

# State of the Indian Consumer 2012

Indian Consumers in the New Age: A Forward Looking  
Agenda to Address the Concerns of the Common People

Supported by



सत्यमेव जयते

Ministry of Consumer Affairs,  
Food & Public Distribution  
Government of India



# **State of the Indian Consumer 2012**



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# Abbreviations

AAI	Airports Authority of India
ADR	Alternate Dispute Resolution
AMFI	Association of Mutual Funds of India
ARWSP	Accelerated Rural Water Supply Programme
ASCI	Advertising Standards Council of India
ATE	Appellate Tribunal of Electricity
AVUT	Association of the Victims of Uphaar Tragedy
BDA	Bangalore Development Authority
BIS	Bureau of Indian Standards
BPL	Below Poverty Line
BPO	Business Process Outsourcing
CCDUs	Communication and Capacity Development Units
CCI	Competition Commission of India
CCLAP	Chair on Consumer Law and Practice
CDMA	Code Division Multiple Access
CEA	Central Electricity Authority
CENTAD	Centre for Trade and Development
CERC	Central Electricity Regulatory Commission
CFBP	Council for Fair Business Practices
CFL	Compact Florescent Light
CGRF	Consumer Grievance Redressal Forum
CHC	Community Healthcare
CIC	Central Information Commission
CMCs	City Municipal Councils
COPRA	Consumer Protection Act
CORE	Consumer Online Resources and Empowerment
CPC	Central Consumer Protection Council
CREAT	Consumer Rights, Education and Awareness Trust
CRSP	Central Rural Sanitation Programme
CUTS	Consumer Unity & Trust Society
CWF	Consumer Welfare Fund
DAVP	Directorate of Advertising and Visual Publicity
DBFO	Design Build Finance and Operation
DCDRF	District Consumer Disputes Redressal Forum
DCPC	District Consumer Protection Council
DFS	Delhi Fire Service
DMRC	Delhi Metro Rail Corporation

DPCs	District Planning Committees
DPEP	District Primary Education Programme
EMS	Environmental Management System
EPA	Environmental Protection Act
ERC	Electricity Regulatory Commission
EWS	Economically Weaker Section
FBO	Food Business Operator
FIs	Financial Institutions
FLSC	Free Legal Services Cell
FPS	Fair Price Shop
FSS	Food Safety and Standards
FSSAI	Food Safety and Standards Authority of India
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GQ	Golden Quadrilateral
GRP	Government Reserve Police
GSM	Global System for Mobile Communications
HACCP	The Hazard Analysis and Critical Control Points
HRTC	Himachal Roadways Transport Corporation
HUDCO	Housing and Urban Development Corporation
IAY	Indira Awas Yojana
ICAI	Institute of Chartered Accountants of India
ICDS	Integrated Child Development Scheme
ICMR	Indian Council of Medical Research
ICRT	International Consumer Research and Testing
IDCG	Insight Development Constituting Group
IEA	International Energy Agency
IGNOU	Indira Gandhi National Open University
IHSDP	Integrated Housing and Slum Development Programme
IIMC	Indian Institute of Mass Communication
IIPA	Indian Institute of Public Administration
ILCS	Integrated Low Cost Sanitation
IRDA	Insurance Regulatory Development Authority
ISI	Indian Standards Institution
JNNURM	Jawaharlal Nehru National Urban Renewal Mission
JRY	Jawahar Rozgar Yojana
KGBV	Kasturba Gandhi Balika Vidyalaya
KIC	Karnataka Information Commission
LIG	Low Income Group

MCI	Medical Council of India
MDGs	Millennium Development Goal
MGP	Mumbai Grahak Panchayat
MNP	Minimum Needs Programme
MNP	Mobile Number Portability
MoEF	Ministry of Environment and Forests
MoRD	Ministry of Rural Development
MoSRTTH	Ministry of Shipping, Road Transport and Highways
MoUD	Ministry of Urban Development
MPCs	Metropolitan Planning Committees
MRC	Malaria Research Centre
MRP	Maximum Retail Price
MRTTP	Monopolies and Restrictive Trade Practices Act
MSW	Municipal Solid Waste
NAPCC	National Action Plan on Climate Change
NBFC	Non-Banking Financial Company
NCDRC	National Consumer Disputes Redressal Commission
NCH	National Consumer Helpline
NDC	National Development Council
NEP	National Environment Policy
NHAI	National Highways Authority of India
NHDP	National Highways Development Project
NHP	National Health Policy
NLSIU	National Law School of India University
NPE	National Policy on Education
NPPA	National Pharmaceuticals Product Authority
NRDWP	National Rural Drinking Water Programme
NREP	National Rural Employment Programme
NSDP	National Slum Development Programme
NSS	National Sample Survey
NTH	National Test House
NUTP	National Urban Transport Policy
NVBDCP	National Vector Borne Disease Control Programme
NWP	National Water Policy
OFC	Optical Fibre Cable
OHCHR	Office of the United Nations High Commissioner for Human Rights
PDS	Public Distribution System
PGDCLP	Post-Graduate Diploma in Consumer Law and Practice
PHC	Primary Healthcare
PIO	Public Information Officer
PMES	Performance Monitoring and Evaluation System
PMGSY	Pradhan Mantri Gram Sadak Yojana
PoA	Programme of Action
PPA	Power Purchase Agreement
PPP	Public Private Partnership
PRIs	Panchayati Raj Institutions

R&D	Research and Development
RAPEX	Rapid Alert System for Non-Food Consumer Products
RBI	Reserve Bank of India
REDB	Rural Electrification Distribution Backbone
RFD	Results-Framework Document
RLEGP	Rural Landless Employment Guarantee Programme
ROBs	Road Over Bridges
RPF	Railway Protection Force
RTE	Right to Education Act
RTI	Right to Information
RTPS	Right to Public Service
RVA	Raad Voor Accreditatie
RWS	Rural Water Supply
SCDRC	State Consumer Disputes Redressal Commission
SCPC	State Consumer Protection Council
SERC	State Electricity Regulatory Commission
SHASHU	Housing and Shelter Upgradation
SJSRY	Swarna Jayanti Shahari Rozgar Yojana
SPAD	Signal Passing At Danger
SSA	Sarva Shiksha Abhiyan
SWSM	State Water and Sanitation Mission
TERI	The Energy and Resources Institute
TMHP	Two Million Housing Programme
TPWS	Train Protection and Warning System
TRAI	Telecom Regulatory Authority of India
TRIPs	Trade Related Aspects of Intellectual Property Rights
TSC	Total Sanitation Campaign
UBSP	Urban Basic Services for the Poor
UDD	Urban Development Department
UDHR	Universal Declaration of Human Rights
UIDSSMT	Urban Infrastructure Development Scheme for Small and Medium Towns
UMTA	Unified Metro Transport Authorities
UN	United Nations
UNDP	United Nations Development Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNGC	United Nations Global Compact
UNHRP	United Nations Housing Rights Programme
VAMBAY	Valmiki Ambedkar Awas Yojana
VCOs	Voluntary Consumer Organisations
WGEEP	Western Ghats Ecology Expert Panel
WHO	World Health Organisation
WSSO	Water and Sanitation Support Organisation

# Foreword

It gives me great pleasure to know that Consumer Unity & Trust Society (CUTS International) is releasing a report 'State of the Indian Consumer 2012' under the project entitled "Indian Consumer in the New Age: A Forward looking Agenda to Address the Concerns of the Common People" (ConsumersUp) in partnership with the Department of Consumer Affairs, Government of India.

The report highlights the use and the status of Consumer Rights and Protection under the law. The status of the consumer today is in fact a matter of crucial concern which has been addressed in this report.

The report is an eye opener as to how much we, as conscious consumers, are aware of our rights and to what extent we exercise our rights. The urban literate population awareness to the issue reveals a picture that shows how much needs to be done. It is in the circumstances the marginalised population most of who are in rural areas are far more vulnerable.

This report highlights all these issues and reveals that it is imperative that we see it not just as a report, but points of action that conscious consumers ought to take up as rights that they should not just take up for themselves, we should also act on the rights and responsibility so as to ensure that other also exercise their rights.

As the report reveals the goal is yet to be reached and each of us have an important and immediate role to play to be closer to our goal. Apathy and complacency are factors that we have no place in the important role that we have to play.

The issue that exists is that consumers of products and services, are issues of survival and it is not only our birth right and report of this kind that remind us and reiterate the need to exercise rights and responsibilities. Little do we realise that it is the consumer that is the key person whom the country's economy revolves, hence each one of us have a pivotal role to play for our country.

In this direction CUTS International has consistently and continuously working for almost three decades in the direction of issues related to consumers, which is commendable.

I am sure the report will enlighten one and all of the level of understanding of the common consumer.

I sincerely wish this and future endeavours of CUTS International the very best.

**Pankaj Agrawala**  
Secretary  
Department of Consumer Affairs  
Ministry of Consumer Affairs, Food & Public Distribution  
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# Preface

The growing interdependence of the world economy and international character of business practices have contributed to the development of universal emphasis on consumer rights' protection and promotion. Consumers the world over are demanding value for money in the form of quality goods and better services. On the other hand, consumers with poor wherewithal, particularly in the developing world, are demanding opportunities for their livelihoods.

But the fact is that the consumers, whether the well off or the poor, are still victims of unscrupulous and exploitative practices. Exploitation of consumers assumes numerous forms, such as lack of access and availability, suspect food, spurious drugs, dubious hire purchase plans, high prices, poor quality, deficient services, deceptive advertisements, hazardous products, black marketing, and many more.

The consumer movement in India originated with the necessity of protecting and promoting the interest of consumers' against fraudulent, unethical and unfair trade practices, and to advocate for poverty amelioration. While the ushering of economic liberalisation in early 90s resulted in many positive developments *vis-a-vis* the enhancement of consumer interests, it has also thrown significant challenges which are to be addressed as concerns of common people as well as new generation consumer issues including those which are emerging from an evolving mosaic of utility regulations in India.

US President John F Kennedy, on March 15, 1962, while introducing 'The Consumer Bill of Rights' in the US Congress made a historical speech about consumer rights. In 1983, the International Organisation of Consumer Unions (now Consumers International) got this day adopted as the World Consumer Rights Day. Since then the global community, mainly in the developing world, has been observing it with full gusto. In India, we celebrate both the days March 15 as World Consumer Rights Day and December 24, as the National Consumer Day, the day the president of India had given assent to the Consumer Protection Act (COPRA), 1986.

Kennedy strongly believed that it is vital to US' national interest to ensure the welfare of consumers, as it is the consumer who drives the economy. He formulated four rights for consumers, namely the right to safety, right to choose, right to information and right to be heard which, in 1985, was accepted by the United Nations (UN). The UN added to this list the right to basic needs, right to representation, right to consumer education (*this right was added by a later US President Gerald Ford as he felt that the four rights constituted in Kennedy's Bill of Rights were inadequate for a situation where most consumers were not educated enough to make the right choices*), and right to healthy environment.

Many of us were in the vanguard of the advocacy for the enactment of the Consumer Protection Act 1986 (COPRA) initiated by then Prime Minister Rajiv Gandhi. In the COPRA six consumer rights have been recognised: Right to Safety; Right to Information; Right to Choose; Right to be Heard; Right to Redressal; and Right to Consumer Education.

An efficient and effective programme of consumer protection is of special significance to consumers. Even a manufacturer or provider of a service is a consumer of some other goods/ services. The active involvement and participation from all – the Central and state governments, educational institutions, NGOs, media and the adoption/observance of a voluntary code of conduct by business and the citizen’s charter by service providers is necessary to see that the consumers get their due. The need of the hour is for total commitment to the consumer cause and social responsiveness to consumer needs. This should, however, proceed in a harmonious manner so that our society becomes a better place for all of us to live in.

For about the last 30 years, CUTS is an intrinsic part of the Indian consumer movement and is one of its flag-bearers in national and international arena. Through policy research, advocacy and networking it has initiated and succeeded in addressing forward-looking changes in the consumer protection regime of India. In 2001, a report ‘State of the Indian Consumer’ was published that examined the plight of the Indian consumers in the light of the UN Guidelines on Consumer Protection. The main objective of this stocktaking exercise was to help drafting of a National Consumer Policy and suggest measures to be undertaken in the future for the proper implementation of the same. The Policy is yet to be adopted, and the campaign is still continuing.

On a different note, a huge success by CUTS in the area of promotion of consumer interests, is the enactment of a modern Competition Act in 2002, and the formulation of the National Competition Policy in 2012. The Policy is expected to be adopted soon. Both these instruments will promote economic democracy in the country.

CUTS has now come up with a credible report on ‘State of the Indian Consumer 2012’ based on a comprehensive survey of consumer concerns in the framework of consumer rights as per the UN Guidelines on Consumer Protection. The report contains eight chapters on each of the eight consumer rights, a synthesis chapter and a chapter on consumer awareness index in addition to an executive summary. Furthermore to providing a forward looking agenda to the Central and state governments in India, to address the concerns of the common people, the report is also expected to guide other countries, particularly the developing ones, in protecting and promoting consumer interests.

Initiated by CUTS’ Centre in Nairobi, we have already brought out a ‘State of the Kenyan Consumer Report 2012’. CUTS Centre in Hanoi, Vietnam has also initiated efforts to bring out a ‘State of the Vietnamese Consumer Report’ in 2013.

I thank the Department of Consumer Affairs, Government of India for its continued support; not just for this project but, more importantly, to the cause of the common consumer. We look forward to strengthen our partnership. Last, but not the least, I thank my colleagues and the authors of each of the chapters who have made this study possible.

I have great pleasure in presenting this study before the governments and a wider audience for discussion and feasible action. May this study be widely read and generate more interest on this subject.

**Pradeep S Mehta**  
Secretary General  
CUTS International

# Overview and Acknowledgments

## Backdrop

In the backdrop of UNGCP completing 25 years in 2010 and starting a process of review, Indian COPRA completing 25 years in 2011, and 2012 marking the 50<sup>th</sup> year of John F. Kennary's famous speech in American Congress, CUTS conceptualised a plan well in advance, submitted, discussed and finalised it with the Department of Consumer Affairs, Government of India.

The key activity of the proposed plan was to bring out a credible report on the State of the Indian Consumer, consisting of the key findings, based on an elaborate field survey covering 19 States and 3 Union Territories, and eight input chapters on each of the consumer rights and a synthesis chapter. The purpose is to understand the real status of the common consumers at grassroots with regard to level of awareness and in terms of realising the basic consumer rights and to present a forward-looking outline to the Department of Consumer Affairs, state consumer departments, and other line ministries/departments (of the Central and state governments) and to advocate to act upon the state of consumers based on the recommendations.

Completing the field research and all other activities, the report is ready to be released in the National Conclave in Delhi on October 11, 2012 and for wider circulation.

## Few Key Findings and the Trend

The focus of the filed research was to assess the level of knowledge, awareness and the extent of exercise of consumer rights, as mentioned in UNGCP by common consumers. A total of 11,499 (*53 percent male & 47 percent female*) consumers were surveyed following a stratified multi-stage sampling approach covering 88 districts, spread across 19 states and 3 union territories of India. In addition, 385 qualitative samples were collected through personal interactions with consumer organisations, redressal bodies, government departments/agencies. The period of data collection was March-June 2012.

Findings of the study shows only 20 percent of consumers in India know about COPRA Act and only 42 percent have heard about consumer rights. Still these respective percentages are encouraging because comparing with the status of five years back the trend was upward. The Report of the National Survey on COPRA commissioned by the Comptroller & Auditor General of India (CAG) in connection with 20 years of COPRA and released in May 2006, revealed that only 18 percent of consumers were aware of the COPRA and 34 percent of consumer rights.

The study further disclosed that 53 percent respondents of the survey do not know about the available external redressal mechanisms. Out of the 47 percent, who know about external redressal mechanism, only 28 percent believe that it is easily accessible to common people. Putting together all the three-tier of consumer fora, 67 percent of cases are redressed beyond the stipulated time frame of 90 to 150 days, whichever is applicable. 93 percent respondents of the survey have never actually made a formal complaint. Out of the 7 percent filed a complaint, only minute 0.3 percent respondents have approached the consumer fora for grievance redressal. Along with the general apathy of the Indian consumer, if this is an indication of people losing the faith in the grievance redressal mechanism, supposed to be simple speedy accessible, then the trend is disturbing and

alerting all of us to do the needful urgently for making the consumer protection mechanism workable for the poor and the rural consumers.

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Ashok R Patil is a Chair Professor of ‘Chair of Consumer Law and Practice’, which was established by the Ministry of Consumer Affairs, Government of India, at National Law School of India University, Bangalore, Karnataka. He has done Ph.D. in Consumer Law and has 14 years of teaching experience. He is a Chief Editor of ‘International Journal on Consumer Law and Practice’ and Bi-Annual Newsletter “March of Consumer Law and Practice”. He has presented many research papers at International and National conferences, seminars and workshops and given many TV and Radio programmes. His area of specialisation is Consumer Protection Laws, Law of Torts and Insurance Law. He has published 20 research articles in reputed law journals. He has published three books. Recently, he has got Asian Law Institute’s Fellowship and visited National University of Singapore and did research on Consumer Protection in Singapore.

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C Rajashekhar is a Professor of Law and Chairman, Post-Graduate Department of Studies in Law of Karnatak University, Dharwad. He has specialised in Constitutional Law, Administrative Law, Research Methods and Consumer Law. He has participated in a number of National and International seminars, conferences and symposia and presented papers on different issues of law. His scholarly articles are published in reputed law journals and he has authored two books. So far he has guided nine research candidates successfully for Ph.D. degree.

## Keya Ghosh

Keya Ghosh, is a member and a representative of consumers in the Central Advisory Committee of Food Safety and Standards Authority of India and a member of the Shadow Committee on Codex Committee on Fish & Fishery Product & Shadow Committee on Food Hygiene of FSSAI. She has a Ph. D in Environmental Chemistry from Jadavpur University, Kolkata. Currently, as the Director of CUTS, she is steering and guiding the Centre’s work in building and enhancing consumers awareness and capacity to effectively participate in the fields of Safety, Environment and Energy.

She has been a Senior Editor in a premier publishing house of India, from where she has been involved with the publication of several educational books which have shaped the school education of the country. She has done teachers training workshops across the country.

## Roopa Vajpeyi

Roopa Vajpeyi has been associated with Voluntary Organisation in Interest of Consumer Education for the past nearly 30 years, as the Hony Editor/in charge of its publications programme and as Vice Chair-person, University Academic, Department of English. She has established and edited two monthly journals and running the VOICE website; organised yearly public events/poster painting competitions involving student participants from schools and colleges; and established the 1<sup>st</sup> ever consumer clubs (50) in Delhi schools. The model established in VOICE is being followed by schools across India. Besides, she has organised training programmes for teachers/rural women.

## **Shirish Vasudeo Deshpande**

Shirish Vasudeo Deshpande is an Advocate and done his B.A. (Hons), LL.B., Diploma in Business Management. His specialisation is in Consumer Laws and Public Interest Litigation. He is the Chairman of *Mumbai Grahak Panchayat*; Governing Council Member of Consumers International; and a Consumer Columnist for last more than 20 years. He has been appointed as a Consultant to draft Consumer Protection Law for Fiji under European Union project and recently appointed as an Expert on CI's Global Expert Group on Consumer Justice & Protection. He has successfully launched a campaign "Say TATA to Reliance" and paved way to break monopoly of Reliance in power sector in Mumbai suburban area.

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Suresh Prasad Singh is a Policy Analyst working with CUTS International and has over 15 years of experience in managing projects and conducting research on various issues relating to industry, socio-economic and international trade. Prior to joining CUTS, he worked as Economist at Centre for Industrial and Economic Research on a number of projects and research studies, primarily related to industries. These included project relating to tiny service enterprises in India, regional integration in SAARC countries focusing on automobile industry. Besides, he has authored/ contributed in several publications, covering consumer rights, agriculture, trade issues, and participated and presented papers in conferences and seminars.

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Vandana Vasudevan is a graduate of the Indian Institute of Management, Ahmedabad. She has spent about 15 years working in the corporate world across the banking and media industry. Apart from her corporate career, she is also a writer and has contributed to leading dailies since 1995. Her popular column on urban consumer experiences called "Tough Customer" for the *business daily Mint* is widely appreciated for its clarity in deconstructing complex issues. She is also the author of a forthcoming book by Sage publications.

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Vivek Bhandari is the Executive Director of Sandarbha Consulting Pvt. Ltd. He is an alumnus of St. Stephen's College, Delhi, and the University of Pennsylvania, from where he received his doctorate in modern history. Bhandari's writings in the fields of comparative history, international political economy, historical sociology, and peace studies have appeared in various journals. In his capacity as a public intellectual, Bhandari has provided on-air commentary on media outlets in India and US. He serves on the boards of numerous professional and academic institutions, as well as committees convened by the Indian government on matters pertaining to rural development. In 2008, *Business Today* magazine included him in its list of "India's Top 25 Young Executives under the age of 40."

## **Y G Muralidharan**

Y G Muralidharan is a social activist involved in consumer activism for the past 15 years. He holds a post graduate diploma in journalism and is the founder of Consumer Rights, Education and Awareness Trust (CREAT) – a Bengaluru-based consumer advocacy group. He has over 25 books and 3000 articles to his credit. He writes two weekly columns on consumer protection, right to information and governance issues. He has been collaborating with CUTS for over a decade.

# Executive Summary

## Key Messages

- In India, even after 25 years, only 20 percent consumers know about the Consumer Protection Act (COPRA) and who has heard about consumer rights is just 42 percent. However, these findings are still encouraging considering the fact that five years ago the consumer awareness level was just 18 and 34 percent respectively.
- There are various laws and regulations that directly or indirectly influence citizens' right to basic needs. However, in spite of this basic right, it is still a distant dream mainly due to the lack of proper implementation of various schemes/programmes to ensure this right.
- In order to make the sustainability approach both successful and sustainable, India needs to have a process of giving incentives to producers of green goods through preferential allocation of resources, facilitate development of infrastructure, additionally there is a need to make the supply chains of resources and technology more efficient and effective.
- Safety has been dealt in at least 25 different Indian acts. What is lacking is a periodic monitoring mechanism to ensure that rules and regulations are being implemented to minimise risk. This periodic monitoring can be done by an Independent Safety Commission which should have the ability to make it enforceable by law in the event of non-compliance.
- There is an increasing felt need for an introduction of consumer issues with more emphasis in school and college curriculum, establishment of consumer clubs in education institutions, increasing involvement of civil society organisations in consumer awareness programmes would further strengthen consumer education.
- The strength of the right to choice of consumers is directly proportional to the level of competition in the economy. Competition provides consumers with variety in goods and services, while keeping a check on the price and thus compelling each producer to improve quality.
- There is also a need for massive awareness campaigns and information dissemination among the consumers about the existing legal remedies available to consumers.
- To make the grievance redressal process more convenient for consumers an effective consumer education with respect to consumer rights need to be provided and the existing mechanism for grievance redressal need to be further strengthened.

## Background

On March 15, 1962, US President John F. Kennedy while addressing the US Congress stated ‘Consumers by definition include us all. They are the largest economic group, affecting and affected by almost every public and private economic decision. Yet they are the only important group who are not effectively organised, whose views are often not heard.’

During this historic speech, he coined four basic rights for consumers. They are: *The right to safety* to be protected against the marketing of goods which are hazardous to health or life; *The right to be informed* to be protected against fraudulent, deceitful, or grossly misleading information, advertising, labelling, or other practices, and to be given the facts he needs to make an informed choice; *The right to choose* to be assured, wherever possible, access to a variety of products and services at competitive prices; and in those industries in which competition is not workable and government regulation is substituted, an assurance of satisfactory quality and service at fair prices; and *The right to be heard* to be assured that consumer interests will receive full and sympathetic consideration in the formulation of government policy, and fair and expeditious treatment in its administrative tribunals.

To realise these consumer rights, he underlined the need for strengthening existing government programmes, improvising government organisations, and the need for enacting new legislations.

Subsequent years saw the addition of few other rights. Finally, the Consumers International (CI), former International Organisation of Consumer Unions (IOCU), the umbrella body for 220 organisations in over 115 countries, expanded the charter of consumers rights contained in the US Bill to eight. These eight rights are: Right to Basic Needs; Safety; Choice; Information; Consumer Education; Redressal; Representation; and Healthy environment.

This charter had a universal significance as they symbolised the aspirations of the poor and disadvantaged. On this basis, the United Nations, in April 1985, adopted its Guidelines for Consumer Protection, which was further expanded in 1999.

## UN Guidelines on Consumer Protection

The guidelines call upon governments to develop, strengthen or maintain a strong consumer policy, and provide for enhanced protection of consumers in the following areas:

- (i) physical safety;
- (ii) protection and promotion of consumer economic interests;
- (iii) standards for safety and quality of consumer goods and services;
- (iv) measures enabling consumers to obtain redressal;
- (v) measures relating to specific areas (food, water, and pharmaceuticals); and
- (vi) consumer education and information programme.

In 1995, the Guidelines were reviewed, and some issues, which needed further elaboration and expansion, were espoused by consumer organisations. Among these issues, was access to basic needs, appropriate regulatory policies, sustainable consumption etc.

The Guidelines also enable a country, particularly governments of developing countries, to identify its priorities, structure and strengthen their consumer protection policies and legislations. Hence, very soon, based on these guidelines, several governments enacted legislations and launched institutional structures to deal specifically with consumer issues. In this regard, India too, enacted a number of legislations for regulating the business and protecting the interest of consumers. The

most important among these legislations is the Consumer Protection Act, 1986 (COPRA) that got the assent of the President of India on December 24, 1986.

## Consumer Protection Act 1986

This law provides for better protection of consumers' interests and settlement of consumer disputes and allied matters. For this purpose, the Act provides for setting up consumer protection councils at the Central, state and district levels which are advisory bodies to promote and protect the rights of consumers. Unlike other laws, which are basically punitive or preventive in nature, the provisions of the acts are compensatory. Hence, it is indeed a very unique and highly progressive piece of Social Welfare Legislation. The enactment of this Act is largely considered as an important milestone in the area of consumer protection, giving the necessary impetus to the consumer movement in the country.

Furthermore, the Act enshrines the following six rights of the consumers the right to be protected against the marketing of goods which are hazardous to life and property; the 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; the right to be assured, wherever possible access to variety of goods at competitive prices; the right to be heard; the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumer; and the right to consumer education. Additionally, from the UN Guidelines, two other rights of consumers are inferred, i.e. the right to basic needs and the right to healthy environment.

To provide inexpensive and speedy redressal of consumer disputes, the Act has provisions for setting up quasi-judicial bodies in each District and State and at the National level, called the District Forums, the State Consumer Disputes Redressal Commissions, and the National Consumer Disputes Redressal Commission (NCDRC) respectively. At present, there are 629 District Forums and 35 State Commissions with the NCDRC at the apex.

A written complaint can be filed before the District Consumer Forum for pecuniary value of up to ₹20 lakh, State Commission for value up to ₹ one crore and the National Commission for value above ₹ one crore, in respect of defects in goods or deficiency in service. However, no complaint can be filed for alleged deficiency in any service that is rendered 'free' of charge or under a contract of personal service.

The remedy under the COPRA is an alternative in addition to that already available to the aggrieved consumers by way of civil suit. While filing a complaint, an appeal or a petition under the Act, a

Total Number of Consumer Complaints Filed/Disposed since inception under Consumer Protection Law				
(As on September 18, 2012)				
Name of Agency	Cases filed since inception	Cases disposed of since inception	Cases pending	% of total disposal
National Commission	76909	66560	10349	86.54
State Commissions	581102	485156	95946	83.49
District Forums	3169197	2928782	243415	92.32
Total	3827208	3477498	349710	90.86

Source: [ncdrc.nic.in](http://ncdrc.nic.in)

consumer is not required to pay any court fees but only a nominal fee. Moreover, Consumer Fora proceedings are summary in nature. Every effort is taken to ensure that the aggrieved consumer is granted relief as quickly as possible, keeping in mind the provisions of the Act which lay down time schedule for disposal of cases.

Some of the State Commissions and District Fora are adopting the process of holding '*Lok Adalats*' (*People's Courts*) for speedy disposal of cases. The National Commission has also started holding *Lok Adalat*. The National Commission also holds Circuit Bench sittings. So far, the National Commission has held Circuit Bench sittings at Hyderabad, Bengaluru, Chennai, Pune, and Kolkata.

In addition to the existing five Benches of the National Commission, the Central Government has also sanctioned one additional bench for the National Commission for a period of five years for disposing off backlog of pending cases. Thus, for the past few years the consumer movement is gaining momentum and becoming more powerful, broad-based, effective and people-oriented. Consumer Protection Laws in fact are one of the most proactive laws of India. Also, amendments made to the Act in 1991, 1993 and most importantly in 2002, have strengthened the powers of consumer fora. For instance, through the last amendment, provision now exists for attachment and sale of property of a person not complying with the order. Presently an amendment is pending before Lok Sabha.

Presently, some more amendments in the COPRA, 1986 are under consideration. Thus, this Act and its subsequent amendments has brought fresh hopes to the otherwise besieged Indian consumer.

Prior to 1986, a number of other laws were enacted which can be interpreted in favour of consumers such as Contract Act, Sales of Goods Act, Torts, Indian Penal Code and procedure prescribed in the Civil Procedure and Criminal Procedure Codes. However, the Act enacted in 1986 is the most powerful one since it directly pertains to market place and seeks to redress complaints arising from there. Moreover, another important aspect is that this Act is supplementary in nature and has no overriding effect. It does not impede remedies available to consumers under other laws and statutes. They continue to be in force for the protection of consumer's interest.

In addition, the recently enacted Right to Information Act (RTI), 2005 that opened up governance processes of our country to the common public which has far reaching implications for consumer protection as well. While consumer forums established under the COPRA are quasi-judicial and provide curative solution, the RTI Act follows preventive approach by seeking administrative remedy. Hence, a well-balanced approach towards both has the potential to protect consumer's rights in a more effective way.

Even though implementation of the COPRA is generally perceived to be a success, there are certain serious shortfalls with respect to achieving total consumer welfare. In recent years, though the modern technological developments have made large impact on the quality, availability and safety of goods and services, yet consumers are still victims of deceitful and unfair trade practices. Today's consumer faces new kinds of challenges like cyber crimes, plastic money and much more that affects him in a big way. Hence, now the phrases like 'Consumer is sovereign' and 'Consumer is the king' have become myths.

## **Awareness of Consumer Rights in India**

Consumers in India need to be more aware of their rights and should take this consumer movement to the rural India. Most of the recent studies highlight the fact that consumers in India are very much ignorant of their rights. For instance, the report of the study on COPRA commissioned by

the Comptroller and Auditor General (CAG) of India conducted in July-August 2005 brought out that 66 percent of consumers were not aware of consumer rights and 82 percent were not even aware of the COPRA. In rural areas, only 13 percent of the population have heard of the COPRA.

With the completion of 25 years since the COPRA was enacted, it is an appropriate time to retrospect on the achievements and analyse the pitfalls to make the law more effective and efficient. This report addresses exactly what the State of the Indian Consumer is and intends to be. It is based on a comprehensive survey of consumer concerns, taking consumer rights as per the UN Guidelines on Consumer Protection as a yardstick. In this report, a total sample of 11,499 households including a reasonable (statistically significant) number of suppliers of those rights (members of consumer courts, departmental officials, etc.) have been surveyed to understand the state of the Indian consumer and derive policy lessons therein.

This report is a part of a national project implemented by CUTS entitled 'Indian Consumers in the New Age: A Forward Looking Agenda to Address the Concerns of the Common People' (ConsumersUp) in partnership with Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, Government of India supported under the Consumer Welfare Fund (CWF). Under this project, apart from conducting field research and generating this report, eight Knowledge Enhancement Workshops were organised by CUTS to enhance the capacity of consumer organisations to deal with emerging consumer issues. The preliminary findings were released through four regional meetings held in during August 2012 in Bengaluru, Agartala, Chandigarh and Ranchi to get feedback from various stakeholders such as representatives of State Department of Consumer Affairs, consumer organisations, consumer redressal bodies, policy makers, media, academia, CSOs etc.

The report is divided into different chapters covering all consumer rights and consists of an analysis of the state of implementation of consumer rights in India based on a comprehensive literature review and findings of a comprehensive field research. This research was based on a quantitative and qualitative sample survey covering 19 states and three union territories:- Haryana, Tripura, Jharkhand, Karnataka, Kerala, Andhra Pradesh, Madhya Pradesh, Bihar, Chhattisgarh, Goa, Gujarat, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand, West Bengal, Chandigarh, Delhi and Pondicherry. In addition, the report consists of a synthesis chapter and a chapter on consumer awareness index.

Some of the major highlights of these research findings are that in India only 20 percent consumers are aware of the COPRA even after 25 years of its enactment, and with regard to consumer rights, it is just 42 percent. However, these findings are still encouraging, as seven years back, the consumer awareness was just 18 percent. The major cause for concern revealed by the survey is the fact that people are gradually losing trust on consumer redressal mechanisms.

### ***Right to Basic Needs***

Basic needs can be broadly described as the elements required for survival and normal mental and physical health of people. As far as its origin is concerned, it is not a new concept, as it is being used for a considerable period of time. The UN Guidelines have specified three areas in relation to basic needs. However, the Charter of Consumer Rights drafted by Consumers International identified seven types of goods and services and public utilities that come under the purview of basic needs. In the goods category, there are two: i.e. food and clothing. Healthcare, drinking water and sanitation, shelter and education are in the service category. In the public utilities services, transportation and energy are included. This takes the number of basic rights to

eight. There is another basic right that has recently emerged in India – right to employment. Inclusion of this in the list further extends the list of basic needs to nine.

In the last one decade, India has put in place many laws that tend to empower its citizens which, in turn, could facilitate fulfilment of a number of basic needs. Recognising that income forms the base for realisation of fulfilment of basic needs, the government introduced National Rural Employment Guarantee Act (NREGA) in 2005. Various other laws and regulations focusing on issues such as universalisation of elementary education, housing for the poor, issues of unorganised workers, child hunger and malnutrition have been enacted. These regulations directly or indirectly influence citizens' right to basic needs. However, in spite of these legislations, this basic right still seems to be a distant dream, mainly due to its improper implementation.

The recent CUTS survey conducted as a part of this study found that only 22 percent respondents are satisfied with government's effort to ensure adequacy, accessibility and affordability of basic needs, whereas 53 percent respondents believe that the right to basic needs should be implemented properly to cover products and services such as food, housing, health, water, education, sanitation, energy, transport and communication.

### ***Right to Safety***

Right to safety means the right of the consumer to be protected against products, production processes and services which are hazardous to health or life. It includes concern for consumers' long-term interests as well as their immediate requirements. The UN Guidelines clearly mention the right to safety as one of the inalienable rights of the consumer. The Guidelines provide a framework for governments, particularly those of developing countries, to use in elaborating and strengthening consumer protection policies and legislation. They also intend to encourage international cooperation in this field.

Safety has been dealt in at least 25 different Indian acts. What is lacking is a periodic monitoring mechanism to ensure that the rules and regulations are being implemented to minimise risk. This periodic monitoring can be done by an independent Safety Commission which should be enforceable by law for non-compliance. Till such time that, such a Commission is established the Department of Consumer Affairs can proactively undertake this role and urge relevant authorities to form such a Commission.

Moreover, in India, to realise the right to safety, it is inadequate to just have Safety acts and policies in place. It is more important that acts and policies are well implemented, monitored and popularised among the masses, to ensure that people play a constructive and participatory role to ensure their own safety. Unfortunately, even in modern India, nearly 40 percent of consumers do not refer to any safety or quality certifications such as ISI, ISO, Agmark, Codex before making a purchase.

### ***Right to Choice***

The choices available to Indian consumers across the availability of goods and services have multiplied ever since the reforms of the early 1990s, whether in telecommunications, air travel, banking, electronics or fast moving consumer goods. The survey conducted by CUTS show that consumers' knowledge about this right is far from satisfactory.

Lack of awareness is the major reason for poor redressal and implementation of consumer laws. Very few consumers are even conscious of the fact that many sectors do not offer choices in

products. During the survey, only 1.6 percent of respondents were able to correctly name at least one product or service that has only one or two producers or providers. This reveals how the Indian consumers are highly tolerant of oligopolistic practices. Likewise, poor implementation of government policies and laws is another impediment to the right to choice. The gaps in public distribution system leaves the below poverty line consumers, who depend on rations, virtually choice less. Moreover, the lacuna and apathy of enforcing the Prevention of Food Adulteration Act (this Act is now replaced by FSS Act 2005) has resulted in flooding the Indian market with toxic fruits and vegetables, which consumers have no choice except to buy, because these are essential goods and there are no viable alternatives to procure them.

The Indian consumer's right to choice, as enshrined in the COPRA 1986, can only flourish by the elimination of various factors which currently impede it. The strength of the right to choice of consumers is directly proportional to the level of competition in the economy. Competition provides consumers with variety in goods and services, while keeping a check on price and compelling each producer to improve quality.

### ***Right to Information***

For a consumer, the right to be informed means the right to be given the facts needed to make an informed choice. There are enough rules and regulations in place which compel the manufacturers and packers to provide the essential information to the consumers. What is lacking is a strict enforcement and monitoring. Also, there is a need for massive awareness campaign and information dissemination among the consumers about the existing legal remedies available to an aggrieved consumer. As per the Survey, currently only 20 percent respondents are aware of or have heard about COPRA 1986, while only 14 percent have knowledge about the Weights and Measures Act 1976.

More importantly, there is a dire need for stringent and effective labelling laws. The existing labelling laws have diluted over the years. The Legal Metrology Act is an example. Earlier, the Standards of Packaged Commodity Rules was truly standardised. However, recently the Rules have been modified and products like biscuits, cookies and other products can be sold in different standard packages. As a result, consumers are unable to compare the prices and quantities. Therefore, there is a need for strengthening the consumer advocacy.

Finally, there is a need to frame a law to deal exclusively with providing information to consumers – be it food products, medicines, motor vehicle spare parts or any other consumer products.

### ***Right to Consumer Education***

Educated and informed consumers are essential for the emergence and sustenance of an efficient market. An educated consumer can make a rational choice of goods and services and protect his rights and interests from the exploitation of unscrupulous businessmen or service providers. Where literacy rate is high and social awareness is greater, the consumers cannot be subjected to exploitation. Thus, consumer education becomes a prime concern. The UN Guidelines on Consumer Protection lay great emphasis on consumer education. The Guidelines impose an obligation on governments to develop or encourage the development of general consumer education and information programmes, bearing in mind the cultural traditions of the people concerned.

In India where bulk of consumers are in rural areas, they are susceptible to easy exploitation by unscrupulous business practices. An intensive, broad-based multimedia campaign is slowly yielding results, as the percentage of consumers who are aware of their rights and interests are increasing.

The survey conducted by CUTS found that 42 percent respondents are aware about consumer rights, while 52 percent of consumer organisations have reported spreading consumer awareness as a major tool for promoting consumer rights. About 51 percent respondents were aware of *Jago Grahak Jago* campaign. Thus, introduction of consumer issues with more thrust in school and college curriculum, establishment of consumer clubs in education institutions, increasing involvement of CSOs in consumer awareness programmes would further strengthen consumer education.

### ***Right to Redressal***

It is the duty of the welfare State to give guarantee to everyone in this country a right to live with human dignity, free from exploitation. In India, there are a large number of laws, which have provisions for protecting consumers. Also, the consumers' can seek redressal through judicial and quasi-judicial State organisations and through various other codes of practice, i.e. the informal redressal delivery system. However, ignorance on the part of consumers, procedural delays and lack of vigorous implementation make it a non-functioning mechanism. Also, it has been noted that a large number of cases are not redressed within the stipulated time frame prescribed by the law due to various reasons.

