

INDIA

Introduction

India is today one of the six fastest growing economies of the world. The country ranked fourth in terms of Purchasing Power Parity (PPP) in 2001. The business and regulatory environment is evolving and moving towards constant improvement.

The Indian economy has transformed into a vibrant, rapidly growing consumer market, comprising over 300 million strong middle class with increasing purchasing power. India provides a large market for consumer goods, on the one hand, and imports capital goods and technology to modernise its manufacturing base, on the other.

Revolution in the field of manufactured goods coupled with opening up the economy to the globalised market forces, has led to the influx of various consumer goods into the Indian market to cater to the needs of consumers and a variety of services such as banking, financing, insurance, transport, housing construction, entertainment are being made available to consumers.

Further, liberalisation and privatisation have paved the way for a number of market players to enter into the Indian economy ensuring greater choice and better quality of goods and services to the consumers. Greater reliance on market forces have been felt in the last two decades. However, it has also been widely recognised that fate of the consumers cannot be left to sheer market forces. An appropriate framework of legislation is required to ensure protection of consumers.

Ironically, at the bottom of the pyramid are millions of people who are deprived of basic needs of life. Mere survival is a challenge to this class of people. According to the Food and Agriculture Organisation (FAO) of the United Nations, India alone accounts for over 221 million poor and hungry people. As per the First Annual Survey of Education Report in 2005, nearly 1.4 crore children are out of school. Half of the country's women suffer from anemia and half of the children from chronic malnourishment according to various reports. About 200 million Indians lack access to safe and clean water. In India, according to one estimate, only 35 percent of the people have access to essential medicines. Millions of consumers continue to suffer from insufficient, poor quality and

INDIA PROFILE	
Population:	1.1 billion ***
GDP (Current US\$):	805.7 billion**
Per Capita Income: (Current US\$)	730 (Atlas method)** 3,430 (at PPP)**
Surface Area:	3287.3 thousand sq. km
Life Expectancy:	64 years **
Literacy (%):	61.0 (of ages 15 and above)*
HDI Rank:	126***
Sources: World Development Indicators Database, World Bank, 2005 Human Development Report Statistics, UNDP, 2004 (*) For the year 2004 (**) For the year 2005 (***) For the year 2006	

adulterated food, lack of clean and potable drinking water, primary health care and adequate and well constructed housing and minimum clothing.

In Kautilya's *Arthashastra* (meaning Economics), there are references to the concept of consumer protection against exploitation by the trade and industry, short weightment and measures, adulteration and punishment for these offences. However, there was no organised and systematic framework actually safeguarding the interests of the consumers. Prior to independence, the main laws under which the consumer interests were considered were the Indian Penal Code, Agriculture Production, Grading and Marketing Act, 1937, Drugs and Cosmetics Act, 1940.

Consumer Rights and their Effectiveness in India

Eight rights are incorporated in the United Nations Guidelines for Consumer Protection (UNGCP). These are: right to safety, right to information, right to choice, right to be heard, right to redress, right to education, right to basic needs, and right to healthy environment. The Government of India also included the above rights in its Twenty-Point Programme. The Consumer Rights No. 1 to 6 are also enshrined in the Consumer Protection Act, 1986.

I. Right to Safety

This right means right to be protected against the marketing of goods and services, which are hazardous to life and property. The purchased goods and services availed should not only meet their immediate needs, but also fulfill long term interests. The following are the key aspects:

- right to be protected against goods or services that are hazardous to health and life;
- responsibility to read instructions and take precautions; and
- choose safety equipment, use products as instructed and teach safety to children.

The role of standards, to facilitate consumer protection and support economic development, facilitating trade and improving the quality of life such as encapsulating new technologies in usable tools for the industry, is widely recognised. Presently, the Bureau of Indian Standards (BIS) under the BIS Act 1986, develops voluntary national standards. In a few cases, these standards are referred in national regulations. There are also nearly 30 regulatory departments of the Government making regulations, which prescribe specification/requirements in different sectors. Safety and quality issues are dealt with by various articles of the Constitution of India as well as by laws of the Parliament and State Legislatures. The Directive Principles of State Policy also has provisions requiring the state to frame policies in such a way that the safety of the citizen is protected. The Consumer Protection Act (COPRA) is the umbrella Act that enshrines the consumer's right to safety. Some other important pieces of legislation that have a bearing on the right to safety are:

