ii. Such number of other official or non-official members’ representing such interest may be prescribed.

(d) **Redressal of Grievances of Citizen in Bhutan**

If the goods fail to comply with a guarantee under this Act, the consumer may exercise the following remedies:

(a) If the failure can be remedied, the consumer may require the supplier to remedy the failure within a reasonable time; and Consumer Protection Bill of Bhutan 2010

(b) If the failure cannot be remedied, the consumer may:

i. Reject the goods; or
ii. Obtain from the supplier damages in compensation for any reduction in the value of the goods below the price paid or payable by the consumer for the goods.  

In addition to the remedies under section 38, the consumer may obtain from the supplier damages for any loss or damage suffered by the consumer, other than loss or damage through a reduction in the value of the goods.

If the supplier refuses or neglects to remedy the failure as required under section 38 (a), within a reasonable time, the consumer may:

(a) Have the failure remedied through appropriate forum under this Act or any other laws and obtain from the supplier all reasonable costs incurred in having the failure remedied; or

(b) Reject the goods.  

H. Enforcement of Consumers Rights

To enforce the consumers’ rights in India various steps have been defined in the Act such as Consumer District Forum, State Consumers Forum and National Consumer Forum. In case of violation of the provisions of the Act various punishments have been prescribed. In Nepal also this provision is there. they are as follows-

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25 Section 38 of Bhutan Consumer Protection Act 2010.

26 Section 39 of Bhutan Consumer Protection Act 2010.

27 Nepal Consumer Protection Act. Section 18 of the Act deals with the punishment for the violation of the provisions of the Act.
(a) Maximum of 3 years imprisonment or Rupees 50,000 (Rupees 78 is equal to US$ 1) fine or both in case of creating circumstances that leads to any adverse impact in the market or in demand, supply or price of goods or services, through collusion, by fixing quotas, hoarding and by creating an artificial scarcity of goods and services.

(b) Maximum of 2 years imprisonment or Rupees 30,000 fine or both in case of violating obligation to mention name, address and registration number of manufacture company in the label of products.

(c) Maximum of 3 year's imprisonment or Rupees 50,000 fine or both in case of manufacturing, selling, exports and import of lower quality goods.

(d) Maximum of 5 years imprisonment or Rupees 100000 fine or both in case of duplicating any product, selling of goods in guise of standard goods and unfair commercial transactions like false or misleading advertisement of the use, utility or effectiveness of any goods or services.

(e) Maximum of 14 years imprisonment or Rupees 500000 fine or both in case of consuming any goods or services that may cause serious hazard to life.

(f) Maximum of 10 years imprisonment or Rupees 500000 fine or both in case of serious injury to any parts of the body that may cause permanent damage.
(g) Maximum of 5 years imprisonment or Rupees 300000 fine or both in case of other injury to health.

I. Judicial Approach towards Consumer Disputes in India

Because of the development in the societies the consumer transactions have been increased. Because of not having proper procedure and knowledge the consumers are suffering a lot. There are various cases of disputes such as deficiency in the services by Service Providers. Reconnecting of telephone connections, order to pay damages by Electricity Board to a consumer whose supply was disconnected, deficiency in the service of water supply, not providing proper facilities in train, negligence by doctors while operation and so many other examples are there in our day to day life which prove deficiency in the service by the service provider. To give the binding effect of the orders passed by Consumer Forums provision is made for imposing penalties for non-compliance with the orders given by the quasi-judicial bodies. Guarantee of Consumer Rights is provided in Section 6 of Act which assures and recognizes six rights of the consumer out of eight rights recognized globally. The Act has not included right to basic needs and the right to a healthy environment.  

In the case of Chief General Manager, Telecommunication  there was a delay in installation of connection. The court held that there was deficiency in services. The compensation alongwith interest was awarded on the deposit with Rs. 3000/ as compensation for inconvenience, harassment and loss. The contention of the

28 The Supreme Court of Nepal in Surya Prasad Sharma Dhungel v. Godawari Marble Industries (1995) has ruled that right to healthy environment is a fundamental right to life.

29 Chief General Manager, Telecommunication v. Upbhokta Kalyan Snagh 1999 (1) CPR 336 (SC) (MP State Commission)
respondents was that non-feasibility report was produced to establish that the area was not feasible, but non-feasibility registers maintained exchange-wise in respect of telephone connections was not produced. Therefore, adverse inference was raised against the appellant that the non-feasibility report was an afterthought. It was held that before issuing advice note, a technical feasibility report has to be obtained. According to relevant provisions, this feasibility report has to be verified by an official not lower in rank of a Junior Engineer and such report has to be furnished by the field staff within seven days. After getting the feasibility report, it shall have to be entered in the feasibility register. This register is supposed to be examined by the Inspecting Officer but they said register was not produced, therefore, objection was upheld by the State Commission that this non-feasibility report was obtained subsequently. Hence they are liable to pay compensation.