Our survey revealed some startling information regarding consumers' right to redressal. Nearly 93 percent respondents have never actually made a formal complaint, while only 3 percent respondents registered their grievances with the company and or the producer. Additionally, only 0.3 percent respondents approached consumer forums for grievance redressal, while 0.1 percent people approached sector ombudsman for redressal. A major percentage of respondents, 78 percent, respondents rated the grievance redressal process as "difficult".

Few of the major reasons or limitations cited by the President and other members of State Consumer Disputes Redressal Commissions and District Consumer Disputes Redressal Forums are frequent adjournments sought by advocates and or parties, lack of adequate administrative support staff, educational status of complainant, vacant position of president, members, limited number of benches, limited infrastructure (Computers, office etc.), delay in lab testing, limited training initiatives and financial status of complainant for a sustained follow-up which may prove to be time consuming as well as involve some hidden expenses of work time among other issues.

In order to make the grievance redressal process more convenient for consumers, an effective consumer education programme on consumer rights should be initiated. A Providing free technical and legal assistance to complainant will make the process more convenient for consumers.

While summing up we can say that the consumer movement and education has a very long way to go. Consumers need to be educated about rights and responsibilities through concerted publicity and awareness campaigns. Needless to say such campaigns should give special emphasis to vulnerable groups such as women and children, students, farmers, rural families and the working class.

### ***Right to Representation***

Although UN Guidelines universally recognised consumer rights including Right to Representation way back in 1985, India has a unique tradition of recognising common consumers Right to Representation since ancient times. The COPRA also provides unique opportunity to consumer groups and individuals to represent the consumer interest or consumer causes before consumer courts. The Act allows the consumer to be represented even through a person who is not a professional advocate. This provision is in recognition of consumers Right to Representation.

Apart from the COPRA, there are other Indian statutes which provide for Consumer Representation. Like the Electricity Act 2003 that provides for two-fold Consumer Representation in the power sector and the Telecom Regulatory Authority of India (TRAI).

The survey conducted as a part of this study throws light on the poor level of awareness and participation by consumers in such consumer consultations and representations. Among the consumers surveyed, only 23 percent are aware about the process of public consultation or consumer representation. Of these, only 28 percent of them have actually participated in such events. Some of the common barriers faced by consumers and consumer bodies from making effective representation include issues like lack of funding, expertise and training facilities etc.

Since Indian laws are increasingly recognising the importance of right to representation and providing for such consumer representations before various regulatory authorities, it is about time that consumer bodies gear up to accept the challenge and take adequate steps to train their activists for ensuring effective representation of consumer cases.

### *Right to Healthy Environment*

The Right to Healthy Environment, as one of the Consumer Rights, is a kind of afterthought since earlier the safety of the environment was perhaps never in question. Consumers need to understand that only a safe environment can safeguard their rights. If consumers were to take a close look at their immediate surroundings and consumption patterns, they would find that they themselves are responsible for causing environmental pollution to a large extent. For instance, use of hundreds of cleaning aids and a lot of non-biodegradable packaging is responsible for environmental problems like water and soil pollution and waste disposal.

In the consumer's right to healthy environment, the UN Guidelines limit their recommendations to environmental issues related to the use and misuse of pesticides and chemicals. While in India, there is a comprehensive law with respect to the healthy environment – The Environmental Protection Act, 1986. The Act provides the guidelines for the management of hazardous wastes etc., for example, it consists of safety report, safety audit etc. However, when it comes to implementation, the effectiveness of this law gets diluted.

Role of government and NGOs is important to promote sustainable consumption through environmental education and public awareness campaigns sponsored by the Centre and state governments and advocacy groups. At present, only 13 percent respondents are aware of certifications and initiatives viz. Energy Star Rating, Bharat and or Euro Emission for Automobiles, Organic Food & Natural Textiles and Recyclable Plastic etc. and among them, 28 percent always tend to buy such products.

To make the sustainability approach successful, India needs to follow the approach of providing incentive to producers of green goods through preferential allocation of resources (land and raw material), facilitating development of infrastructure and making the supply chains of resources and technology more efficient and effective. Furthermore, there is a need to create a decentralised institutional framework for diffusion of information to the consumers at large. These are perhaps achievable, if the following measures can be adopted:

- Strengthen legislation relating to regulation and control of pesticides and chemicals including preventative and compensatory provisions;
- Mandatory labelling and education programmes obliging manufacturers to notify hazards to government and users;

- Sensitisation of manufacturers and users of pesticides and chemicals; and
- International cooperation in regulation of trade in banned and severely restricted pesticides and chemicals.

Mahatma Gandhi had rightly said:

*A customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption in our work he is the purpose of it. We are not doing him a favour by serving him. He is doing us a favour by giving us the opportunity to serve him.*

# 1

## Right to Basic Needs

– Suresh P Singh

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“I shall work for an India in which the poorest shall feel that it is their country in whose making they have an effective voice, an India in which there shall be no high class and low class of people, an India in which all communities shall live in perfect harmony.”

- Mahatma Gandhi

*The above quote of the ‘Father of the Nation’ continues to be a distant dream, and it can only be achieved when people have ways and means to fulfill of their eight basic needs, and this can be ensured when basic needs are translated into basic rights.*

### Introduction

#### Understanding Basic Needs and the Right to Basic Needs

Basic needs can be broadly described as the elements required for survival and normal mental and physical health of people. As far as its origin is concerned, it is not a new concept, as it has been in use for quite a long period. The UN Declaration of Human Rights, adopted by the General Assembly Resolution 217A (III) of 10 December 1948<sup>1</sup> highlighted several issues that could be clubbed in the basic needs. It, however, got popularised in 1970s, when it started exerting wide influence.<sup>2</sup>

Basic needs were argued to include two elements. First, certain minimum requirements of a family for private consumption: adequate food, shelter and clothing, as well as certain household furniture and equipment. And second, essential services provided by and for the community at large, such as safe drinking water, sanitation, public transport and healthcare, education and cultural facilities (ILO, 1976;<sup>3</sup> and ILO, 1977).<sup>4</sup> The period also witnessed extension of the concept leading to inclusion of land, agricultural tools and access to farming in rural areas.

Extending the concept to integrate it with basic rights, as a natural corollary, right to basic needs is people’s capacity to access these elements as and when required. In other words, basic rights are those that stem from people’s basic needs, irrespective of whether they are framed in legal terms or not.<sup>5</sup> People’s capacity (right) to access basic needs can emerge in two ways: (a) self-supported (as a result of favourable socio-economic conditions); and (b) institution supported (as a result of government’s people oriented policy). It is, however, important to note that in both the cases, government has the primary responsibility to facilitate the attainment of such consumers’ capacities which alone can lead to social development.

The evolution of the concept in modern periods does not validate the hypothesis of Social Darwinism,<sup>6</sup> a term coined to describe evolution of modern society and popularised in the 19<sup>th</sup>

and first half of the 20th century. The hypothesis was questioned after the Second World War, when it was strongly argued that social Darwinism never really existed, and if at all, it existed only in the minds of those who criticised it.<sup>7</sup> The theory (relying on the Darwin's theory of survival of the fittest) was an attempt to apply the principles of Darwinian biological evolution to sociology and politics.

The evolution also invalidates the inverted-U hypothesis of Simon Kuznets.<sup>8</sup> It can be recalled that in the 1950s and early 1960s, the economic literature on poverty eradication was dominated by Kuznets' inverted-U hypothesis. According to this hypothesis, with the growth of an economy, income inequality will initially rise and then will gradually decrease over a period of time. This hypothesis was based on the concept of relative poverty, i.e. the relative distribution of income (and hence, income inequality) between different groups within an economy. In other words, the approach towards poverty eradication was based on measures that raise the real incomes of the poor by making them more productive so that the increased purchasing power of their earnings enables them to acquire their basic needs.

There are plenty of literatures that suggest that the progress and evolution of society and human life especially over the last six decades has been guided and facilitated by the universalisation of the concept and an approach of increased international cooperation and support. This approach primarily relies on the fact that survival of humanity (or say, consumers) depends on fulfilment of their basic needs, and therefore, if survival of humanity is to be ensured, consumers' accessibility to basic needs cannot be ignored. These two need to go hand in hand for humanity to progress and prosper.

Despite the conceptual progress, the whole, in particularly developing world continues to search for a universally acceptable answer to what constitutes basic needs and how these could be addressed effectively. The answer to this, however, can be to some extent traced in the on-going global debate on human rights and its linkages with poverty eradication. Based on this approach, basic needs can be argued as needs fulfilment that leads to upliftment of people from poverty, hunger, and malnutrition. This, in turn, could help them live economically and socially dignified lives. In other words, it implies that basic needs could be a tool to eradicate poverty.

The approach to tackle poverty now encompasses empowering people with rights to basic needs. It is now realised that the problem of poverty in developing countries cannot be resolved by looking only at the relative distribution of income. This led to emergence of the concept of 'absolute (structural) poverty'. Further, the 'basic needs approach' has gained wider acceptance, as it is argued that, the income approach (i.e. efforts to make the poor more productive) is incomplete and partial as compared to the basic needs approach, for the following reasons (Streeten et al, 1981):<sup>9</sup>

- (a) Some basic needs can be satisfied only, or more effectively, through public services, through subsidised goods and services, or through transfer payments. The basic needs approach distinguished itself by investigating why these services have often failed to reach the intended groups, or the group they were claimed to be intended for, and why they have often reinforced inequalities in the distribution of income.
- (b) Consumers (both rich and poor) are not equally efficient in satiating their needs in the area of nutrition and health. This inequality is all the more highlighted when individuals are experiencing an upward shift in their income levels, and simultaneously moving up vertically (for example, from subsistence farming activity to an industrial one).
- (c) The manner in which additional income is earned may affect nutrition adversely. For example, more profitable cash crops may replace cheap and inferior crops like millets that are grown for consumption in the family.

- (d) There is the problem of mal-distribution within households. For example, women and children tend to have a lower proportion of their needs met than do adult males.
- (e) A substantial proportion of the destitute are sick, disabled, aged, or orphaned. Their needs can only be met through transfer payments or public services, since they are incapable of earning. This group has been completely ignored by the income or productivity approach.
- (f) The income approach pays attention to the choice of technique however has neglected the means to provide for appropriate products. This leads to a wrong choice of the final product mix, i.e. the product mix may cater to the demand of only a small section of the population. An essential feature of the basic needs approach is to choose appropriate final products and produce them by using appropriate techniques.
- (g) The income approach completely ignores the importance of non-material needs. Non-material needs (e.g. participation in the development process) are important not only in their own right but also as instruments for meeting some material needs more effectively, at lower costs, and in a shorter period.

### **Social and Economic Dimensions of Right to Basic Needs**

Which one comes first – social development or economic growth – is a trivial issue. What is, however, important is that each reinforces the other. While greater freedom and capabilities (social or human development) improve economic performance and have an important effect on growth, increased incomes increase the range of choices and capabilities enjoyed by households and governments, and thus enhance human development. But in both the cases, empowerment to access basic needs play a very crucial role.

Right to basic needs has obvious linkage with economic and social development, as it is essentially embedded with social and economic elements that are considered to be ‘basic needs’. Absence of right to basic needs (such as food, clothing, shelter, etc.) resulting from absence or lack of empowerment is considered to be a hindrance that constrains not only social progress but also economic growth. Access to these is, therefore, needed. Moreover, as indicated above, it is a widely recognised fact that a society cannot develop without development of its human capital, and human capital, in turn, cannot develop without empowerment of its people. This statement, in fact, sums up the relationship between economic growth and social development which occur through empowerment leading to fulfilment of basic needs.

According to the Human Development Report,<sup>10</sup> social malaise, including poverty, cannot be banished without the realisation of basic human rights. Going a step further, and highlighting the importance of right to basic needs, the report says “a decent standard of living, adequate nutrition, healthcare, education and decent work and protection against calamities are not just development goals – they are also human rights”.

This implies that right to basic needs should be promoted irrespective of resource constraints or economic status of a country. There are, however, counter arguments to this. There are people who believe that social development could occur as a result of sustained economic growth and subsequently through a result of trickle-down effect. Even though economic growth does trickle-down from the rich to the poor, and leads to social development, there is sufficient space for development policy to redistribute and promote social development through empowerment.<sup>11</sup> Thus, it can be argued that which argument one accepts does not negate the importance of people’s empowerment through the right to basic needs.

At the policy level, the ultimate goal of development should be to improve and enhance human well-being and the quality of life of all people. It is widely recognised that social development is best pursued if governments actively promote empowerment and participation in a democratic

and pluralistic system giving due respect to basic human rights. Efforts to sustain broad-based economic growth through empowerment to access fulfilment of basic needs reinforce and lead to social development.

India has a stratified system. An indicator of a stratified society is the exploitation of the poor by the rich, and the perpetuation of this exploitation is due to the existence of poverty, illiteracy, superstition, ignorance and indifference among the people. In such a society, vertical social mobility is almost non-existent, and hence it is necessary to build up horizontal social mobility through the assured satisfaction of basic needs. This makes the right and access to basic needs very critical for overall development of India.

India looks forward to a sustained economic growth, and social progress, its people, irrespective of their socio-economic status, need to be empowered and provided access to resources for the fulfilment of basic needs.

**Box 1.1: In a Democratic System like India**  
*Everyone is important, including those who are unemployed!*

Unemployed people in India, despite being unproductive, and not having their own source of income, do contribute in the growth of Indian economy. This is through their sheer power of being consumers. A rough estimate (done under the present study) demonstrates that unemployed people create annual demand for goods and services worth about ₹62220 crores. This translates into about 0.8 percent of India's GDP. Out of this, while nearly 41 percent (₹25300 crores) can be said to be for food items; the remaining 59 percent (₹36896 crores) is for non-food items. Even if one takes out the value of subsidised food items consumed by these people, the size is huge. Not only this, it has a multiplier effect, and thus, the real contribution could be much more than what is indicated.

The estimate relies on key findings<sup>12</sup> on unemployed emerging from the National Sample Survey Office (NSSO) data generated from the 66<sup>th</sup> round survey conducted during July 2009-June 2010, and the key indicators of household consumption expenditure in India. According to a report emerging from the key findings,<sup>13</sup> in absolute terms about 40 million persons were unemployed in the States and UTs which were surveyed. Assuming that the share of rural unemployed is in proportion to their share in India's population, which is at 74 percent according to the survey, the total number of unemployed in rural India could be put at 29.6 million, and in urban India at 10.4 million.

The data also shows monthly per capita consumption expenditure (MPCE) based on Modified Mixed Reference Period (MMRP)<sup>14</sup> at ₹1053.64 in rural and ₹1986.46 in urban India. Multiplying the total number of unemployed in both rural and urban India by the respective MPCEs, one gets total demand created by unemployed in the economy per month. Further multiplying the total by 12 (number of months), what we get is total demand generated by unemployed in India in a year.

### Indicators of basic needs

Human beings have innumerable needs, but all these cannot be clubbed as basic needs. The following eight indicators (needs) constitute the inalienable basic needs:

- food;
- clothing;
- healthcare;
- drinking water and sanitation;
- shelter;
- education;
- energy; and
- transportation.

<b>Box 1.2: Oxfam Global Charter for Basic Rights</b>	
• A home	• A livelihood
• Clean water	• Healthcare
• A safe environment	• Enough to eat
• Equality of opportunity	• Protection from violence
• A say in their future	• An education
<i>Source: Christopher Whitehouse, Human Rights and Basic Needs in Development: Are They Universal? Are They Universalisable? Occasional Paper December 1996, University of Bath.</i>	

There is another need – right to employment – which has recently emerged in and put in the category of basic needs in India. However, the basic purpose of this is to support achievement of right to food, as the initiative focuses on people who are below or near the poverty line. This takes the total number of basic needs to nine. Most of the indicators in the list of basic needs given above are common among international development organisations. Some slightly varying references to basic needs are also found; one such example is Oxfam Global Charter of Basic Rights (See Box 1.2).

### Measuring Progress to Basic Needs

When one talks about the indicators of basic needs and the progress achieved in achieving these, what matters is the composition of its beneficiaries, rather than the indices of total production or income distribution. Composition of beneficiaries and its dynamics help measure both progress and deprivation. It also helps policy makers to monitor, identify and implement focused initiatives to improve the situation. It may be argued that basic needs such as healthcare, education etc., can be achieved by various combinations of growth, redistribution of income and assets, and restructuring of production. And assessment of the progress made give a clear direction in which policy needs to be directed.

The progress and deprivation is measured using sub-indicators. One can take the case of healthcare to understand its sub-indicators. To measure the fulfilment of a basic need, such as healthcare, one can use inputs like number of doctors per thousand persons, average number of persons served by a primary health centre etc., or by looking at the results, such as infant mortality rate, life expectancy at birth, etc. Assessments based on such inputs, however, may not be always accurate.

Two reasons can be cited for this. Firstly, the number of doctors does not indicate the distribution of these doctors or the degree of their specialisation. In other words, distribution of resources (here, number of doctors) may be highly skewed. Secondly, and more importantly, even if they are perfectly distributed, there is no guarantee that they will discharge their responsibilities and duties for the benefit of general people. In contrast, indicators like infant mortality rate or life expectancy at birth are true sub-indicators. It shows the degree to which the basic need of healthcare has been fulfilled.

This is not to argue that input measures should be ignored, as these have their own value. By examining them, one can get an idea of the government’s intentions, commitment and efforts to provide public services. In other words, for purposes of assessing policies and monitoring performance, both sets of indicators are important. Another important use of input measures is that they can be used as a ‘good’ proxy when appropriate output (result) measures cannot be readily found.

To sum up, the discussion on the right to basic needs focuses on the alleviation of poverty through a variety of measures rather than mere re-distribution of income, or increasing the level of productivity of the poor. In simple words, such a change in focus supplements attention to how much is being produced, by also looking at issues of what is being produced, in what ways, for whom, and with what impact. The next important step is to identify the elements of the basic needs basket. At the outset, it needs to be mentioned that the basket is not exhaustive, i.e. over time more and more elements could be added to it.

### Basic Needs – The Charter of Consumer Rights

The UN guidelines have specified three areas in relation to basic need (Box 1.3). However, the Charter of Consumer Rights drafted by Consumers International, identified seven types of goods and services and public utilities that come under the purview of basic needs.<sup>15</sup> In the goods category, there are two: food and clothing. Healthcare, drinking water and sanitation, shelter and education are in the service category. In the public utilities services, transportation and energy are included. This takes the number of basic rights to eight. There is another basic right that has recently emerged in India – right to employment. Inclusion of this in the list further extends the list of basic needs to nine.

<b>Box 1.3: UN Guidelines on Right to Basic Needs</b>
<ul style="list-style-type: none"> <li>• Ensure food security;</li> <li>• Improve the quality and appropriate use of pharmaceuticals through an integrated national drug policy; and</li> <li>• Develop, maintain and strengthen national policies to improve the supply, distribution and quality of drinking water.</li> </ul>

As indicated above, measuring the progress of the fulfilment of basic needs can be in two different but related forms. These are indicated in Table 1.1. Both the types could have advantages at different time periods. While input-oriented measurement is based on output resulting from a given policy implementation, the result oriented measurement can argued to be the outcome that results from output.

<b>Table 1.1: Indicators of Basic Needs</b>		
<b>Basic Needs</b>	<b>Input-oriented measurement</b>	<b>Result-oriented measurement</b>
Food	Per capita availability	Calorie supply as percent of requirements
Clothing	Per capita availability	—
Healthcare	Population per Primary Healthcare Centre	Life expectancy at birth
Drinking water and sanitation	Households with safe drinking water and with toilet facility	Infant mortality rate
Shelter	Population per household	Percentage of households living in kutchha houses
Education	Institutions per sq. km.	Literacy rate
Energy	Per capita consumption	Households with electricity
Transportation	Road length per sq. km.	Surfaced road as percent of total road length
Employment	Number of employed person per household in rural areas	Household per capita income in rural areas

## Present Situation in India

India has achieved impressive economic growth in the last two decades. The economy grew at a rate of about seven percent in the first decade of economic reform periods (1990s) followed by a more robust growth in the first decade of new millennium. During this period, per capita income has increased many folds. The last five years alone (since 2006) has witnessed doubling of per capita income. This increasing trend in per capita income might be due to decline in unemployment rate based on current daily status, which declined from 8.2 percent in 2004-5 to 6.6 percent in 2009-10.<sup>16</sup> In terms of overall human development, the second Human Development Report 2011 shows that India recorded 21 percent growth in the human development indicators (HDI) during the period 1999-00 to 2007-08. The HDI, which is a composite index, comprises health, education, and income. This, in fact, can be considered as the progress of basic human rights.

With sustained growth in GDP, per capita income and employment, and also HDI, India has achieved the status of being one of the fastest growing economies in the world, and is ranked fourth in size in purchasing power parity (PPP). If one compares the economic growth rates achieved during pre- and post- reform periods, a complete reversal in growth rates is observed. The last two decade periods has also witnessed increasing concern for protection of consumer interests. Government policies are not more oriented towards promotion of consumer welfare. The concern for the issue of consumer protection (especially regarding the fulfilment of the right to basic needs) in India got sharpened due to the following stipulations in different Acts/Regulations.

- Bring essential consumer goods within easy reach of the poor;
- Restructure the distribution system so that subsidies reach the most needy;
- Strengthen the public distribution system; and
- Build a consumer protection movement.

Despite the progress made, all is not well at the micro level. Impressive economic growth and positive developments at many fronts has not got rid of India's economic and social woes. Performance of India in providing the basic needs of life is not up to the mark. Hunger and

**Table 1.2: Some Indicators of Basic Needs in India**

Indicator	Unit	Year	Availability	Year	Availability
Food grain net availability	Kgs. Per year/capita	2001	151.9	2010(P)	160.1
Fabrics (Cotton & Man-made Fabrics)	Per capita Metres	2000-01	38.9	2010-11	52.2
Hospital beds	Bed/per th. Population	2001	0.2	2011	0.7
Households with safe drinking water	Percent	2001	77.9	2007-08	84.4
Households with improved sanitation facility	Percent	2005-06	40.6	2007-08	42.3
Electricity consumption (domestic)	kilowatt/capita	2000-01	75.2	2006-07	98.8
Road length	Km (mn)	2004	2.6	2008	3.0
Un-surfaced road/total road	Percent	2003-04	51.4	2007-08	50.5

*P-Provisional.*  
*Source: IndiaStat; Press Information Bureau,2010,Govt of India; and various others*

malnutrition continue along with other problems. A report by International Food Policy Research Institute,<sup>17</sup> which measures prevalence of hunger and child malnutrition, places India at 67th position in a list of 81 countries. What is of even greater importance is that India appears to have slipped down from its 1996 position, when it had relatively better score.

Moreover, at the international level, India is lagging at many fronts. India's impressive economic growth is also not reflected in terms of human development (HDI), implying that economic growth is yet to become inclusive. An UNDP index,<sup>18</sup> which uses the criteria of income, education and health (the last two belong to the basic needs), ranks India 119 out of 169 countries and slips even more if inequalities are taken into consideration. These facts clearly reflect that India's economic growth at the macro level has not been translated into social development at the consumer level, and thus there is a need for sustained efforts to make growth inclusive.

Some basic developments which are reflective of the progress made also reflective of the distance India needs to cover in different areas for fulfilment of basic needs are shown in Table 1.2.

### **Government Initiatives to Ensure Right to Basic Needs**

For many decades after independence, India's economic policies have been based on the premise that the social development will take place piggy-backing on the growth of the industrial economy. In other words, it was expected that the society will automatically benefit from the top-down/trickle down resulting from overall economic progress, and as a result of this, poverty, hunger and malnutrition will decline.

The main thrust was to invest primarily in industry – both heavy and light – and urban infrastructure, which was assumed to provide higher returns than the returns from investments in small, but more particularly decentralised initiatives. This approach was successful to the extent that it created a base for future development, but could not address the issue of poverty, hunger and malnutrition which continue even after six decades of planned growth. The number of people living in absolute poverty, in fact, doubled in 2000 compared to 1950s.

As indicated above, the top-down/trickle-down approach which sounds good in theory has not worked in practice. Studies show little evidence to suggest that the trickle-down effect had occurred at all. Analysis (Basu and Mallick 2011<sup>19</sup>) suggests that the emergence of capital-labour substitution was primarily responsible for preventing growth from reducing poverty. The analysis further shows that the decline in poverty and a higher growth rate that took place during the late 1970s and 1980s were largely a result of government anti-poverty measures teamed with the more equitable distribution of credit and inputs to smaller and marginal farmers.

Hirway and Shah (2011),<sup>20</sup> on examining the dynamics of the processes of change in the status of labour and employment in the rapidly globalising state of Gujarat in India, found that the rapid growth in the state has not been shared by labour. This has resulted in the state slipping in poverty reduction, human development and in hunger removal.

By the time of introduction of economic reforms in early 1990s, it became evident that India needs to mix-up its top-down approach for economic growth with bottom-up approach for inclusive social development. Though one hardly finds any clear and direct evidence of this at the policy level, it appeared to have been integrated with overall development objectives. The approach is now clearer in the sense that a number of policy initiatives has been taken over the last one decade to empower citizens that have potential to propel India towards a path of inclusive growth.

In the last three decade, India has put in place many acts/laws that tend to empower its citizens which, in turn, could facilitate fulfilment of a number of basic needs. One of the most important points from consumers' point of view is introduction of Consumer Protection Act (COPRA 1986). The Act is one of the benevolent social legislation, intended to protect the large body of consumers from exploitation. 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. As a result of enactment of COPRA, India has made a slow but steady progress towards to a more sustainable era of consumer protection.

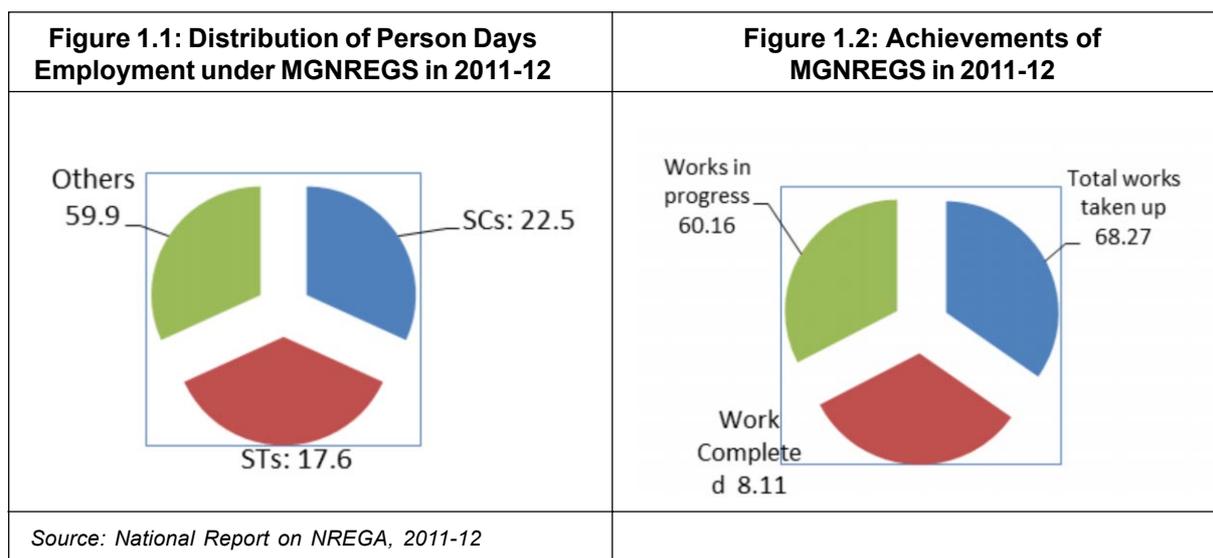
Further realising that income forms the base for realisation and fulfilment of basic needs, the government introduced National Rural Employment Guarantee Act, popularly known as NREGA, in 2005. This act was introduced with an aim of improving the purchasing power of the rural people, primarily semi or un-skilled work to people living in rural India, whether or not they are below the poverty line. More importantly, around one-third of the stipulated work force is women. The scheme provides a legal guarantee for one hundred days of employment in every financial year to adult members of any rural household willing to do public work-related unskilled manual work. The statutory minimum per day wage is ₹120 (equivalent to US\$2.39). The rate is enough to shift the households from the level of absolute poverty. The total outlay for the scheme was ₹40,000 crore (US\$7.98bn) in 2010-11.

The law initially called the NREGA was renamed as MGNREGA on October 02, 2009. The scheme provides a hundred days of employment to all those adult members of any rural households willing to do unskilled manual work at the determined minimum wage rate. The scheme is more than what the term conveys, as it seeks to improve the purchasing power of the rural people, creating rural assets, enhancing the livelihood security of people in rural areas and arresting rural migration. Its mission is to augment wage employment opportunities by providing employment on demand and create durable assets to alleviate some aspects of poverty and address the issue of development in the rural areas. The scheme presently covers all the states and UTs in India.

The Act has following specific provisions:

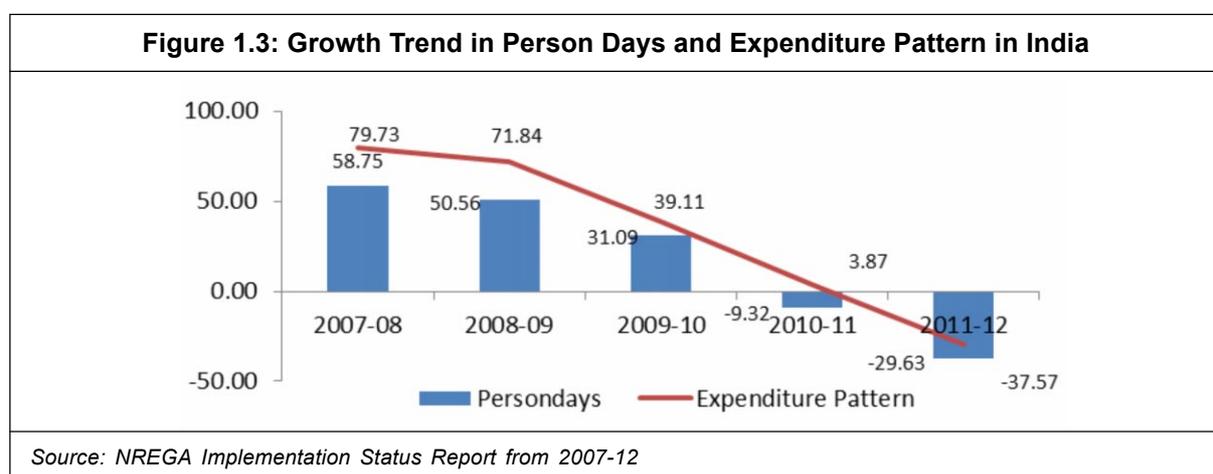
- free registration with a job guarantee within 15 days of application;
- job cards to the applicant households by the *Gram Panchayats*;
- wages to be paid every week, or in any case not later than a fortnight after the date on which such work was done;
- women to get priority and one third beneficiaries under the scheme are to be women;
- an unemployment allowance to be paid if employment is not provided within 15 days;
- the work has be provided within 5 Km of applicant's residence. If employment is provided beyond that, then he/she is entitled for 10 percent additional wages towards transport and living expenses.

Data indicates that the MGNREGS, through its various activities, has fostered social and gender equality, and thus has led to consumer empowerment. As per the data available, out of the total person days employment generated, more than 360 million (or 22.47 percent) workers under the scheme are scheduled castes, 282 million (17.57 percent) scheduled tribes. Moreover, a major chunk of beneficiaries are women. The MGNREGS National report for the year 2011-12 sums up the progress made by MGNREGS. According to this report, the employment provided to households person days is 43.9 million, total works taken up is 6.8 million, and out of these while works completed during the year is over 0.8 million, works in progress number 6 million.<sup>21</sup> This is also reflected by figures 1.1 and 1.2



The existing wage rate in the scheme makes it clear that the income generated is more than what is required for two time meals. One can hope that access to employment will empower and help people below the poverty line to access other basic needs.

However, there remain several issues which are hampering progress of this scheme. Data on person days and Government expenditure pattern show that in the recent period, there was deceleration in both numbers of person days as well as government expenditure. This is reflected by the Figure 1.3.



<b>Table 1.3: State-wise Trend in Demand Supply Gaps in MGNREGS</b>					
<b>States</b>	<b>2006-07</b>	<b>2011-12</b>	<b>States</b>	<b>2006-07</b>	<b>2011-12</b>
Rajasthan	0	181797	Chhattisgarh	26057	3178
Himachal Pradesh	3673	58667	Sikkim	72	2486
Manipur	0	45104	Uttarakhand	51	2479
Uttar Pradesh	103016	34537	Meghalaya	2550	896
Tamil Nadu	227	32364	Haryana	0	765
West Bengal	151603	27466	Punjab	140	543
Kerala	5820	23966	Andaman And Nicobar	-	495
Nagaland	0	15176	Tripura	465	381
Madhya Pradesh	-132587*	14719	Puducherry	-	54
Odisha	13082	13879	Lakshadweep	-	38
Gujarat	0	13447	Goa	-	38
Maharashtra	-31920*	12459	Andhra Pradesh	99	0
Jharkhand	0	7264	Chandigarh	-	0
Arunachal Pradesh	0	6710	Dadra & Nagar Haveli	-	0
Mizoram	1480	6573	Daman & Diu	-	0
Karnataka	3347	6519	Bihar	19711	-71892*
Jammu and Kashmir	0	6388	<b>India</b>	<b>172795</b>	<b>452538</b>
Assam	5909	6042			

*Note: Gap= Number of Households who have Demanded Employment - No. of Households Provided Employment; \* : Surplus*

*Source: National Reports on NREGA, 2006-07 and 2011-12*

It is also observed that the demand and supply gap is widening in different states of India, and some of the major states with wide spread poverty are infected by this malice. The gaps between the number of households who have demanded employment and the number of households provided employment under the scheme is delineated in Table 1.3.

Besides the COPRA and MGNREGS, there are various other laws/regulations with focus on consumers' empowerment, through various initiatives such as universalisation of elementary education, housing for the poor, issues of unorganised workers, child hunger and malnutrition. These initiatives/regulations directly or indirectly influence citizens' right to basic needs. A list of some selected acts is shown in Table 1.4.

<b>Table 1.4: Some Major Acts (2000-2010) which directly/indirectly influence right to basic needs</b>	
<b>Title of the Act</b>	<b>Year</b>
The Workmen's Compensation (Amendments) Act, 2000	2000
Protection of Plant Varieties and Farmer's Right Act	2001
Consumer Protection (Amendment) Act	2002
Competition Act, 2002	2003
National Commission for Minority Educational Institutions Act, 2004	2005
Right to Information Act	2005
National Rural Employment Guarantee Act	2005
Protection of Women from Domestic Violence Act	2005
The Payment of Wages (AMENDMENT) Act	2005
Commissions for Protection of Child Rights Act, 2005	2006
The Unorganised Workers' Social Security Act 2008	2008
The National Commission for Minority Educational Institutions (Amendment) Act, 2010	2010
<i>There is also a recent initiative on making right to food a legal right</i>	proposed
<i>Source: <a href="http://labour.nic.in/act/welcome.html">http://labour.nic.in/act/welcome.html</a>; <a href="http://indiacode.nic.in/incodis/alpha.htm">http://indiacode.nic.in/incodis/alpha.htm</a></i>	

### Implementation Issues

Effectiveness and success of a plan model critically depends on its consistency, feasibility and process of implementation. Besides, the acts mentioned in Table 1.4, there are several other acts, which if implemented in a socially desirable way, would have definitely achieved better results, and would have helped India to empower consumers and to overcome its social problem. Chakravarty (1986)<sup>22</sup> showed that the failure of Indian planning is mainly because of improper implementation. According to him, an implementation failure may be said to arise if one or more of the following conditions hold:

- Planning authorities are plainly inefficient in gathering the relevant information within the range of required precision;
- Planning authorities respond with considerable time lags when the underlying situation changes; and
- Agencies through which the planning authorities are supposed to implement plans have little or no capacity (in some cases, motivation) to carry them out. There are two important sub-cases: a) publicly owned agencies, which operate largely according to 'non-price' signals (such as government 'orders'), and b) private agencies, whose behaviour is largely determined by the profit motive. In the latter case, the plan may have projected a product mix on grounds of social desirability, which may not be optimal for the agency concerned. The failure to fulfil basic needs in India can be attributed to a combination of the three factors mentioned above.

In such a situation, the question arises as to whether the fulfilment of basic needs should be left to the market system. To find an answer to this question, one has to recall Friedrich List's main criticism of the free market system. According to List (1928),<sup>23</sup> the free market system attached too much importance on 'production' and too little to 'productive power'. In India also, too much emphasis is being given to the rate of growth of per capita gross national product, whereas there is inadequate emphasis on increasing the productive power of a vast majority of the population through the fulfilment of basic needs which, in turn, helps in increasing the productive capacity of the nation.

Having said this, it is necessary to find a solution to the problem posed above, which is not easy in a diverse country like India. However, one solution lies at the heart of the Indian Constitution (though more unitary in nature than federal). The solution can be found in the *Panchayati Raj* (local self-government) system (with its objective of participatory economic, social and political development) and the associated concept of local area planning. In addition, the States should acquire the responsibility of exercising those activities (through local level institutions) where the spread of their effects are most conspicuously felt within the concerned State itself.

### **Awareness about Consumers' Rights, Consumer Protection Act and Regulatory Agencies**

As indicated *above*, various acts and regulations, including COPRA, have been implemented in India over the last few decades to protect consumers from exploitation. But even now, the situation does not appear to be satisfactory, especially in terms of availing of rights. In many instances, it is observed that consumers' awareness about rights is very low. This is reflected by the field survey conducted under the present study. Some of the important findings on awareness on consumers' rights, consumer protection acts, and regulatory agencies are delineated below:

#### *Awareness about Consumers' Rights*

- A little more than 40 percent respondents are aware about consumer rights, while another 41 percent are not aware about it. More importantly, the awareness does not really translate into complete knowledge about all the rights; whereas it is limited to familiarity with the term "consumer rights". For majority of people consumer rights is limited to checking price and weight of product, taking receipt or bill, getting replacement of defective products, etc.
- Awareness regarding consumer rights is quite high in urban area respondents as compared to their rural counterparts.
- Television appears to be the most important source of information on consumer rights. From the field survey data, it is observed that 78 percent consumers learnt about consumer rights from television (TV), 10 percent learnt about it from News Papers while another 8 percent learnt about it from radio programmes. Contribution of other means of communication is very limited.
- Only 51 percent respondents are aware about "Jago Grahak Jago" Campaign. About 54 percent of them belong to urban area and APL family. About 80 percent respondents learnt about the campaign from Television, 9 percent from Radio and 7 percent from newspaper.
- There is significant regional variation with respect to awareness regarding "Jago Grahak Jago". Awareness regarding "Jago Grahak Jago" is more than 60 percent in all Hindi speaking states except Bihar where it is mere 31 percent. Awareness level is close to 30 percent in southern region which comprises of Kerala (31 percent), Andhra Pradesh (13 percent), Karnataka (60 percent), and Tamil Nadu & Puducherry (11 percent).
- Similarly, out of respondents who are aware, 62 percent respondents in southern region got to know about "Jago Grahak Jago" from television, whereas in other region more than 80 percent respondents learnt about "Jago Grahak Jago". One of the possible reasons for this could be inability of southern region residents to comprehend Hindi, as majority of such advertisements are in Hindi and telecasted on national television.
- Close to 50 percent of those who know about "Jago Grahak Jago" campaign has reported to benefit directly or indirectly from the campaign. Whatever little knowledge that they have obtained through TV, radio and newspapers has benefited them in some or the other way.