- Prevention of Food Adulteration Act, 1954;
- Agricultural Produce (Grading and Marking) Act, 1937;
- Essential Commodities Act, 1955;

- Prevention of Black Marketing and Supply of Essential Commodities Act, 1980;
- Motor Vehicles Act, 1988;
- Drugs and Cosmetics Act, 1940;
- Sales of Goods Act, 1930;
- Trade and Merchandise Act, 1958;
- The Spirituous Preparations (Inter-State Trade And Commerce) Control Act, 1955;
- The Emblems and Names (Prevention of Improper Use) Act, 1950; and
- Food Safety and Standards Act, 2006.

The 'Food Safety and Standards Act, 2006' consolidates eight laws governing the food sector and establishes the Food Safety and Standards Authority (FSSA) to regulate the sector. The Act seeks to establish a single reference point for all matters relating to food safety and standards. Besides, other Acts dealing with other services like Railways or Electricity, or say, the Use of Dangerous Machines, etc. have safety provisions built in.

Nightmare Come True

Chitra Jayaraman, in a bizarre accident, stepped into a lift in the reputed Calcutta school, Don Bosco, where she taught, and fell straight to the bottom of the shaft. She was severely injured, as the fall was only from the ground floor. The accident occurred on July 06, 1985. Chitra pushed open the lift gate to take a ride upstairs to her next class and fell into nothingness. The faulty lift gate had opened, though it should not have as the lift cage was not positioned on the floor. Chitra's right kneecap was shattered, a few bones broken and, after several complicated operations, she had to virtually relearn to walk. Besides, she was out of action for 13 months. In the bargain, she lost over Rs 20,000 by means of wages and had to send her six-month old daughter to her in-laws and suffered untold mental anguish.

It was a nightmare, however, that could have been prevented from turning real. All that was apparently needed was a little vigilance on the part of the manufacturers of the lift, Otis Elevator Company (India) Ltd. It was also under a servicing contract with Otis.

Otis refused to take responsibility of the accident. In fact, initially, it denied that the accident had taken place at all. Till the end, Otis insisted the accident was not its fault and that it was a freak accident. And the compensation of Rs 50,000 that it finally paid Chitra was 'more in the nature of a goodwill gesture'. But whatever it claimed, the consumer was redressed, even if Rs 50,000 was chickenfeed compared to the amount demanded Rs 16,03,600.

Most importantly, the compensation was offered without going to court, but under the threat of litigation and consequent bad publicity.

How to Survive as a Consumer, Pradeep S Mehta, CUTS, 1998

In spite of presence of number of laws and acts, there are a number of accidents happening in the country due to lack of proper safety measures or the failure in their implementation.

- More than 80,000 people were killed in road accidents in 2001, in this country being one of the highest in the world. An average 100,000 people were killed in 2005.

- To give another kind of example, ration shops in Behala, Calcutta, sold adulterated rapeseed oil with the chemical tri-cresyl phosphate, resulting in the death of 18 people and illness and partial incapacity of another 1600, in the year 1987.
- Inadequate safety measures at one of the cinema hall 'Uphaar' in Delhi resulted in the outbreak of fire in the year 1997, in which 59 persons died and 103 injured.
- The Bhopal gas tragedy that took place in 1984 due to accidental release of 40 tonnes of a poisonous gas Methyl Isocyanate, is another instance challenging the right to safety. As many as 3000 people died immediately and 15,000 other died due to related illness.
- 83 children were killed in a major fire raged through a school in Kumbakonam town of Tamil Nadu's Thanjavur district on July 16, 2004.

Lack of proper testing facilities, bureaucratic intransigence, lack of funds and lack of consumer awareness are all reasons that militate against the proper implementation of the body of legislation and existing mechanisms. While there is an elaborate system of granting ISI marks, periodic upgrading etc., products with fake ISI marks are often found in the market.

II. Right to be Informed

This right means 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 (UTPs). The key aspects are:

- The right to be given the facts needed to make an informed choice, to be protected against misleading advertising or labelling.
- The responsibility to search out and use available information.
- To read and follow labels and research before purchase.