In the case of Nirmal Kochhar 30 Claim for compensation was filed by the complainant. The respondent Corporation declined to pay the compensation (accident benefit) as the deceased fell from running vehicle under influence of Liquor. Police report is contrary stating that Complainant was in a state of drunk which was revealed from the medical report. Hence the complainant was entitled to claim with interest.

In the case of Daddys Developers and Builders versus S. Kannan S/o VB Subramaniam the respondent herein who is owner of a plot measuring 1500 Sq.ft. situated in Anekal Taluk of Bangalore urban district entered into an agreement with the petitioner herein, for purchasing the said plot on 23.02.2005 and also a joint development agreement with the petitioner for the development of the said site. The sale deed was signed on 31.3.2005 and the respondent herein paid

entire sale consideration of about Rs.25,00,000/- to the petitioner being the sale consideration of the site as well as towards the construction of a residential flat at the site. It is the case of the respondent that the petitioner agreed to hand over the property to him on 26.12.2007 and both the parties agreed to certain specifications to be followed in the construction but it was alleged that the petitioner failed to adhere to some of the specifications which led to the rain water flowing into the premises during the monsoon, i.e., in the month of August 2008 and the water stagnated up to the height of about 3 feet over and above the ground level. Even little rainfall would result in flowing of water towards the villa. Feeling inconvenienced by the improper construction of the house, the deficiency was brought to the notice of the petitioner initially orally and later by a letter dated 18.12.2008 but without response. After issuing a legal notice, the consumer complaint in question eventually was filed by the respondent praying for direction to the OP/petitioner to provide an alternate villa in the layout of the same measurement at a height where the rain water does not stagnate and also to pay Rs.5,00,000/- by way of compensation. The OP/petitioner resisted the complaint mainly on the ground that in case of any dispute between the parties, the party concerned should approach a civil court of jurisdiction and hence the complaint filed against it was not maintainable. After considering the evidence placed before it and hearing the parties, the District Forum allowed the complaint in terms of the aforesaid order.

“Complaint is allowed. OP is directed to provide alternative Villa and execute the registered Sale Deed of the same in favour of the Complainant in the same layout with same measurement within 60 days from the date of this Order. After taking the possession of the alternative Villa, Complainant has to reconvey the subject Villa in favour of the OP. In the event of non compliance of the order by the OP
within 60 days from the date of Order, OP shall have to pay Rs.5,000/- per month as compensation (loss of Rent) to the Complainant till handing over of possession of alternative Villa / House. OP is also directed to pay Rs.2,000/- as costs of the present litigation to the Complainant.”

J. Role of Non Governmental Organizations

In order to make the consumer aware about consumerism many Non Governmental Organizations are playing significant role in this regard in India as well as in Nepal and Bhutan. The objective of these NGO Organizations is to expose and exterminate malpractices in the market and to promote better business through the following methods:

a) Ensure that existing consumer legislation is expeditiously enforced and the guilty person is adequately punished.
b) Awakening and organizing the consumer by fighting his apathy and make him conscious of his rights.
c) Enlightening the illiterate, the poor and the lower income groups to fight against adulteration, unfair prices, shortness of weights and measures.
d) Making consumers aware of their rights and responsibilities.
e) Recognizing, practicing and promoting ethical standards in all spheres of the life.
f) Recognizing the dignity and value of all useful occupation as Opportunities to serve.

31 Daddys Developers and Builders versus S. Kannan S/o VB Subramaniam (2005) Karnataka

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g) Developing knowledge and understanding of the needs, problems and opportunities in the community.

h) Providing opportunities for personal and group activities to serve the community and promote understanding and good will.

i) Impressing upon each individual the ideals of good citizenship.

K. Some Suggestions for improving the position of Customers

There are some suggestions which can provide the services in a better way to serve the society in all the nations.


2. Restriction of mass media on telecasting of the advertisements which are of the products which are injurious to the health of the citizens.

3. Issue of Bill for the items purchased must be made mandatory.

4. The ingredients of the items must be displayed on the article/item.

5. MRP should be fixed; there should be no chance of bargaining. The prices of the items may vary depending upon the place of sale.

6. Let the Service Providers Beware

Service providers must be careful as to any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance in relation to any service. All the service providers are within the purview of this Act whether Government/Public/Private.

7. Purchase of Goods from a Reliable Shop

While purchasing goods buyer must keep in mind that he must purchase goods from a reliable shop. A matter of faith may also be taken into consideration. It will create reliability of the goods and it will also serve the satisfaction of the consumer. Moreover, there will be satisfaction as to after
sale service. Shop must be a reputed in the market and such shop will not deceive you.