#### *Awareness about COPRA and Other Consumer Protection Acts*

- About 20 percent respondents are aware about Consumer Protection Act 1986 or have heard about the act. It is the only act known by maximum number of respondents followed by Weights and Measures Act 1976 and Food Safety & Standards Act 2006.
- Awareness regarding consumer protection and related acts is highest in southern region as compared to the other 4 regions.

- About 72 percent of those who know about these acts have reported benefiting directly or indirectly from implementation of the above mentioned acts, while the remaining 28 percent respondents do not agree to this.

#### *Awareness Regarding Regulatory Agencies*

- Among the regulatory agencies, Reserve Bank of India (RBI) is the most common name recognised by 40 percent respondents followed by Telecom Regulatory Authority of India (TRAI 27 percent) and Electricity Regulatory Commission (ERC 26 percent). Awareness regarding regulatory bodies is limited to recognition of their names and knowledge about their basic mandate or sector.
- On the other hand Forward Market Commission is the least known regulatory agency among the agencies.
- About 74 percent of those who know about these regulatory agencies have reported benefiting directly or indirectly from their regulations, while the remaining 26 percent respondents do not agree to this. Awareness regarding regulatory agencies is the
- highest in the Northern and Western regions as compared to other three regions.

#### **How to Improve the Situation?**

The field survey undertaken under this study clearly reveals that a majority of consumers suffer from lack of awareness on consumers basic rights. A significant number of consumers are also not aware of most of the government policies, and initiatives taken for upliftment of poor. It is also surprising to note that even after 25 years of enactment of COPRA, only one-fifth of consumers are aware of this.

For improving overall situation of consumers there is a need for empowering consumers and the first step towards this is awareness generation among consumers. For achieving this objective, appropriate channels of communications need to be worked out. Considering that the lack of awareness is most prevalent in rural areas, *panchayati-raj institutions* must be brought into and made a tool for creating awareness. Rural educational institution could be another important channel. In fact, there is need for incorporating consumer empowerment and related issues in educational curricula. Simultaneously, there is also need for measures to facilitate accessibility to basic goods and services.

#### **Conclusion and Recommendations**

All the eight rights to basic needs are interconnected, as fulfilment of one is directly or indirectly linked to fulfilment of others. It is not out of context to argue that each of the basic rights tend to influence other. Also important is the fact that fulfilment of these rights is important not only from the point of view of consumers, but also from national perspective. Empowered consumers are always in a better position to contribute in the development of a country. What is required is taking a holistic view based on existing policies and constraints.

*Specific recommendations are given at the end of analysis of each of the eight basic consumers' rights, namely right to food, right to clothing, right to healthcare, right to drinking water and sanitation, right to shelter, right to education, right to energy, and right to transportation.*

## Right to Food

### A Brief Overview

Food is the source of human survival and progress, and therefore, it is indispensable for humanity as a whole. Fulfilment of this basic need paves way for the fulfilment of other basic needs. Food is, thus, at the centre stage of all the basic needs. One does not need deep scientific knowledge to argue that constant inaccessibility of food or chronic hunger weakens the immune system, forces the body to function with insufficient energy to support an active life, and increases vulnerability to disease and infection. This makes right to food important not only for survival, but also for creating physical immunity from diseases and infection, generating energy for work, and last but not the least maintaining an active life.

Accessibility to food is determined by two factors: availability and purchasing power. Of the two, while availability is determined by production; purchasing power is directly related to adequate income. It is important to iterate that in the present global system, both are manageable: in the absence of adequate domestic production, food items can be imported; and in the absence of adequate purchasing power, subsidised food can be distributed, as has happened in India for over six decades through popularly known public distribution system (PDS). The system has consistently facilitated access to food to millions of people.

From the consumers' perspective, the overall food situation in India, however, remains unimpressive, with a significant percentage of people remaining below the poverty line, and are suffering from hunger and malnutrition. Between 1990 and 2005, the number of hunger-stricken people in India increased by 65 million – more than the population of France – because economic development excluded the rural poor, and welfare programmes failed to reach them.<sup>24</sup>

India, in number terms, is home to one-fourth of the world's hungry and poor. Data further show that during the post reform periods, inequality in India has increased. This is despite necessary mechanism put in place in the form of PDS, which has served as a tool to ensure accessibility of food to a major section of people in India. One can hope that accessibility to food will be strengthened, and food security will be ensured, after the implementation of the proposed Food Security Bill.

### Defining Food Security and its Progress in India

The origin of the term 'food security' may be traced back to the Universal Declaration of Human Rights in the late forties (1948), under the aegis of the United Nations. However, it took another two and half decades before the concept became more popular. It is observed that the literature on food security exploded after the publication of the report of the World Food Conference held in mid-seventies (1974) consequently to the global food crisis of 1972-74. Sen's publication of entitlement approach to famine as well as a series of studies commissioned by the World Food Council (WFC), the FAO and the World Bank in eighties added a new momentum to the theoretical and empirical examination of the issue in early eighties.

The World Food Conference of 1974 defined food security solely in terms of food supply – assuring the availability and price stability of basic food at the international and national levels. The conference declared that food security is the 'availability at all times of adequate world food supplies of basic foodstuffs to sustain a steady expansion of food consumption and to offset fluctuations in production and prices'.

FAO, in 1983, introduced the concept of access to food, leading to a more refined definition based on the balance between the demand and supply-side of the food security equation. It stated the objective of food security initiatives as ‘ensuring that all people at all times have both physical and economic access to the basic food that they need’ (FAO, 1983).

The World Bank Report on Poverty and Hunger (World Bank, 1986) further modified the prevailing definition by distinguishing between chronic and sustained food insecurity associated with problems of structural mismatches and transitory food insecurity which involves periods of intensified food insecurity caused by natural disasters, economic collapses, conflicts and others (Clay, 2002).

The most widely used at present being that adopted by the FAO during the World Food Summit (1996). The Summit adopted an integrated definition, taking cues from previously developed approaches, which recognises the multidimensional nature of food security and includes food access, availability, quality, usage and stability as key components of food security. According to this definition, ‘food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life’ (FAO, 1996).

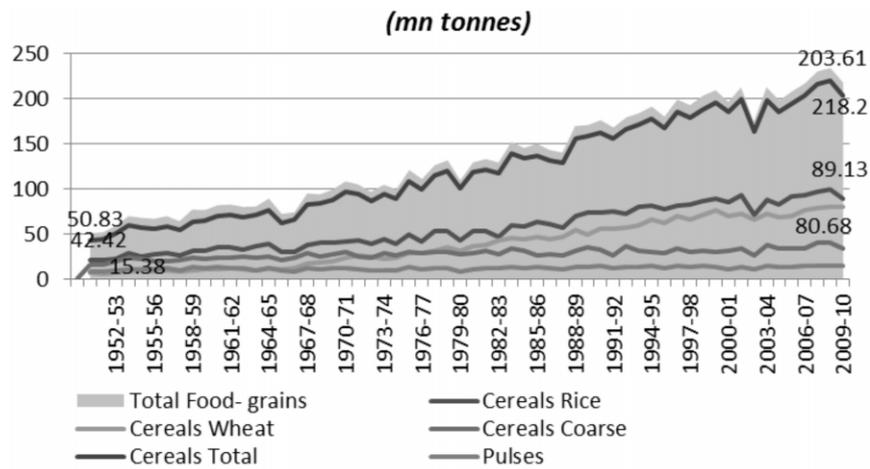
As per this more frequently used working definition, there are four dimensions of food security, viz., food availability, stability of food supply, access to food and food utilisation. The first dimension relates to the availability of sufficient food, i.e. to the overall ability of the agricultural system to meet food demand. The second dimension, stability, refers to temporal aspect of food supply and accounts for the assertion that food must be available at all times. The third dimension, access, covers access by individuals to adequate resources to acquire appropriate foods for a nutritious diet; and finally, utilisation encompasses all food safety and quality aspects of nutrition. Expressed in general terms, there are two basic pillars of food security to which all these aspects may be related:

- Availability – Physical availability of sufficient, safe and nutritious food that meets dietary needs and thus represents both quantity and quality necessary for food security.
- Accessibility – Economic access or entitlement to sufficient, safe and nutritious food through purchase, exchange and claims.

India is not a food secured nation, even though it has a necessary mechanism to address the issue. A large number of people in India are food insecure. Considering that a large number of people in India are food insecure, the progress of food security can be directly linked to the trend in food grain production, per capita availability, and important to mention food subsidies and the progress of PDS and other social schemes such as mid-day meal for children. Few years back, a more focused initiative – the targeted public distribution system (TPDS) – was introduced to enhance the welfare of the poor by ensuring a fixed quota of food grains availability at subsidised prices. The TPDS system follows a two tier subsidised pricing structure for families below the poverty line (BPL) and for those above the poverty line (APL), with the former representing the poorest of the poor. There are the factors that will shape up and influence food security in India, and hence right to food.

As far as production of food grains is concerned, India is the world’s third-largest producer of food grains, the second-largest producer of fruits and vegetables and the largest producer of milk. Besides, it also has the largest number of livestock. Production of food grains has consistently increased over the last six decades periods (See Figure 1.4). As per the data available, India’s food grain production is expected to touch a record 250 million tonnes in 2011-12, even more than the annual target by five million tonnes.

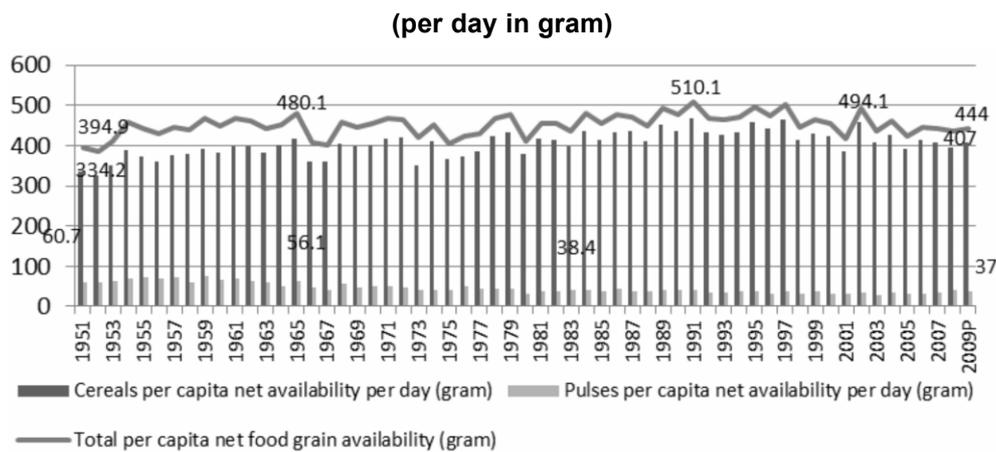
**Figure 1.4: Trend in Food Grain Production in India**



Source: Based on Agriculture statistics at a glance, 2011

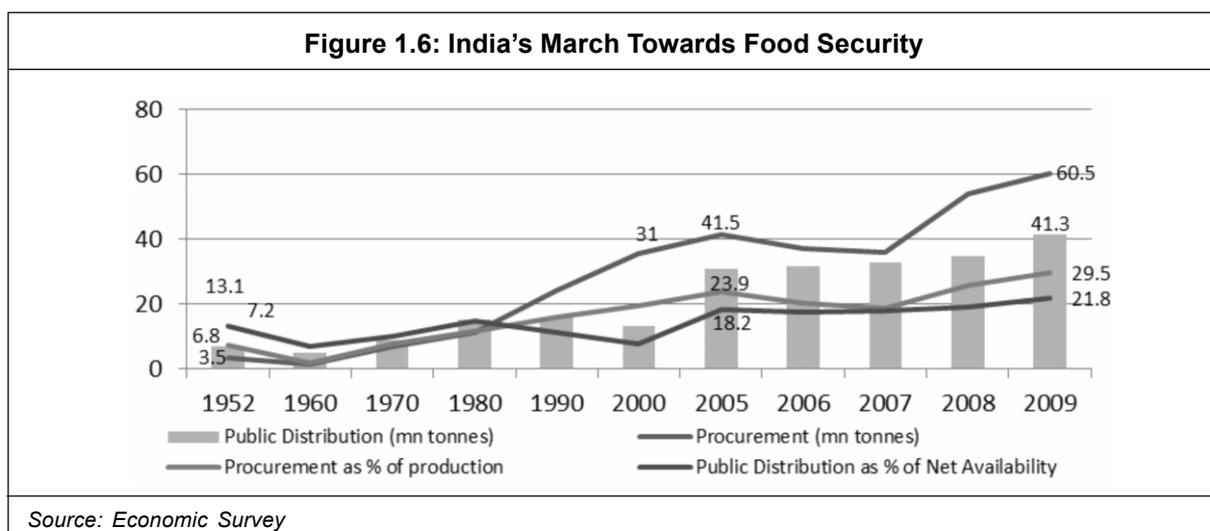
Increased production, however, does not appear to have resulted in increased per capita availability of food grains (see Figure 1.5). It has, in fact, declined over the last two decades. In 2009, per capita per day availability of food grains, cereals and pulses were estimated at 444, 403 and 37 grams respectively. It is much below the 1991 level of 510, 476 and 41.6 grams. This leaves much more desired at the production front. However, from the overall food security point of view, it can be argued that the existing availability of food grains is sufficient enough to sustain a healthy life.

**Figure 1.5: Trend in Per Capita Net Availability of Cereals and Pulses**



Source: Based on Agriculture statistics at a glance, 2011

In a scenario of increasing production and declining per capita availability, it is desired that specific measures should be undertaken to enable poor access adequate food. In India, such measures exist in the form of PDS. Data on food grains procurement and distribution clearly shows that the intention is not missing. Food grains procurement and distribution through PDS has, amidst mid-term oscillations, increased over the periods (see Figure 1.6 and Table 1.5). Both procurement as percentage of total production and public distribution as percentage of net availability depict an increasing long-term trend. What is of greater importance, the system is



serving all class of people (above poverty line, below poverty line, and most important *Antyodaya Anna Yojna* for people in absolute poverty).

The food distribution system or the approach to food security in India is premised on food grains procurement and its distribution by the government. Data on crop wise procurement, off take and stocks show that India has potential to achieve food security. What is perhaps needed is a focused approach towards better management.

**Table 1.5: Progress of Public Distribution System in India**

Year	Procurement			Off-take			Stocks		
	Rice	Wheat	Total	Rice	Wheat	Total	Rice	Wheat	Total
2001-02	21.12	20.63	41.75	15.32	15.99	31.3	24.91	26.04	51.02
2002-03	19	19.03	38.03	24.85	24.99	49.84	17.16	15.65	32.81
2003-04	20.78	15.8	36.58	25.04	24.29	49.33	13.07	6.93	20.65
2004-05	24.04	16.8	40.83	23.2	18.27	41.47	13.34	4.07	17.97
2005-06	26.69	14.79	41.48	25.08	17.17	42.25	13.68	2.01	16.62
2006-07	26.3	9.23	35.53	25.06	11.71	36.77	13.17	4.7	17.93
2007-08	26.29	11.13	37.42	25.22	12.2	37.43	13.84	5.8	19.75
2008-09	32.84	22.69	55.53	24.62	14.88	39.5	21.6	13.43	35.58
2009-10	32.59	25.38	57.98	26.89	21.97	48.86	26.71	16.13	43.36
2010-11	31.13	25.92	56.79	29.8	23.07	52.87	28.82	15.36	44.35

Source: Handbook of Statistics on Indian Economy, 2011-12

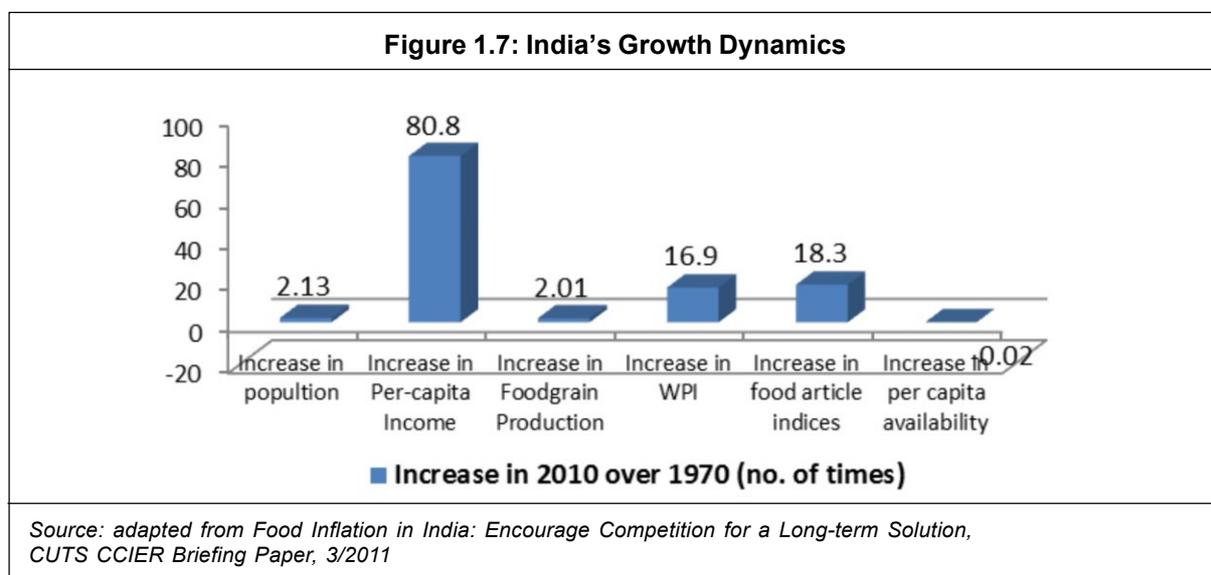
The focus of Indian government in ensuring food security can be understood from the fact that the government is spending a huge sum of money to ensure that food reach to the needy persons. Data indicates that food subsidy in India increased nearly seven times in the last eleven year periods. It recorded a compound annual growth rate (CAGR) of 18.9 percent between the periods 2000-01 to 2011-12. In the coming periods, food subsidy is expected to increase significantly and can cross one percent of GDP once the proposed Right to Food Bill is passed and implemented.

Year	Food Subsidies	Annual growth (%)	Percent of GDP
2000-01	12,060	27.84	0.58
2003-04	25,800	6.72	0.93
2009-10*	72,235	65	0.86
2011-12*	81,000	19	0.91

*Note: \*estimate; Source: Budget Documents and other sources*

### Existing Systems and Implementation Issues

One can argue that there is a number of positive developments over the last two decades: production of food grains is increasing; a distribution system in the form of PDS is in place; government is pressing hard to reduce poverty through various policy measures such as NREGA; government food subsidy bill is increasing almost every year; per capita food availability has remained constant despite increase in population; per capita income has increased many time in the last two decades; one can list more if required.



Then the question arises, what is holding back India from attainment of status of a food secured nation. Nearly one-third of the people are below poverty line, with some states having a much higher poverty incidence (see Table 1.7). Poverty, hunger and malnutrition continue to co-exist, and the country is placed the group of most food unsecured nation.

One important feature of poverty incidence in different states is that a bigger percentage of people are from backward class, mainly SC, ST, and OBC, with Orissa heading the graph. It is also observed that in most of the states the ratio of people below the poverty line is higher in urban compared to that of rural areas.

There can be more than one reason for India's food insecurity. One of the most important reasons for this is failure of public distribution system. There are two types of problems: issues arising due to the drawbacks of the system in terms of targeting, income transfer and reduced availability, and structural problems in implementation. The reasons for such problems are within the socioeconomic and political structure of India.

<b>Table 1.7: State-wise Population Below Poverty Line (In Percentage)</b>						
<b>State</b>	<b>2004-05</b>			<b>2009-2010</b>		
	<b>Rural</b>	<b>Urban</b>	<b>Total</b>	<b>Rural</b>	<b>Urban</b>	<b>Total</b>
Andhra Pradesh	32.3	23.4	29.6	22.8	17.7	21.1
Arunachal Pradesh	33.6	23.5	31.4	26.2	24.9	25.9
Assam	36.4	21.8	34.4	39.9	26.1	37.9
Bihar	55.7	43.7	54.4	55.3	39.4	53.5
Chhattisgarh	55.1	28.4	49.4	56.1	23.8	48.7
Delhi	15.6	12.9	13	7.7	14.4	14.2
Goa	28.1	22.2	24.9	11.5	6.9	8.7
Gujarat	39.1	20.1	31.6	26.7	17.9	23
Haryana	24.8	22.4	24.1	18.6	23	20.1
Himachal Pradesh	25	4.6	22.9	9.1	12.6	9.5
Jammu & Kashmir	14.1	10.4	13.1	8.1	12.8	9.4
Jharkhand	51.6	23.8	45.3	41.6	31.1	39.1
Karnataka	37.5	25.9	33.3	26.1	19.6	23.6
Kerala	20.2	18.4	19.6	12	12.1	12
Madhya Pradesh	53.6	35.1	48.6	42	22.9	36.7
Maharashtra	47.9	25.6	38.2	29.5	18.3	24.5
Manipur	39.3	34.5	37.9	47.4	46.4	47.1
Meghalaya	14	24.7	16.1	15.3	24.1	17.1
Mizoram	23	7.9	15.4	31.1	11.5	21.1
Nagaland	10	4.3	8.8	19.3	25	20.9
Orissa	60.8	37.6	57.2	39.2	25.9	37
Puducherry	22.9	9.9	14.2	0.2	1.6	1.2
Punjab	22.1	18.7	20.9	14.6	18.1	15.9
Rajasthan	35.8	29.7	34.4	26.4	19.9	24.8
Sikkim	31.8	25.9	30.9	15.5	5	13.1
Tamil Nadu	37.5	19.7	29.4	21.2	12.8	17.1
Tripura	44.5	22.5	40	19.8	10	17.4
Uttar Pradesh	42.7	34.1	40.9	39.4	31.7	37.7
Uttarakhand	35.1	26.2	32.7	14.9	25.2	18
West Bengal	38.2	24.4	34.2	28.8	22	26.7
Andaman & Nicobar Islands	4.1	0.8	3	0.4	0.3	0.4
Chandigarh	34.7	10.1	11.6	10.3	9.2	9.2
Dadra & Nagar Haveli	63.6	17.8	49.3	55.9	17.7	39.1
Daman & Diu	2.6	14.4	8.8	34.2	33	33.3
Lakshadweep	0.4	10.5	6.4	22.2	1.7	6.8
India	42	25.5	37.2	33.8	20.9	29.8

Source: Planning Commission Estimates

#### Box 1.4: Evidence of Leakage in PDS and its Impact

Under the Public Distribution System, there is a common tendency among owners of fair price shops/distributors in some parts of the country to distribute the government's subsidised food at an interval, often every alternate month. This implies, only half of the subsidised food is distributed amongst the poor, and the rest goes to the open market. By this description, and considering that total food distribution through the PDS was 42.3 million tonnes, more than 21 million tonnes of food grains did not reach the intended beneficiaries.

This is also reflected through a study by Khera (2011), which demonstrates that leakage constituted about 44 percent of the total food allocated to the PDS in 2007-08. A report published by the World Bank also highlights the problem. "Though India's social sector spending is higher than many other developing countries, one of its flagship welfare programmes — the public distribution system (PDS) — is fraught with leakages. The PDS scheme, which consumes around one percent of the country's gross domestic product (GDP) and covers upto 25 percent of the poor households, has had limited success, as only 41 percent of the foodgrains released by the government reach their target." While this creates inaccessibility to food amongst the poor households, these people, in turn, are forced to approach market for buying the same foods which was siphoned off. An unnecessary pressure is built on food market. The intended beneficiaries of subsidised PDS food thus have almost equal dependence on PDS and open market.

The core of the problem is the almost non-existent bargaining power of the bottom about 30 percent of the population. However, it does not mean that the rest of the 70 percent of the population necessarily have this bargaining power. The political economy in India is such that only the rent seekers have effective bargaining power. On the other hand, the social structure in India is still not conducive for vertical social mobility. The non-existence of vertical social mobility (i.e. social rigidity), has its effect on access to basic needs like food. The structural (practical) problems are listed below:

- Market distortions, lack of information and poor networking etc;
- Lack of effectiveness of targeting of the poor;
- Inadequate buying capacity of poor. Poor people, especially agricultural labourers often find it difficult to pay for even subsidised food. There are other reasons also, such as lack of coordination between the time of wage disbursement and the working hours of the fair price shops;
- The pattern of distribution of grain does not seem to be related to the extent of poverty;
- Problem associated with migrant labourers. Due to the absence of a permanent address, they are unable to get a ration card, and thus do not have access to the PDS;
- Over time changes in food habits also have their effect on access to food, especially in tribal areas;
- Transportation bottlenecks resulting in poor availability, especially in rural areas;
- Wastage due to lack of storage and transportation facilities;
- Infrequent distribution by fair price shops; and
- Poor profit margin for the FPS owners has manifested into inherent corruption within the system.

#### Will National Food Security Bill Enable India Achieve Food Security?

The Government of India has recently proposed the National Food Security Bill (NFSB) that aims to enable assured economic and social access to adequate food, for all persons in the country, at all times. The proposed bill is a set of core entitlements within the universal right to food and nutrition provided to be enjoyed and progressively expanded until universal access to adequate nutrition is achieved. This is in accordance with Article 25 of the Universal Declaration of Human Rights (1948) which recognises the right of everyone to adequate food.<sup>25</sup>

There is similar provision under the Indian Constitution. According to Article 47, “The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.” The proposed bill is also supported by some recent jurisdictions by the Supreme Court of India – relating to right to food. The apex court has linked the right to food to the fundamental right to life. Since 2001, the apex court is hearing public interest litigation on hunger, malnutrition, social insecurity and employment related rights issues, and has passed 65 orders that hold the government accountable and require it to allocate sufficient resources.

### *Provisions in the NFSB*

The proposed bill, to be implemented through the proposed National Food Commission and various State Food Commissions in two phases, is comprehensive in nature as it encompasses various facets of food security and proposes a complete mechanism. It follows a life cycle approach which will enable access to adequate and appropriate food throughout the life cycle of a human being from pregnancy to old age. The bill guarantees subsidised food grains to at least 90 percent of rural households, and 50 percent of urban households.

It distinctly covers most of the vulnerable sections and include, pregnant and nursing women; children at the age group of 0-6; destitute and homeless persons; migrants; and people affected by natural disasters. It also provides for no denial to any child, midday meal to children, prevention and treatment of child malnutrition.

The bill provides that for food security entitlements, the households will first be identified by the state governments based on the criteria notified by the Central Government. The households identified will be categorised under the priority households and general households. They will then be issued appropriate ration cards to enable them to receive food grains at the rates applicable to them.

According to the proposed bill, 46 percent of the rural and 28 percent of urban households categorised as ‘priority group’ are entitled to receive foodgrains. In addition, 49 percent of the rural and 22 percent of urban households categorised as ‘general group’ are also entitled to receive foodgrains.

The government (state) shall provide priority households whether rural or urban a minimum of 7 kg of food grains per person per month, at a price not exceeding ₹3 per kg for rice, ₹2 per kg for wheat and ₹1 per kg for millets at 2011-11 rates, which will not be revised upward for a minimum period of 10 years from the date of notification of the Act. For single member households there is provision for a minimum of 14 kg of grain per month at the same prices.

In the case of general households, the government (state) shall provide whether rural or urban a minimum of 4 kilograms of food grains per person per month, at a price not exceeding 50 percent of the Minimum Support Price for paddy, wheat and millets. For single member households, there is provision for a minimum of 8 kg of grain per month at the same prices.

For strengthening the supply side of food security under the proposed bill, mechanisms are proposed for procurement of food grains, storage of food grains, local public distribution model, quantity and issue price, distribution of good grains, fair price shops, ration card, monitoring of the procurement, distribution, and sale of subsidised food grains, and application and use of technology for monitoring and information.

### *NFSB's Foodgrain Requirements and Cost to the Economy*

Implementation of the proposed food security bill is expected to create huge financial and administrative burden on both central and state government. While administrative costs can be termed as indirect cost; there will be two major types of direct cost which will accrue. These include increased financial outgo on subsidies as a result of increased coverage of vulnerable sections of people; government will also be required to procure increased quantity of food grains which will lead to increased pay out as MSP to the big farmers.

The expert committee on NFSB has prepared a report that shows requirements of food grains and also cost of implantation of the bill to the government. The estimate made by the Expert Committee focuses on, among others, two primary issues – firstly food grains requirements and secondly subsidy implications.

In the first phase (Table 1.8), the food grains requirements vary the range of 57 to 69 million tonnes. Comparing this with the current trend in procurement, the estimated requirement is much more, leaving a deficit in excess of over 10 million tonnes (based on an offtake of 100 percent). Now, as the proposed bill will legalise food security, the government need to facilitate production of more food grain or to import the balance.

<b>Table 1.8: Food Grain Requirement for Implementing the Proposed NFSB</b> (mn tonnes)						
	<b>NAC Projections* Scenario 1</b>		<b>Scenario 2* Off take – priority- 95%; general-85%</b>		<b>Scenario 3* Offtake-100%</b>	
	<b>Phase 1</b>	<b>Final Phase</b>	<b>Phase 1</b>	<b>Final Phase</b>	<b>Phase 1</b>	<b>Final Phase</b>
Priority Households	34.4	36.42	38.91	39.83	40.96	41.93
General Households	14.96	19.17	15.13	18.75	17.8	22.05
Sub Total	49.36	55.59	54.04	58.58	58.76	63.98
Other Welfare Schemes	8	8	8	8	8	8
Buffer Stock		2	2	2	2	
Total Food grains	57.36	63.59	64.04	68.58	68.76	73.98

\*Population - Scenario 1 – October 2010; Scenario 2 & 3 – Phase 1-October 2011; Phase 2- October 2013  
Source: [http://eac.gov.in/reports/rep\\_NFSB.pdf](http://eac.gov.in/reports/rep_NFSB.pdf)

The bill will have a huge impact on food subsidy outgo. Under scenario 3 (100 percent offtake), the subsidy cost to the government is estimated in the range of ₹71,000 crores (Scenario 1) to ₹86,000 crores (Scenario 3). In the final phase, it is to increase further and will be in the range of ₹79,000 to 92,000 crores. This involves large financial outgo which is yet to be quantified. In addition to this, there is also need for creating a situation where both demand (users of this facility) and supply side (provider of this facility) forces act cohesively. There is, in fact, need for popularising the system about the rights and obligations of different stakeholders. This can also require huge fund.

<b>Table 1.9: Subsidy Implications of Alternative Scenarios (₹ Cr.)</b>						
	<b>NAC Projections* Scenario 1</b>		<b>Scenario 2* Off take – priority-95% ; general-85%</b>		<b>Scenario 3* Offtake-100%</b>	
	<b>Phase 1</b>	<b>Final Phase</b>	<b>Phase 1</b>	<b>Final Phase</b>	<b>Phase 1</b>	<b>Final Phase</b>
Priority Households	54,449	57,652	61,636	63,093	64,880	66,414
General Households	17,388	22,279	17,598	21,799	20,704	25,646
Total Subsidy Requirement	71,837	79,931	79,234	84,892	85,584	92,060
Current Subsidy**	56,700	56,700	56,700	56,700	56,700	56,700
Additional Subsidy	15,137	23,231	22,534	28,192	28,884	35,360
<i>*Population - Scenario 1 – October 2010; Scenario 2 &amp; 3 – Phase 1-October 2011; Phase 2- October 2013  **Source: NAC. NAC has assumed a food grain mix of 60% rice and 40% wheat to make subsidy calculations.</i>						

The proposed NFSB is a historical and if effectively implemented, has the capacity to ensure food security to all the vulnerable sections by protecting them from the adverse impacts of food price increase. Despite this very significant development, it needs to be observed how the whole system of food distribution and security evolves in India. It is worth considering the requirements of NFSB in the context of existing constraints. A greater focus is required to make it successful. Creating a system is not a solution in itself, and therefore, success of this will be critically dependent on the creation of appropriate infrastructure, which in the present case implies how it is implemented, and monitored.

The proposed NFSB must be accompanied by other measures to effectively sustain supply of food grain in the longer term, or to be more specific, on a permanent basis. As indicated in earlier sections of this paper, supply of food grains presently appears to be constrained by various issues, including inconsistent crop yields, limitations in scope for increasing area under cultivation, rising prices of inputs, and others. Addressing these issues will require huge and immediate investments in agriculture.

One big limitation of the NFSB is that the approach is not based on universalisation of food security and is premised on the use of BPL as an entitlement criterion despite clear evidence that the targeted approach has been one of the major causes of ineffective functioning of food security measures for the last several years. The bill could have served a better purpose, if had been premised on a universal approach.

However, considering the challenges posed by constrained food grain supply, this appears to be a wise decision. The supply of food grains, as indicated in earlier sections, is constrained by many factors, including yearly variations in food grain production emerging from varying crop yields, limitations to increase area under cultivation, inadequate irrigation infrastructure, rising costs of inputs such as fertilisers and pesticides leading to increased cost of production, and last but not the least rising burden of food subsidies.

### **Consumers' Perception on Existing Food Security Programmes**

Consumers' perception on the effectiveness of different government programmes varies. Data collected from the field under the present project shows that close to 50 percent respondents covered under the survey have reported accessing PDS/FPS for purchasing food material. About 71 percent of them also access standalone and retail shops to meet domestic food demand. Dependence on PDS/FPS is significantly high among BPL households; about 73 percent BPL household's access PDS/FPS as compared to 38 percent APL households.

The field data also shows that about 44 percent consumers have reported to receive appropriate quantity of food grains from PDS/FPS on a regular basis, while 26 percent have never received or rarely received appropriate quantity of food grains from PDS and FPS. About 5 percent of those who access PDS and FPS are not aware about their entitlement and importantly 85 percent of such respondents are from rural areas.

To a question whether consumers always receive food grains on government prescribed price from PDS and FPS, about 42 percent of the surveyed consumers answered 'yes', while 11 percent said that they have never received food grains on government prescribed price. Close to 10 percent respondents are not aware about government prescribed rates and 81 percent of such respondents are from rural areas.

On the issues of making complaints, field data reveals startling facts. Despite the fact that close to 45 percent respondents do not receive appropriate quantity of food material at government prescribed rate, 74 percent respondents have never made a complaint regarding irregularities in PDS/FPS operations.

Only about 18 percent respondents indicated that they have lodged complaints regarding irregularities in PDS/FPS operations. Majority of respondents registering complaints are from urban areas and belong to APL households. Similarly, respondents from South region are more active in making complaints as compared to the respondents from other regions.

What is even more startling is the fact that about 19 percent respondents do not have knowledge regarding the process of registering complaint. Majority of such respondents belong to northern (28 percent) and eastern regions (26 percent).

In the case of awareness regarding the proposed Food Security Act, only about 14 percent consumers are aware about the proposed Food Security Act. The awareness is largely limited to recognition of the term 'Food Security Act', and is the highest in northern region (22 percent) and lowest in eastern region (10 percent). About 62 percent of those who know about proposed Food Security Act also believe that the Act will enable the consumer to easily access adequate quantity food grains at affordable price.

### **How to Improve the Situation?**

It may be recalled that the broad objective of the right food is to ensure food security. Several welfare schemes and programmes are being implemented by Government to ensure food security for the poor. Public Distribution System (PDS) or Fair Price Shops (FPS) is one of the most important initiatives towards this end. This initiative has significantly contributed addressing the issue of food insecurity.

There are, however, several flaws that exist and need to be addressed. These include lack of awareness on entitlement of foodgrains, and prescribed price resulting in excess price charged by the FPS. Consumers are also not aware of how to handle such a situation.

To improve the situation, there is need for taking stern monitoring measures. This should include helping consumers to lodge complaints. There should also be a mechanism for timely redressal of such complaints. It can be expected that right to food will fill the vacuum.

## Conclusions and Recommendations

It has now become clearer that PDS alone cannot offer a comprehensive solution to the problems of food security of the poor. Other anti-poverty programmes need to be strengthened as part of income generation among the poor. A mix of policies, such as effective implementation of anti-poverty programmes, decentralisation of procurements, control of inflation, improvement in health facilities etc is needed for increasing the food security in the country. The launch and progress of Mahatma Gandhi National Employment Guarantee Scheme and the NFSB are significant moves, and can be considered as one of the most important steps.

In addition, the PDS need to be strengthened. The objective of the PDS should be more focused to enhance the welfare of the poor by steady availability of food grains at affordable prices, so as to fully match the demand and supply. There should be proper identification of the beneficiaries and the implementation and monitoring mechanism of government institutions should be strengthened. Support of NGOs and participation of the private sector should also be sought to oversee the progress made.

Finally, the issue of food security in the Indian context should be viewed much beyond food availability *per se*. The right to food for the poor must take into account the access to food entitlement. The proposed food security bill will hopefully address the existing issues of concern to make India food secure, and genuinely entitle people to right to food.

## Right to Clothing

### An Overview

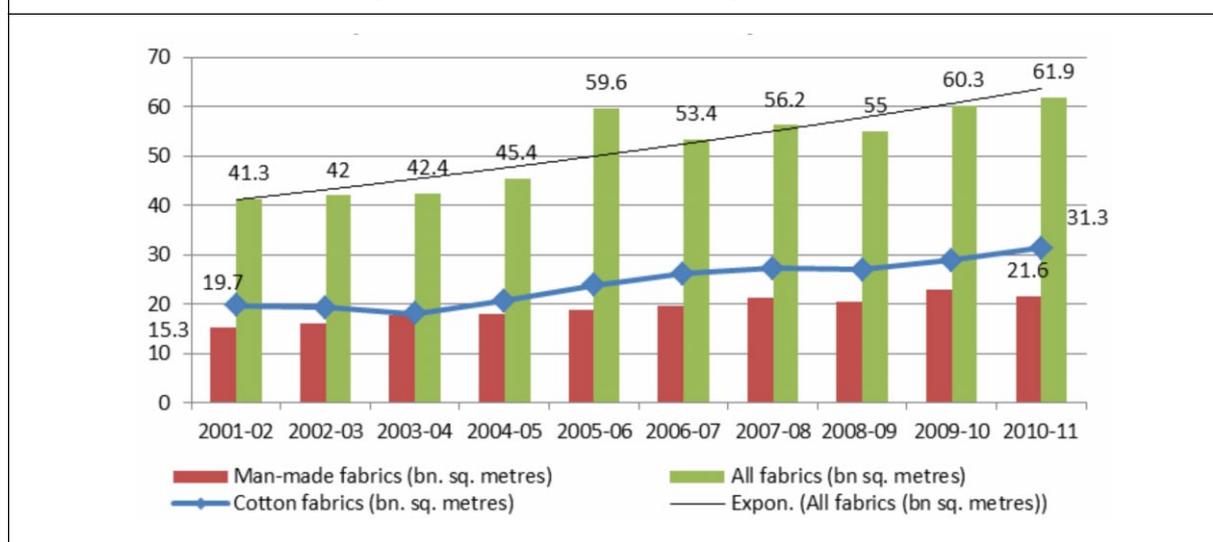
Clothing gives the first impression about the development status of a person, besides being a basic and essential requirement for sustenance of livelihood. As the development doctrine changed from trickle down to fulfilment of basic needs, the right to clothing was recognised as a basic consumer right. However, access to clothing, as in case of food and other basic needs, depends on availability and purchasing power.