Consumer should insist on getting all the information about the product or service before making a choice or a decision. This will enable him to act wisely and responsibly and also to desist from falling prey to high-pressure selling techniques. Without information on quality, quantity, potency, purity, standard and price of goods and services, consumers would not be able make the right decisions and protect themselves from abusive practices.

Various interpretations of Article 19 (2) of fundamental rights clearly state that there should be a definite policy or uniform guidelines on the part of the state to help consumers make "informed choice". Moreover, provisions regarding the right to information are provided under:

- The Consumer Protection Act, 1986;
- The Standards of Weights and Measures Act, 1976;
- The Bureau of Indian Standards Act, 1986; and
- Competition Act 2002 etc.

The new Right to Information (RTI) Act is expected to have far-reaching implications for the right to information of the consumer. After many deliberations over the years, the RTI Act was passed by the Parliament on October 12, 2005, thus opening up the governance processes of the country to the public. RTI is part of the fundamental right to freedom of speech and expression, as mentioned in Article 19(1) of the Constitution. Despite this, the Indian governance system always followed the Official Secrets Act (OSA) 1923 of the British era.

Right to Information is a key enabler of good governance, and a tool to ensure transparency and accountability in the government. It also helps ensure participation of public in governance, eliminate corruption and empower the people. It gives the citizen the right to seek information and makes it binding on the officials to store and make the information easily available to the public, with the exception only when withholding the information is in public interest.

Voluntary mechanisms like the Advertising Standards Council of India (ASCI) provide some checks and balances to information that is made available to consumers through misleading advertising. ASCI, though is a body, formed by the advertisers themselves but Indian Code of Advertisement Standards and proposed Law for Advertisement Standards Regulatory Commission (ASRC) will add value and substance to it.

III. Right to Choose

This right means right to be assured, wherever possible of access to variety of goods and services at competitive prices. In case of monopolies, it means right to be assured of satisfactory quality and service at a fair price. It also includes right to basic goods and services. This is because unrestricted right of the minority to choose can mean a denial for the majority of its fair share. This right can be better exercised in a competitive market where a variety of goods are available at competitive prices. The key elements of this right are:

- The right to choose products and services at competitive prices with an assurance of satisfactory quality.
- The responsibility to make informed and responsible choices.
- To resist high-pressure sales and to comparison shop.

Among the most important pieces of legislation that have a role in guaranteeing this right is the Competition Act, 2002. The Act establishes a Competition Commission and is geared to check malpractices in business. The COPRA also has some provisions to control restrictive business practices (RBPs), while the BIS and Weights and Measures Act providing for standards of quality, safety, weights and measures of goods and services sold, also have bearing on the right to choice. There has also been a spate of regulatory reforms in certain sectors like electricity, telecom etc., which has led to the creation of regulators at the state and central levels. If these regulatory bodies function efficiently and can be kept free of corruption, then they will go a long way in guaranteeing the right to choice.

In spite of a fair amount of legislation and other safeguards, the right to choice of the Indian consumer is far from realised. At the micro level, the individual is duped each and everyday by dishonest traders, forced to buy items s/he does not require as part of tied-selling, and cheated by wrong weights and poor quality. Consumers in many parts of the country are deprived of supply of electricity, good roads, proper transport and other public services and utilities. While electricity regulatory commissions (ERCs) have been set up in some states, their performance still leaves much to be desired.

As regards essential services like electricity, roads, water etc., lack of availability is a problem for millions, which directly curtails their right to basic needs and of choice. On the other hand, the regulatory reforms in the telecom sector and the initiatives to spread out telecom networks throughout the country have had some impact both in the context of quality and availability.

Teledensity of Urban and Rural Telephones in India (1995-1996 to 2005-2006)			
Year	Total	Urban	Rural
1995-96	1.28	3.95	0.29
1996-97	1.56	4.76	0.34
1997-98	1.94	5.78	0.43
1998-99	2.33	6.87	0.52
1999-00	2.86	8.23	0.68
2000-01	3.58	10.37	0.93
2001-02	4.29	12.20	1.21
2002-03	5.11	14.32	1.49
2003-04	7.02	20.79	1.57
2004-05	8.95	26.88	1.73
December 2005	11.32	34.77	1.79

Note: Number of Telephones per 100 Population since 1995-96 – Mobile & Fixed.