8. **Purchase of Standard Goods**

Always try to purchase standard goods in quality and minimize the chances of spurious and obnoxious goods which are prevalent in the market. Some quality marks have been patented by the Government, such as I.S.I., WOOLMARK, AGMARK, F.P.O., etc. These marks ensure the quality and minimize the complaints. If there is an option as to certified goods and uncertified goods, go with certified goods without caring of relation in price. There is a saying that cheap always weeps whereas dear weeps once a time i.e., at the time of purchase only, thereafter, he enjoys the goods to his utmost satisfaction.

9. **Take Cash Memo or Receipt**

For everything that you purchase try to have the Cash Memo or Receipt. Without this you cannot prove yourself a consumer. This is must for proceeding against the trader for any action in this Act. So, do not forget about cash memo or receipt, preserve it or in case of medicine or other material empty package may also serve the purpose.

10. **The Guarantee Card**

If the goods sold are subject to guarantee or warranty, you must have guarantee/warranty card from the trader. Such card must be signed by the trader. This will establish your privity as regards remedy available in the Act.

11. **Be Watchful as to Printed Terms**
Generally Cash Memo/Receipt issued by a trader contains terms and reference of such terms and conditions are also indicated. Sometimes, these are unreasonable, so they are not to be taken into consideration because they will not be binding.

12. Contact Trader before Taking Action

One thing that always is kept in minds that before approaching Consumer Fora; trader must be communicated about the defects in goods or deficiency. Such thing must be done at the earliest opportunity and do not get late in this matter. Sometimes negotiation is successful. So try to negotiate and if nothing is coming out then think for action but do not beg from the trader.

13. Notice before Filing Complaint

If matter is not solved by contact or negotiation then give notice in writing to the trader for warning him that if nothing is done then legal action will be taken under the Act.

L. Conclusion

The consumers Organisations in Nepal are facing a number of challenges. Of all, financial resource is the most important challenge followed by human resources capacity, networking and advocacy capacity, Organisational operations and governance, information technology capacity and lastly programme planning and implementation capacity. There is a need for effective fundraising to ensure adequate funding to consumer organisations for expanding their current donor base as well we to meet other challenges. As indicated in the assessment, assistance in terms of annual funding, multiyear funding, training on fundraising and writing grant proposals for project grants for specific topic are some of the ways to manage their needs.
Consumer’s prime concern is not only the fast rising of prices and the absence of price control. There are many matters of equal importance such as quality of goods, correctness of the measure and the availability of goods for purchase. Many items of consumer goods like various types of dals, sugar and kerosene are in short supply. When goods are not available and the consumer has to stand in queues for hours to get what he wants there is little scope for complaint by him about quality and measures.

The new scientific and technological advancement in hundreds and thousands of variety of consumer goods has now made the market more complex. The products are marked in a number of ways that it is often difficult for the consumer to judge their quality adequately. The advertisements regarding the taste, flavour, style, quality standards of the commodities and services of their products by the manufacturers and dealers always allure the consumer to purchase and use when consumers had cause to complain about the product or service. They are advised to wait and see by dealers or they are left to purchase the better ones. The consumer does not get remedy to his previous grievances. Consumers must be protected against the sellers whose interests are not identical. Desire for profit leads unnecessarily to high prices, to poor quality and sometimes to misrepresentation and fraud. Consumers are typically weak in bargaining position because of the disparity in knowledge and resources that narrow the consumer’s access to a remedy. Moreover, most of the consumers are ignorant of their legal rights against the remedies available to them most of the times; the consumers are either unwilling or unable to pursue a complaint against the traders. However, there is no doubt that competition for quality works to the benefit of the consumer, but simultaneously traders get a good margin of profit from the competitive goods. Sometimes due to fraud or negligence on the part of the manufacturers or dealers,
consumers get hazardous consuming articles from the retailer and become an easy prey to a number of diseases that may prove fatal to their health or lives. In many such cases, people know very little about their socio-legal rights against the offences. The major hindrance of consumer protection is that the consumer is unorganized. Therefore, he is apt to be tempted by subtle techniques of the businessman. Consumer needs to be protected and made aware of his rights. However, no study is complete on consumer legislation unless we possess the knowledge of situation and environment under which the state and the law are placed. We cannot deny the fact that consumer voluntary organizations have been working to protect the interest of consumers. In India, Consumer Protection Act, 1986, Nepal Consumer Protection Act 1998 and Consumer Protection Act 2010 has been playing a significant role in protecting and maintaining the rights to the consumers. But the problems of enforcement are there everywhere. Whenever we come across the violations of the provisions available in the Act we must report the matter, so that actions/ punishment can be imposed on the defaulters. We all need to be vigilant consumers in order to get the benefit from the legislations created by the State.