Clothing is inherently linked to the textile industry. The textile industry consists of three segments: mill, powerloom, and handloom. The latter two come under the 'decentralised' sector. Over the years, the government has given various incentives for the growth of the decentralised sector, which can be considered important for the fulfilment of the right to clothing.

Overall, the textile industry in India is predominantly cotton-based; 50 percent of the fabric composition of the country is accounted for by cotton. During the last decade (2001-2011), fabric production has increased at a consistent rate, with production increasing from 41.3 bn sq meters in 2001-02 to 61.9 billion square meters in 2010-11 (see Figure 1.8). It realised a compound annual growth rate (CAGR) of about 5 percent. The period also witnessed increase in per capita availability from about 40 to 52 sq meters having grown at a CAGR of about 3 percent (see Figure 1.8).

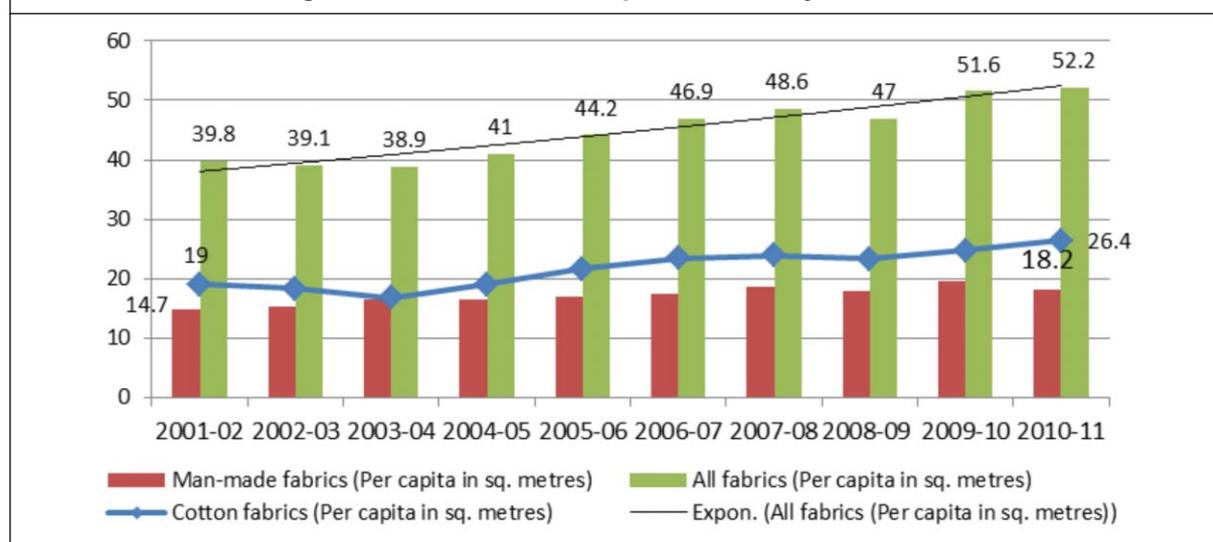
Considering that India's population is growing at an average annual rate of 1.6 percent, this growth in total production and per capita availability can be considered a comfortable growth as far as need for clothing is concerned. This, however, satisfies only one side, and there is no guarantee that increasing production level and per capita availability can be translated into accessibility to this by those who need it. Accessibility is determined by purchasing power of poor people, which, however, could be supplemented with subsidised pricing and distribution through fair price shops (FPS).

**Figure 1.8: Trend in Availability of Clothes**



Source: indiastat

**Figure 1.9: Trend in Per Capita Availability of Clothes**



Source: indiastat

### Clothing Usage and Consumption Pattern

Not being a daily/regular purchase item, consumers spend 5.96 and 7.07 percent of their total expenditure (reference period 365 days) on clothing items in urban and rural India respectively as per data published by the National Sample Survey Organisation (NSSO). The per capita expenditure/income was ₹6712 rupees for rural India and 12610 rupees for urban India in 2004-05. It implies that consumers in urban areas spend much more on clothing compared to their rural counterparts in absolute value. There is also a clear indication that the share of clothing in total expenditure/income has increased from 6.50 percent in 1993-94 to 6.65 percent in 2004-05 at all India level (365 days as reference period).<sup>26</sup>

Consumers' expenditure on clothing has a positive relation with increase in income. Elasticity of purchases increases as one moves from lowest income group to the next income group, and then

it starts to declining. It peaks up again for the income group ₹40000-₹50000 and then declines substantially for the highest income group. This means people are more responsive to the income changes. But as income increases sufficiently, the priorities for consumers changes and they prefer spending major part of extra income on education and healthcare. Once the demand for these additional items is also met, the further rise in income leads to improvement in quality and quantity of the produces that were not of good quality at lower income. This happens till a stage and then again elasticity starts declining.

From consumers' perspective, the right to clothing is determined by their purchasing power. People with low purchasing power are more at odds to access this right. Not much change has taken place over the last six decades, despite increase in production of clothes, and increased per capita availability.

### **Textile Policy and its Objectives**

The legal framework of the right to clothing is covered indirectly within the right to life and personal liberty (Article 21). In India, the Ministry of Textiles is responsible for policy formulation, regulation, and development in respect of the entire textile sector including cotton, wool, silk, jute and other fibres. The developmental activities of the Ministry are oriented towards making adequate quantity of raw material available to all sectors of the textile industry and augmenting the production of fabrics at reasonable prices.

Since cloth is a mass consumption item, covering all sections of society, and rightly so, it has been declared an essential commodity. The objective of the right to clothing has been stated in the Textile Policy, 1981. Out of the six objectives, two objectives have a direct bearing on consumers. They are:

- Increasing the production of cloth of acceptable quality to meet the clothing requirement of the growing population which can then buy it at reasonable prices; and
- Strengthening and streamlining the infrastructure for distribution of cloth to weaker sections of the population.

Further, the Textile Policy, 1985, states that the primary objective of the policy has been clearly mentioned as consumer satisfaction and consumer protection. In addition to that, it said that the existing marketing and distribution system of the industry would be reviewed to introduce changes, wherever necessary, in order to evolve a more efficient system which would reduce costs and margins and provide both consumer satisfaction and consumer protection.

With changing requirements and emerging domestic and global dynamics, the government of India introduced a new textile policy in 2000. The policy emphasised two important issues: firstly growth and development of Indian textile industry; and secondly to make the sector more vibrant. Major objectives of the new textile policy, inter alia, from the consumers' point of view include the followings:

- To produce and provide good quality cloth in affordable price to fulfil different needs of customers;
- To increase the share of India in global textile market;
- To increase the contribution for employment and economic growth of country;
- Facilitate the textile industry to attain and sustain a pre-eminent global standing in the manufacture and export of clothing;
- Liberalisation of controls and regulations for the market development of different textile segments and to make them stronger to perform in competitive environment;

- Encourage FDI and R&D to improve the manufacturing capabilities and infrastructure under the environmental standards; and
- Facilitating financial support and arrangement to sector.

From consumers' perspective, the policy ensured that quality products and affordable price to consumers remain at the core. However, unlike in the case of food, the government did not give due importance to clothing. While the PDS is operated under the joint responsibility of the central and state governments, commodities such as wheat, rice, sugar, and kerosene are allocated by the central government to states and union territories, clothes do not find place in the list. Only a few states in India have been found to distribute items like clothing to the poor people.

### Making Clothes Accessible to Ordinary People

At the local level, the right to clothing, *albeit* indirectly, for quite some time was implemented through the institutional mechanism under the public distribution system. It may be recalled that in 1978, the government of India had launched a scheme called *Janata Cloth Scheme* to help the poor. The scheme was introduced with the twin objectives of providing employment to the unemployed and the under-employed handloom weavers and making cloth available to the poor at subsidised rates. The scheme was, however, discontinued by the Government with effect from April 1998.

#### Box 1.5: Free Distribution of Clothes, as a Measure of Social Security

##### *Tamilnadu*

Distribution of free sarees and dhoties is being done every year during the Pongal festival. This benefits persons who are living below the poverty line and also provides employment to persons involved in the handloom and power loom sectors. During 2010-2011, sarees to 159.04 lakh beneficiaries and *dhotis* to 158.19 lakh beneficiaries at a cost of ₹269 crores were distributed. It is proposed that during Pongal 2012, 159.04 lakh sarees and 158.19 lakh dhoties to eligible beneficiaries will be distributed, for which a sum of ₹269 crores has been provided in the Revised Budget Estimates 2011-2012.

##### *Puduchery*

Puduchery government as a measure of social security is running a scheme in the state since 2003 to distribute free clothes to people below the poverty line. Under the scheme, the state government provides once in a year two set of clothing items (two sarees, blouses pieces, lungis and towels) to poor people other than SC/Fisherman.

Source: [http://www.tn.gov.in/budget/interimbudgetspeech\\_2011\\_12.html](http://www.tn.gov.in/budget/interimbudgetspeech_2011_12.html), [http://india.gov.in/outerwin.php?id=http://wcd.puducherry.gov.in/Clothing\\_Eng.htm](http://india.gov.in/outerwin.php?id=http://wcd.puducherry.gov.in/Clothing_Eng.htm)

No similar scheme has been launched since then. However, the government through its policy and other measures seek to promote accessibility of clothes to the common people. The Twelfth Five Year Plan seeks to develop a strong, competitive and vibrant Handloom Sector to provide sustainable employment to the handloom weavers particularly belonging to disadvantaged section of the Indian society and to ensure inclusive growth of the sector.<sup>27</sup> The sectoral plan has a number of objectives which will cater to the needs of common people and could make clothes accessible. Some major objectives of the sectoral plan include the followings:

- To have faster, more inclusive and sustainable growth of handloom sector;
- Expansion of overall, market through complete pricing to increase domestic and international market share;
- Facilitation of marketing of handloom products;
- Empowerment of weaver's particularly disadvantaged and weaker section by organizing them under self-help groups;

- Training, capacity building and enhanced entrepreneurial support;
- Infusion of new and contemporary designs through design intervention as well as product diversification;
- Technical Research & Development support;
- Easy access to raw material at subsidized prices;
- Enhancing capabilities including social security, better healthcare, life insurance, pension, worksheds etc., and
- To ensure easy credit flow at low interest rate.

#### **Box 1.6: Handloom/Powerloom Sector in India: A Snapshot**

The textile industry consists of organised (medium to large-sized firms that are vertically integrated 'composite mills' that do spinning, weaving, and finishing operations) and decentralised sector (handloom and powerloom comprising of thousands of small fabric-weaving and processing units).

The Handloom Sector plays a vital role in the economy. In terms of employment, the Sector is next only to agriculture and provides employment to the weaker sections of the society, with 86 percent handloom weavers/workers living in rural and semi-urban areas. The National Fibre Policy seeks to address the demand for raw materials for handloom weavers.

This decentralised sector, which served as a source of clothes to a large number of people under the *Janata Cloth Scheme*, has grown impressively over the last two decades. This growth is attributable to the encouraging government policy for the creation of large-scale rural employment. These sectors also benefit from various tax exemptions and other favourable government policies, which ensure that fabrics produced in these sectors are price competitive against those of composite mills.

The decentralised sectors have a total of 5.1 million looms in place, compared with just 123,000 looms in the organised mill sector and only 6 percent of the looms in place in the organised mill sector are shuttleless looms.

From the perspective of ordinary consumers in India, who find it difficult to purchase clothes as and when required, the decentralised sector (handloom and powerloom) are of greater importance, as these can contribute more as far as increasing accessibility to clothes is concerned. The sector is not only a source of income to people, which could help them to fulfil various basic needs, but also a source of relatively cheaper clothes to ordinary people.

#### **Major advantages of the decentralised sector (handloom and powerloom)**

##### ***Handloom sector***

- Employs over 12 million workers;
- Manually operated;
- A typical handloom unit is a family-run business with two to six looms.
- Although, this sector incurs relatively high production costs and low productivity, the sector is known for its craftsmanship and unique products, which have helped it to develop a niche in global markets.

##### ***Powerloom sector***

- Employs over 6.8 million people;
- The powerloom sector comprises 376,000 units;
- Unlike the handloom sector, the powerloom sector uses power-driven shuttle looms;
- The powerloom has a significant cost advantage over the organised mill sector in fabric production;
- This sector accounts for 60 percent of fabric production and is the primary supplier of fabrics to domestic apparel producers and consumers.

*Source: National Fibre Policy 2010-11, and others*

From consumers' perspective, it can be argued that the sectoral plan objectives are premised on the fact that a sustainable income will help the people to not only meet their clothing requirements, but also help them to fulfil their other basic needs.

Besides the government initiatives, there are a number of initiatives that have come up recently from the non-state actors, such as NGOs, in the form of cloth bank, that seek to help people fulfil their clothing needs.

#### **Box 1.7: Cloth Banks Initiatives: Making Clothes Accessible to Millions of Poor in India**

**Goonj**, an NGO, does not deal in money, but in clothes – one of the basic human needs after food and shelter. Initiated in 1998 with just 67 clothes, the organisation now sends out over 20,000 kgs of material every month in 19 states. It has a volunteer base of over 300, and has built up a network of over 100 grassroot organisations, social activists & units of Indian army in rural India.

Bangalore based **R.K Foundation's Vastra** initiative provides both new and used clothing to people living in poverty, making no distinction of age, gender, race, colour, religion, ability or nation of origin. In order to do this effectively, Vastra partners with other non-profit organisations working in the areas of health, education, human care and other services. It accepts all kinds of clothes for men, women and children of all ages and sizes - trousers, jeans, shorts, skirts, T-shirts, shirts, sarees, salwar-kameezes, diapers, towels and bed sheets. In the month of July R.K Foundation received 6375 pieces of clothes and distributed it to various organisations across the city.

**Nirmala Shishu Bhavan**, run by the Missionaries of Charity, is a home for abandoned and destitute children, including children with special needs. It provides, shelter, food, clothes and medical care. They collect and use the collected material as resource for school material and toys to support slum schools. The clothes bank ensures that these clothes reach the children free of cost. The bank accepts clothes of only children and also welcomes bed sheets, towels, blankets and other such necessities.

**Xavier's Foundation**, Guwahati, under its clothes bank initiative collects clothes from different localities of Guwahati. After collection, the collected clothes are washed, mended and segregated into different packets for children and adults. Apart from the dresses, other cloth materials including blanket, bed covers are also collected and converted into smaller blankets or bed-sheets to cater to the requirement of children in need. The Foundation had planned to install drop boxes in busy areas including commercial hubs, shopping malls and financial institutions so that people willing to donate clothes to the Clothes Bank will be able to drop their used clothes whenever they visit these places, and the same could be distributed to the needy ones.

*Source: PTI, August 8, 2008, and others*

### **How to Improve the Situation?**

Traditionally, right to clothing is one of the three basic rights in India. As far as fulfilment of this basic right is concerned, one can say that even though there are several initiatives at the central and state levels to help consumers fulfil the right to clothing, this right can at best be addressed at the individual level. Right of clothing is fundamentally connected to earnings and income. The role of the government in this is to facilitate access to income generation activities to the people.

### **Conclusions and Recommendations**

The right to clothing is a fundamental right for a life with dignity. In India, this right has been considered as one of the basic needs. However, the Government of India and various state governments have taken a piecemeal approach regarding this right. The public distribution system is grossly incapable of addressing the issue. Most of the states have already stopped distribution

of clothes through the PDS, making right to clothing directly determined by the ability to pay. This basis is fundamentally wrong in a country like India where nearly one-third of the population live below or near the poverty line. Therefore, the approach should be based on the benefit that the poor get from the scheme of distribution of cloth at subsidised rates. For this purpose, proper targeting is to be done.

All said, it needs to be recognised that providing clothing to millions of people do not require a one-time intervention; rather it needs to be consistently pursued. And therefore, it can be a huge, if not impossible, task for the government to cater to the clothing requirements of people. Such initiatives will definitely create a huge burden on the government exchequer. What is therefore required is an initiative to generate and sustain people's purchasing power through focused efforts on employment and income generation. Only this could meet clothing requirements. This requires a mix of initiatives, and engagement of multiple stakeholders, such as government, NGOs, and others. Finally, it can be argued that employment and income generation initiatives would achieve not only availability of clothing at the prevailing prices, but would also lead to fulfilment of other basic needs.

## Right to Healthcare

### An Overview

Health is an essential asset for an active social and economic life, and therefore right to healthcare is recognised by both national and international institutions as a basic human right. It is also recognised that fulfilment of this right requires joint efforts by both state and non-state actors. More than a decade back, the World Health Organisation (WHO) in a conference in 1998 at Alma Ata,<sup>28</sup> affirmed, "... health, which is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, is a fundamental human right and the attainment of the highest possible level of health is a most important world-wide social goal whose realisation requires the action of many other social and economic sectors in addition to the health sector."

The declaration urged upon all governments to formulate national policies, strategies and plans of action to launch and sustain primary healthcare as part of a comprehensive national health system and in coordination with other sectors. The declaration further added, to this end, it will be necessary to exercise political will, to mobilise the country's resources and to use available external resources rationally. It also urged all nations to make full use of available resources as well as mobilise the human potential of all communities to implement the policy of health for all.

The inherent approach to health for all is much broader than what the term conveys. It includes factors that directly or indirectly influence health. Later, Mahler (1983)<sup>29</sup> defined the approach of health for all as "health is to be brought within reach of everyone in a given country. And by "health" is meant a personal state of well-being, not just the availability of health services – a state of health that enables a person to lead a socially and economically productive life".

He further clarified that "health for all implies the removal of the obstacles to health – the elimination of malnutrition, ignorance, contaminated drinking water and unhygienic housing – quite as much as it does the solution of lack of doctors, hospital beds, drugs and vaccines". There is no mystery that the neglect of healthcare reduces a person's capability to take part in the various activities within society. In addition, such neglect reduces the productive capability of the society as a whole. Healthcare, therefore, need to be considered as a pre-requisite for the development of humanity.

The declaration recommended that primary healthcare should include:

- education concerning prevailing health problems and methods of identifying, preventing and controlling them;
- promotion of food supply and proper nutrition, and adequate supply of safe water and basic sanitation;
- maternal and child healthcare, including family planning;
- immunisation against major infectious diseases;
- prevention and control of locally endemic diseases;
- appropriate treatment of common diseases and injuries; and
- Promotion of mental health and provision of essential drugs.

A similar view is echoed by the United Nations, “The right to health...does require governments and public authorities to put in place policies and action plans which will lead to available and accessible healthcare for all in the shortest possible time. To ensure that this happens is the challenge facing both the human rights community and public health professionals.”<sup>30</sup> In short, both the WHO declaration and the United Nations emphasised upon the need for strong first-level care with strong secondary-and tertiary-level care linked to it.

In India, Article 47 (under the Chapter on Directive Principles of State Policy) of the Constitution states that it is the duty of the State to raise the level of nutrition and standard of living and to improve public health. The article further states that the State shall regard the rising level of nutrition and standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption, except for medicinal purposes, of intoxicating drinks and of drugs which are injurious to health.

Healthcare is a state subject in India. Side by side, there are a number of centrally sponsored health programmes. While states have the responsibility of providing basic healthcare facilities, programmes launched by the central government mainly focus on communicable and chronic diseases.

As far as, the Central government initiatives are concerned, it has, over the last few decades, taken several initiatives to address health and related issues and to make healthcare accessible to common people. Some of the popular measures include, providing basic healthcare to people through primary healthcare services; polio eradication; healthcare to control tuberculosis and malaria; and Aids control. These measures resulted in some noteworthy successes by the time of launch of the National Health Policy (2002).

Some of the major successes emerging from the pursued health policy include eradication of smallpox and guinea worm disease; significant progress towards eradication of polio, leprosy, kala azar, and filariasis. Along with these, there has been a substantial drop in the total fertility rate and infant mortality rate.<sup>31</sup> These focused measures have helped millions of people to meet their healthcare requirements.

Most of these initiatives, besides the local requirements, are directly or indirectly influenced by international agencies. A strategy paper by the Department of Health and Family Welfare makes it clearer; “the actions taken by Government of India in the Health Sector over the years appear to have been largely a response to the demands of the international community, notably the UN and its agencies.”<sup>32</sup> These actions have facilitated consumers’ right to access healthcare (See Box 1.8).

<b>Box 1.8: Government Actions to Facilitate Consumers' Access to Healthcare and their Linkages with International Initiatives</b>	
The Primary Healthcare Model	The Alma Ata Declaration on Health brought in the concept of "Health for All" through access to Primary Healthcare (PHC) approach worldwide. This declaration formed the basis of India's first ever National Health Policy 1983 which targeted 'Health for All' for India by 2000.
Polio Eradication	Espoused by the WHO, this continues to be the largest healthcare drive of GOI in the last 15 years is espoused by the WHO. This intense and repeated drive (up to 12 rounds per year) witnessed involvement of almost the entire district preventive health machinery in the states for 5-7 days). While the system has had notable measures of success against polio (now reduced to 41 cases in India in 2010), still there were an estimated 300000 deaths in 2009.
National Programmes on Tuberculosis and Malaria	Malaria and Tuberculosis have been under international focus for a considerable period (it later became part of the Millennium Goal No.6). The Indian response includes active ingredients of external guidance and expectations. Though the National Vector Borne Disease Control Programme (NVBDCP) includes a range of vector borne diseases besides malaria but the focus on malaria, including setting up of Malaria Research Centre (MRC) by the Indian Council of Medical Research (ICMR) in 1977 was amidst international attention.
Aids Control	The inclusion of combating Aids as Millennium Goal No. 6 has resulted in the creation of a separate Department – NACO, National Aids Control Organisation.
<i>Source: Based on Strategy Paper, Department of Health and Family Welfare 2010-11</i>	

## Government Policy

There are two policy tools that control and manage healthcare services in India. These include government policy on health and drugs.

As far as the present healthcare policy of the government of India is concerned, it is premised on recommendations of various committees set up by the government from time to time. The first such committee was constituted in 1943 under the chairmanship of Sir Bhore. The committee, which mainly concentrated on preventive medicine, submitted its report in 1946 and tried to link health with social justice. It gave some pragmatic directions by recommending population-based national network of maternity sub-centres, a primary health centre and a secondary centre. It also recommended a specialised hospital with teaching facilities at the district level. More specifically, Sir Bhore had recommended a three-tier healthcare system for the country covering the followings:

- A primary healthcare (PHC) unit for a population of 30000;
- A community healthcare (CHC) unit with 30 beds and various specialities for a population of one lakh; and
- A district hospital with five specialities namely, gynaecology, paediatrics, surgery, medicine and casualty.

Sir Bhore committee was followed by several other committees in the later years. Some of the other important committees<sup>33</sup> which have made significant contribution in formulation of health policy in India include Mudaliar Committee (1962); Chadha Committee (1963); Mukherjee Committees (1965 and 1966); Juganwalla Committee (1967); Kartar Singh Committee (1973); Shrivastav Committee (1975); Bajaj Committee (1986), etc. The Committees appointed by the Government of India from time to time rendered advice on different health problems. These led to various recommendations, and gave direction to health policy in India after independence.

However, the focus of these committees varied from each other. While the Mudaliar Committee that gave its report in 1962 concentrated on medical education and development of training infrastructure for static medical units, the Shrivastav Committee urged the training of a cadre of health assistants to serve as links between qualified medical practitioners and multipurpose workers such as school teachers, post masters, gram-sevaks, etc. The Kartar Singh and Jungalwalla Committees, on the other hand, looked into the specific issues of service delivery at different levels.

The National Health Policy (NHP) of 1983 was the first attempt to synthesize recommendations of the earlier three committees set up in India: the Bhole Committee of 1946; the Mudaliar Committee of 1962, and the Shrivastav Committee of 1975. It also encompassed the issues raised in the Alma Ata declaration which demanded Health for All by 2000. The NHP reiterated that there is need for taking health services to the doorstep of the people and ensuring fuller cooperation of the community. The policy, however, did not recognise healthcare.

Some of the targets, which were expected to be achieved through the implementation of the policy, were: IMR of 60 by 2000, MMR of 200 by 2000 etc. Surprisingly, none of the health impact goals set in NHP 1983 were achieved by 2000.<sup>34</sup>

#### **Box 1.9: Rashtriya Arogya Nidhi (RAN): An Initiative for Poor Patients**

Rashtriya Arogya Nidhi is in operation since it was set up under the Ministry of Health & Family Welfare in 1997. The scheme provides for financial assistance to patients, living below poverty line and suffering from major life threatening diseases, to receive medical treatment at any of the super specialty hospitals/institutes or other government hospitals. The financial assistance to such patients is released in the form of "one time grant" to the Medical Superintendent of the hospital in which the treatment is being received. For this purpose, an advance of ₹10 to 40 lakhs are kept with the Medical Superintendents of various government hospitals, such as the AIIMS, New Delhi, PGIMER, Chandigarh, JIPMER, Puducherry, NIMHANS, Bangalore, CNCI, Kolkata, SGPGIMS, Lucknow, RIMS, Imphal and NEIGRIHMS, Shillong and others to enable sanction of an amount up to ₹1,00,000 in each deserving case reporting for treatment in the respective hospitals/ institute.

Under the scheme, Central Government also provides Grant in aid to states/union territories to set up state illness fund to the extent of 50 percent of contribution made by State government/union territories. Governments of Andhra Pradesh, Maharashtra, Mizoram, Rajasthan, Sikkim, Tamil Nadu, Tripura, West Bengal, Himachal Pradesh, Gujarat, Bihar, Goa, Chhattisgarh, Madhya Pradesh, Jharkhand, Uttarakhand, Haryana, Uttar Pradesh and Punjab including NCT of Delhi and Union Territory of Puducherry have set up such funds. Financial Assistance is given to patients living in their respective states/UTs under state illness fund up to ₹1.5 lakhs in an individual case. However, in cases where the quantum of financial assistance is likely to exceed ₹1.5 lakhs, those are referred to RAN for consideration. As per recent decisions, all applicants receiving treatment in Delhi Hospitals are Eligible for receiving Grants under *Rashtriya Arogya Nidhi*.

Source: Ministry of Health and Family Welfare, [http://india.gov.in/sectors/health\\_family/index.php?id=15](http://india.gov.in/sectors/health_family/index.php?id=15)

National Health Policy (2002) and National Rural Health Mission (2005) are the two most important developments in the area of healthcare after the introduction of reform programmes in India. As far as new health policy of 2002 is concerned, it came in the back drop of complete failure of the previous policy regime. Unfulfilled targets of the NHP (1983) made policy makers realise that something more focused and more concrete measures need to be taken to make health for all a realisable dream. The policy is supplemented by the initiatives under the NRHM, covering the whole of India. The new policy has come up with specific goals that are required to be achieved in a certain period of time. A list of such goals is presented in the Table 1.10.

<b>Table 1.10: Goals and the Set Target Year for their Achievement</b>	
• Eradicate Polio and Yaws	2005
• Eliminate Leprosy	2005
• Establish an integrated system of surveillance National Health Accounts and Health Statistics	2005
• Increase state sector health spending from 5.5% to 7% of the Budget	2005
• Achieve Zero level growth of HIV/AIDS	2007
• Eliminate Kala Azar	2010
• Reduce mortality by 50% on account of TB Malaria and other vector and water borne diseases	2010
• Increase share of central grants to constitute at least 25% of total health spending	2010
• Increase health expenditure by Government as a % of GDP from the existing 0.9% to 2.0%	2010
• Further increase to 8% of the Budget	2010
• Eliminate Lymphatic Filariasis	2015
<i>Source: Srinivasan, K. (2011), Health Policies in India: A Review, 2011</i>	

The NHP of 2002 was followed by a new Drug Policy (2002). The Drug Policy, though necessitated by the changing domestic and global scenario, was not a paradigm shift. It is observed that the basic objectives of the Drug Policy of 1986 which was modified in 1994 still remain largely valid. Making drugs accessible to common people at reasonable price was one of the primary objectives of this new policy. The main objectives of this policy are the followings:

- Ensuring abundant availability at reasonable prices within the country of good quality essential pharmaceuticals of mass consumption.
- Strengthening the indigenous capability for cost effective quality production and exports of pharmaceuticals by reducing barriers to trade in the pharmaceutical sector.
- Strengthening the system of quality control over drug and pharmaceutical production and distribution to make quality an essential attribute of the Indian pharmaceutical industry and promoting rational use of pharmaceuticals.
- Encouraging R&D in the pharmaceutical sector in a manner compatible with the country's needs and with particular focus on diseases endemic or relevant to India by creating an environment conducive to channelising a higher level of investment into R&D in pharmaceuticals in India.
- Creating an incentive framework for the pharmaceutical industry which promotes new investment into pharmaceutical industry and encourages the introduction of new technologies and new drugs.

The new policy, however, led a number of changes as far as positioning the Indian pharma sector in the global market place. Some of the major changes incorporated in the new drug policy were the followings:

- Abolition of Industrial Licensing of all bulk drugs except in the cases of:
  - Bulk drugs produced by the use of recombinant DNA technology.
  - Bulk drugs requiring in-vivo use of nucleic acids as the active principles, and
  - Specific cell/tissue targeted formulations.
  - Foreign Investment upto 100 percent permitted, subject to stipulations laid down from time to time in the Industrial Policy;

- Automatic Foreign Technology Agreements in the case of all bulk;
- drugs cleared by Drug Controller General (India), all their intermediates and formulations with some exceptions;
- Imports will be allowed as per EXIM policy in force;
- Encouragement to Research and Development (R&D);
- Identification of specific bulk drugs for price regulations to continue

The NHP and Drug Policy of 2002, influence the direction of Indian health scenario. While it facilitated growth of the sector and made it more effective in serving the health requirements of the people of India, at the same time it also ensured that Indian pharma sector gained a place of prominence in the global market.

**Box 1.10: Central Government Run Health Schemes and Programmes**

- Central Government Health Schemes
- National Aids Control Program
- National Leprosy Eradication Programme
- Vector Borne Disease Control Programme
- Common Diseases
- National T.B. Control Programme
- National Programme for Control of Blindness
- National Cancer Control Programme
- National Iodine Deficiency Disorder Control Programme
- Mental Health Programme
- Drugs
- Rashtriya Arogya Nidhi (RAN)
- Prevention of Food Adulteration Programme

### Current Situation in India

As indicated above, India has made significant progress in the last few years in addressing the healthcare needs of the people. The period has witnessed impressive improvement in the healthcare infrastructure, especially in the case of increase in number of sub-centres, primary health centres and community health centres, which cater to the healthcare needs of the common people. These could be considered as indicators of progress of the right to healthcare in India. In the case of sub-centre, data shows that the number increased from 146026 in 2005 to 147069 in 2010. This can be considered significant increase.

States which have realised increase in the number of sub-centre include Chhattisgarh, Haryana, Jammu & Kashmir, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Tripura and Uttarakhand. Similarly, number of primary healthcare centres has also increased. The five year periods from 2005 to 2010 witnessed an increase of 437 PHCs. In the case of community health centre, the operating units increased by 1189 CHCs during the five year period. States with significant increase in number of CHCs include, Arunachal Pradesh, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Punjab, Rajasthan, Tamil Nadu, Uttarakhand, Uttar Pradesh and West Bengal. As far as existing arrangements for healthcare is concerned, one can say that it covers whole of India.

As a result of the progress achieved in improvement of basic infrastructure, India has consistently realised improvement in basic indicators of healthcare, such as decline in infant mortality and fertility rates, decline in crude death rate, increase in sex ratio, increase in deliveries by trained health workers. Couple protection rate is one area which does not show any improvement (Table 1.11).

<b>Variable</b>	<b>1991</b>	<b>2001</b>	<b>2010</b>
Crude Birth Rate (Per 1000 Population)	29.5	25.4	22.1
Crude Death rate (Per 1000 Population)	9.8	8.4	7.2
Natural Growth rate (NGR)	19.7	17	14.9
Infant Mortality rate (per 1000 live births)	80	66	47
Sex Ratio (Females per 1000 Males)	927	933	940*
Total Fertility Rate	3.6	3.1	2.5
Deliveries by Trained Health Workers (%)	33***	N.A	52**
Couple Protection Rate (%)	44.1	45.6	40.4*

*\* Relates to 2011; \*\* Relates to 2007-08; \*\*\* Relates to 1992-93*  
**Source:** Planning Commission Report, 2011-12; Family Welfare Statistics of India, 2011; Statistics Division, Ministry of Health and Family Welfare, Govt. of India

Rural India also shows impressive development. Data show that India is moving towards a more acceptable ratio of number of population served by sub centres, primary health centres and community health centres. This is reflected by the table below (Table 1.12).

	<b>Norms</b>	<b>Present Status</b>
<b>I. Average rural population covered by:</b>		
• Sub Centre	3000-5000	5049
• Primary Health Centre (PHC)	20000-30000	31364
• Community Health Centre (CHC)	80000-120000	163725
<b>II. Average rural area (Sq. Km) covered by:</b>		
• Sub Centre	—	21.20
• Primary Health Centre (PHC)	—	131.72
• Community Health Centre (CHC)	—	687.61
<b>III. Average radial distance (Kms) covered by:</b>		
• Sub Centre	—	2.60
• Primary Health Centre (PHC)	—	6.47
• Community Health Centre (CHC)	—	14.79
<b>IV. Average number of villages covered by:</b>		
• Sub Centre	—	4
• Primary Health Centre (PHC)	—	27
• Community Health Centre (CHC)	—	141

*Source: Ministry of Health and Family Welfare, Government of India*

## Drawbacks of the System

The progress made by India in addressing healthcare requirements of its people can be assessed by making a comparison of progress made by other countries with respect to some broad health parameters. Making such comparative assessment, however, reveal a not so impressive situation for India. It is observed that in most of the parameters, India is lagging behind other countries in the South East Asia Region (See Table 1.13). The table below also reveals that India has to cover a long distance if it has to ensure accessibility of healthcare services to its people, especially those who are reeling below the poverty line.

Health parameter	Bangladesh	Bhutan	Democratic People's Republic of Korea	India	Indonesia	Maldives	Myanmar	Nepal	Sri Lanka	Thailand	Timor-Leste
Children aged <5years underweight (%)	41.3	12	20.6	<b>43.5</b>	19.6	25.7	29.6	38.8	21.6	7	41.5
Under-5ve mortality rate (probability of dying by age 5 per 1000 live births)	52	79	33	<b>66</b>	39	13	71	48	16	13	56
Measles immunization coverage among 1-year-olds (%)	89	98	98	<b>71</b>	82	98	87	79	96	98	70
Maternal mortality ratio (per 100 000 live births)	340	200	250	<b>230</b>	240	37	240	380	39	48	370
Births attended by skilled health personnel (%)	18	72	97	<b>47</b>	73	95	37	19	=99	=99	30
Contraceptive prevalence (%)	55.8	...	68.6	<b>56.3</b>	61.4	34.7	41	48	68	81.1	22.3
Adolescent fertility rate (per 1000 girls aged 15–19 years)	133	46	1	<b>45</b>	52	14	17	106	28	43	59
Antenatal care coverage (%): at least 1 visit and at least 4 visits	52	88	97	<b>75</b>	93	99	80	44	99	99	84
Unmet need for family planning (%)	16.8	...	...	<b>12.8</b>	9.1	...	19.1	24.6	7.3	3.1	3.8
Prevalence of HIV among adults aged 15–49 years (%)	less than 0.1	0.2	...	<b>0.3</b>	0.2	less than 0.1	0.6	0.4	less than 0.1	1.3	...
Malaria mortality rate (per 100 000 population)	1.8	0.1	0	<b>1.9</b>	3.2	0.9	34	less than 0.1	less than 0.1	0.4	83
Tuberculosis mortality rate among HIV-negative people (per 100 000 population)	51	8.3	25	<b>23</b>	27	2.6	59	21	9.2	18	66
Population using improved drinking-water sources (%)	80	92	100	<b>88</b>	80	91	71	88	90	98	69
Population using improved sanitation (%)	53	65	...	<b>31</b>	52	98	81	31	91	96	50

Source: World Health Statistics, 2011

Even without any comparison with similarly placed countries, one also observes various issues and concerns, which are hindering the progress of right to healthcare. It is true that some significant progress has been achieved towards achievement of health for all during the last few years but these do not appear to be sufficient for a country as big as India. Issues that hinder progress can be divided under two heads, namely macro problems and local level problems. The macro objective of healthcare policy is to cover the population under the comprehensive healthcare system.

As far statistics reflect, on paper, it is true that the population covered under a single PHC is within the overall manageable limit. It is also true that in India, the number of doctors is high compared to other developing countries. At the same time, the overall system is also full of deficiencies as is reflected by the shortage of staff and other resources in the existing health centres. For example, the number of assistants (nurses, midwives etc) is quite low in India. This structural imbalance explains the macro problems associated with the healthcare system. Table 1.14 give a clear picture of shortfalls in healthcare infrastructures and other resources in different states in India. Besides, some of the issues at the disaggregated level which were highlighted in the CUTS report in 2001, continue to haunt Indian healthcare system:

- Majority of the primary health centres (PHCs) are properly non-functioning because of non-availability of doctors, para-medical staff etc;
- Even if there are medical staffs, they are more interested in doing private practice rather than devoting their time and efforts to the PHC;
- Timely availability of medicines is another major problem. It is the centralised medicine distribution system that is in operation. Thus, there is often lack of co-ordination between the state medicine depot at the State capital, district depots at the district headquarters and the PHCs at the local levels. On top of this, essential drugs are generally not available, especially during the rainy season when the incidence of illness is high;
- Sub-centres, in a number of cases, do not function on a daily basis. Their functioning is mostly confined to family planning advice. Moreover, infrastructure facilities are negligible; and
- Excessive emphasis on family planning (and that too based on the targeting approach) takes up the majority of staff time, and therefore other aspects of healthcare suffer.

Inadequate developments as reflected by gaps in healthcare infrastructure tend to push forward issues that constrain progress of people towards an era of an effective healthcare system. The above table reflect that despite some progress, several issues of concern remain. Some of the issues which were highlighted by the CUTS report in 2001<sup>35</sup> continue even now. One such issue is the inadequacy of attention given to the health of the girl child. Studies have shown that there are significant differences in the gender-wise infant and child mortality rates.

According to a study on collusive behaviour between government run hospitals (medicine store) and retailers of medicines in India, conducted by CUTS in 2011,<sup>36</sup> frequent irrational prescription patterns were observed. A prescription can be considered irrational, if prescribed drugs are not available in the hospital stores. These practices are adverse to the consumers' interests. Besides being hard on the consumers' pockets, it often leads to side effects and drug resistance syndrome in them. The following facts surfaced during the survey:

- There is a universal tendency to prescribe drugs using brand names. The possible explanations are either lack of awareness about the significance of generic names among the doctors or due to commercial interests.
- Affinity towards prescribing drugs manufactured by multinational corporations.
- Tendency to prescribe comparatively costlier and higher generations of medicines.
- Unnecessary prescriptions of drugs like broad-spectrum antibiotics in conditions of diarrhoea, or cough mixtures for common cold etc.
- Incomplete prescriptions and prescriptions with unproven efficacy were also found in most of the cases.