Source: Department of Telecommunications, Ministry of Communications & Information Technology, Government of India.

Availability of telecom has been accompanied with affordability. Telecom charges in India are among the lowest in the world.

The government, the bureaucracy, producers, middlemen and consumers – all has important roles to play and have a bearing on the consumer's right to choice and its realisation. There is a positive atmosphere in the country in the context of consumers' right to choice from the time, the Indian Government has been promoting an environment of competition in the economy. However, unfettered competition without regulation does not translate to consumer welfare. While regulatory institutions have been set up, their functioning have not been satisfactory everywhere.

IV. Right to be heard/represented

This right means that consumer's interests will receive due consideration at appropriate forums. It also includes right to be represented in various forums formed to consider the consumer's welfare. The main aspects of the right are:

- The right to express consumer interests in the making of decisions.
- The responsibility to make opinions known.
- To join an association such as the Consumer Council to make their voice heard and to encourage others to participate.

Effective consumer representation ensures that the needs of all people are taken into consideration in policy formulation that directly affect their lives. By magnifying the voice of the individual, representation contributes to good governance and the achievement of social justice. It affords better and more durable decisions. The 1985 UNGCP – one of the first milestones of the consumer movement in getting its voice heard at the international level, and calls on governments to facilitate the formation of consumer organisations, and to provide them with opportunities to present their views in the decision-making processes affecting them. Consumer associations have used these guidelines to promote legislation enabling them to seek representation in the courts, in the law-making process, and in the implementation of regulatory regimes.

Some of the consumer organisations are actively participating at policy making platforms through websites, consultations and meetings. The Telecom Regulatory Authority of India (TRAI), Reserve Bank of India (RBI) and other such bodies call for public and consumer consultations at policy or guidelines drafting stages on issues affecting the consumers at large.

However, despite the existence of a number of administrative as well as organisational tools, the implementation of consumer's right to representation faces several drawbacks. The consumer movement in the country has not developed to the size and reach, which is required to serve the vast country and its huge population. Furthermore, a majority of consumer organisations are mostly confined to cities and urban areas. They are not being able to penetrate deep into society where the majority of poor, low-income and disadvantaged consumers live.

Saga of Sunder Bai

The Amar Studio is one of the two photographic studios in a small town called Rashmi in Chittorgarh district of Rajasthan. Poor and illiterate villagers often come for their passport size photo for the purposes of government or non-government work and also for getting small loans from Co-operative Banks or elsewhere.

In 1991, a poor widow Sunder Bai from a village Lasadia in the Rashmi *tehsil* too went to this studio and paid Rs 15 for three photos. Being illiterate, she could not read the terms and conditions printed overleaf of the cash receipt. She was expected to pay only 50 percent of the amount, i.e. Rs 7.50 as an advance.

When she went to collect the photos, the studio proprietor related some excuses, and later started harassing her for no reason and did not deliver the photos on time despite having been paid fully. As result of this delay, she could not get the soft loan on time. Consequently, she was forced to borrow money from some local moneylender at a very high rate of interest.

This poor lady, then approached a local consumer activist, who took up the issue in the local District Consumer Forum, where she ultimately got redressal and the photographer was punished. This consumer activist is none other than Goverdhanlal Sharma, a networker trained through the efforts of CUTS. There are many other real stories like this.

(Source: Aap Ke Naam Chitti, Sept. 1999)

V. Right to Redress

This right means right to seek redressal against UTPs or unscrupulous exploitation of consumers. It also includes right to fair settlement of the genuine grievances of the consumer. Consumers must make complaint for their genuine grievances. Many a times, their complaint may be of small value but its impact on the society, as a whole, may be very large. The key aspects are:

- The right to be compensated for misrepresentation, shoddy goods or unsatisfactory services.
- The responsibility to fight for the quality that should be provided.
- To complaint effectively and refusing to accept shoddy workmanship.

The right to seek redress is set out in the Preamble to the Constitution of India, wherein it has been declared that people has the right to strive for justice, social, economic and political and equality of opportunity. The COPRA, enacted in 1986 is one of the benevolent social legislation, intended to protect the large body of consumers from exploitation. The Act has come as a panacea for consumers all over the country and has assumed the shape of practically the most important legislation enacted in the country during the last few years. It has become the vehicle for enabling people to secure speedy and in-expensive redressal of their grievances.