Table 1.14: Shortfall in Health Infrastructure								
State	PHC	CHC	Doctor at PHCs	Physicians at CHCs	Paediatricians at CHCs	Pharmacist	Laboratory Technicians	Nursing Staff
Andhra Pradesh	354	314	*	147	77	123(#)	374	*
Arunachal Pradesh	*	*	5	48	47	89	57	140
Assam	*	98	*	81	65	*	*	*
Bihar	626	552	298( #)	32#	53(#)	1494(#)	1798(#)	928(##)
Chhattisgarh	*	21	139	132	127	489	579	1387
Goa	3	0	*	3	3	*	*	*
Gujarat	76	3	259	290	285	482	411	421
Haryana	59	18	*	100	85	138	204	*
Himachal Pradesh	*	*	11	71	73	178	328	581
Jammu & Kashmir	*	*	*	41	47	*	*	131
Jharkhand	476	13	*	NA	165	174	101	1068
Karnataka	*	*	*	133	192	464	1174	159
Kerala	*	*	*	NA	NA	32	778	*
Madhya Pradesh	515	84	614	240	284	1157	1104	1655
Maharashtra	168	131	*	227(##)	94(##)	260(##)	1011	*
Manipur	*	0	*	16	15	*	*	*
Meghalaya	*	*	*	28(##)	29(##)	*	4	*
Mizoram	*	*	6(##)	9(##)	7(##)	12(##)	*	*
Nagaland	*	*	24	15	16	35	43	*
Orissa	*	61	205	171	137	*	1122	2247
Punjab	90	5	36	59	75	*	99	*
Rajasthan	51	20	*	206	285	1285	*	*
Sikkim	*	4	*	0	0	0	*	8
Tamil Nadu	*	37	*	256	256	380	669	*
Tripura	25	15	*	11	11	*	24	*
Uttarakhand	*	*	5	41	28	27	207	281
Uttar Pradesh	698	582	831	233	234	680	3212	4670
West Bengal	1084	150	*	348	289	154	923	*
Andaman & Nicobar Islands	*	*	*	4	4	*	0	*
Chandigarh	3	*	0	1	0	*	*	*
Dadra & Nagar Haveli	1	0	0	1	1	*	*	*
Daman & Diu	0	*	*	2	2	1	1	6
Delhi	23	7	*	0	0	1	2	1
Lakshadweep	*	*	*	3	3	*	*	*
Puducherry	*	*	*	0	2	*	*	*
<b>India</b>	<b>4252</b>	<b>2115</b>	<b>2433</b>	<b>2949</b>	<b>2991</b>	<b>7655</b>	<b>14225</b>	<b>1368</b>

Note: \*: Surplus; #: Data for 2009 repeated; ##: Sanctioned data for 2009 used; PHC: Primary Health Centre; CHC: Community Health Centre  
Source: RHS Bulletin, March 2010, M/O Health & F.W., GOI

It is also observed that there is not much check on these irrational prescription practices. A prescription audit system based upon the carrot and stick approach is, thus, urgently needed. Thus, in a sense, the National Health Policy seems to have many limitations.

### **Consumers' Perspective on Right to Health**

From the consumers' perspective, the progress made so far in facilitating right to health is far from complete. Achieving "health for all" requires that the measures taken by the government during the last few years are sustained and made more effective. The progress made so far is revealed by the findings from the field survey conducted under the present study. Some of the major findings are shown below:

- Only about 26 percent consumers have received institutional healthcare facility in last 6 months and majority of them (66 percent) have obtained healthcare facility from government hospitals. About 30 percent respondents have obtained healthcare facility from private hospitals.
- According to the responses received about 26 percent respondents have travelled more than 5 km to access institutional healthcare facility.
- Only about 31 percent respondents have rated quality of healthcare facility as "good". Majority of them are from urban area. Close to 50 percent respondents have rated healthcare facility as "fair".
- Only 44 percent respondents consider cost of obtaining healthcare services affordable.
- According to 59 percent respondents, doctors do not generally prescribe generic or competitively priced drugs and medicines. Even if they prescribe generic or competitively priced medicines, these are not easily available in the market according to 43 percent respondents. Majority of such people are from rural area and largely belong to BPL households.

### **How to Improve the Situation?**

From the above discussions, it has been observed that though in certain parameters we have been able to improve the situation, the attainment of "Health for All" remains only a slogan and still seems to be a distant dream. In order to improve the situation, it is necessary to adopt a comprehensive and need-based health policy at the national (macro) level. The basic objective should be the preventive aspects of disease control, but at the same time curative aspects need not be neglected.

In addition, they should focus on controlling the price of essential/ lifesaving drugs. The existing drug policy needs to cover a larger number of such drugs. There is also need for making these drugs available as and when required.

### **Conclusions and Recommendations**

The consumers' right to healthcare is a fundamental right for citizens to live with dignity. In India, though this right has not been enshrined in the Chapters on Fundamental Rights, it has been spelt out quite clearly in the Chapters on Directive Principles of State Policy. Furthermore, the broad objectives of the welfare state have been stated in the Preamble of the Indian Constitution, which defines justice as that including social, economic and political. And for consumers to achieve justice from the welfare state, it is necessary that the right to healthcare is considered as a basic right.

In India, the objectives of "Health for All" that was to be originally achieved by the year 2000 has not happened. Right to healthcare of people continue to be constrained by various structural and operational issues that have infected the healthcare system in India. This calls for some structural and practice changes, mainly the followings:

- Continuous focus on strengthening of existing healthcare system, including infrastructures;
- Quick action to fill the shortfalls in PHCs, CHCs, doctors, physicians, and others that exists in different Indian states between what is required and what is available;
- Lack of consumer awareness is a huge problem. Despite existence of a number of schemes for ensuring the fulfilment of healthcare needs of the poor people, funds remain unspent as there is no existing mechanism to create awareness among needy people. Awareness creating mechanism needs to be created, and where it already exists, needs to be strengthened. Potential role for Panchayati raj institutions should be explored;
- The current level of health budget as a percentage of GDP is quite low. There is immediate need for increasing the health budget to about 2 percent of GDP;
- Government should increase the institutional healthcare facilities in far and remote areas so that people will not have to suffer and travel a lot to access the facility;
- Free healthcare facilities should be provided to BPL households and for APL households it should be made affordable;
- Doctors should prescribe generic or competitively priced medicines to people which are easily accessible.

#### **Box 1.11: Linkages between Right to Healthcare in India and Consumer Protection Act**

*It may be recalled that, the Supreme Court held that under COPRA, Section 2 (1)(o):*

Service rendered to a patient by a doctor by way of consultation, diagnosis and treatment, would fall within the ambit of 'service'. The fact that doctors belong to the medical profession and are subject to the disciplinary control of the Medical Council of India and/or State Medical Councils under the Indian Medical Council Act would not exclude the services rendered by them from the ambit of COPRA.

Service rendered at any hospital/nursing home where charges are required to be paid by the persons or by the insurance company on a person's behalf, falls within the purview of the expression 'service'. Service rendered at a (i) non-Government hospital/nursing home and also at a (ii) Government hospital/health centre/dispensary where services are rendered on payment of charges as well as free of charge to those who cannot afford to pay. Free service would also be 'service' and the recipient a "consumer" under the Act.

On the question of the members' ability to decide medical negligence cases unless they were themselves medical practitioners, the Court ruled: "[it] cannot be expected that the members of the consumer fora must have expertise in all fields. It will be for the parties to place the necessary materials on record, which will enable the members to arrive at their findings on the basis of that material."

## **Right to Drinking Water and Sanitation**

### **An Overview**

Water is essential to life. In India, the importance of water has been highlighted for centuries. This is evident in the *Rigveda* compiled some thousands of years back (10<sup>th</sup> century BC). It says "Gracious be divine water for our protection, be they for our drink; and stream on us bliss and happiness. Sovereigns over precious things and rulers over man, water. We seek healing balm of you". It implies three important aspects of water: it can give joy; it can give happiness, and last but not the least, it is more important than many other things which are required for progress of human beings.

The above statements hold true even in modern life. Man cannot live without water. It is one of the most crucial and fundamental of basic needs. Along with water, there is another interconnected area – sanitation that is also of equal importance. Right to drinking water is explicitly defined

and described in the UN Guidelines for Consumer Protection (1985) as: “Governments should, within the goals and targets set for the International Drinking Water Supply and Sanitation Decade (1980s), formulate, maintain or strengthen national policies to improve the supply, distribution and quality of water for drinking. Due regard should be paid to the choice of appropriate levels of service, quality and technology, the need for education programmes and the importance of community participation.”

The United Nations Guidelines for Consumer Protection, 1985, addressed the issue of drinking water though not sanitation. However, as indicated above, both of them are inter-linked, and therefore have to be considered together. The right to drinking water and sanitation not only comes under the overall right to healthcare, but the issue can stand-alone as well. In other words, the right to healthcare is a step forward from the right to drinking water and sanitation. Hence, the issue is not only that of quantitative availability of drinking water or of people’s ability to have access to drinking water and sanitation but also, more importantly, the quality of water.

As indicated above, even before the UN Guidelines for consumer protection was universally recognised, the Water Decade (1981-1990) which was a co-ordinated international effort to “speed up” the water-quality transition and accelerate the introduction of water services in poor regions, marked the importance of water for survival of humanity.

As far as global situation of water and sanitation is concerned, according to a WHO/UNICEF<sup>37</sup> report, about 13 percent or over a billion people in the world were not able to access safe drinking water and almost 39 percent of the world’s population or over 2.6 billion people are living without improved sanitation facilities. The report also mentions that if the current trend continues unchanged, while the world will be able to meet the drinking-water target of the Millennium Development Goals (MDGs); the 2015 MDG target on sanitation will be badly missed, and nearly one billion people will continue to live without improved sanitation.

On a global scale, achieving water target alone in the absence of improved sanitation cannot be considered a major development, considering that in 1997, nearly 1.26 billion people lacked safe water supply and nearly 3.15 billion lacked access to sanitation services. In fact there is fear that those with access to safe drinking water can slip back to unsafe water.

In the case of India also, the situation is not very encouraging. About two-thirds of Indian homes have no drinking water facility from a treated tap source, and four-fifths are devoid of closed drainage connectivity for discharge of wastewater. While 87 percent of the households are now using tap, tube-well, hand-pumps and covered wells as the main source for drinking water, only 47 percent have the source of water within the premises. About 36 percent households still have to fetch water from a source located about 500 meters away in rural areas and 100 meters in urban areas.<sup>38</sup>

**Box 1.12: Potential Benefits of Improved Global Sanitation**

- 5.6 billion productive days would be gained through intervention, including
  - o 443 million school days,
  - o 2.4 billion healthy infant days,
  - o 1.25 billion productive adult days;
- \$229 billion would be gained through time saved;
- \$5.6 billion would be gained through the value of deaths avoided;
- A combined economic value of \$262 billion would be obtained.

*Source: WHO report, Evaluation of the Costs and Benefits of Water and Sanitation Improvements at the Global Level, 2004*

In case of sanitation, there are clear evidences that indicate that as high as 65 percent of the population do not have improved toilet facilities. On top of this, there are also indications that use of existing toilets in urban and rural areas is very low. This in a sense implies that India is heading towards a major sanitation crisis in the coming years, if immediate steps are not taken to address the issue. Though there have been efforts to address the issue, these have achieved limited improvements.

## Government Policy

In India, water is a State subject, and therefore right to access safe drinking water depends on success of measures and initiatives taken at the state level. This is, however, not to argue that the central government has no responsibility in this regard. Entry 17 (the State List, Seventh Schedule, Article 246) mentions:

“Water, that is to say, water supply, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of Entry 56 of List I”. It is understood that Entry 56, List I (the Union List) deals with inter-State water disputes. On the other hand, Entry 6 of List II deals with public health and sanitation. It is therefore clear that the States are responsible for availability and access to safe drinking water and sanitation facilities. At the local level, in urban India, Municipal Corporations supply safe drinking water and provide for requisite sanitation facilities. In rural areas it is usually the state public health engineering department which has the responsibility to supply water and provide sanitary facilities.

As far as the progress of right to safe drinking water in the last four decade is concerned, it has been influenced by initiatives taken at both national and state levels (Box 1.13).

### Box 1.13: Policy Milestones in Making Water Accessible to All

- **First phase (1972-73):** Launch of the Accelerated Rural Water Supply Programme (ARWSP) to ensure provision of adequate drinking water supply to the rural community through the Public Health Engineering System.
- **Second phase (1986-87):** Launch of the Technology Mission (renamed in 1991-92 as Rajiv Gandhi National Drinking Water Mission) with focus on technology intervention, human resource development support and other related activities. It had the following goals:
  - o Water for the entire rural population within five years;
  - o Adequate safe drinking water by the end of the Eighth Five Year Plan;
  - o Within accessible reach;
  - o On sustainable basis;
  - o Using appropriate technology; and
  - o Full participation of the people.
- **Third phase (1999-2000):** Reform projects evolved to involve community in planning, implementation and management of drinking water related schemes. It was later scaled up as Swajaldhara in 2002.
- **Fourth phase:** The continuing Rural Water Supply (RWS) sector initiative with major emphasis on ensuring sustainability of water availability in terms of potability, adequacy, convenience, affordability and equity while also adopting decentralized approach involving PRIs and community organisations.
  - o The ARWSP has been modified as National Rural Drinking Water Programme (NRDWP) for the Eleventh Plan period.

Source: India Water Portal

In addition, a Supreme Court judgement stated that the right to livelihood is included in the right to life and personal liberty, because no person can live without the means of living (Olga Tellis vs. Bombay Municipal Corporation, AIR 1986, SC 1800). Availability and access to safe drinking water and sanitation are certainly fundamental means of living. The judgement enlarged the

scope of the application of Article 21. More specifically in another judgement (Subhas Kumar vs. the State of Bihar, AIR 1991, SC 420), the Supreme Court observed that right to live is a fundamental right and it includes the *right of enjoyment of pollution free water* and air. [Emphasis added] In addition to these interpretations, Article 39 (a) states that the citizens, men and women equally, have the right to adequate means of livelihood.

In the background of growing importance of water as a scarce commodity and the need for an efficient water management mechanism, India introduced a new National Water Policy (NWP) in 2002, a decade after the introduction of economic reform programmes in India. The policy, which was a revised version of the Water Policy of 1987, duly accounted for the requirements of an emerging economy. The new policy contained various new elements. Some of the salient features of the National Water Policy (2002) include:

- Water being a basic human need and a precious asset, its planning, development and management need to be governed by national perspectives.
- Water resources available to the country should be brought within the category of utilisable resources to the maximum possible extent.
- Non-conventional methods for utilisation of water need to be practiced to further increase the utilisable Water resources.
- Water should be made available to water short areas by transfer from other areas including transfer from one river basin to another.
- Planning of water resources development projects should, as far as possible, be for multi-purpose with an integrated and multi-disciplinary approach having regard to human and ecological aspects.
- In the allocation of water first priority should be given for drinking water, followed by irrigation, hydro-power, ecology, agro-industries and non-agricultural industries, navigation and other uses, in that order.
- The exploitation of ground water should be regulated with reference to recharge possibilities and consideration of social equity.
- Careful planning is necessary to ensure that construction and rehabilitation activities proceed simultaneously and smoothly.
- Adequate emphasis needs to be given to the physical and financial sustainability of existing water resources facilities.
- Management of the water resources for diverse uses should incorporate a participatory approach by involving users and other stakeholders.
- Private sector participation should be encouraged in planning, development and management of water resources projects for diverse uses, wherever feasible.
- Both surface water and ground water should be regularly monitored for quality. Effluents should be treated to acceptable levels.
- Efficiency of utilisation should be improved in all the diverse uses of water and conservation consciousness promoted through education, regulation, incentives and disincentives.
- Needs of drought-prone areas should be given priority in the planning of project for development of water resources.
- The water sharing / distribution amongst the states should be guided by a national perspective with due regard to water resources availability and needs within the river basin.

The NWP is not an end in itself. Water being a State subject, the NWP recognised that its success will depend entirely on evolving and maintaining a national consensus and commitment to its underlying principles and objectives and that to achieve the desired objectives. The Central government NWP is required to be duly backed and supported by the formulation of the State Water Policies backed with an operational action plan. There are indications that till April 2010, 13 States/Union Territories have formulated and adopted State Water Policy, based on technical and financial assistance by the government of India.<sup>39</sup>

The government of India concern for providing water and sanitation to the common people can be understood from the trend in investment. Plan-wise investment data on water shows that both the central and state governments' investments have increased by about ten times over the last two decades (Table 1.15).

<b>Table 1.15: Central and State Governments' Investments in Water</b> (₹ In crore)		
<b>Plan Period</b>	<b>Water</b>	
	<b>Centre</b>	<b>State</b>
8th Plan (1992-97)	4140	5084
9th Plan (1997-02)	8455	10773
10th Plan (2002-07)	16254	15102
11th Plan (2007-2012)	40150	49000
<b>Total</b>	<b>71991</b>	<b>84597</b>
<i>Source: Report of the Working Group on Rural Domestic Water and Sanitation Sept. 2011, Ministry of Drinking Water and Sanitation</i>		

The developments or say development gaps that have taken place in the last decade, especially after the NWP (2002), can be directly linked to the effectiveness of the policy. It may, however, be recalled that even prior to this new policy, there have been several initiatives in India to address the water issue, and to make it accessible to the common people, especially the poor ones. Some of the policy milestones achieved are covered in the Box 1.13.

<b>Box 1.14 Accelerated Rural Water Supply Programme (ARWSP)</b>
<p>The ARWSP is one of the most important initiatives by the government of India to ensure access of water to sustain lives and livelihood in rural India. Under, this Central Government Funded scheme, which was launched in April 1973 and valid up to April 2012, funds are provided to States for making provision of safe drinking water in rural habitations. The state governments are to provide matching funds from their own resources.</p> <p>Under this programme, the following norms are followed:</p> <ul style="list-style-type: none"> <li>• 40 litres per capita per day (lpcd) of drinking water for human beings,</li> <li>• 30 litres per capita per day of additional water for cattle in areas under the Desert Development Programme,</li> <li>• one hand-pump for every 250 persons and</li> <li>• availability of water source in the habitation or within 1.6 km in the plains and 100 m elevation in hilly area.</li> </ul> <p>A certain proportion of the ARWSP funds is set aside for implementation of Sector Reforms projects for institutionalizing community participation in the Rural Water Supply Programme. The programme has been introduced in 67 pilot districts across the country, under which, the community is equipped to plan, sanction, implement, manage, operate and maintain rural water supply schemes of their own choice so as to ensure their sustainability. Under these projects, people's contribution amounting to at least 10 percent of the capital cost and 100 percent of the O&amp;M cost are also envisaged. The beneficiaries are, however, allowed to contribute in the form of cash, kind or labour.</p> <p>After the 73rd amendment to the Constitution of India, the subject of rural water supply was placed under the Panchayati Raj Institutions, and the Panchayats/local community have the power to implement schemes, more particularly in selecting the location of hand pumps, stand-posts and spot sources; in management of sources and schemes.</p>
<i>Source: Ministry of Rural Development, Government of India.</i>

**Table 1.16: State-wise Funds Allocation, Released and Utilised under ARWSP in India**  
(₹ In Crore)

States/UTs	2000-2001		2010-11	
	Allocation	Expenditure	Release	Expenditure
Andhra Pradesh	132.59	75.21	233.23	51.96
Arunachal Pradesh	34.92	11.95	58.43	0
Assam	58.98	32.21	206.41	0.1
Bihar	46.61	0.00*	0	44.26
Chhattisgarh			61.88	21.57
Goa	14.04	0.15	0	0
Gujarat	74.85	69.91	271.34	82.93
Haryana	19.62	17.09	111	12.11
Himachal Pradesh	56.78	17.16	66.86	10.64
Jammu and Kashmir	90.7	0	205.88	38.73
Jharkhand			78.82	0
Karnataka	108.59	22.95	306.34	0
Kerala	57.46	7.66	68.53	9.76
Madhya Pradesh	95.29	41.35*	199.52	13.48
Maharashtra	169.34	231.91	348.3	68.69
Manipur	12.82	0	25.94	0
Meghalaya	13.73	2.62	31.42	1.57
Mizoram	9.81	1.12	17.86	0
Nagaland	10.2	0	24.56	0
Orissa	62.13	14.14	102.44	9.45
Punjab	23.83	6.03	41.11	18.08
Rajasthan	205.12	65.42	553.58	105.1
Sikkim	6.5	1.49	7.34	1.96
Tamil Nadu	73.08	53.86	158.46	6.16
Tripura	12.16	5.6	26.94	3.79
Uttar Pradesh	124.72	42.63*	449.56	240.14
Uttaranchal	-	-	66.21	8.31
West Bengal	78.95	25.02	198.56	0
Andaman and Nicobar Islands	0.13	0	0	0
Dadra & Nagar Haveli	0.07	0	0	0
Daman & Diu	0	0	0	0
Delhi	0.05	0	0	0
Lakshadweep	0	0	0	0
Pondicherry	0.05	0	0	0
Chandigarh	0	0	0	0
India	1593.12	745.48	3920.49	748.78

Note: ARWSP: Accelerated Rural Water Supply Programme

\*: Includes newly created states, Jharkhand, Chattisgarh and Uttaranchal

Source: indiastat

As in the case of water, sanitation is also a State responsibility under the Indian Constitution. In case of sanitation,<sup>40</sup> India has two distinct approaches: one for rural India and another for urban India. While sanitation in rural India is regulated and managed by Ministry of Rural Development (sometimes through *panchayati raj institutions*); Ministry of Urban Development is responsible for devising urban sanitation policies. The policy is implemented by the Urban Local Bodies.

Urban sanitation in India is presently governed and guided by the National Urban Sanitation Policy launched by the Government of India in 2008.<sup>41</sup> The vision statement of the National Urban Sanitation Policy says, “All Indian cities and towns become totally sanitised, healthy and liveable and ensure and sustain good public health and environmental outcomes for all their citizens with a special focus on hygienic and affordable sanitation facilities for the urban poor and women.” Prior to the current sanitation policy, drive for improved sanitation has been undertaken on a consistent basis. This, in part, is reflected by Table 1.17).

The key issues to be addressed to achieve the vision as mentioned in the Urban Sanitation Policy (2008) are: poor awareness; social and occupational aspects of sanitation; fragmented institutional roles and responsibilities; lack of an integrated city-wide approach; limited technology choices; reaching the un-served and poor; and lack of demand responsiveness. The policy has the overall goal to transform urban India into community-driven, totally sanitised, healthy and liveable cities and towns. The specific goals of the policy include:

- Awareness Generation and Behaviour Change
  - o Generating awareness about sanitation and its linkages with public and environmental health amongst communities and institutions;
  - o Promoting mechanisms to bring about and sustain behavioural changes aimed at adoption of healthy sanitation practices;
- Open Defecation Free Cities
  - o Promoting access to households with safe sanitation facilities (including proper disposal arrangements);
  - o Promoting community-planned and managed toilets wherever necessary, for groups of households who have constraints of space, tenure or economic constraints in gaining access to individual facilities;
  - o Adequate availability and 100 percent upkeep and management of Public Sanitation facilities in all Urban Areas, to rid them of open defecation and environmental hazards;
  - o Integrated City-Wide Sanitation
- Re-Orienting Institutions and Mainstreaming Sanitation
  - o Mainstream thinking, planning and implementing measures related to sanitation in all sectors and departmental domains as a cross-cutting issue, especially in all urban management endeavours;
  - o Strengthening national, state, city and local institutions (public, private and community) to accord priority to sanitation provision, including planning, implementation and O&M management;
  - o Extending access to proper sanitation facilities for poor communities and other unserved settlements.

Year	Sanitation Coverage in Rural Areas (%)
2000-01	21.92
2001-02	22.38
2002-03	22.86
2003-04	27.34
2004-05	30.56
2005-06	32.02
2006-07	39.03
2007-08	48.02
2008-09	56.03
2009-10	63.78
2010-11	71.65
2011-12	73.67

*Source: Source: Report of the Working Group on Rural Domestic Water and Sanitation Ministry of Drinking Water and Sanitation*

As far as initiatives for addressing sanitation issues in rural India is concerned, India realised an important fillip in its sanitation initiatives during implementation of the 6th Five year plan (1980-85). The beginning of the period coincided with the start of a national decade for drinking water and sanitation. In 1986, Department of Rural Development, Government of India initiated the Central Rural Sanitation Programme (known as CRSP) for providing rural sanitation services. In light of the 9<sup>th</sup> Plan strategy, Government of India introduced a comprehensive sanitation programme called the Total Sanitation Campaign (TSC) in 1999 with the objective of improving the sanitation coverage on demand driven principles.

The nation-wide TSC set ambitious targets of attaining the MDG targets by the end of tenth five year plan itself. The commitment was in recognition of the high costs of inadequate sanitation. Some of the major costs include: the death of about a million people a year (mostly children), from sanitation-related diseases besides the environmental damage; and the indignity caused to millions of its people by inadequate sanitation.

The success of the campaign is premised on various other initiatives. Implementation of the TSC requires the followings:

- Large scale social mobilisation at the district level;
- At the state level, State Government should constitute a State Water and Sanitation Mission (SWSM) to help in supervision of implementation of TSC in the project districts, prepare the Annual Implementation Plan for each district as per the progress made by districts, receive grant-in-aid from Centre earmarked for specific project districts and disburse the same.
- The State Government should also set up a Water and Sanitation Support Organisation (WSSO) under State Water and Sanitation Mission (SWSM) to primarily deal with IEC, HRD and monitoring and evaluation issues at the State level.

#### **Box 1.15: The Contribution of the Total Sanitation Campaign**

The Total Sanitation Campaign (TSC) launched in 1999, has helped in overcoming some of these obstacles faced in first nation-wide sanitation programme of 1986. The campaign has resulted in some improvement in the overall sanitation situation. Of the 138.2 million rural households in India, (as per 2001 Census) nearly 3.5 million have constructed household toilets with support from the TSC. Over 1,700 women's complexes, 41,000 school toilets have been built, apart from other support facilities such as rural sanitary marts (RSMs), at a total cost of just over ₹2.92 billion.

*The main objectives of the TSC include:*

- Bring about an improvement in the general quality of life in rural areas
- Accelerate sanitation coverage in rural areas. Eliminate open defecation to minimise risk of contamination of drinking water sources and food.
- Generate demand through awareness and health education
- Cover all schools and Anganwadis in rural areas with sanitation facilities and promote hygiene education among students and teachers
- Encourage cost effective and appropriate technologies in sanitation
- Endeavour to reduce water and sanitation related diseases.

*The TSC operates on the followings principles:*

- Demand driven
- Community driven & people centered Campaign mode approach
- Alternative delivery mechanisms (Rural Sanitation Marts/ Production Centres)
- Strong focus on school sanitation & hygiene promotion
- Involvement of co-operatives, women Groups, self-help groups, Youth Clubs, NGOs, PRI etc.
- Cost sharing in construction of sanitation facilities

*Source: UNICEF and others*

- Specific Communication and Capacity Development Units (CCDUs) be set up and work for taking up state level HRD & IEC activities as well as monitoring of TSC projects.

### **Current Situation in India**

Since the First Five Year Plan (1951-1956), Government of India (GoI) and state governments have till the end of 2010-11 spent about ₹1,35,000 crore on rural drinking water. Under the Eleventh Five Year Plan (2007-2012), the total expenditure is likely to exceed ₹90,000 crore<sup>42</sup> and it is certain that investment in rural water supply will increase even more.

In urban areas, municipal authorities are implementing the objective of supply of safe drinking water to households as well as to industries. In almost all the cities and towns, water is to be supplied in a time bound manner. Households are to pay a minimal amount of water tax for consumption of water.

Apart from in-house supply, municipalities also erect water taps for public use. People do not have to pay for this supply, i.e. water supply in this case is regarded as pure public good, and exclusion principle is not applied.

In rural areas, implementation of the Technology Mission on Drinking Water is covered under four heads. The first is the Accelerated Rural Water Supply Programme (ARWSP), a Centrally sponsored programme under which funds are released to the state governments in four instalments, based on the physical and financial progress of the scheme.

The second is the Minimum Needs Programme (MNP) which is a part of the State plan, and funds for which are allocated to each State under their annual plan provisions. Funds released under the ARWSP and the MNP are utilised by the state governments for provision of hand pumps, sanitary wells and piped water supply systems, depending upon the availability of ground water.

The third category includes the mini-mission projects under which 55 districts of the country have been identified for a district-based integrated approach involving the community and non-governmental organisations, in implementation, operation, maintenance, and health education. The projects are aimed at solving special problems like excess fluoride, excess iron and salinity in water.

And finally, the Technology Mission has five sub-missions for tackling special problems relating to the quality of water.

India's progress towards fulfilling improved sanitation requirements has been steady. But there is long way to go. The number of people using improved sanitation has increased over the last few decades. While in 1981, only one percent of households in rural India had sanitation coverage; it increased to nine percent of the households in 1991 and by 2001, twenty two percent of the households had attained sanitation coverage.<sup>43</sup>

Over the years the sanitation coverage has increased and led marked improvement in health status of the people. According to a report,<sup>44</sup> individual household latrine coverage is around 71 percent as of April 2011 as per the data reported by State through the online monitoring system maintained by the Ministry of Drinking Water and Sanitation. In terms of progress made during the 11<sup>th</sup> Five Year Plan, the coverage has progressively moved from 39 percent approximately in the beginning of the Plan to 73 percent as of August, 2011.

<b>Table 1.18: State-wise Rural Sanitation Coverage (August 2011)</b>	
<b>Sanitation Coverage (%)</b>	<b>States</b>
30-40	Daman & Diu, Bihar
40-50	Andaman & Nicobar Islands, Jharkhand, Jammu & Kashmir
50-60	Puducherry, Orissa, Chhattisgarh, Rajasthan
60-70	Delhi, Manipur, Chandigarh, Assam
70-80	Dadra & Nagar Haveli, Arunachal Pradesh, Meghalaya, Karnataka, Maharashtra, Nagaland, Andhra Pradesh, Madhya Pradesh, West Bengal
80-90	Uttarakhand, Mizoram, Tamil Nadu, Uttar Pradesh, Gujarat
90-100	Goa, Lakshadweep, Punjab, Haryana
100 %	Himachal Pradesh, Kerala, Sikkim, Tripura
<b>73.67 %</b>	<b>INDIA</b>
<i>Source: Report of the Working Group on Domestic Water and Sanitation ,</i>	

With regard to sanitation, municipal authorities are responsible for keeping a clean environment within their jurisdiction. Nowadays, the municipalities are implementing centralised sanitation schemes. The importance of such a programme is that most of the communicable diseases are water-borne, and therefore, for the purpose of public sanitation and public healthcare, such a scheme is an absolute necessity.

Furthermore, the government has also taken up a scheme called the integrated low cost sanitation programme. Under this programme, both small and medium towns, fringe areas of the cities and the rural areas of the country have been given highest priority. Under the low cost sanitation programme, individual and community latrines are constructed according to their needs, and at present eight agencies are involved (directly or indirectly) in the implementation of this programme and in the rehabilitation of scavengers in the country.

The following are the agencies involved in the programme and their area of work:

- The Ministry of Urban Development is in-charge of the integrated development of small and medium towns;
- HUDCO (Housing and Urban Development Corporation) for basic sanitation schemes;
- Central Ganga Authority for Ganga Action Plan;
- The Department of Rural Development is in-charge of centrally sponsored Rural Sanitation Project (CRSP);
- CAPART through NGOs for low cost sanitation projects in rural areas;
- The Ministry of Welfare is in-charge of rehabilitation of scavengers;
- The World Bank/UNICEF assisted schemes under the control of the Ministry of Urban Development and the Department of Rural Development; and
- Sanitation programmes of state governments under the state plans.

### **Box 1.16: Integrated Low Cost Sanitation Scheme**

Integrated Low Cost Sanitation (ILCS) Scheme started in 1980-81 (through the Ministry of Home Affairs and later through Ministry of Social Justice & Empowerment) with the objective of eradicating all dry latrines and thereby liberating manual scavengers from inhuman practice of carrying night soil. The scheme also has provision for construction of new latrines for the Economically Weaker Section (EWS) households who have no latrine facility. (The scheme changed hands in 1989-90 as it was transferred to Ministry of Urban Development & Poverty Alleviation, and from 2003-04 to Ministry of Urban Employment & Poverty, Alleviation / Ministry of Housing & Urban Poverty Alleviation).

Sanctions have been made and funds have been released for conversion of all reported dry latrines to the States. Out of the funds available for construction of sanitary latrines to Economically Weaker Sections (EWS) households, funds have been fully committed and projects sanctioned for construction of 1,70,337 new latrines and States have reported that work is in progress.

ILCS scheme is in its final year of implementation and the mandate of the scheme was conversion of dry latrines which has been fully achieved with total sanction of projects for conversion of all dry latrines reported by state governments.

*Source: Government of India, Press Information Bureau, 22 February, 2012*

### **Problems of Implementation**

The major problem of implementation is related to financing. Given the exorbitant demand (need) for safe drinking water and sanitation, the funding available is too small. Financial constraint is the most important obstacle in providing drinking water facilities and sanitation both in the urban and rural areas.

The sanitation programme seems to be much more problematic. For example, the Eighth Plan provision of ₹150 crore in the Central Plan was only about 25 percent of the required assistance to meet the objective of conversion of all existing dry latrines in the urban areas of the country, numbering 50 lakh units, into low cost pour-flush-sanitary latrines.

### **Box 1.17: In Delhi, More than one-third government schools don't have clean toilets**

According to a recent survey conducted by the Child Right and You CRY (an NGO), thirty seven percent government schools in Delhi do not have clean toilets. This gives students no option but to urinate out in the open. The survey findings also show that 21 percent of these schools had major infrastructural flaws such as blocked sewage systems, broken toilet doors and cracked walls. It also reported that many schools in the southwest district lacked buckets and mugs in their toilets and 24 percent even lacked a water supply. Of the remaining 76 percent schools that did have running water, 18 percent have a supply of contaminated water.

Surprisingly, the survey also found that 15 percent of the 318 toilets that were reserved for school staff were in better condition than those for students and common staff. The problem of sanitation is, however, not limited to the capital's government schools. According to a recent UNICEF and WHO joint monitoring programme report on drinking water and sanitation, 60 percent of the world's open defecators live in India. Though growing rapidly at 20 million new toilets per year, India's sanitation coverage is below 50 percent. At the current rate, according to the joint monitoring report, India will reach its millennium development goals only by 2054.

*Source: The Times of India, 5 April, 2012*

Apart from the macro problem of financing the supply of safe drinking water and sanitation to all, the micro level problems are related to wastage, corruption, delay in implementation etc. The wastage is mainly due to the existence of the non-exclusion principle while supplying drinking water. The free supply does not motivate people to use water diligently, and this leads to unsustainable use of water.

Another problem is with respect to access to safe drinking water, particularly for the Scheduled Castes, Scheduled Tribes and other weaker sections of the population, and in the water scarcity areas such as deserts.

Regarding the proper maintenance of the installed pumps, the government scheme has the following problems:

- *Lack of infrastructure at the grass root level:* For ensuring regular and sufficient water supply, proper attention to the repair and maintenance of the hand pumps is very important. The government department has established a three-tier system to look after this job: an unpaid caretaker with only two spanners at the village level, a trained mechanic at the block level, and a mobile team of trained mechanics at the district level. The system suffers from lack of co-ordination;
- *Lack of community participation:* Since the block level mechanic carries out his job with the help of outside labour, there is hardly any community involvement; and
- *Shortage of spare parts:* This is an inherent weakness of the multi-tier system of maintenance.

### Consumers' Perspective on Right to Drinking Water and Sanitation

The progress made so far is revealed by the findings from the field survey conducted under the present study. Some of the major findings are shown below:

- About 54 percent respondents meet their drinking water demand through government supply and 30 percent receive it from privately owned source like – bore well, well etc. The remaining 16 percent receive drinking water from community sources/ shared sources like – community hand pump, well etc.
- Government supply is more common in urban area as compared to the other two sources, while community sources are more in rural area.
- About 74 percent respondents receive adequate quantity of drinking water from these sources. However, only 69 percent respondents believe that the water from these sources is potable and safe for drinking. About 22 percent respondents consider their primary source of drinking water expensive, while 34 percent receive it for free.
- About 26 percent respondents covered under the survey do not have access to toilets; the situation is even bad in rural areas where 33 percent do not have access to toilet facility. However, access to sanitation is everyone's right irrespective of region and financial status.
- Over three-fourth of urban respondents have access to a private toilet at home while 13 percent use a community toilet. About 12 percent do not have access to any toilet and majority of them are from BPL Households.
- Central region (53 percent) has the highest proportion of respondents without access to toilets, whereas northern region has the highest proportion of respondents with access to toilet facility both private and community.
- Only 38 percent of those who use community toilets have reported them to be clean with adequate water supply and lighting arrangements.
- Only 16 percent of those who have toilet at home have reported receiving government support for construction of toilet at home. About 24 percent respondents are aware about government schemes such as Nirmal Gram Yojana/Integrated Low Cost Sanitation Scheme/National Urban Sanitation Programme aimed at providing affordable and hygienic sanitation facility. Out of 11,499 respondents covered under the survey only 17 percent believe that government support for home community toilet is easily accessible.

## How to Improve the Situation?

Access to safe and potable drinking water and hygienic sanitation is very important to ensure good health of an individual. However, from the consumers' perspective, the progress made so far in facilitating right to drinking water and sanitation health is far from complete. Achieving the interconnected right to drinking water and sanitation requires that the measures taken by the government during the last few years are sustained and made more effective.

Field survey reveals that a significant number of people do not have access to toilets; the situation is even bad in rural areas. It is required that the government initiative be extended and sustained for a longer period so that each and every one in the rural areas have access to both sufficient good quality potable drinking water and sanitation facilities.

## Conclusions and Recommendations

The issue of drinking water and sanitation cannot be discussed in isolation. The issue of "health for all" has to be tackled along with the issue of the quality and quantity of drinking water and proper sanitation facilities. These two integrated issues have been duly taken care in the new water policy.

In order to solve the problems associated with the poor state of supply of drinking water and sanitation, it is necessary to make a comprehensive plan with the broad objective of the consumer's right to safe drinking water and sanitation. What is necessary is not only the decentralisation of various schemes to provide better access to safe drinking water and sanitation facilities, but also a decentralised financing mechanism.

Thus, the imperative is to pull the people out of inertia and make them responsible for the availability of and access to safe drinking water and sanitation. In this respect, the following points are to be noted for efficient management, operation and maintenance of the decentralised system:

- Develop an effective information management system so that the physical and financial progress of water supply facilities can be monitored periodically;
- Ensure proper maintenance of the assets created, involvement of the community is necessary;
- Implementation of the maintenance system in States with village level, block level and district level planning; and
- To involve women in the selection and maintenance of the water supply systems.

Therefore, on the basis of the points made above, it is necessary to introduce a community-based water management system for equitable distribution of drinking water among the population of rural India, especially for the socially and economically weaker sections.

As a complement to the system of decentralised planning, health and water educators have a positive role to play in spreading information related not only to prevention of waterborne diseases and water pollution, but also to water economics. In villages or urban slums, the possibilities of sanitary planning for recycling unfiltered water could also be explored.

With respect to the proper implementation of the low cost sanitation programme, the imperative is to properly evaluate the technical, financial, socio-cultural and other aspects of the programme. In addition, the problems are not only related to delay in implementation or corruption, but also with respect to the effective participation of the community in maintaining and using available water resources and sanitation facilities. This also needs to be addressed at the earliest.

## Right to Shelter

### An Overview

Right to shelter is an important component of human rights, and it emerges from the concern for homeless people. Homelessness can be defined as the condition and social category of people who lack housing, because they cannot afford, or are otherwise unable to maintain, a regular, safe, and adequate shelter.

Right to housing is equally important as right to food and other basic rights. This is evident in the coverage in the Article 25 of UN Universal Declaration of Human Rights, which though at the cost of repetition may be reiterated here again. It explicitly says, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care ...”