Until the COPRA was adopted, the consumers had to rely upon a number of legislations but none of them provided effective remedy against the violation of consumers' rights. Under COPRA, three-tier, simple, quasi-judicial machinery at the national, state and district levels, have been established. The COPRA has been amended in 2002, and the changes became effective on March 15, 2003. The amendment, among other things, relates to rights of complaint, rules of appointment of members, transfer of cases, monetary jurisdiction and enforcement. The amended Act also provides for the

attachment and subsequent sale of the property of a person not complying with an order. Proceeds from such sale may go to pay the damages of the aggrieved consumer. Apart from the COPRA, redressal mechanisms are incorporated under the Competition Act, 2002, the Arbitration and Conciliation Act, 1996, and through codes of conduct of business.

While COPRA is a comprehensive piece of legislation, it is plagued by inordinate delays in the delivery of justice, enforcement of orders etc. Between 2000-01 and 2004-05, the National Commission had 8,301 cases pending, while the State Commission had 115,094 cases and the District Forum had 271,188 cases pending, making it a total of 394,583. There are cases pending for more than ten years. This fact is really a cause of concern for the consumers in general.

The first and the foremost problem is that most state governments do not evince requisite enthusiasm and attention in promptly implementing the provisions of the Act by establishing properly functioning District Forums and State Commission. Secondly, the consumer forums are becoming like civil courts with presidents (judicial members) asking for a more formal approach. Sometimes, these forums have asked complainants to engage lawyers, even when it is not really required. Such systemic problems are resulting in inordinate delays. The appointment of members is another problem. In the past, members were appointed on the basis of their connections rather than merit. Now the system has improved substantially due to an amendment in the law requiring a selection committee to appoint them. However, there is a lackadaisical approach in selecting people for such positions.

Apart from these, consumers are also reluctant to make use of the redress system. One major reason is the general apathy and absence of proper knowledge and fear of exploitation by lawyers. An average Indian consumer is noted for her patience and tolerance. Perhaps because of these two traditional traits, she considers the receipt of defective goods and services as an act of fate or unfavourable planetary position in her horoscope. It is rather paradoxical that the customer is advertised as the "king" by the seller and service provider; but, in actual practice, treated as a slave or servant. Goods are purchased by consumers along with the label "Items once sold by us will never be taken back under any circumstances whatsoever". This unethical, illegal and unilateral declaration has to be viewed in the light of the practice in developed countries where the seller declares, "In case you are not fully satisfied with our product, you can bring the same to us within a month for either replacement or return of your money".

This will clearly indicate the level of consumer consciousness. However, things are changing – slowly but steadily – and the momentum has increased considerably since the establishment of consumer courts and due to the efforts of a number of consumer organisations and the media. The next millennium will witness a high degree of consumer awareness and the concepts of "comparative costs", "consumer preference/resistance/abstinence" and "consumer choice" will become vital aspects of the economy.

Similarly in the area of "investor protection", in spite of several steps taken by the regulatory authorities such as the RBI and the Securities and Exchange Board of India (SEBI), the case of exploitation of consumers is increasing.

Bad Complains Consumers at Fault

S B Ghosh had purchased a Premier Padmini BE car through an authorised dealer. At the time of purchase, the complainant did not notice any defect in the car. On the other hand, he duly signed a customer delivery receipt without pointing out any defect.

Later, on the same day, he wrote a letter to the manufacturer pointing out certain defects. The manufacturer asked the complainant to take the car to the dealer for rectification of the defects. The complainant did not choose to do so. On the other hand, the car was said to have been kept idle exposed to sun and rain for more than two years and subjected to vagaries of many seasons.

Deciding cross appeals, the National Commission held there is no justification for directing the manufacturer and the dealer to repair the car completely and make it as good as new one.

The State Commission was also not justified in ordering the payment of compensation as the manufacturer or the dealer never refused to rectify any defects. The appeal of the manufacturer was accepted. Manufacturer and dealer were awarded costs of Rs 3000 and Rs 2000, respectively to be recoverable from the complainant.

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VI. Right to Consumer Education

This right contains the provision to acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them.