Towards fulfilment of right to shelter, the United Nations Housing Rights Programme (UNHRP) launched in April 2002,<sup>45</sup> was one of the most important global initiative. The programme was a joint initiative by UN-HABITAT and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The focus of the programme can be linked to the Habitat Agenda<sup>46</sup> which states that “Within the overall context of an enabling approach, Governments should take appropriate action in order to promote, protect and ensure the full and progressive realisation of the right to adequate housing”.

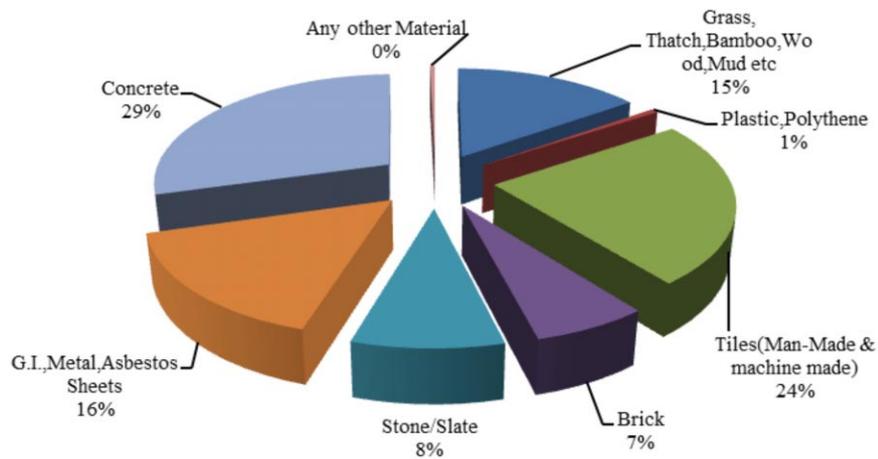
The enshrined development objective of the UNHRP is to assist States and other stakeholders with the implementation of their commitments in the Habitat Agenda to ensure the full and progressive realisation of the right to adequate housing as provided for in international instruments.

However, even many years after the introduction of UNHRP, the world is nowhere near the solution of the problem. According to a UN report, an estimated 100 million people are homeless worldwide.<sup>47</sup> In addition, as per the UN Habitat data, about 1.6 billion people live in substandard housing, and about one billion people (32 percent of the global urban population) live in urban slums. Further, it is expected that if no serious action is taken, the number of slum dwellers worldwide would increase over the next 30 years to nearly 2 billion. Inaction could push the world towards a serious global housing crisis.

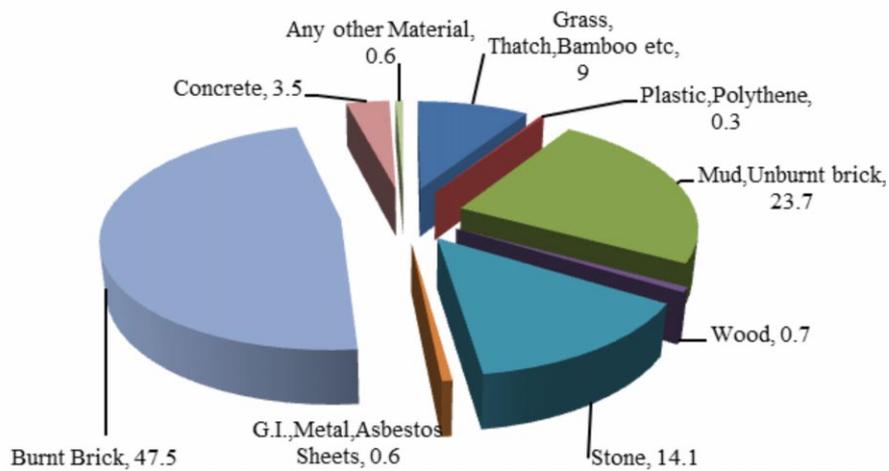
The situation is not much different in India. The Census report, in 2001, enumerated 1.94 million homeless people in India, out of which 1.16 million lived in villages, and only 0.77 million lived in cities and towns. These numbers have since likely to have grown in the 2011 census, though the detailed results of the 2011 census on homeless are not yet available. There have also been reports of undercounting on account of the invisibility. According to one source (Action Aid, 2003), the number of homeless persons in India was 78 million in 2003. As per data from National Urban Housing and Habitat Policy (2007), at the end of the 10th Five Year Plan, the housing shortage is estimated to be 24.7 million. This includes both rural and urban areas. The housing problem in urban areas is further aggravated by growing urbanisation, coupled with lack of adequate housing infrastructure.

In addition to the housing shortages, there are millions of people especially in rural areas and urban slums who live in dilapidated state with very poor housing condition. Though, the proportion of such people varies across states and Union Territories, but it is a national concern. The overall situation is demonstrated by the Figure 1.10 to 1.12.

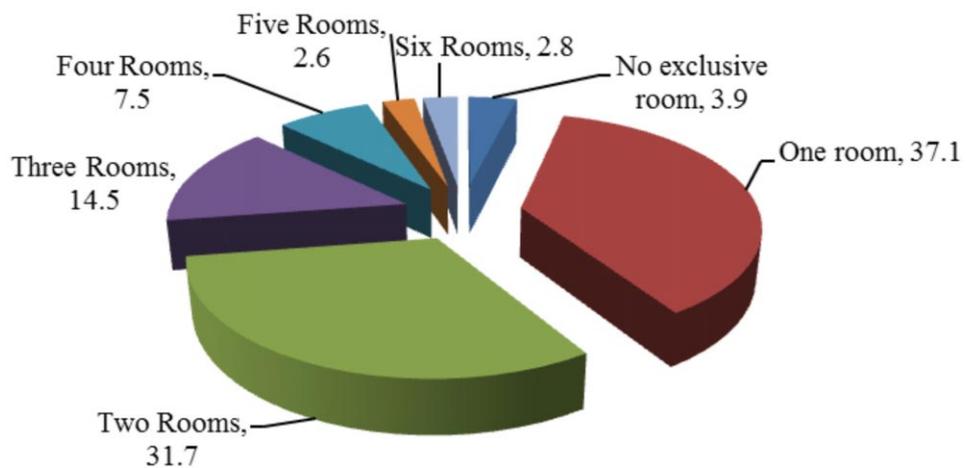
**Figure 1.10: Distribution of Households by Type of Roof**



**Figure 1.11: Distribution of Households by Type of Walls**



**Figure 1.12: Distribution of Households by Number of Rooms**



Source: Census 2011

## Review of Government Policy and Achievements

In India, the right to shelter is not covered under any particular fundamental right. However, housing remained an important development issue after independence. It may be recalled that a massive housing initiative focusing on the rehabilitation of refugees was taken up immediately after partition which lasted around 1960. Under the initiative, approximately 5 lakh families were housed in various centres mainly located in Northern India. A Village Housing Scheme was also launched as part of the Community Development Movement in 1957. Through this scheme, loans were provided to individuals and cooperatives up to a maximum of Rs 5000 per house. This resulted in building up of 67000 houses by the end of the Fifth Plan (1980).

Even prior to this, the Government of India focus on housing for the poor became more pronounced in 1972-73, when it was highlighted by a Lok Sabha Estimate Committee report that about 73 percent of the rural population reside in unsatisfactory *kutcha* structures. The report also made it clear that the problem of rural housing continue because of lack of government focus on the issue. This resulted in some focused government initiatives and launch of a Central Scheme called House Sites cum Construction Assistance Scheme in the 4th Plan. Further to this, under the 20-point programme (adopted in the mid-1970s), the right to shelter was recognised as one area for which the government is responsible.

In the 1980s and afterwards, various housing schemes have been introduced in India from time to time. One of the most important of these schemes is *Indira Awas Yojana* (IAY).<sup>48</sup> The IAY was, however, not a completely new scheme. Its genesis can be traced in the programmes of rural employment, which began in the early 1980s. Under the National Rural Employment Programme (NREP) which began in 1980, and the Rural Landless Employment Guarantee Programme (RLEGP), which began in 1983, construction of houses was one of the major activities. Indira Awas Yojana (IAY) was launched during 1985-86 as a sub-scheme of RLEGP, and the scheme mainly covered Scheduled Caste/Scheduled Tribe families. The IAY, thereafter, continued as a sub-scheme of *Jawahar Rozgar Yojana* (JRY). From the year 1993-94, the scope of IAY was extended to cover below the poverty line Non-Scheduled Castes/Scheduled Tribes families in the rural areas.

The IAY was de-linked from JRY and made an independent scheme with effect from 1st January 1996. The objective of the *Indira Awaas Yojana* is primarily to help construction/upgradation of dwelling units of members of Scheduled Castes/Scheduled Tribes, freed bonded labourers, minorities in the below poverty line category and other below poverty line non-SC/ST rural households by providing them a lump sum financial assistance. The scheme is funded on cost-sharing basis between the Government of India and the state governments in the ratio of 75:25, with the exception of North East states, in which case the cost sharing between the Central and state governments is on the basis of ratio of 90:10 respectively.

In urban India also, a number of housing schemes have been launched from time to time. Some of the popular schemes launched in the last two decades are listed in the Box 1.18.

<b>Box 1.18: Major Housing Initiatives in Urban India</b>
<ul style="list-style-type: none"><li>• 1990: Nehru Rojgar Yojana's Scheme of Housing and Shelter Upgradation (SHASHU);</li><li>• 1990-91: Urban Basic Services for the Poor (UBSP);</li><li>• 1996: National Slum Development Programme (NSDP);</li><li>• 1998: Two Million Housing Programme</li><li>• 2001: Balmiki Ambedkar Awas Yojana</li><li>• 2005: JNNURM</li></ul>
<i>Source: The Indian Institute for Human Settlement</i>

Besides, the housing schemes launched in India from time to time during the periods preceding introduction of economic reforms programme in India, special mention is needed for some more focused policies and schemes launched during the post reforms periods.

In pursuance of inclusive development, the National Housing Policy, 1994 was introduced. The 1994 policy sought to increase supply of land with a view to promote a healthy environment. In 1998, the National Housing & Habitat Policy was launched with greater emphasis on the aspect of “Habitat” as a focus to housing. This policy seeks to enhance and deepen the role of Government as a ‘facilitator’ and ‘regulator.’ More specifically, this policy emphasised on earmarking of land for the economically weaker section (EWS)/low income groups (LIG) groups in housing projects. In addition to the policy, the policies adopted by the Central Government, from time to time, were accompanied by initiation of various programmes and schemes.

Some of these schemes include, the National Slum Development Programme (NSDP) (with provision for adequate and satisfactory water supply, sanitation, housing, solid waste management, primary and non-formal education); the Swarna Jayanti Shahari Rozgar Yojana (SJSRY designed to provide gainful employment to the urban poor by encouraging the setting up of self-employment ventures and provision of wage employment opportunities for families below poverty line in urban areas); the Two Million Housing Programme (TMHP launched with the objective of ‘housing for all’ with particular emphasis on the needs of economically weaker sections and low income group categories); and the Valmiki Ambedkar Awas Yojana (VAMBAY aimed at providing subsidies for construction of housing and sanitation for urban slum dwellers living below poverty line in different towns/cities all over the country).

These programmes made some significant contribution. For example, under VAMBAY scheme financial assistance was provided for construction of 4,42,369 dwelling units. Similarly, NSDP and SJSRY benefitted 45.87 million and 31.77 million respectively during the 10th Plan periods. In total, the period 1991 to 2001 witnessed a net addition of 19.52 million dwelling units in the urban housing stock (Census 2001) involving average annual construction of 1.95 million houses. The share of ownership housing in urban areas increased from 63 percent in 1991 to 67 percent in 2001 (Census 2001).

The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) supports 63 cities (7 mega cities, 28 metro cities and 28 capital cities and towns of historical/religious importance) across the country in terms of specifying infrastructure gaps relating to water, sanitation, sewerage, drainage and roads on the one hand and deficiencies in housing and basic services on the other.

On the basis of City Development Plans, the JNNURM seeks to fill up the gaps in infrastructure and deficiencies in housing and basic services through appropriate investments. In addition to these 63 cities, urban infrastructure and slums are also being addressed in the remaining Non-Mission cities through the Urban Infrastructure Development Scheme for Small and Medium Towns (UIDSSMT) and Integrated Housing and Slum Development Programme (IHSDP).

The National Urban Housing and Habitat Policy, 2007<sup>49</sup> seeks to use the perspective of Regional Planning as brought out in the 74<sup>th</sup> Amendment Act in terms of preparation of District Plans by District Planning Committees (DPCs) and Metropolitan Plans by Metropolitan Planning Committees (MPCs) as a vital determinant of systematic urban planning. The policy seeks to promote a symbiotic development of rural and urban areas. In this regard, the policy seeks to ensure refinement of Town and Country Planning Acts (wherever required) and their effective implementation.

The focus of this policy is to provide “Affordable Housing for All” with special emphasis on vulnerable sections of society such as Scheduled Castes/Scheduled Tribes, Backward Classes, Minorities and the urban poor. Some of the important features of this policy include:

- The policy seeks to assist the poorest of poor who cannot afford to pay the entire price of a house by providing them access to reasonably good housing on rental and ownership basis with suitable subsidisation;
- The policy seeks to develop innovative financial instruments like development of Mortgage Backed Securitisation Market (RMBS) and Secondary Mortgage Market;
- This policy seeks to accelerate construction activities for giving a boost to employment for vulnerable sections of society;
- The policy aims to promote development of cost-effective, quality approved building materials and technologies with a view to bringing down the cost of EWS/LIG houses;
- The policy aims to complement poverty alleviation and employment generation programmes for achieving the overall objective of “Affordable Housing for All” or “All” with sustainable development;
- The policy dwells upon the roles of various stakeholders and specific action required pertaining to Land, Finance, Legal and Regulatory Reforms as well as Technology Support and Transfer;
- The policy seeks to accelerate the development of small and medium towns which can serve as a generators of economic momentum with the objective of reducing the rate of migration to large cities;
- Besides the above, the policy lays special emphasis on the development of North-Eastern States as well as the need to accelerate the pace of its socio-economic progress.
- Special emphasis on scheduled castes/tribes/backward classes/minorities, empowerment of women within the ambit of the urban poor;
- Focus on a symbiotic development of rural and urban areas;
- Emphasis on urban planning, increasing supply of land, use of spatial incentives;
- Encouragement to integrated townships and Special Economic Zones;
- 10-15 percent of land reserved for EWS/LIG Housing through appropriate spatial incentives;
- Private sector permitted land assembly within the purview of Master Plans;
- Action Plans for urban slum dwellers and special package for cooperative housing, labour housing and employees housing is to be prepared;
- States to be advised to develop 10 years perspective plan for housing of EWS/LIG. All States to be encouraged to develop a “Habitat Infrastructure Action Plan” for all cities with a population of over one lakh;
- Primacy to provision of shelter to urban poor at their present location or near their work place; and
- Micro finance institutions to be promoted to expedite flow of finances to urban poor.

The policy and its integrated features makes one believe that it can contribute significantly in addressing the issue of homelessness in India. However, only time will tell about its effectiveness, as it has a long way to go.

### **Present Situation in India**

The data on homeless in India is based on the census of India definition of ‘houseless population’. The census defines houseless as the persons who are not living in ‘census houses’. As per the definition, a ‘census house’ is referred to as a ‘structure with roof’. There are several instances, where this definition does not hold true. The Supreme Court of India defines houseless as:

- Persons who do not have a house, either self-owned or rented, but instead
  - o Live and sleep at pavements, parks, railway stations, bus stations and places of worship, outside shops and factories, at constructions sites, under bridges, in hume pipes and so on;

- o Spend their nights at night shelters, transit homes, short stay homes, beggars homes and childrens' homes;
- o Live in temporary structures without full walls and roof, such as under plastic sheets, tarpaulins or thatch roofs on pavements, parks, nallah beds and other common spaces.

Coming back to the actual scenario of houseless in India, one can say that the scenario has not changed much despite several initiatives taken by the Government of India over the last few decades. As indicated above, even according to the Census data, in 2001 enumerated 1.94 million homeless people in India, out of which 1.16 million lived in villages, and only 0.77 million lived in cities and towns. These numbers have since likely to have grown in the 2011 census, though the detailed results of the 2011 census on homeless are not yet available. There have also been reports of undercounting on account of the invisibility. According to one source, the number of homeless persons in India was 78 million in 2003.<sup>50</sup>

The situation has not changed much since then; rather it has become more serious. According to the NUHHP, at the beginning of the last decade (2001), the housing stock in India stood at 50.95 million for 55.8 million urban households. This shows a clear shortage of 5 million houses in 2001. The NUHHP document further notes that a majority of those who are houseless belong to the economically weaker segment. Overall, about 99 percent of the housing shortage of 24.7 million at the end of the 10<sup>th</sup> Plan pertains to the EWS and LIG segments.

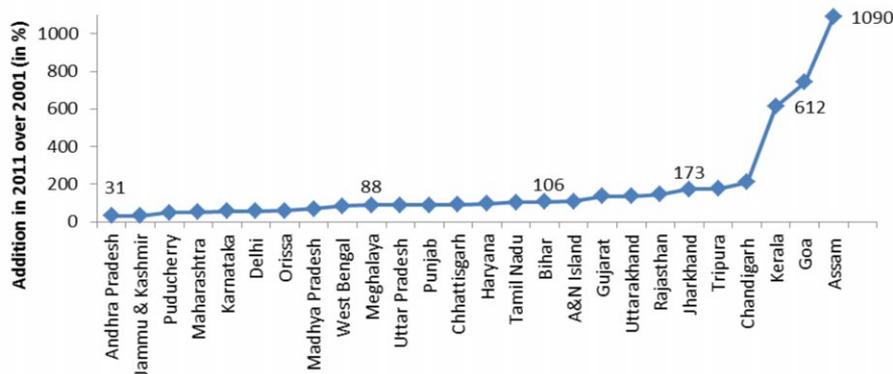
**Box 1.19: Believe it or not: Tatas' plan for Rural Mmarket: A house for Rs 32,000!**

Tata Group is all set to launch a house for nearly Rs 32,000 aimed at rural market by the end of next year. At present, the housing project is in the pilot stage in 30 locations spread across the country and we are in discussions with various agencies like Coir Board, Jute Board and also state governments. The houses will be made in pre-fabricated format, under which the company will provide a kit consisting of roofs, doors, windows, etc, which can be erected or assembled.

Source: PTI, 15 July, 2011

Given the fact that 26.7 percent of the total poor in the country live in urban areas, the issue of affordability remains an issue of critical significance. In terms of numbers, 26.7 percent of the total poor translate to 80.7 million persons, constituting about one-fourth of the country's total urban population. One can argue that with growing urbanisation, lack of housing will become a greater social problem. The problem will be more acute in major cities, and it might lead to unauthorised slum development. It may be reiterated that three of major cities in India, namely, Mumbai, Delhi and Kolkata, are home to 17 percent of the world's slum dwellers.<sup>51</sup> State wise trends on slum dwellers are given in Figure 1.13.

**Figure 1.13: Increase in Slum Population in States and UTs**



There are eleven states and UTs in India, in which slum population has increased by more than 100 percent over the last decade. Assam tops the list with a growth of over 1000 percent in the number of slum dwellers. There are two other states, Goa and Kerala, where growth is more than 500 percent. In some states where percentage growth is relatively low, the absolute number is huge. These include states like Maharashtra, Tamil Nadu, Andhra Pradesh, Uttar Pradesh, Gujarat, and many others. The number appears to be so huge that it will be a very tough task and would require really some great initiative to address the issue in those states. Overall, if one talks about India, the country added nearly 80 percent more people living in slums over the 2001 period.

**Box 1.20: In an Era of Changing Lifestyle, People Still Live on Trees!**

People in the Jenu Kurubas tribe, living about 250km from technology hub Bangalore, have trees as home. They have lived this way for more than six decades. They skillfully climb trees to reach their wooden homes - often as high as 50-60 feet - where they live in families of up to six members. What is, however, interesting and also important is that they cast their votes during elections, falling to the lure of liquor offered by politicians.

The Jenu Kurubas, who number one lakh and are largely located in the Karnataka Western Ghats, are excellent hunters and fishermen. But like city dwellers, they face a serious drinking water problem. They routinely trek 2-3 km to fetch water.

*Who is responsible for this*

Successive governments, elected representatives and bureaucrats are to blame for this sorry state of affairs. What is particularly galling is that these tribals vote in elections, but reap no fruits of democracy. At least now, people in power should wake up and provide basic living conditions to this hapless community.

Source: Times of India, 22 April, 2012

**Issues in Implementation**

Despite some sustained focused initiative in one form or other to address the issue of housing for the poor, the solution appears to be a distant dream. Various issues mar the progress of housing schemes for the poor benefiting the intended beneficiaries. Wide spread corruption is one of them; and it is perhaps the most serious. While schemes are usually meant for people below the poverty line and economically weaker section of people, these people are not the actual beneficiaries.

**Box 1.21: CAG Report Reveals Rampant Corruption in Indira Awas Yojna in Bihar**

According to a report by the Comptroller and Auditor General of India, Indira Awaas Yojana has fallen prey to rampant corruption in Bihar. The report talks of financial indiscipline, ineffective monitoring and lack of physical verification of the houses. According to the report, officials paid ₹28.12 lakh to 117 persons against 50 BPL numbers, which has resulted in irregular payment of ₹17.80 lakh to 67 persons. These irregularities were found in districts including Patna and Gaya.

One example of how the scheme is mismanaged is: in Rohtas, the District Rural Development Agency sanctioned only 9,078 houses against the target of 19,698 during 2009-10 for the construction of houses at the rate of ₹35,000 per unit. The story is the same in other districts. In hundreds of cases, ineligible beneficiaries having pucca houses were provided financial assistance for constructing houses under IAY.

Source: Outlook India, 3 April, 2012

## Consumers' Perspective on Right to Shelter

Several hurdles to fulfilment of right to shelter are revealed from the field survey conducted under this study. Two of these findings are: (a) a large of people is yet to own houses and (b) access to finance for common people continue to remain a very difficult issue. Some of the major findings are shown below:

- About 70 percent sample respondents covered under the survey own a self-financed house on privately owned land, while 15 percent have received land from government housing scheme for construction of house and another 5 percent have received full or partial financial assistance from government for construction of house. Northern region (12 percent) has the highest proportion of such respondents those who have received full or partial government finance.
- Other category largely includes respondents residing in government quarters and homeless.
- Majority of those who have received full or partial financial assistance from government belong to BPL category (8.5 percent). Rented accommodations are more common in urban area (16 percent) as compared to rural area (6 percent).
- Only 12 percent of those who own a self-financed house on privately owned land have tried to access government housing finance or bank finance scheme. About 74 percent of such respondents believe that finance is not easily accessible to everyone and only 34 percent consider terms of bank or government finance for housing affordable. Majority of such people belong APL households in urban area.

## How to Improve the Situation?

From the consumers' perspective it appears that the progress so far made in facilitating right to shelter is far from complete, and it is required that the measures taken are sustained and made more effective in the coming period. This is revealed by the findings from the field survey conducted under the present study.

The government needs to take initiative on two specific issues. These cover extending government support to help poor construct their houses, and secondly making finance available and more accessible to common people.

## Conclusions and Recommendations

The need for proper shelter is increasingly becoming a national problem. One reason for the problem is unsustainable substitution of land space between housing and other immediate needs. This situation has led to an unsustainable development of housing facilities in a few areas whereas the vast majority of the country is without proper shelter.

The problem is further aggravated by large-scale rural-urban migration, and the result is proliferation of urban slums without any basic amenities for dignified living. This brings out the imperative need for an integrated, enabling and holistic housing policy at the national level. In this era of globalisation and liberalisation, the present policy is seemingly biased against the poor.

To rectify this, policy formulation should be based on both macro and micro aspects of the problem. Micro level planning is vital because it takes into account what consumers actually need regarding the right to shelter, whereas the formation of macro objectives are important for the viability of the system.

## Right to Education

### An Overview

If right to food, right to healthcare are critical basic requirements for survival of human beings, right to education can be considered as a critical means to achieve those basic rights. Education is one of the key factors for improving the capabilities of the people to take part in the development processes. If that is the case, literacy turns out to be one of the basic tools of self-defence in a society where social interaction often involves the written media.

The right to education has universally been recognised (since the Universal Declaration of Human Rights in 1948, and even prior to that it was referred to by the ILO as early as the 1920s. Right to education since 1948 has been enshrined in various international conventions, national constitutions and development plans.

The United Nations Guidelines for Consumer Protection, 1985, highlighting the role of government and its institutions as a facilitator to this right iterated “Governments should develop or encourage the development of general consumer education and information programmes, bearing in mind the cultural traditions of the people concerned. The aim of such programmes should be to enable people to act as discriminating consumers, capable of making an informed choice of goods and services, and conscious of their rights and responsibilities. In developing such programmes, special attention should be given to people in general, and civil society in particular.” The objectives of the right to education should be spelt out by taking into account the role that education plays in empowering people in general and the civil society in particular.

The degree of implementation of this right across countries varies. While a majority of countries have signed up and ratified international conventions (such as the UN Convention on the Rights of the Child); a much lesser number of countries have integrated these rights into their national constitutions to ensure that these rights are realised in practice. In some cases, the right exists along with the assumption that the right holder user should pay for this right. In others, the right exists in theory but there is no capacity to implement this right in practice. There are indications that the right to education is denied to millions around the world.

As far as right to education in India is concerned, though right to education is not a fundamental right under the Indian Constitution, but there are several articles that address some of the fundamental question on education. Under the Chapter on Fundamental Rights, Articles 28-30 deal with education. Article 28 Cl. (1) states that no religious instruction shall be provided in any educational institution that is wholly maintained with state funds.

Article 29 Cl. (2) states that no citizen shall be denied admission into any educational institution maintained by the State, or receiving aid from state funds, on grounds of religion, race, caste or language. Article 30 Cl. (2) states that the state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

The right to education is also mentioned in the Chapter on Directive Principles of State Policy, which aim to achieve the goal of a welfare state. This chapter is complimentary to the Chapter on Fundamental Rights. And education is certainly a pillar to achieve the goal of a welfare state. Part IV of the Indian Constitution deals with the right to education under Articles 41, 45 and 46. Article 41 spells out the right to work, to education and to public assistance in certain cases. Special mention may be made of Article 45 which mentions free and compulsory education for children. The State shall endeavour to provide, within a period of ten years from the

commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

## Government Policy

In the last six decades after independence, India has pursued varying strategies as embedded in its education policies and schemes to achieve education for all. All policy documents, including the latest one (Right to Education Act passed by the Indian Parliament in 2009) assert that country's commitment to ensure free and compulsory education to all children up to 14 years of age. An indicative list of milestones in education system and policies are included in the Box 1.22.

<b>Box 1.22: Milestones in Evolution of Education System and Policy in India</b>
<ul style="list-style-type: none"> <li>• <b>1948: University Education Commission</b> under the chairmanship of Dr. S. Radhakrishna to report on Indian University Education and suggest improvements and extensions;</li> <li>• <b>1952: Secondary Education Commission</b> under the Chairman of Dr. L.S. Mudliar to recommend the setting up of technical schools, polytechnics, strengthening multi-purpose education, central technical institutions etc.;</li> <li>• <b>1964-66: Education Commission</b> under the chairmanship of D.S. Kothari to advise Government on the evolution of a National System of Education;</li> <li>• <b>1968: National Policy on Education (NPE);</b></li> <li>• <b>1975: Integrated Child Development Scheme</b> to provide noon meals. It aims to improve the nutritional and health status of children in the age-group 0-6 years; to lay the foundation for proper psychological, physical and social development of the child; to reduce the incidence of mortality, morbidity, malnutrition and school dropout; to achieve effective co-ordination of policy and implementation amongst the various departments to promote child development; and to enhance the capability of the mother to look after the normal health and nutritional needs of the child through proper nutrition and health education;</li> <li>• <b>1986 and 1992: NPE (Revised);</b></li> <li>• <b>1994: NPE's Programme of Action (POA)</b> <ul style="list-style-type: none"> <li>o <b>1992: Lok Jumbish</b> to develop, demonstrate, catalyse and transform the mainstream education system with the objective of ensuring that every child has access to basic education</li> <li>o <b>1994: District Primary Education Programme (DPEP)</b> to provide access to primary education for all children, reducing primary drop-out rates to less than 10 percent and increasing learning achievement of primary school students by at least 25 percent;</li> <li>o <b>1998-2002: Janshala programme</b> to make primary education more accessible and effective, especially for girls and children of deprived communities, marginalised groups, SCs, STs, minorities, working children and children with special needs;</li> <li>o <b>2001: Sarva Shiksha Abhiyan (SSA)</b> aims to achieve universal elementary education of satisfactory quality by 2010</li> <li>o <b>2004: Kasturba Gandhi Balika Vidyalaya (KGBV)</b> for educationally backward blocks (EBBs) where the rural female literacy is below the national average and gender gap in literacy is more than the national average</li> <li>o <b>Mid-Day Meal Programme:</b> The scheme was in operation since 1956 (in Tamil Nadu), but gained greater acceptance since 2004. The scheme aims to provide meals to all children in government, corporation, panchayat and municipal schools to avoid classroom hunger; increase school enrolment; increase school attendance; improve socialisation among castes; address malnutrition; and empower women through employment.</li> </ul> </li> <li>• <b>2009: Right to Education Act</b> to provide free and compulsory education to every child between the ages of 6 to 14 years.</li> </ul> <p><i>The list is not exhaustive but gives a broad outline of how education system in India has evolved over the last six decade periods.</i></p> <p><i>Source: Ministry of Human Resource Development and various other sources</i></p>

The year 2009 was a landmark year for right to education in India. In this year, the Right to Education Act (RTE) 2009, notified by the government as the Children's Right to Free and Compulsory Education Act, was passed by the Indian Parliament. It is perhaps the most important development in the history of educational system of India over the last six decades. The RTE Act is also considered to be the first legislation in the world that puts the responsibility of ensuring enrolment, attendance and completion on the government. The bill received Presidential assent and came into effect in the whole of India except the state of Jammu and Kashmir from April 2010.

### Box 1.23: Right to Education Act and Its Genesis

#### **What the Act says:**

- *Every child between the ages of 6 to 14 years has the right to free and compulsory education;*
- *The government schools shall provide free education to all the children.*
- *Private schools shall admit at least 25 percent of the children in their schools without any fee; and*
- *The National Commission for Elementary Education shall be constituted to monitor all aspects of elementary education including quality.*

#### **The Genesis**

**2002 (December):** 86th Amendment Act (2002) via Article 21A (Part III) seeks to make free and compulsory education a Fundamental Right for all children in the age group 6-14 years.

**2003 (October):** A first draft of the legislation envisaged in the above Article, viz., Free and Compulsory Education for Children Bill, 2003, was prepared and posted on this website in October, 2003, inviting comments and suggestions from the public at large.

**2004:** Subsequently, taking into account the suggestions received on this draft, a revised draft of the Bill entitled Free and Compulsory Education Bill, 2004, was prepared and posted on the <http://education.nic.in> website.

**2005 (June):** The CABE (Central Advisory Board of Education) committee drafted the 'Right to Education' Bill and submitted to the Ministry of HRD. MHRD sent it to NAC where Mrs. Sonia Gandhi is the Chairperson. NAC sent the Bill to PM for his observation.

**2006 (July):** The finance committee and planning commission rejected the Bill citing the lack of funds and a Model bill was sent to states for the making necessary arrangements. (Post-86th amendment, States had already cited lack of funds at State level)

**2006 (July):** CACL, SAFE, NAFRE, CABE invited ILP and other organisations for a Planning meeting to discuss the impact of the Parliament action, initiate advocacy actions and set directions on what needs to be done at the district and village levels.

*Source: The Gazette of India, August 2009; and others*

The Act contains necessary provisions to make education accessible to all the children in India. Some of the important provisions are:

- (a) the Act makes education a fundamental right of every child between the ages of 6 and 14 and specifies minimum norms in elementary schools;
- (b) it requires all private schools to reserve 25 percent of seats to children from poor families (to be reimbursed by the state as part of the public-private partnership plan);
- (c) it also prohibits all unrecognised schools from practice, and makes provisions for no donation or capitation fees and no interview of the child or parent for admission;
- (d) the Act also provides that no child shall be held back, expelled, or required to pass a board examination until the completion of elementary education; and

(e) there is also a provision for special training of school drop-outs to bring them up to par with students of the same age.

For proper implementation, the RTE has made two important provisions: (a) it requires surveys that will monitor all neighbourhoods, identify children requiring education, and set up facilities for providing it; and (b) the Act provides for a special organisation, the National Commission for the Protection of Child Rights, an autonomous body set up in 2007 to monitor the implementation of the act, together with Commissions to be set up by the states.

For assessing funding requirements, the Act has a provision of setting up a committee to study the funds requirement and funding. It has also fund requirements in the first five years at Rs 171,000 crores (or US\$38.2bn) to implement the Act, and in April 2010 the central government agreed to sharing the funding for implementing the law in the ratio of 65 to 35 between the centre and the states, and a ratio of 90 to 10 for the north-eastern states. In mid-2010, the funding was reportedly upgraded to ₹231,000 crores, and the centre agreed to raise its share to 68 percent.

#### **Box 1.24: Salient Features of the Right to Education Act 2009**

- Every child between the ages of 6-14 to be provided education by the State. This implies that such child does not have to pay a single penny as regards books, uniforms etc.;
- A child can go to a school any time of the academic year ;
- Private education institutions have to reserve 25 percent of their seats starting from class I in 2011 to disadvantaged students;
- Teacher student ratio of 1:30 at each of these schools that ought to be met within a given time frame;
- The schools need to have certain minimum facilities like adequate teachers, playground and infrastructure, in case of marginalised schools, the government will evolve some mechanism to help them comply with the provisions of the Act;
- A new concept of 'neighbourhood schools' has been devised: the state government and local authorities will establish primary schools within walking distance of one km of the neighbourhood. In case of children for Class VI to VIII, the school should be within a walking distance of three km of the neighbourhood;
- Unaided and private schools shall ensure that children from weaker sections and disadvantaged groups are not segregated from the other children in the classrooms nor shall their classes be held at places and timings different from the classes held for the other children.

With education policy coming to full circle with the introduction of the RTE, the call for a greater focus on implementation part has also arised, considering the fact that there is no more policy space left, and the desired results have to come from effective and focused implementation.

### **Present Situation in India**

Statistics on progress of education in India demonstrate mixed performance by different states and UTs. Literacy data for 2011 show that while states like Kerala, Lakshadweep, and Mizoram have realised impressive improvement in the literacy rate of over 90 over the last decade, several others show unimpressive performance. There are still seven states, in which literacy rates is below 70 percent despite several initiative and schemes and investment of huge sum of money over the last six decades under different policies. These states are struggling to improve participation of children in primary education. Overall, at the national level, though the situation has significantly improved, but it is far from complete. There are still more than one-fifth of the children who are yet to be the part of education system in India. The trend in literacy rates in different states is given in Table 1.19.

<b>Table 1.19: State-wise Literacy Rates in India</b>					
<b>State</b>	<b>2001</b>	<b>2011</b>	<b>State</b>	<b>2001</b>	<b>2011</b>
Kerala	90.92	93.91	Gujarat	69.97	79.31
Lakshadweep	87.52	92.28	Dadra and Nagar Haveli	60.03	77.65
Mizoram	88.49	91.58	West Bengal	69.22	77.08
Tripura	73.66	87.75	Punjab	69.98	76.68
Goa	82.32	87.4	Haryana	68.59	76.64
Daman and Diu	81.09	87.07	Karnataka	67.04	75.6
Pondicherry	81.49	86.55	Meghalaya	63.31	75.48
Chandigarh	81.76	86.43	Orissa	63.61	73.45
Delhi	81.82	86.34	Assam	64.28	73.18
Andaman and Nicobar Islands	81.18	86.27	Chhattisgarh	65.18	71.04
Himachal Pradesh	77.13	83.78	Madhya Pradesh	64.11	70.63
Maharashtra	77.27	82.91	Uttar Pradesh	57.36	69.72
Sikkim	69.68	82.2	Jammu and Kashmir	54.46	68.74
Tamil Nadu	73.47	80.33	Andhra Pradesh	61.11	67.66
Nagaland	67.11	80.11	Jharkhand	54.13	67.63
Manipur	68.87	79.85	Rajasthan	61.03	67.06
Uttaranchal	77.28	79.63	Arunachal Pradesh	54.74	66.95
			Bihar	47.53	63.82
<b>India</b>	<b>65.38</b>	<b>74.04</b>			

Source: *Indiastat.com*

Attainment of full literacy is not the only issue which is of great concern; there are also issues such as high dropout rates in a number of states. Out the total 35 states and UTs, about half of them show dropout rates of more than 50 percent. In one state, namely Sikkim, the dropout rate is as high as 80 percent of the total number of student enrolled (Class I to IX). Importantly, however, there are also some better performers which have done exceptionally well in preventing/reducing the number of dropouts. These include Delhi, Chandigarh and Puducherry. In addition, Kerala appears to be the only state which has fully succeeded controlling dropouts. Table 1.20 enumerates performance of different states with regard to dropouts.

<b>Table 1.20: Gross and Net Enrolment Ratio and Drop Out Rates</b>			
<b>State</b>	<b>Gross Enrolment Ratio</b>	<b>Net Enrolment Ratio</b>	<b>Dropout rate (Classes I-X)</b>
	<b>Primary Level</b>	<b>Primary Level</b>	
	<b>2009-10</b>	<b>2009-10</b>	<b>2009-10</b>
Kerala	75.63	65.48	-4.06
Delhi	114.75	93.58	1.97
Chandigarh	88.95	73.06	3.78
Puducherry	103.2	86.7	7.34
Haryana	92	73.51	19.84
Himachal Pradesh	109.39	88.91	20.65
Uttar Pradesh	104.84	95.69	23.83
Lakshadweep	101.13	86.96	25.13
Andaman & Nicobar Islands	85.71	71.99	30.06
Tamil Nadu	119.56	99.15	34.06
Goa	66.39	58.76	34.3
Daman & Diu	98.45	82.56	35.93
Punjab	80.42	63.06	40.42
Maharashtra	104.18	88.01	40.54
Jammu & Kashmir	119.1	97.18	44.3
Karnataka	107.09	99.23	46.62
Andhra Pradesh	100.76	80.22	53.36
Manipur	161.54	-	56.79
Dadra & Nagar Haveli	161.02	-	58.83
Gujarat	109.02	85.8	62.14
Mizoram	207.73	-	62.87
Tripura	141.41	-	62.9
Arunachal Pradesh	231.62	-	64.86
Madhya Pradesh	139.35	-	65.71
Orissa	119.42	96.4	68.19
Rajasthan	117.07	89.6	71.64
West Bengal	136.2	-	71.83
Nagaland	142.27	-	74.86
Bihar	135.53	-	77.56
Assam	115.13	-	77.6
Meghalaya	206.58	-	77.89
Sikkim	166.08	99.19	80.73
Jharkhand*	148.96	-	-
Uttarakhand*	106.18	86.52	-
Chhattisgarh*	124.7	-	-
<b>India</b>	<b>115.63</b>	<b>98.28</b>	<b>52.76</b>

*Note: \*: Dropout rates are shown combined with the respective parent state*

*Source: Planning Commission Estimates*

In addition to the dropouts, there is also a clear indication of declining proportion of children as they move to higher levels of education. There are sixteen states/UTs which show a remarkably high reduction in number of children progressing to higher classes – out of the total enrolled only 28 to 50 percent progress to higher classes, and rest dropout from the school. In eleven of these states, the progression rate is between 28 to 40 percent. Though for a country like India, the trend is not surprising, but the situation must improve for a sustainable and inclusive development.