- The right to acquire the knowledge and skills necessary to be an informed consumer.
- The responsibility to take advantage of consumer opportunities. Take action by attending seminars and workshops, work to ensure consumer education takes place in schools.

Consumer awareness and education is meant to ensure that the consumers have easy access to the knowledge and skills to be an informed consumer. Thus, the right to consumer education envisages the right to knowledge and skills needed for taking actions to influence factors, which affect consumers' decisions.

There is no legal framework establishing the right to consumer education nor are there guarantees in the Constitution. The Union and state governments, however, have accepted the introduction of consumer education in school curriculum and progress has been made in some states. The Indira Gandhi National Open University (IGNOU) and several universities are offering distant educational courses on consumer education. Some of the formal educational institutions are also offering graduate/post graduate courses on consumer issues.

In addition, the National Council for Education, Research and Training (NCERT), the body under the Ministry of Human Resources Development (HRD), Government of India, which is responsible for developing the syllabus and education curricula in the country, had already developed a curricula for consumer education in consultation with consumer organisations, and is on the process of introducing the same in the school/collage curricula. The Educational Radio in India, known as *Gyan Vani*, under the IGNOU is promoting consumer rights. *Gyan Vani's* main intention is to take education to the doorsteps of the people.

Furthermore, the Government of India, through the Consumer Welfare Fund (CWF), supports consumer educational programmes undertaken by consumer groups or state governments. The Consumer Club scheme was launched in the year 2002, with funding from CWF, has the objective to educate children about the rights of the consumers, protection of their rights, and to strengthen the consumer movement in the country. The media has also been playing an important role in this context. Today, most of the leading Indian periodicals carry regular consumer columns, while television channels also have regular consumer programmes and advertisements issued by the Department of Consumer Affairs (DoCA). Also the freedom of the press, which flows from the freedom of speech and expression guaranteed in the Constitution and from important case laws, does allow free flow of information useful to consumers.

Consumer education faces the universal problem of matching limited resources against an infinite need. Moreover, in a large country like India, with multiplicity of languages, the problem is of larger dimensions.

VII. Right to Basic Needs

All consumers have the right to basic goods and services such as adequate food, drinking water, shelter, clothing, health care, electricity and education. These rights lay a foundation to lead a life with dignity and, therefore, give a meaning to citizen's rights. The key aspects are as follows:

- The right to basic goods and services, which guarantee survival.
- The responsibility to use these goods and services appropriately.
- To take action to ensure that basic needs are available.

The following eight needs constitute the inalienable right to basic needs: food; clothing; healthcare; drinking water and sanitation; shelter; education; energy; and transportation.

Box 1: Indicators of Basic Needs		
Elements	Input-oriented	Result-oriented
1. Food	Per capita availability	Calorie supply as percent of requirements
2. Clothing	Per capita availability	—
3. Health care	Population per Primary Healthcare Centre	Life expectancy at birth

4. Drinking water & sanitation	Households with safe drinking water Households with toilet facility	Infant mortality rate Do
5. Shelter	Population per household	Percentage of households living in <i>kutchha</i> houses
6. Education	Institutions per sq. km.	Literacy rate
7. Energy	Per capita consumption	Households with electricity
8. Transportation	Road length per sq. km.	Surfaced road as percent of total road length

Basic needs are important for everyone's survival and access to a decent standard of life. This is more important for a country like India, which has a history of the systematic denial of access to basic needs and services to the majority of its people.

Box 2: Indicators of Basic Needs in India					
Indicator	Unit	Year		Year	
Food grain availability	Kg/annum/capita	2004	169.1 *	1980	150.2
Cloth	Sq. Mts/annum/capita	2004-05	33.51 *	1985-86	21.3
Households living in pucca houses	Percent	2001	51.62	1991	41.61
Households living in kutchha houses	Percent	2001	18.24	1991	27.44
Number of Hospitals	Per One Million Population	2002	15	1990	13
Primary health centres	Population/unit	1995	28225	1991	27942
Hospital beds	Per Hundred Thousand Population	1998	93.0	1991	95.0
Households having safe drinking water facilities	Percent	2001	73.2 (Rural)	1991	55.54 (Rural)
			90.0 (Urban)		81.38 (Urban)
Households with toilet facility	Percent	2001	21.92 (Rural)	1991	9.48 (Rural)
		2001	73.72 (Urban)	1991	63.85 (Urban)
Primary education institutions	Pupil/institution	1992-93	177	1980-81	149
	Institution/sq. km	1990-91	0.17	1980-81	0.15
Middle level educational institutions	Pupil/institution	1992-93	215	1980-81	174
	Institution/sq. km	1990-91	0.05	1980-81	0.04
Households with electricity	Percent	2001	55.85	1991	42.37

Electricity consumption	Kilowatts Hour/capita	2002-03	373.0	1991-92	269.98
Road length	Km/sq. km	1996-97	0.73	1980-81	0.45
Un-surfaced road/total road	Percent	1996-97	54.1	1980-81	43.5
<ul style="list-style-type: none"> • Provisional • Source: www.indiastat.com 					

The following table shows the overall poverty in India over various years given by Tenth Five Year Plan.

Year	Poverty Ratio (in percent)			Number of Poor (in million)		
	Rural	Urban	Combined	Rural	Urban	Combined
1977-78	53.1	45.2	51.3	264.3	64.4	328.9
1983	45.7	40.8	44.5	252.0	70.9	322.9
1987-88	39.1	38.2	38.9	231.9	75.2	307.1
1993-94	37.3	32.4	36.0	244.0	76.3	320.3
1999-00	27.1	23.6	26.1	193.2	67.1	260.3
2007*	21.1	15.1	19.3	170.5	49.6	220.1

2007*: The Poverty Projection for 2007.

Source; <http://www.economywatch.com/indianeconomy/poverty-in-india.html>

The UN Guidelines do not explicitly mention the right to basic needs, but expect governments to take appropriate measures so that essential goods and services could be easily accessible to the consumers.

Everyone has the right to have access to adequate clothing, housing, education, primary health etc. In addition, everyone requires pure air and water, safe and responsible waste disposal, the preservation of natural resources, and effective conservation measures. In other words, consumers want respect for the earth and the overall environment where the beauty of nature can be enjoyed and relished by all. But unfortunately the 'right to basic needs' still remains outside the purview of COPRA in India.

Inequities in Delhi's Water Supply

According to a recent report, the average water consumption in a five-star hotel room in Delhi is above 1,000 litres. For instance, the average consumption of water in Hotel Taj's Man Singh room is 2,000 litres a day, while at the Oberoi it is 1,120 litres per day per room. The average consumption at the Taj Hotel is 1,400 litres per room, while Janpath Hotel, including its banquet halls and restaurants, consumes around 67,000 litres per day. On an average, each room in a five-star hotel consumes 1,600 litres of water every day.

VIP residences do not lag far behind in guzzling water. For instance, the Prime Minister's house at 1 Race Course Road accounts for around 73,300 litres of water per day, and the Presidential residence, *Rashtrapati Bhavan*, consumes about 67,000 litres per day. Similarly, ministers' residences consume 30,000-45,000 litres per day.

But 78 percent of Delhi's citizens, who live in sub-standard settlements, struggle to collect or buy 30-90 litres per capita per day.

Source: http://www.infochangeindia.org/agenda3_04.jsp

Fulfillment of basic needs is recognised by the Government through:

- Public Distribution System;
- National Health Policy and Drug Price Control;
- National Housing and Habitat Policy 1998;
- The Electricity Act 2003;
- The Textile Policy, 1981; and
- Employment Guarantee Programmes.

However, much remains to be done in terms of reaching out to the poorest of poor and the remote areas of the country to avail the consumers of basic needs.

VIII. Right to a Healthy Environment

To live and work in an environment, which is non-threatening to the well-being of present and future generations. The right contains the following elements:

- The right to live and work in an environment that is neither threatening nor dangerous and which permits a life of dignity and well-being.
- The responsibility to minimise environmental damage through careful choice and use of consumer goods and services.
- To reduce waste, reuse products and to recycle whenever possible.

The UN Guidelines contain governments, which in partnership with business and relevant organisations of civil society, should develop and implement strategies to promote sustainable consumption through a mix of policies that could include regulations; economic and social instruments; sectoral policies in such areas as land use, transport, energy and housing; information programmes to raise awareness of the impact of consumption patterns; removal of subsidies that promote unsustainable patterns of consumption and production; and promotion of sector-specific environmental-management best practices.