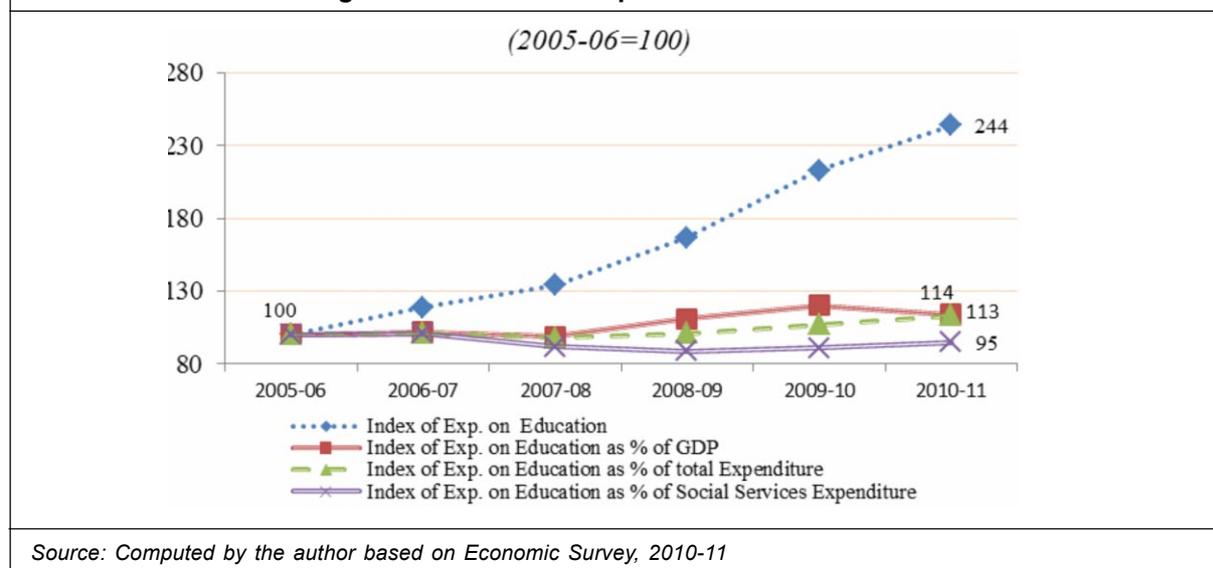
**Table 1.21: State-wise Gross Attendance Ratio by Broad Class Group  
(July 2007 - June 2008)**

States/UTs	Broad Class Group					States/UTs	Broad Class Group				
	I-V	VI-VIII	I-VIII	IX-X	XI-XII		I-V	VI-VIII	I-VIII	IX-X	XI-XII
Meghalaya	116	87	106	73	28	Haryana	107	91	101	81	55
Orissa	101	84	95	64	28	Goa	102	98	100	88	57
Madhya Pradesh	108	93	103	60	31	Karnataka	104	89	98	80	57
West Bengal	110	83	100	61	32	Assam	110	90	103	64	58
Dadra & Nagar Haveli	99	91	97	83	33	Arunachal Pradesh	96	94	96	91	61
Bihar	92	69	86	49	34	Delhi	111	92	105	79	64
Rajasthan	106	84	98	71	34	Jammu & Kashmir	113	114	113	93	64
Gujarat	104	80	96	66	35	Tamil Nadu	99	104	101	99	64
Sikkim	139	96	121	64	37	Uttarakhand	108	87	101	97	64
Daman & Diu	108	94	104	76	39	Andaman & Nicobar Islands	109	98	104	153	66
Chhattisgarh	110	89	103	63	40	Lakshadweep	110	103	108	127	66
Tripura	114	93	106	82	41	Manipur	107	99	105	108	67
Mizoram	106	107	106	99	42	Nagaland	104	109	106	101	75
Uttar Pradesh	107	75	96	58	44	Kerala	100	96	98	116	79
Jharkhand	103	77	95	55	46	Puducherry	97	112	102	85	81
Punjab	103	95	100	75	49	Himachal Pradesh	107	117	111	104	82
Andhra Pradesh	101	85	95	84	53	Chandigarh	94	99	96	82	83
Maharashtra	106	87	99	86	53	<b>India</b>	<b>104</b>	<b>84</b>	<b>97</b>	<b>70</b>	<b>46</b>

Source: India Stat

One of the major reasons for not so successful journey of India in the field of education is the low government expenditure as percentage of GDP. If data on expenditure incurred by the government of India over the past few years is any guide, there is clear evidence that the government is not paying due attention to education sector. Even though absolute expenditure has increased over the five years – it has in fact more than doubled – the expenditure on education as a percentage of GDP has almost remained constant. If one considers expenditure on education as a percentage of total government expenditure on social sector, the expenditure appears to have declined over the last five years. This is shown by the Figure 1.14.

**Figure 1.14: Trend in Expenditure on Education**



## Consumers' Perspective on Right to Education

The progress made so far is revealed by the findings from the field survey conducted under the present study. Some of the major findings are shown below:

- Almost 80 percent and 70 percent respondents believe that access to education has increased due to Right to Education (RTE) and Mid-Day Meal Scheme respectively. Right to education has played a vital role in increasing the access to education while mid-day meal scheme has motivated parents/ students to enroll into schools.
- About 77 percent respondents have expressed their desire to have a regulator for private schools. The regulator can make education in private schools more accessible and affordable for a common man which is not the case.

## How to Improve the Situation?

Access to education, though in Indian context comes after right to food, shelter, and clothing, but it is possibly the most encompassing right that can ensure fulfilment of other basic rights. As far as progress of this basic right in India is concerned, the field survey conducted under the present study shows that despite the recently introduced right to education act, India has to cover a long distance, before this right genuinely become accessible to the common people.

The right to education act appears to have all the ingredients of making this right reality. What is needed is proper and forceful implementation of this act.

## Conclusions and Recommendations

The universalisation of education is an important pillar for making people (consumers) aware about their rights and responsibilities. The state of universal education, though improving, but continues to be not so impressive in India. It also needs to be reiterated that the education problem in India is not due to poor allocation of funds *per se*. Even when there are funds, education suffers due to lack of planning and proper implementation mechanisms. In sum, the right to education and its proper implementation is necessary to achieve the goal of participatory economic development at large and in particular to achieve the citizens' desired results.

### **Box 1.25: An Interesting Development: Indians Spending More on Kids' Education**

Indian families are investing heavily in their children's education, reveals a recent NSSO survey report on spending patterns of households. Between 1999 and 2009, while expenditure on food increased by about 70 percent among rural families and 78 percent among urban ones; expenditure on education jumped up by as much as 378 percent in rural areas and 345 percent in urban areas. Even after correcting for inflation, the expenditure on education increased by a phenomenal 162 percent in rural areas and 148 percent in urban areas during the decade.

Interestingly, it is not just the same people who are spending more on their children's education. In 2004-05, 40 percent of rural and 57 percent of urban families said that they were spending on education. The latest survey records a big jump in these numbers – 63 percent of rural and 73 percent of urban families are getting their children educated.

The 66th round of NSSO's survey, carried out between July 2009 and June 2010 covered 2, 01,649 households.

*Source: Times of India, 25 July, 2011*

With the RTE coming into force, the evolution of education system comes to a full circle, one can really hope that the policy will be implemented effectively to achieve its desired results, and pave the way for not only attainment of full literacy but it also leads to achievement of other basic rights of the children and other citizens. At the same time it needs to be iterated that the law needs time and space to materialise.

More specifically, following measures are suggested to improve the overall situation:

- There is a need to ensure that the existing acts or programmes related to education are effectively implemented;

### **Box 1.26: Need for Introducing Counselling Department in Government Schools in Rural Areas**

Rural India's lack of educational infrastructure is well known. But what might not be widely recognised is that this lack of infrastructure is depriving India of its rural talents. Thousands of young talents are lost because parents in rural India cannot afford to send their children to urban areas for higher studies. The problem is not lack of talent or lack of willingness; rather it is sheer lack of affordability coupled with lack of awareness.

An interaction with some village (Samast Pura in Saran district of Bihar) households revealed that in the last two decades, not even a single child from low income group after passing secondary school examination has migrated to urban areas for higher studies. A good percentage of these children had secured good results in their secondary examinations.

It was also revealed that children move out from the village only to seek employment, as their parents cannot afford to send them to urban areas for higher studies. There is also lack of awareness about government programmes/ schemes for students from economically weaker section among the villagers.

This revelation probably holds true for thousands of other villages in India. Though, affordability is one factor that will perhaps take its own time, but what is immediately needed is setting up of counselling department in all government schools in rural areas to address the issue of lack of awareness among economically weaker section of the society. However, the initiative should focus on not only creating awareness about government programmes, schemes and scholarships for the poor students, but also motivating and guiding them on the future course of action.

*Source: Author's interaction with villagers*

- Awareness programme should be strengthened to get the people understand the value of education;
- The infrastructure for primary education should be strengthened and existing system be made more accessible to common people;
- The schemes such as Mid-day meal, and other facilities like free school uniforms, cycles, books and copies, need to be continued and further strengthened to motivate the parents/ students to enrol into schools;
- It is widely demanded that there should be a regulator for private schools regulating the fees. It is expected to make education more accessible and affordable for a common man.

## Right to Energy

### An Overview

Energy is now fully integrated with the processes of human development. Energy seems to have complete control over modern human lives, as the linkages between energy for economic growth and development have become more pronounced in the recent period. Energy has acquired both backward and forward linkages to human and non-human activities for development, or otherwise. It supports in production of goods and services, on the one hand, and facilitates usage of those producers by the end users, on the other. For example, energy fuels businesses, helps run schools, hospitals and shops, supports human comfort, contributes to safety, facilitates education and enables people's movement.<sup>52</sup> Energy is so embedded in human lives that decoupling energy from economic growth and human development appears to be an unviable option. In other words, it is indispensable for both economic growth and human development.

The right to energy, therefore, can be defined as that right without which it is difficult to participate in the process of economic development. Though, the United Nations Guidelines for Consumer Protection, 1985, did not say anything on the right to energy under its section on the right to basic needs; one can argue that without this right it is difficult to facilitate other rights as enshrined in the UN Guidelines (food, safety, healthy environment etc.).

Data released by the International Energy Agency (IEA)<sup>53</sup> for 2009 shows that the number of people without access to electricity was 1.3 billion or almost 20 percent of the world's population. Out of the total number of people with no access to electricity, more than 81 percent are from Sub Saharan Africa (44 percent), and South Asia (37 percent). This lack of access to electricity emerges from low level of electrification, with data showing that while Sub-Saharan Africa has an electrification rate of about 30 percent, electrification in South Asia is about 68 percent. If one compares other regions – such as North Africa (99 percent), Latin America (93 percent), and China and East Asia (91 percent) – Sub-Saharan Africa and South Asia appear to be the least developed in terms of providing access to electricity to their citizens. Table 1.22 reflect region-wise population without access to electricity.

The above briefing on the people without access to electricity across different regions also sums up the situation of access to electricity in India. As per the IEA's World Energy Outlook data, a quarter of people in India do not have access to electricity. The problem appears to be more serious than what the data conveys. In addition to people without access to electricity, it is also observed that even those who are connected to the national grid experience frequent blackouts.

The existing situation is not so good despite some significant improvement in the electrification situation over the last few years. There are indications that now a larger percentage of people have electricity connections. Data shows that about 67 percent of the rural population and 94

<b>Region</b>	<b>Population without electricity (in millions)</b>	<b>Electrification rate (in percent)</b>
Africa	587	41.8
<i>North Africa</i>	2	99.0
<i>Sub-Saharan Africa</i>	585	30.5
Developing Asia	675	81.0
<i>China &amp; East Asia</i>	182	90.8
<i>South Asia</i>	493	68.5
Latin America	31	93.2
Middle East	21	89.0
<b>Developing countries</b>	<b>1,314</b>	<b>74.7</b>
<b>World*</b>	<b>1,317</b>	<b>80.5</b>
* World includes OECD and Eastern Europe / Eurasia Source: IEA, World Energy Outlook 2011		

percent of the urban population in 2009 reported expenditure on electricity. This is impressively higher than 56 percent and 93 percent respectively in the 2006.<sup>54</sup>

The existing situation calls for sustained drive for creating infrastructure and providing people access to electricity and to enable them to participate fully in India's development process. One can express doubt about whether sustained economic growth lead to increased electricity connection; but there is no doubt that access to electricity can contribute actively to economic growth.

At the same time, it also needs to be recognised that increased energy production and consumption is constrained by various old and emerging issues, such as *environmental constraint* (as energy production and consumption leads to impact on environment through CO2 emissions and waste generation and the need to balance development strategies with strategies that limit environmental deterioration); *technology constraints*; *capital and manpower constraint* (according to one estimate, the worldwide investment in energy will be US\$20tn during the next 25 years; besides future projects are likely to be more complex and remote, resulting in higher costs of energy produced).

The new energy generation and consumption strategy needs to be planned and executed in line with requirements on the one hand and emerging constraints on the other.

### **Present Situation in India**

Demand for energy is increasing at a rapid pace, keeping pace with growth of Indian economy. It is not out of context to argue that increasing demand for energy in India (and China) is reshaping the configuration of world energy demand and supply. The new pattern in energy demand and consumption is duly reflected in India's increasing share of the world consumption of energy. India's share has increased by almost three times from 1.5 percent in 1980 to 4.2 percent over the last three decades. The increase was more impressive in the post-reform period with Indian economy gaining a higher growth trajectory.

India now occupies the fourth position in the overall consumption of energy, after the US, and China occupying the first position (19.5 percent share each) and the Russian Federation occupying (5.7 percent) the third position. The first two countries account for nearly two-fifth (39 percent) of the total energy consumption and the first ten countries have a consolidated share of 65 percent. As for India, its consumption is higher than many of the developed countries, including Japan, Canada, Germany, France and others.<sup>55</sup>

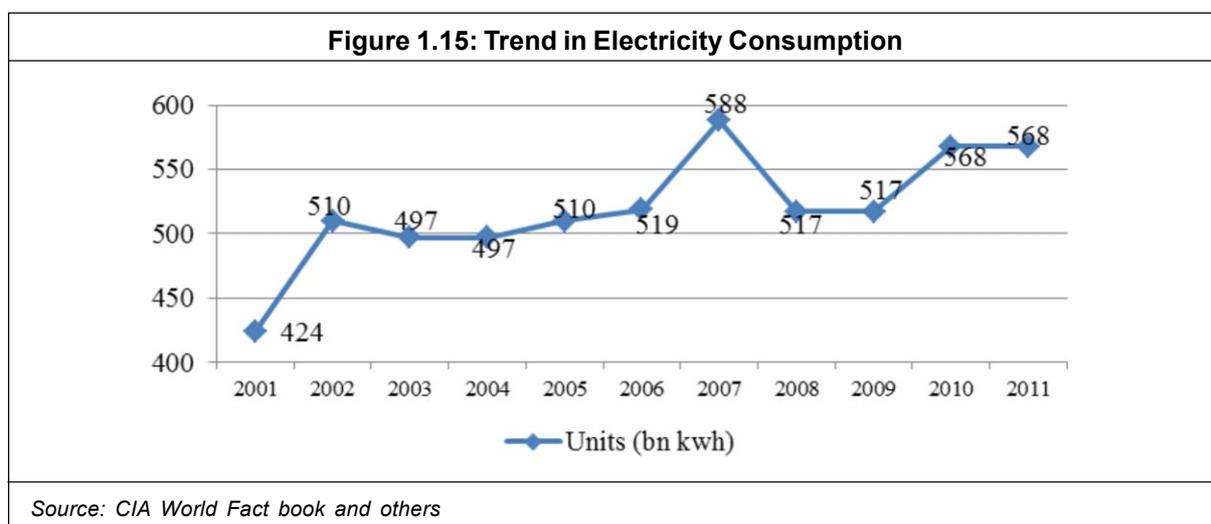
However, as far as electrification touching the lives of rural people is concerned, India's performance is not that impressive. Census 2011 data shows varying achievements by different states in regard to rural electrification. While 99 percent of rural households in Union Territories like Lakshwadeep and Daman and Diu have electricity, in Bihar only 10 percent of rural households have electricity. In terms of electricity coverage, Uttar Pradesh and Bihar are the worst performers in the country. In a decade, the states could only add four to five percentage points in their electricity coverage. While Uttar Pradesh climbed from 19.9 percent in 2001 to 23.8 percent in 2011, Bihar's electricity coverage rose from a mere 5.1 percent to an unimpressive 10.4 percent.

The Census 2011 data shows that despite the implementation of large scale programmes, India is by and large remain powerless. Some more specific observations from the Census data include the followings:

- There are still 11 lakh households in India with no source of lighting whatsoever.
- A little over half of rural India uses electricity as its main source of lighting, an increase of 12 percent over 2001.
- Barely one in every ten households in rural Bihar and two-thirds of houses in the state's urban areas use electricity to light their houses.
- Madhya Pradesh has shown a marginal decline in the proportion of households that use electricity as the primary source of lightning from 62 percent in 2001 to 58 percent in 2011.
- 85 percent of rural India still using firewood, crop residue or cow dung as its primary source of fuel for cooking.
- In Bihar and Orissa, the spread of LPG lags far behind the rest of the country, with less than 10 percent of households in both states using LPG.

The above para makes it abundantly clear that schemes such as *Rajiv Gandhi Grameen Vidhyutikaran Yojana*, with the goal of electrifying all unelectrified villages (launched in April 2007) hasn't been able to achieve much success. It is a concern that in the last 10 years, electricity coverage has increased by only 11 percentage points. The fundamental reason for this unimpressive picture is low electricity penetration in the rural segment. In urban areas, almost 93 percent of the households use electricity as the primary source of lighting, while the corresponding proportion in the rural segment is only 55 percent. There are indications that, about 1,200,000 households in India are devoid of any source of lighting of which 800,000 households are from the rural segments.

One obvious question arises: why has India's growth story not translated into rural development, or more particularly rural electrification? It tells the fact that India's impressive economic growth and higher electricity consumption over the last two decade periods, is highly concentrated in urban areas, even in urban areas to the industrial and commercial estates. Though India's electricity consumption since 2001 has grown at a compound annual growth rate of about 3 percent (Figure 1.15) from 424 bn kwh in 2001 to 568 bn kwh in 2011 and its economy has grown at an average of over 7 percent; there are millions of people who are yet to be connected and yet to benefit from electricity.



There is also impressive growth in per capita consumption. The per capita average annual domestic electricity consumption in India in 2002 was estimated at 559 kwh, which increased to 672 kwh in 2007, and further to 813 kwh in 2011. However, the estimate on per capita electricity consumption in different sectors – domestic, agricultural and industrial – varies depending on the source. This increasing trend is, however, just one side of the story. As far as electricity touching the lives of rural people is concerned, out of 6.41 lakh villages (as per the 2011 Census data), about 84 percent have access the electricity (Table 1.23).

**Table 1.23: Plan-wise Growth of Electricity Sector in India**

As on 31 <sup>st</sup> March	Number of electrified villages	Length of T&D lines (Ckt. Kms.)	Per capita consumption (Kwh)
2002 (End of the 9th Plan)	512153	6030148	559
2007 (End of 10th Plan)	482864	6939529	672
2010-11 (End of 4th year of 11th Plan)	537947**	7951486*	813

*Note: \*provisional; \*\* this covers about 84 percent of the total number of villages in India*  
*Source: Growth of Electricity Sector in India from 1947- 2011, Ministry of Power and Central Electricity Authority*

One big constraint to increasing the generation of electrical energy is low local availability of primary energy sources. Out of the three important primary sources of electrical energy generation – coal, oil and natural gas – it is observed that domestic supply is not keeping pace with increase in demand. In all the three cases, the gap between demand and supply is increasing at a rapid pace.

While in case of coal, the domestic demand-supply gap is 16 percent in 2009 compared to 9 percent in the year 2000; the demand-supply gap in case of natural gas was recorded at 34 percent compared to no gap in 2000. The widening gap in demand-supply of oil appears more concerning. Data shows that domestic availability of oil is less than 24 percent of the demand. It is, therefore, not surprising that the country is spending a huge sum of money on import of these primary sources of energy, more particularly on import of oil.

Data on installed generating capacity indicates that despite the hurdle faced by India in securing primary energy sources, the electric power generation capacity has increased over the last decades. And more importantly, most of the states have fared well in this. Overall, power generating

<b>Table 1.24: Trend in Installed Generating Capacity (in MW)</b>					
<b>SEB/Organisation</b>	<b>2001-02</b>	<b>2010-11</b>	<b>SEB/Organisation</b>	<b>2001-02</b>	<b>2010-11</b>
Maharashtra	9744	11121	Himachal Pradesh	326	769
Andhra Pradesh	6179	8482	Bihar	598	588
Karnataka	4298	6615	Assam	597	447
West Bengal	3582	6013	Meghalaya	189	189
Gujarat	5133	5932	Tripura	85	169
Tamil Nadu	5222	5705	Arunachal Pradesh	45	95
Punjab	4529	5128	Mizoram	37	88
Rajasthan	2992	5077	Sikkim	38	52
Uttar Pradesh	4659	4619	Manipur	31	51
Madhya Pradesh	2986	4538	A. & N, Islands	39	45
Haryana	1990	4394	Puducherry	33	33
Orissa	2297	2562	Nagaland	22	31
Kerala	2032	2262	Lakshadweep	10	10
Chhattisgarh	1400	2199	Goa	0	0
Delhi	707	1435	Chandigarh	2	0
Uttarakhand	954	1386	D. & N. Haveli	0	0
Jharkhand	1390	1324	Daman & Diu	0	0
Jammu Kashmir	496	1093	<b>All India</b>	<b>62642</b>	<b>82453</b>
<i>Source: Annual Report 2011-12 on the Working of State Power Utilities &amp; Electricity Departments</i>					

capacity in the last decade increased by nearly 32 percent growing at an average annual rate of over 3 percent. Some of the states which performed reasonably well include Maharashtra (14 percent), Andhra Pradesh (37 percent), Karnataka (54 percent), and West Bengal (67 percent). State-wise trend in installed generating capacity is shown in Table 1.24.

Besides the conventional sources of energy, there is another important development that has taken place, and that is in the field of renewable energy. India today stands among the top five countries in the world in terms of renewable energy capacity. The country has an installed base of over 15 GW, which is around 10 percent of India's total power generation capacity and contributes over 3 percent in the electricity mix. India's achievement made in the field of renewable energy is demonstrated in Table 1.25.

While the significance of renewable energy from the twin perspectives of energy security and environmental sustainability is usually well appreciated, what is often overlooked, or less appreciated is the capacity to usher in energy access for all, including the most disadvantaged and the remotest of rural habitations. The existing renewable energy infrastructure needs to be further strengthened, if India has to achieve electricity for all, especially in the rural areas.

<b>Table 1.25: India's Achievements in the Field of Renewable Energy (2011-12)</b>			
<b>Renewable Energy Programme/ Systems</b>	<b>Target (2011-12)</b>	<b>Total achievement (2011-12)</b>	<b>Cumulative achievement (up to January 2012)</b>
<b>A. Grid-Interactive Power (MW)</b>			
Wind Power	2400	2023	16179
Small Hydro Power	350	257.5	3300.13
Biomass Power	465	145.5	1142.6
Bagasse Cogeneration	..	285	1952.53
Waste to Power -Urban	25	1.2	20.2
Waste to Power - Industrial	..	-	53.46
Solar Power (SPV)	200	445.55	481.48
<b>Total</b>	<b>3425</b>	<b>3157.75</b>	<b>23129.4</b>
<b>B. Off-Grid/ Captive Power (MW<sub>EQ</sub>)</b>			
Waste to Energy -Urban	15.00	..	3.5
Waste to Energy -Industrial		27.31	89.43
Biomass (non-bagasse) Cogeneration	80	51.89	347.85
Biomass Gasifiers -Rural	3	1.642	15.99
Biomass Gasifiers - Industrial	10	10.89	132.27
Water mills/micro hydel (400 Nos.)	350 nos.	2025 Nos.	
<b>Total (including others)</b>	<b>129.5</b>	<b>103.06</b>	<b>671.5</b>
<b>II. Remote Village Electrification</b>			
No. of Remote Village/Hamlets provided with RE Systems	500	905	9009
<b>III. Other Renewable Energy Systems</b>			
Family Biogas Plants (No. in lakhs)	1.5	0.7	44.75
Solar Water Heating - Coll. Areas (Million m <sup>2</sup> )	0.6	0.52	4.98
<i>Source: Ministry of New and Renewable Energy, Government of India</i>			

## Government Policy

In India, there is no overarching policy covering the right to energy. A close approximation is the right to life and personal liberty (Article 21). Various judgements by the law courts interpreted the right to life and personal liberty in many ways. The importance of a sound energy policy has been recognised by the government from time to time. Administrative measures with respect to supply of energy are spelt out under various reports of the different agencies of the Government of India.

Presently, electricity generation and distribution in India is guided by the Electricity Act 2003<sup>56</sup>, and National Electricity Policy 2005.<sup>57</sup> The Act recognises that electricity is an essential requirement for all facets of our life, as it has been recognised as a basic human need. It also recognises that electricity is a critical infrastructure on which the socio-economic development of the country depends and electricity is one of the key drivers for rapid economic growth and poverty alleviation. Based on the above assertions, the Act seeks to provide electricity access to all households in next five years.

In sum, the Electricity Act, 2003 consolidates the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commissions Act, 1998 and provides an enabling framework for accelerated and more efficient development of the power sector. The Act seeks to encourage competition with appropriate regulatory intervention. Competition is expected to yield efficiency gains and in turn result in availability of quality supply of electricity to consumers at competitive rates.

The National Electricity Policy 2005 has emerged from the Electricity Act 2003. The Policy has been evolved in consultation with and taking into account views of the state governments, Central Electricity Authority<sup>58</sup> (CEA), Central Electricity Regulatory Commission (CERC)<sup>59</sup> and other stakeholders. The Policy aims at laying guidelines for accelerated development of the power sector, providing supply of electricity to all areas and protecting interests of consumers and other stakeholders keeping in view availability of energy resources, technology available to exploit these resources, economics of generation using different resources, and energy security issues.

The policy seeks to address the following specific issues:

- Rural Electrification
- Generation
- Transmission
- Distribution
- Recovery of Cost of services & Targeted Subsidies.
- Technology Development and Research and Development (R&D)
- Competition aimed at Consumer Benefits
- Financing Power Sector Programmes Including Private Sector Participation
- Energy Conservation
- Environmental Issues
- Training and Human Resource Development
- Co-generation and Non-Conventional Energy Sources
- Protection of Consumer Interests and Quality Standards

Out of all issues identified to be addressed by the Policy, there are at least eight issues which will directly or indirectly touch the lives of rural people. These include rural electrification; distribution, targeted subsidies; raising competition to ensure benefits to consumer; energy conservation; initiatives to address environment issues; cogeneration and non-conventional energy sources; and protection of consumer interests. For example, in case of rural electrification, the policy provides for:

- Rural Electrification Distribution Backbone (REDB) with at least one in every Block and more if required as per load, networked and connected appropriately to the state transmission system
- Supply feeders and one distribution transformer at least in every village settlement.
- Household Electrification from distribution transformer to connect every household on demand.
- Wherever above is not feasible, decentralised distributed generation facilities together with local distribution network would be provided.
- Development of infrastructure to cater for requirement of agriculture and other economic activities including irrigation pump sets, small and medium industries, khadi and village industries, cold chain and social services like health and education.
- Particular attention would be given in household electrification to *dalit bastis*, tribal areas and other weaker sections.

The policy also notes that the targeted expansion in access to electricity for rural households can be achieved if the distribution licensees recover at least the cost of electricity and related O&M expenses from consumers. It, however, exempts lifeline support to households below the poverty line who would need to be adequately subsidised. The Policy makes it clear that subsidies should be targeted at the intended beneficiaries in the most efficient manner, and support needs to be created for timely implementation. The Central Government would assist the state governments in achieving this.

Besides, the Policy recognises the importance of necessary institutional framework that needs to be put in place not only to ensure creation of rural electrification infrastructure but also to operate and maintain supply system for securing reliable power supply to consumers. It is also recognised that the task of rural electrification requires appropriate cooperation among various agencies of the state governments, Central Government and participation of the community. Education and awareness programmes would be essential for creating demand for electricity and for achieving the objective of effective community participation.

#### **Box 1.27: Evolution of Electricity Policy Dynamics in India**

- **The Indian Electricity Act, 1910** (containing provisions for supply and use of electrical energy and the rights and obligations of licensees);
- **The Electricity (Supply) Act, 1948** (delineates the statutory powers and functions of the Central Electricity Authority, State Electricity Boards and generating companies, providing for the rationalisation of the production and supply of electricity and generally for taking measures conducive to electrical development);
- **The Electricity (Amendment) Act of 1959** (enlarged the scope of facilities available to the consumers of electricity, extended the same facilities to consumers served by government electricity department, imposed stricter control over licensees, took powers to regulate the distribution, supply, consumption and use of energy in specified circumstances);
- **The Electricity Laws (Amendment) Act, 1991** (further widened the scope of private sector participation in power generation, supply and distribution by suitably amending the aforesaid Acts);
- **The Electricity Regulatory Commissions Act, 1998** (provides for the establishment of Central Electricity Regulatory Commission and State Electricity Regulatory Commissions, rationalisation of electricity tariff, transparent policies regarding subsidies, promotion of efficient and environmentally benign policies and for matters connected therewith or incidental thereto);
- **The Electricity Act, 2003** (to consolidate the laws relating to the generation, transmission, distribution, trading and use of electricity and taking measures conducive to the development of electricity industry promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies, constitution of Central Electricity Authority, Regulatory Commission and establishment of Appellate Tribunal);
- **National Electricity Policy 2005** to provide the followings:
  - o Access to Electricity – available for all households in the next five years.
  - o Availability of Power – demand to be fully met by 2012. Energy and peaking shortages to be overcome and spinning reserve to be available.
  - o Supply of reliable and quality power of specified standards in an efficient manner and at reasonable rates.
  - o Per capita availability of electricity to be increased to over 1000 units by 2012.
  - o Minimum lifeline consumption of 1 unit/household/day as a merit good by 2012.
  - o Financial turnaround and commercial viability of electricity sector.
  - o Protection of consumers' interests.

*Source: Ministry of Power, Government of India; and others*

Besides the above policies to directly address the issue of making electricity available to rural people, the government of India has launched eight “National Missions”<sup>60</sup> as part of its National Action Plan on Climate Change (NAPCC) in 2008. The NAPCC identifies measures that promote development objectives while also yielding co-benefits for addressing climate change effectively. These “National Missions” form the core of the National action plan. Though, the focus is on promoting understanding of climate change, adaptation and mitigation, energy efficiency and natural resource conservation; there are many inbuilt elements which will contribute towards meeting electricity requirements of the country, rural areas included. One of these, and perhaps most important is National Solar Mission.

The National Action Plan on Climate Change in June 2008 identified the development of solar energy technologies in the country as a priority item to be pursued as a National Mission. One year later, in November 2009, the Government of India approved the Jawaharlal Nehru National Solar Mission. This is a unique initiative that aims to establish India as a major global player in solar energy by creating the policy conditions for its diffusion across the country, as quickly as possible. The Mission aims to enable 20,000 MW of solar energy to be deployed in India by 2022 by providing an enabling policy framework.

In case of other renewable sources of energy, while in wind energy, India has an installed capacity of over 11,000 MW, and occupies the fifth position in the world (after USA, Germany, China and Spain); in biomass also India has considerable advantages. According to one estimate, with the present utilisation pattern of crop residues, the amount of surplus biomass materials could generate about 16,000 MW of power. Besides, small hydro power (below 25 MW capacities) has a potential of over 15,000 MW. There are indications that an annual addition of 300 MW per year is being achieved from small hydro projects, largely (70 percent) contributed by the private sector. The hydropower projects with a capacity of over 2,700 MW have been set up in the country, and projects for about 900 MW are in various stages of implementation. The aim is to double the current growth rate, and take it to a capacity addition of 500 MW per year in next two-three years.<sup>61</sup>

The current electricity policy appears to be capable of addressing the issue of energy and making it more accessible to common people in India, especially in rural areas. What is required is focus and implementation and proper financial management.

### **Consumers’ Perspective on Right to Energy**

Access to energy is critical for economic growth and social development. The progress made in access to this right is, however, not very satisfactory. From the consumers’ perspective, the progress made so far shows that India has to cover a long distance. The findings from the field survey show a mixed perception on the progress. Some of the major findings are shown below:

- About 79 percent respondents covered under the survey have electricity connections, while among BPL households only 72 percent have electricity connection;
- Despite having electricity connection, electricity supply still remains a major challenge. Only 23 percent rural area respondents receive more than 20 hours of electricity supply in a normal day. According to the survey findings, people residing in urban areas are advantaged in comparison to their rural counterpart;
- Only 62 percent consumers consider electricity to be affordable and 68 percent of them belong to urban area;
- About 26 percent respondents are aware about electricity regulator and 78 percent of them belong are from APL households;
- A large section of respondents those who are aware about electricity regulator believe that the electricity regulator has improved access to affordable electricity;

- Usage of LPG is significantly high in urban areas, while usage of wood is high among rural areas and BPL households as major source of energy for cooking;
- About 56 percent of those who use LPG or kerosene as their primary source of energy for cooking have reported incidence of obtaining LPG/kerosene from black market. About 20 percent of them always obtain LPG or Kerosene from black market;
- Only 54 percent respondents consider their primary source of energy for cooking affordable and 70 percent such respondents belong to APL families.

### How to Improve the Situation?

Making electricity accessible to common people is a huge task, especially in terms of its capital cost, and other issues involved – environmental, technology, and availability of primary sources of energy – in increased generation of electricity. The future strategy needs to be devised keeping in mind the requirements, and also the constraints, the strategy.

<b>Year</b>	<b>Energy requirements (mn units)</b>	<b>Peak Demand requirement (MW)</b>	<b>Required installed capacity (MW)</b>
2012-2013	10,46,309	1,49,241	2,29,601
2013-2014	11,30,014	1,61,180	2,47,969
2014-2015	12,20,415	1,74,074	2,67,807
2015-2016	13,18,048	1,88,000	2,89,231
2016-2017	14,23,492	2,03,040	3,12,370

*Source: N. S. Venkataraman, India slipping towards energy crisis: Can the energy scenario be better managed? Chemical Business, January 2012*

One major issue which complicate energy generation and distribution is transmission and distribution losses incurred by the distribution companies. Data reflect that 25 percent of the energy generated was lost in course of distribution in 2008-09. There are four states in which the loss is estimated at more than 50 percent; and another four states have losses in the range of 30 to 40 percent. State-wise loss in transmission and distribution is demonstrated by Table 1.27. It may be iterated that with this lost power, millions of houses can be electrified. Such transmission and distribution losses need to be reduced and minimised to the extent possible.

There is also need for emphasising the development of renewable energy sources. Renewable energy (RE) in India is a sector that is still underdeveloped. Though India was the first country in the world to set up a ministry of non-conventional energy resources, in early 1980s; its success has been very remarkable. In recent years India has been lagging behind other nations in the use of renewable energy. The share of RE in the energy sector, as on March 2011, is about 10 percent of total generation capacity of India. This needs to be further strengthened.

### Box 1.28: Renewable Energy Can Electrify India

According to a social audits and public hearings report (2011) conducted in Madhubani and Saran districts in Bihar on the implementation reality of Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY), the RGGVY cannot deliver electricity to all by 2012 under its current format and needs structural changes. According to the report, decentralised renewable energy is the only means to truly electrify India.

The report says “RGGVY is a failure in Bihar because they have ... failed to deliver actual electricity because of the inherent problems in the scheme. During the social audit, numerous discrepancies like connections not provided, electricity not being supplied and lack of maintenance and servicing, were observed. Under capacity transformers that were burnt out and not repaired was another common problem.

The survey found that, while in Madhubani for instance, against the claim of 97 percent electrification achieved, almost all the villages surveyed seldom got secured electricity supply even for a day; in Saran 78 percent population was still living in darkness, though RGGVY website claims to have achieved 100 percent electrification. The problem is further complicated because of low level of awareness about the scheme.

Source: Times of India, June 10, 2011

**Table 1.27: State-wise Transmission and Distribution Loss (%)**

State/UT	2002-03	2005-06	2008-09	State/UT	2002-03	2005-06	2008-09
Manipur	64	63	63	Jharkhand	21	27	24
Nagaland	57	59	58	A&N	20	24	24
J & K	46	45	58	Gujarat	29	28	24
Mizoram	47	39	53	Maharashtra	34	32	24
Arunachal Pradesh	39	50	47	Punjab	24	28	23
Bihar	38	44	46	Chandigarh	24	32	22
Orissa	45	46	43	Delhi	46	42	22
Uttarkhand	25	36	42	Daman & Diu	15	22	20
Sikkim	55	11	39	Andhra Pradesh	30	20	20
Madhya Pradesh	43	40	38	Tamil Nadu	17	19	18
Assam	38	40	38	Goa	40	20	17
Meghalaya	22	40	37	Karnataka	25	30	17
Tripura	41	41	36	West Bengal	26	25	17
Rajasthan	43	40	31	D&N Haveli	40	20	16
Uttar Pradesh	34	33	31	Himachal Pradesh	21	24	16
Haryana	38	31	31	Kerala	27	24	13
Chhattisgarh	38	31	26	Puducherry	21	18	12
Lakshadweep	11	11	25	<b>All India</b>	<b>33</b>	<b>31</b>	<b>25</b>

Source: Central Electricity Authority, General Review, 2007, 2008; Electricity Data 2006-07 to 2008-09

## Conclusions and Recommendations

Energy is one of the very few sectors, growth of which is determined by supply side factors. Since energy is now fully integrated with economic and human development processes, it is critical that people be provided sustainable access to electricity. Considering that till now about a quarter of the people in India have no access to electricity, and the fact that there exists several constraints, such as environmental, and others, it needs to be ensured that the supply of energy comes through renewable sources.

The right to energy is fundamental for the sustainable development of both the production and consumption sectors. Unfortunately, in India, there is no overarching policy covering this fundamental consumer right. Much of India's problems regarding inefficient use of existing energy resources are related to the non-existence of this right and inadequate planning and management. Therefore, institutional and organisational reforms are needed in the energy sector in the near future. The aim of such reforms should be a proper mix of different energy resources for consumption, and efforts at reaching out to the vast majority of the Indian population.

## Right to Transportation

### An Overview

Transportation is an act and processes of moving an item from one location to another by any available means of carriage. Common forms of modern (mechanised) means of carriage, or say transportation, include automobiles and two-wheelers such as bikes or motorcycles; trains; ships; and planes. Based on this definition, right to transportation can be defined as “a right that facilitate access to the available means of safe transportation to the common people conveniently, often at prices affordable to them”.

Integrated in the definition, four interrelated elements are critically important: firstly availability of all-weather roads; secondly availability of means of carriage; thirdly people's convenience (implying that the services are provided near the place of habitation); and lastly cost involved (implying cost of services is determined in such a way that everyone is able to access the service). An effective right to transportation, therefore, encompasses availability and accessibility of both: transportation infrastructure on the one hand, and means of transportation on the other.