As far as the issue of a healthy environment is concerned, Article 21 of the Constitution requires the state, *inter alia*, to protect life, which is construed as including the right to a healthy and safe environment. A healthy and safe environment is inalienably linked with sustainability and promotion of sustainable consumption.

Moreover, the Directive Principles of State Policy direct the state to endeavour to protect and improve the environment, forests and wild life. Also, the Constitution, under Article 51A(g) imposes a *Fundamental Duty* on citizens to protect the environment. The Ministry of Environment and Forests (MoEF) has also released the National Environment Policy (NEP) in 2006. This includes various provisions for consumer protection, such as ecolabelling etc.

Several Acts relevant to environmental protection have been enacted. They are:

- The Water (Prevention and Control of Pollution) Act, 1974;
- The Forest Conservation Act, 1980;
- The Air (Prevention and Control of Pollution) Act, 1981;
- The Environment Protection Act, 1986;
- The Public Liability Insurance Act, 1991;
- The National Environmental Tribunal Act; 1995; and
- The National Environmental Appellate Authority Act, 1997.

The Way Forward

Pre-condition to an effective consumer protection is the consumption itself. In a country like India, where millions of people are denied of the very basic needs such as food, clothing, shelter, water and health, measures towards poverty eradication should occupy the central stage. An estimate released by Asian Development Bank (ADB), in September 2005, says that 327 million people lived on less than US\$1 a day in India in 2003, who struggled to meet their basic needs. Indian economy is no doubt booming currently, the challenge is to harness its benefits to bridge the gap between haves and have-nots. The initiatives taken by the government, like Employment Guarantee Schemes (EGS), Public Distribution System (PDS), if implemented properly, can provide a boost to tackle the situation.

Consumer protection in India thus has dual dimensions. It first has to ensure availability and access to basic needs of life to one section of the society; on the other hand, those with the purchasing power need to be protected against violation of their other rights. The consumer policy should strive to cover and address the interests of both the have-nots and haves. This calls for a well-defined economic agenda and policy initiatives linking fulfillment of basic needs with over all consumer satisfaction.

In the context of legal framework, an effective consumer protection regime is a mid-distant dream which could be realised when all the stakeholders are sensitised on the roles they are expected to play. A consumer protection regime does not merely consist of laws and legislations, it is rather a constant interaction between laws, acts, courts, businesses, government, regulators, systems, media, civil society organisations (CSOs) and most importantly, consumers. To strengthen the overall system, each and every stakeholder is required to be possessed with adequate power in the form of well-defined and an efficient legal system as well as information.

It is evident that in India it is not the legislative measures that are lacking in providing the consumer with the mechanism or the enabling environment for protecting their rights. The challenge is in the strengthening of the administrative mechanisms in implementing such measures, with incentives for the enforcement officials so that they perform their duties without being influenced or handicapped due to lack of resources.

The government has been successful in opening up the economy to private players, domestic as well as foreign, leading to increased efficiency, creation of jobs and an enticing market. This has, in turn, resulted in booming consumer spending. The increased consumer spending requires adequate safety nets to ensure that their rights are not violated. This can be achieved by striking a balance between the health of the economy and that of the consumers. The onus lies on the stakeholders, in particular the government and CSOs to create awareness about the existence of the redressal mechanisms and laws protecting consumer interests. This will not only empower the consumers, but would also smoothen the process of policy implementation.

Also, there is a need to bring all the consumer laws under one DoCA. An appropriate framework is required to keep a check on the effective functioning of these laws. Various laws governing consumer interest are dealt with under different ministries and often left hand does not know what the right hand is doing. Like a human body, which functions in synchronisation with various organs aligned under the central nervous system, consumer laws would function to the best of their efficiency, if imbibed under one department.

Every consumer in own interest has to realise the role and importance in the right perspective. In a competitive economic environment, the consumer has to exercise the choice either in favour of or against the goods and services. The choice is going to be vital and final. S/he should realise the importance and prepare to exercise her/his rights with responsibility. After the entire dictum in democracy is, the citizens get a government they deserve. Similarly, the consumers in society get a position in the market depending upon what they do or do not do. It is agreed on all hands that 'consumer empowerment and protection' in India has a long way to go.

References:

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