Transport is a basic infrastructural requirement for the fulfilment of consumers' other basic needs. Transport provides the vital link between the market and the habitations; between production and distribution centres on the one hand and consumers on the other. An appropriate transport system coupled with the right to transportation enhances society's capability to participate in the process of economic development. This is more important because of not so impressive penetration of personalised transport assets in different Indian states and UTs, as reflected by the Table 1.28.

In India, the right to transportation is not spelt out directly in the Constitution. However, certain provisions under the Chapters on Fundamental Rights and the Directive Principles of State Policy are related to this right. Article 19 (b) declares the citizen's right to move freely throughout India. The freedom of movement guaranteed under clause (b) of Article 19 is in addition to right to life and personal liberty guaranteed under Article 21. Thus, a combined reading of Article 19 (1) (b) and Article 21 has led to the proposition that the residents of hilly areas have a right to be provided access to roads, where access is necessary for the proper exercise of the right to life and personal liberty (*Umed vs. the State of Himachal Pradesh* 1986, 2 SCC 68).

Table 1.28: Households Accessibility to Personalised Transportation Assets									
State	Bicycle	Scooter, Motor Cycle, Moped	Car, Jeep, Van	None of the specified assets possessed	State	Bicycle	Scooter, Motor Cycle, Moped	Car, Jeep, Van	None of the specified assets possessed
Meghalaya	13.3	5.4	5.4	35.8	J&K	10.3	12.9	7.5	17.3
Madhya Pradesh	39.7	18.8	2.7	32.6	Manipur	44.6	19.8	6	17.2
Nagaland	7.9	6.3	7.8	32.3	Karnataka	33.9	25.6	6.3	14.3
Arunachal Pradesh	19.5	14	7.9	30.7	West Bengal	31.3	22.9	6.2	13.8
Tripura	39.3	8.2	2.2	27.8	Uttar Pradesh	67.8	19.6	3.8	11.4
Chhattisgarh	61	15.6	2.3	27.1	Haryana	44.8	33.3	10.5	9.4
Bihar	48.7	8.1	1.7	25.6	Himachal Pradesh	9.5	15.5	8.3	8.9
Orissa	61	14.5	1.8	25.5	A&N Island	18.3	24.7	6.9	8.1
D&N Haveli	24.4	25.5	5.7	24.9	Daman & Diu	30.4	31.5	5.9	7.6
Assam	55	10.2	3.8	23.6	Puducherry	51.5	46.6	5.6	6.2
Rajasthan	28.6	24.1	4.7	21.2	Tamil Nadu	45.2	32.3	4.3	5.1
Jharkhand	58.8	16.1	2.8	21	Kerala	20.5	24.1	10.2	4.8
Andhra Pradesh	32.1	18.6	2.7	19.4	Goa	24.6	56.9	24.6	4.6
Maharashtra	30.5	24.9	5.9	19	Punjab	66.4	47.5	13.1	4.4
Mizoram	4.3	13.8	7.3	19	NCT of Delhi	30.6	38.9	20.7	2.9
Gujarat	34.8	34.1	6.1	18.7	Chandigarh	57.5	46.7	25.7	2.3
Sikkim	0.9	2.8	8.3	18.2	Lakshadweep	84.3	38.4	2.3	1.9
					<b>India</b>	<b>44.8</b>	<b>21</b>	<b>4.7</b>	<b>17.8</b>

Source: Census 2011

On the other hand, Article 38 (2) states that the state shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Therefore, the right to transportation is directly related to the provisions of Article 38 (2). Again, Article 246 (the Seventh Schedule) divides the responsibilities between the Union and the state governments with respect to various modes of transportation. They are as follows:

- List I – Union List:
  - Entry 22 — Railways,
  - Entry 23 — Highways declared by or under law made by Parliament to be national highways, and
  - Entry 29 — Airways
- List II – State List:
  - Entry 13 — Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I.

From the above description, one can say that even though right to transportation is not directed mentioned in the Constitution of India, but some of its other provisions indirectly encompass some elements which tend to make right to transportation an important basic right.

## Present Situations in India

Transport system in India comprises a number of distinct modes and services, notably roads and road transport, railways, ports, inland water transport, coastal shipping, airports and airlines (Table 1.29). However, as far as the most common modes of transport and more importantly the focus of the present study which is on consumers' right to transportation are concerned, there are two: road transport and railways. These two modes dominate other means of transportation as these carry more than 95 percent of total traffic in the country. Not only this, in future also, it is expected that though other modes like coastal shipping and inland water transport will also play important roles; roads and the railways would continue to dominate the transport landscape in the foreseeable future.

<b>Mode of Transport</b>	<b>2001</b>	<b>2011</b>
Roadways (km)	3319644	4109592
Railways (km)	62915	63974
Waterways (km)	16180	14500
Merchant Marine (No.)	315	324
Airport (No.)	337	352
<i>Paved Runways (No.)</i>	235	249
<i>Unpaved Runways (No.)</i>	102	103
Heliports (No.)	16	40

*Source: CIA World Factbook and others*

This section, therefore, is more oriented towards assessment of infrastructural development these two most dominating modes, namely roads and rail transport. The assessment is based on various indicators of progress of transport and its infrastructure. These include: trend in vehicular population, growth in lengths of roads and railways, and accessibility to transport networks by the common people in both rural and urban areas.

### **Road Transportation**

Overall, if number of vehicular production is an indicator of the progress in transport sector in India, data shows that significant development has taken place over the last seven years from 2004-05 to 2010-11. While the total production of motorised vehicles has increased by about 212 percent, segment-wise growth in production of passenger vehicles (247 percent) has been most pronounced compared to other segments: commercial vehicles 213 percent; two-wheelers 205 percent; and three-wheelers 214 percent. The segmental growth trend is reflective of the increasing demand of vehicles in India, and also government focus on mass transport networks.<sup>62</sup>

Another major development has been significant improvement in the population-vehicular ratio. Segment-wise population-vehicular ratio reflect a slightly different trend compared to the trend in vehicular population. Data demonstrates that the overall ratio has improved from 49 vehicles per thousand in 2000 to 78 vehicles per thousand populations in 2010. While the ratio has increased by about 2.8 times in case of passenger vehicles; it has increased by about 1.9 times in two-wheelers. Other segments also have witnessed significant improvements over this period (Table 1.30).

The situation is, however, not very satisfactory, when one compares India's population-vehicular ratio with that of other countries.

The emerging trend in population of vehicles has led to some major changes in composition of vehicles. Data<sup>63</sup> from the Ministry of Road Transport demonstrates that while the share of two-wheelers has increased from 49 percent in 1981 to 72 percent in 2009, shares of cars and jeeps have declined from 21 percent to 13 percent in the same periods. Shares of good and other vehicles have also declined. This does not, however, mean that overall market has shrunk; rather

Vehicle Type	2000		2010	
	Mn. no.	Vehicle/1000 population	Mn. no.	Vehicle/1000 population
2Ws	38.8	37.7	72.1	58.6
3Ws	2.5	2.4	3.4	2.9
PVs	5.8	5.6	14.5	12.0
CVs	2.4	2.3	4.6	3.8
<b>Total</b>	<b>49.5</b>	<b>48.2</b>	<b>78.3</b>	<b>78.3</b>

*Where 2Ws: Two wheelers; 3Ws: Three wheelers; PVs: Passenger vehicles; CVs: Commercial vehicles Source: ACMA and others*

is reflective of two important developments: affordability for two-wheelers has increased with economic progress; and the market of vehicles is growing at a fast pace.

From the country, especially rural consumers' perspective, road network is equally important as number of vehicles and population-vehicle ratio. Data reveals that over the last few years, road network in India has improved. There is an overall increment of about 22 percent in the total length of roads in 2008 over 2001. Out of this, 24 percent increment has occurred in the rural areas – lengths of roads increased from 1.97 million km to 2.45 million km during the period. During the period, the lengths of other roads – National Highways, State Highways, PWD Roads – have also increased (Table 1.31).

<b>Road Category</b>	<b>2001</b>	<b>2008</b>
National Highways	57737(1.7)	66754(1.6)
State Highways	132100(3.9)	154522(3.8)
Other PWD Roads	736001(21.8)	863241(21.0)
Rural Roads	1972016(58.5)	2450559(59.6)
Project & Urban Roads	475666(14.1)	574516(14.0)
<b>Total</b>	<b>3373520</b>	<b>4109592</b>

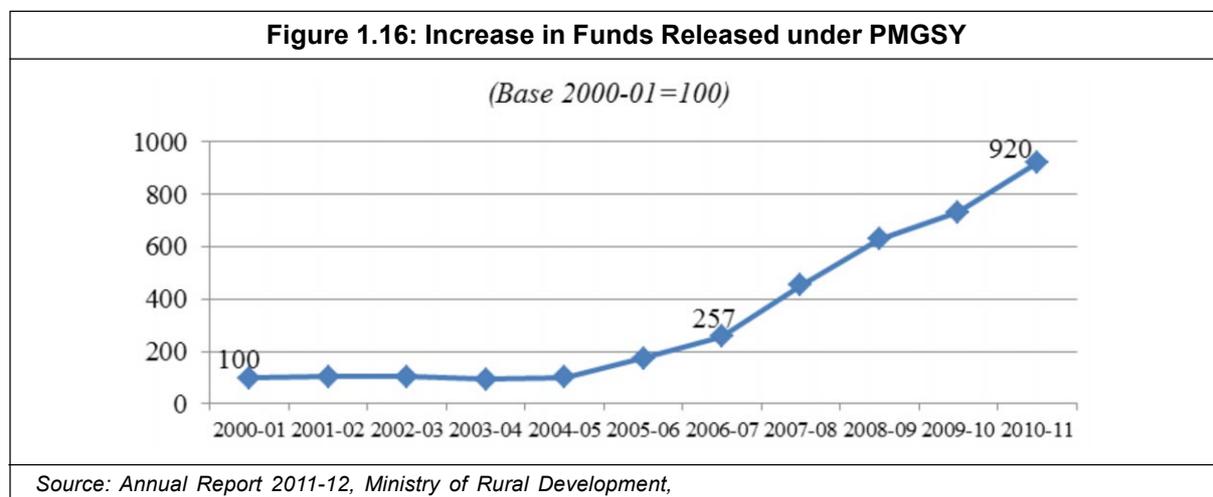
*Note: figures in parenthesis indicate percentage share of each type of road to total road length  
Source: Basic Road Statistics of India, 2010*

The Government of India scheme (primarily PMGSY) for development of rural roads indicate that over 3 lakh km of roads was built in the year 2011, with work for another 82,000 km under progress.<sup>64</sup> The decade covering the periods 2001 to 2011 witnessed increase in total lengths of rural roads from 2.7 million km to 3.1 million km. In addition to this, the lengths of unpaved roads declined from 2.2 million km to 1.9 million km during the same period. One interesting aspect of the programme (PMGSY) implementation is that the achievements exceeded the target in five out of six years of its implementation. The year 2008-09 was the only period, in which the achievement was lower than the target. This is reflective of higher levels of efficiency in implementation (Table 1.32).

year	Planned	Completed	Achievement (% of Target)
2005-06	17454	22891	131
2006-07	27250	30710	113
2007-08	39500	41231	104
2008-09	64440	52405	81
2009-10	55000	60117	109
2010-11	34090	45109	132

*Source : Annual Report 2011-12, Ministry of Rural Development,*

The progress in creating rural network appears to be duly supported by financing for the PMGSY scheme. Data on progress of the scheme shows that total outlay has increased over 9 times in the periods 2000-01 to 2010-11 (Figure 1.16). The actual increase, however, took place only after 2004-05. This can be considered a good but not sufficient progress.



The development that has taken place with respect creating road network in rural India is impressive but it task is far from complete. Considering that roads are the most important link between rural and urban India, initiatives must continue to establish all-weather connectivity between rural and urban India.

Compared to rural India, urban India is much better placed in terms of roads and transport networks. And therefore, there is also difference in development approaches followed. While the major issue in rural India is that of connectivity; in urban areas it is of sustainable transportation system linked to environmental issues. This sustainability aspect is also getting gradually integrated with overall policies and planning for development of overall transportation system in the country, as reflected by various policy initiatives in the country (see Box 1.29: Evolution of Regulatory and Policy Framework for Transport Sector on page 92).

Besides the above developments with respect to urban and rural transport and infrastructure development, there is also some development in terms of additions in national highways. Data shows that the lengths of National Highways have increased by about 16 percent during the

periods 2001 and 2008, though its share in total roads remained almost constant at 2 percent. The majority of existing national highways are two-lane roads (one lane in each direction), though much of this is being expanded to four-lanes, and some to six or eight lanes. Some sections of the network are toll roads.

Over 30,000 km of new highways are planned or under construction as part of the NHDP, as of 2011. This includes over 2,600 km of Expressways currently under construction. The National Highways Network of India, which is a network of highways that is managed and maintained by agencies of the Government of India, measured over 70,934 km as of 2010, including over 1,000 km of limited-access Expressways.

<b>Year</b>	<b>Total</b>	<b>Trend (2001=100)</b>
2001	57737	100.0
2002	58112	100.6
2003	58112	100.6
2004	65569	113.3
2005	65569	113.3
2006	66590	115.4
2007	66590	115.4
2008	66754	115.7
2010	70934	122.8

*Source: Based on National Highways Authority of India data.*

Taking into account the need for making transportation easier and accessible to the common people, in addition to new projects, the National Highways Authority of India (NHAI) is implementing National Highways Development Project (NHDP), the largest highway project ever undertaken in the country.<sup>65</sup> The NHDP is being implemented for construction and upgradation of National Highways under various phases, as indicated below.

- **Phase-I:** Approved in December 2000, the total length of NHs for upgradation envisaged under Phase I was placed at 7498 km. This phase is focused on:
  - o Four laning of National Highways comprising Golden Quadrilateral (GQ) linking major metros, viz. Delhi, Mumbai, Chennai & Kolkata having an aggregate length of 5846 km;
  - o North-South and East-West corridors covering 981 km;
  - o Port connectivity by upgrading 356 km of NHs linking major ports in the country and;
  - o upgradation of 315 km of other National Highways.

*(The total length completed upto 31<sup>st</sup> March 2010 was 7328 km).*
- **Phase-II:** Approved in December 2003, the total length coverage for upgradation under Phase – II involved 6647 km. The main thrust was upgradation (4 laning) of:
  - o North-South (Srinagar to Kanyakumari) & East-West (Silchar to Porbandar) corridors covering a distance of 6161 km and;
  - o upgradation of 486 km stretch of other National Highways.

*(The total length completed up to 31<sup>st</sup> March was 4465 km).*
- **Phase-III:** Phase IIIA and IIIB approved in 2007 involved 4-laning of 12,109 km of high-density stretches of NHs connecting State capitals, important tourist places and places of economic importance through Public Private Partnership (PPP) basis. Out of this:
  - o Phase IIIA covered implementation of 4815 km on BOT basis; and
  - o Phase IIIB covered the balance 7294 km.

*(The total length completed up to 31<sup>st</sup> March was 4465 km).*
- **Phase-IV:** This phase involved improvement of 20,000 km of NHs to two lanes with paved ways.

- **Phase-V: Approved in October 2006, with focus on six laning of 6,500 km of existing 4 lane highways on Design Build Finance and Operation (DBFO) basis. This included 5,700 km of GQ and 800 km of other selected stretches.**
- **Phase-VI: Approved in November 2006, this phase envisaged development of 1000 km of access controlled four/six lane divided carriageway expressways on DBFO basis.**
- **Phase-VII: Approved in December 2007, this phase was for construction of:**
  - o stand- alone ring roads,
  - o by-passes (including improvements of NH links in city),
  - o Grade Separated Intersections, flyovers, elevated highways,
  - o Road Over Bridges (ROBs), underpasses and service roads on BOT Toll basis.

**Table 1.34: Share of States and UTs in National Highways (%)**

State/UTs	Share	State/UTs	Share
Uttar Pradesh	8.8	Haryana	2.3
Rajasthan	8.4	Kerala	2.2
Madhya Pradesh	7.0	Jammu & Kashmir	1.9
Andhra Pradesh	6.7	Himachal Pradesh	1.4
Tamil Nadu	6.7	Manipur	1.4
Maharashtra	6.3	Mizoram	1.4
Karnataka	5.8	Meghalaya	1.2
Orissa	5.5	Nagaland	0.7
Bihar	5.5	Tripura	0.6
Gujarat	4.9	Arunachal Pradesh	0.6
Assam	4.2	Goa	0.4
West Bengal	3.8	A. & N. Islands	0.4
Chhattisgrah	3.3	Sikkim	0.1
Uttra Khand	3.0	Delhi	0.1
Jharkhand	2.7	Pudducherry	0.1
Punjab	2.3		

*Source: Based on National Highways Authority of India data.*

The achievements of the NHAI have significantly improved connectivity across Indian states and UTs in India. Now almost all the states and UTs are connected by road networks, and it can be expected that with passage of time, the overall transport situation will further improve and make transport system in India more accessible to common people, which in turn will make mobility and lives of people easier. The current status of different states, in terms of their penetration of highways, is given in Table 1.34.

#### **Indian Railways Networks**

In terms of mass connectivity, Indian Railways is another most important source of

transportation in India. India's rail network is the 4th longest after those of the United States, Russia and China and the most heavily used system in the world, transporting over 6 billion passengers and over 350 million tons of freight annually.

The importance of Indian Railways as a means of transportation can be understood from its structure which shows its penetration, and coverage. Indian Railways is divided into zones, which are further sub-divided into divisions. As of 2010, there are:

- 17 zones covering all regions of India;
- Each zone made up of a certain number of divisions and each having a divisional headquarters;
- 68 divisions;
- Operates on a network of 63,000 kilometres;

- Has 7,500 stations;
- Carry over 30 million passengers and 2.8 million tons of freight daily;
- Runs across twenty-eight states and two union territories, with Sikkim and Meghalaya the only states not connected by railways; and
- Owns over 240,000 (freight) wagons, 60,000 coaches and 9,000 locomotives

Indian Railways' operations are based on zonal systems, though there are certain operations beyond the system, such as Konkan Railway which is a subsidiary company; Delhi Metro Rail Corporation Limited (DMRC), which operates Delhi Metro network, and is an independent organisation not connected to the Indian Railways. Similarly Bangalore Metro, Hyderabad Metro, Mumbai Metro and Chennai Metro are also independent organisations.

Indian Railways continues to remain a mass transportation mode. However, it is considered more useful and effective for journey over long distances, mainly because of its distance with habitations. People, especially in rural areas, usually have to cover some distance to board trains.

From the infrastructural cost point of view, this mode of transport is relatively more capital intensive than other mode of mass transportation, especially road transport. As a natural corollary, planning for a new of additional infrastructure requires huge capital investment, besides taking a much longer time. In addition to the cost and time factors, a lot more things are considered while planning for a railway network, or extending the existing ones to far flung areas.

### **Government Policy**

The present structure of transport system in India is the result of various policies and other initiatives taken by the government of India over the last six decades. There are three sets of transportation policies that are guiding development of transport and tis infrastructure in India. While the first set is focused on urban planning and development; the second one is rural oriented. For establishing effective road networks between states, and for facilitating long distance transportation, there is policy for national highways. National Highways Authority of India (NHAI) was constituted by an Act of Parliament, namely the National Highways Authority of India Act 1988, to develop, maintain and manage the National Highways vested or entrusted to it by the Central Government. It became operational in February, 1995.

Urban areas continue to be infected with the problem of unplanned development and inefficiencies in the transport system. To address these issues, the urban transport policy, entitled the National Urban Transport Policy (NUTP), in India was approved by the the Ministry of Urban Development (MoUD), Government of India in 2006. The new policy was to remove the inefficiencies in operation of urban transport. The aim was to integrate land use and transport planning in cities, and to bring about improvements in urban infrastructure. The major objective of the policy is to ensure safe, affordable, quick, comfortable, reliable and sustainable access to the growing numbers of city residents.

More specifically the objectives of the NUTP include:

- Incorporate urban transport as an important parameter in urban planning;
- Bring about more equitable allocation of road space with people rather than vehicles as the main focus; and
- Encourage greater use of public transport and non-motorized modes of transport

Under the NUTP, each city with a population of over four million are encouraged by the central government to start planning for a mass transit system adopting a technology that would 'best

suit the city requirements in the next 30 years'. The policy also highlights the need for the followings:

- linking the transport plans with the geographical constraints of its location;
- increased priority to public transport, non-motorised transport, and
- improving parking facilities.

Besides the above, the policy also encourages the setup of Unified Metro Transport Authorities (UMTA) in cities with a million-plus population. The initiative is to facilitate coordinated planning and management of urban transport programmes and projects, and also to facilitate an integrated management of urban transport systems.

The Jawaharlal Nehru National Urban Renewal Mission (JNNURM), launched in 2005 and which is linked to the rules and regulations under the NUTP, is expected to invest in infrastructure projects in 63 cities in India. The linking of the NUTP and the JNNURM provide the necessary pull and motivate states and in particular medium sized cities across India to design and implement sustainable public transport solutions and non-motorized infrastructure projects. Before this, public transport and in particular, bus based public transport was not seen as an alternative to improve mobility.

In line with the above two programmes, there are indications that many cities have transformed their projects into BRTS projects resulting in large scale capacity building on all aspects of planning, technology and operations. The duration of the mission is for 7 years, commencing in 2005-06 with a fund requirement of ₹1, 20,536 crore in 63 cities.

#### **Box 1.29: Evolution of Regulatory and Policy Framework for Transport Sector**

##### **Regulatory Framework**

- **1950** Road Transport Corporation Act
- **1956** National Highway Act
- **1988** Motor Vehicles Act
- **1988** (operationalised 1995) National Highways Authority of India Act,
- **1989** Central Motor Vehicles Rules,
- **2000** Central Road Fund Act,
- **2002** Auto Fuel Policy (AFP)
- **2002** Control of National Highways (Land and Traffic ) Act
- **2005** Jawaharlal Nehru National Urban Renewal Mission (with transport as a component)
- **2006** National Urban Transport Policy (NUTP)
- **2007** Carriage by Road Act
- **2008** Indian Tolls Act,
- **2008** National Action Plan for Climate Change (with transport as a sub-component)

##### **Policy Framework**

- The overall development of roads in India comes under the aegis of the Ministry of Shipping, Road Transport and Highways (**MOSRTH**).
- The **MOSRTH** and the National Highways Authority of India (**NHAI**) administer the National Highways for policy formulation, operation and maintenance.
- State **PWDs** and **road development corporations** administer the state highways and major district roads.
- The Ministry of Rural Development (**MoRD**) manages the policy development, monitoring and coordination of rural roads in India.

Source: IBEF and others

Subsequent to the NUTP, National Action Plan for Climate Change was launched in mid-2008. It provided additional support for improving urban transport system in India. The sub-clause, A National Mission to Sustainable Habitat, tends to facilitate long term transport plans and the growth of medium and small cities in such a way that ensures efficient and convenient public transport.

In case of rural India, government policies have greater focus of transport infrastructure development. The most important initiative which is guiding development of transport infrastructure in rural areas is *Pradhan Mantri Gram Sadak Yojana* (PMGSY). The PMGSY was launched on 25 December, 2000 to provide road connectivity in rural areas. The Programme envisages connecting all eligible unconnected habitations with a population of 500 persons and above in plain areas, 250 persons and above in Hill States, the Tribal areas, the Desert areas and in the 60 Selected Tribal and Backward Districts in 9 States under Integrated Action Plan (IAP), as identified by the Ministry of Home Affairs and Planning Commission. Up-gradation of selected rural roads to provide full farm to market connectivity is also an objective of the scheme, though not central to it.

Under the initiative, information available from the ministry indicate that the District Rural Roads Plans (DRRPs) have been developed for all the districts of the country and Core Network has been drawn to provide for at least a single connectivity to every target habitation.

The progress achieved by the programmes (as detailed earlier) is reflective of the fact that it is progressing well. What is more important is that out of six years of its operation, its achievements have exceeded the pre-set target.

**Box 1.30: 12<sup>th</sup> Five Year Plan to Witness More Innovations in the PMGSY**

To bring in more innovations in implementation of rural development programmes, the centre plans to introduce flexibility in implementing its flagship rural development programmes (including Pradhan Mantri Gram Sadak Yojana called PMGSY) all over the country in the 12<sup>th</sup> Five Year Plan. Under this initiative, the centre plans to transfer 50 percent of funds earmarked for rural development programmes to the states, and the states can utilise these funds to implement schemes as per their requirements, while the rest of the funds would be spent as per national guidelines prescribed for each such programme.

This is to address issues such as the instance of PMGSY, which has not been able to address the problems of connectivity in most tribal areas as well as desert regions of Rajasthan, and has pushed many states to take unilateral initiatives to connect smaller habitations left out of the PMGSY. It may be recalled that though the PMGSY was scheduled to be completed 2007, till date only 60 percent of the work has been completed, and the rest of the work is expected to be completed only by 2017. *(emphasis added)*

*Source: The Economic Times, 8 April, 2012*

For further facilitating long distance movement by common people, and for strengthening road transport infrastructure to connect different parts of India, the National Highways Authority of India (NHAI) was constituted by an Act of Parliament, namely the National Highways Authority of India Act 1988. The primary aim of the initiative was to entrust the authority to develop, maintain and manage the National Highways. It became operational in February, 1995.

The NHAI, for smooth operation of its activities, is entrusted with the tasks to:

- survey, develop, maintain and manage highways;
- construct offices, or workshops and establish and maintain hotels, motels, restaurants and rest rooms at or near the highways entrusted to it;

- construct residential buildings and townships for its employees;
- regulate and control the plying of vehicles on the highways vested in, or entrusted to, it for the proper management;
- develop and provide consultancy and construction services in India and abroad and carry on research activities in relation to the development, maintenance and management of highways;
- engage or entrust any of its functions to, any person on such terms and conditions as may be prescribed;
- advise the Central Government on matters relating to highways;
- assist, on such terms and conditions as may be mutually agreed upon, any State Government in the formulation and implementation of schemes for highway development;
- collect fees on behalf of the Central Government for services or benefits rendered;
- take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred on it by this Act.

### Major Drawbacks of the System

Despite significant achievements made by the transport sector in terms of increase in vehicular population and creation of infrastructures during the last two decades, the overall situation is not very comfortable, and a lot needs to be done. Some of major issues, as highlighted by the World Bank, remain in form of poor quality of roads, poor access to rural areas, congested urban centres, and others. Major issues faced by the Indian transport networks are highlighted in the Box 1.31.

<b>Box 1.31: Some Major Challenges Faced by Indian Transport Sector</b>
<ul style="list-style-type: none"> <li>• <b>Congested roads:</b> Low lane capacity - most national highways are two lanes or less. A quarter of all India's highways are congested.</li> <li>• <b>Poor quality roads:</b> Many roads are of poor quality and road maintenance remains under-funded. Only around one-third of maintenance needs are met. This leads to the deterioration of roads and high transport costs for users.</li> <li>• <b>Poor access to rural areas:</b> Some 33 percent of India's villages do not have access to all-weather roads and remain cut off during the monsoon season. The problem is more acute in India's northern and northeastern states which are poorly linked to the country's major economic centres.</li> <li>• <b>Severe capacity constraints faced by Indian railways:</b> All the country's high-density rail corridors face severe capacity constraints.</li> <li>• Also, freight transportation costs by rail are much higher than in most countries as freight tariffs in India have been kept high to subsidise passenger traffic.</li> <li>• <b>Congested urban centres:</b> In metros – Mumbai, Delhi and other metropolitan centres – roads are often severely congested during the rush hours.</li> <li>• The dramatic growth in vehicle ownership during the past decade - has reduced rush hour speeds especially in the central areas of major cities.</li> <li>• <b>Congested and inefficient ports:</b> There is a need for significant ramping of India's ports and also their capacity and efficiency to meet this surging demand.</li> <li>• Port traffic has more than doubled during the 1990s, touching 650 million tons in 2006-07. This is expected to grow further to about 900 million tons by 2011-12.</li> </ul>
<p><i>Source: World Bank</i></p>

### Consumers' Perspective on Right to Transportation

From the consumers' perspective, some of the major findings are shown below:

- The most common mode of transport used by majority of respondents is Bus/ Jeep (57 percent). About 84 percent respondents commonly use public transport like bus, jeep, train, auto rickshaw and Taxi, etc. Only, 14 percent respondents use own vehicle/private mode of transport.

- About 78 percent respondents believe that their common mode of transport is easily available and accessible; however, only 54 percent consider them to be affordable.

### **How to Improve the Situation?**

Access to transportation is another important basic right that is critical for both economic growth and social development. India has made considerable progress in providing this right to common people. This is reflected by the findings from the field survey. However, it is required that increased accessibility is also translated into increased affordability. Another major issue related to transport that has emerged over the last one decade is the issue of environment, as a result of increasing use of fuels leading to increased CO<sub>2</sub> emissions.

Thus, while accessibility and affordability is important, equally important is addressing the issue of environment. For this, there is need for strengthening public transport system.

### **Conclusions and Recommendations**

It is not a contestable issue that right to transportation is needed for both social development as well as sustainable economic growth. It is also true that mobility is an indicator of socio-economic progress, both in the horizontal as well as in the vertical sense. As far as its applicability in India is concerned, it can be argued that this right is inbuilt and integrated with citizens' freedom of movement.

Rural India has potential to sustain India's growth story, and therefore, focused initiatives must be undertaken to bring in rural areas in the national mainstream. Though there are various modes of transportation, but as far as common people in India, especially rural areas, are concerned, road transport is undoubtedly the most important. There is need for extending road networks to effectively cover these people. Considering that roads are the dominant and convenient mode of transportation in India compared to rail, water, and air transport, it must be given higher weightage for connecting rural India. In the absence of these, one can say, the progress and the capability of the people to take part in developmental activities that will be diluted.

Addressing the issue requires active engagement of various stakeholders. A judicious mix of public and private sector services is the need for providing this vital utility service. Otherwise, the consumers' right to transportation as one of the basic needs of life cannot be fulfilled.

### **Summing up: Right to Basic Needs**

Awareness about basic needs, basic rights, and a clear understanding of the linkages between the two among different types of stakeholders is critical for enabling India and its people to attain a higher development trajectory. This invariably requires consumers' empowerment, which can be ensured, in a country as big as India, when there is an integrated system that tends to create (a) awareness about consumers' basic needs and basic rights; (b) tends to create a system in which consumers' grievances are addressed effectively; (c) tends to create a more sustainable and ethical producers' and consumers' relationship. In short, the system needs to be comprised of elements that have power to reinforce each other.

### ***The Way Forward: Fireflies Arising Model<sup>66</sup>***

One such model which can help India in moving towards an era of sustainable development through consumers' empowerment is Fireflies Arising Model. This is premised on the fact that while the current market system is here to stay in India, there is need for combining the power of market-based capitalism with an inclusive model of development and growth. Or more directly,

there is need for strengthening Fireflies Arising Model. It is a model of governance based on a '4L' architecture: localisation, lateralisation, learning and listening.

Under this model, power will shift from the Centre to states and local bodies. Solutions will be local, not 'one size fits all' prescriptions designed by experts at the Centre. There will be more collaboration between government departments and between NGOs, governments and businesses. This is essential to develop new systemic solutions. This inclusive model is driven by widespread growth of respectable livelihoods rather than hand-outs to the poor.

The 4L governance architecture could provide an attractive vision for India's future. This could make inclusive approach more integrated and also more dignified, and the economy can grow faster. The model is already tested by the World Economic Forum's experts, who had also examined alternative scenarios of China's future. The team had described Fireflies Arising as 'Pahale India' (India First): the model by which India would emerge as the most respected country in the world.<sup>67</sup>

This model can become a reality if the government of India comes forward and ensure fulfilment of basic rights of consumers. The situation is not conducive at the moment. A survey conducted under the present study reflect that only 22 percent respondents are satisfied with Government's effort to ensure adequacy, accessibility and affordability of basic needs. In addition, about 53 percent respondents strongly believe that right to basic needs should be enacted to cover products and services such as food, housing, health, water and sanitation, education, energy, transport and communication.

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## Endnotes

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# 2

## Right to Safety

– Keya Ghosh

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### Definition

Right to safety means the right of the consumer to be protected against **products, production processes and services** which are hazardous and health or life. It includes concern for consumers' and long-term interests as well as their immediate requirements.

### Safety as a Human Right

On December 10, 1948, the General Assembly of the United Nations (UN) adopted and proclaimed the Universal Declaration of Human Rights (UDHR). Article 3 of the Declaration states, "Everyone has the right to life, liberty and security of person." The UDHR also contains within it, rights that relate specifically to the ability to live in good health. It is obvious that good health is not possible without making provisions for safety. The legal obligations of governments under international human rights law has been used effectively all over the world in many areas: the rights of the child, the rights of women, the rights of workers, and the rights of people that is to say in development in general. These rights have been elaborated on and strengthened in international human rights instruments through various conventions, charters and declarations.

Governments of many countries have adopted is these conventions, declarations, and charters. In response, they have instituted safety standards, legislation, and enforcement mechanisms. Thus, providing to their citizens and individuals the enabling mechanism and environment to demand safer products, safer working and living conditions, and a safer environment to live in.

### The Need for a Right to Safety

In the past, people used products and lived in houses and in an environment created by themselves or local communities. And, they blamed themselves, if they suffered harm or injury from such arrangements.

Modern systems, however, do not allow us to live in isolation or independently of others. Normal activities continually preclude individual choices. For example, most of us cannot choose the time at which we travel to work or the road we use to do so. Most of us live in houses that are designed and built by others and use technologies manufactured by powerful organisations, which are not under our control. Also, we have very little knowledge about the hazards caused by chemicals and other products we purchase.

In this age of new development in human history, we have to **develop a new regimen of rights** that protect us from unreasonable harm. Therefore, it has become necessary to promote, in clear and explicit terms, the right of people to live in a world safe from harmful injuries as a fundamental human right.

Therefore, the social and moral responsibility to design our products, services, environment and laws that promote safety have to be strengthened. This would reduce the probability of people hurting each other or themselves, even when someone makes a mistake.

Such changes will take place in a systematic manner only when **people's right to safety is recognised as a fundamental right of communities** and is not dependent only on the goodwill of powerful institutions. A 'right' to safety can be possible only when a relationship exists between those who use (consumers) and those who provide a product or service (traders, dealers and service providers).

## **The United Nations Guidelines on Consumer Protection (UNGCP)**

The objectives of UNGCP take into account:

- the interests and needs of consumers in all countries, particularly those in developing countries;
- recognise that consumers often face imbalances in economic terms, educational levels and bargaining power
- bear in mind that consumers should have the right of access to non-hazardous products, as well as the right to promote just, equitable and sustainable economic and social development and environmental protection

The Guidelines meant for consumer protection, assist countries in achieving or maintaining adequate protection for their population as consumers, encourage *inter alia* high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers and assist countries in curbing abusive business practices by all enterprises at the national and international levels that adversely affect consumers.

The UN Guidelines clearly mention the right to safety as one of the inalienable rights of the consumer. The guidelines provide a framework for governments, particularly those of developing countries, to use in elaborating and strengthening consumer protection policies and legislation. They also intend to encourage international co-operation in this field.

### **Provisions under the UN Guidelines**

The following provisions are mentioned in the UN guidelines with respect to physical safety:

- Governments should adopt or encourage the adoption of appropriate measures, including legal systems, safety regulations, national, international or voluntary standards and the maintenance of safety records to ensure that products are safe for intended or normally foreseeable use.
- Those responsible for bringing goods to the market, in particular, suppliers, exporters, importers, and retailers should ensure that while in their care, these goods are not rendered unsafe through improper handling or storage and that while in their care they do not become hazardous through improper handling or storage.
- Consumers should be instructed in the proper use of goods and should be informed of the risks involved in intended or normally foreseeable use. Vital safety information should be conveyed to consumers by internationally understandable symbols, wherever possible.
- Appropriate policies should ensure that if manufacturers or distributors become aware of unforeseen hazards after products are placed on the market, they should notify the relevant authorities and, as appropriate, the public without delay. Governments should also consider ways of ensuring that consumers are properly informed of such hazards.
- Governments should, where appropriate, adopt policies under which if a product is found to be seriously defective and/or to constitute a substantial and severe hazard even when properly

used, manufacturers and/or distributors should recall it and replace or modify it, or substitute another product for it; if it is not possible to do this within a reasonable period of time, the consumer should be adequately compensated.

#### **The UN Guidelines on Standards for the Safety and Quality of Consumer Goods and Services**

- Governments should, as appropriate, formulate or promote the elaboration and implementation of standards, voluntary and other, at the national and international levels for the safety and quality of goods and services and give them appropriate publicity. National standards and regulations for product safety and quality should be reviewed from time to time, in order to ensure that they conform, where possible, to generally accepted international standards.
- Where a standard lower than the generally accepted international standard is being applied because of local economic conditions, every effort should be made to raise that standard as soon as possible.
- Governments should encourage and ensure the availability of facilities to test and certify the safety, quality and performance of essential consumer goods and services.

#### ***Measures relating to Specific Areas***

In advancing consumer interests, particularly in developing countries, governments should, where appropriate, give priority to areas of essential concern for the health of the consumer, such as **food, water and pharmaceuticals**.

Policies should be adopted or maintained for product quality control, adequate and secure distribution facilities, standardised international labelling and information, as well as education and research programs in these areas. Government guidelines in regard to specific areas should be developed.

**Food:** When formulating national policies and plans with regard to food, governments should take into account the need of all consumers for food security. The government should support and, as far as possible, adopt standards from the Food and Agriculture Organisation (FAO) of the United Nations and the World Health Organisation (WHO) Codex Alimentarius or, in their absence, other generally accepted international food standards. Governments should maintain, develop or improve food safety measures, including, *inter alia*, safety criteria, food standards and dietary requirements and effective monitoring, inspection and evaluation mechanisms.

Governments should promote sustainable agricultural policies and practices, conservation of biodiversity, and protection of soil and water, taking into account traditional knowledge.

**Water:** Within the goals and targets set for the International Drinking Water Supply and Sanitation Decade, governments should formulate, maintain or strengthen national policies to improve the supply, distribution and quality of drinking water. Due regard should be paid to the choice of appropriate levels of service, quality and technology, the need for education programmes and the importance of community participation.

**Pharmaceuticals:** Governments should develop or maintain adequate standards, provisions and appropriate regulatory systems for ensuring the quality and appropriate use of pharmaceuticals through integrated national drug policies that could address, *inter alia*, procurement, distribution, production, licencing arrangements, registration systems and the availability of reliable information on pharmaceuticals. In doing so, governments should take special account of the work and recommendations of the WHO on pharmaceuticals.

In addition to the priority areas, governments should adopt appropriate measures in other areas, such as pesticides and chemicals in regard, where relevant, to their use, production and storage, taking into account such as, relevant health and environmental information as governments may require producers to provide and include in the labeling of products.

## Government Policy Provisions in India

In India, the government policy with respect to various measures to safeguard the right to safety can be analysed under two different heads: *constitutional provisions* and *legal framework and provisions*.

### Constitutional Provisions

Constitutional provisions regarding the right to safety are provided in three chapters, namely, Fundamental Rights, Directive Principles of State Policy and Fundamental Duties. The State has the responsibility to adhere to and implement these provisions, except the Fundamental Duties. The duties are to be practiced by citizens.

#### *Fundamental Rights*

Consumers should be aware of certain fundamental rights that have a direct or indirect relation to the right to safety. Those rights are as follows:

- Protection of life and personal liberty (Article 21).
- Prohibition of employment of children, of the age below 14 years, in factories etc. or engagement in any hazardous employment (Article 24).
- Remedies for enforcement of rights conferred by Part III of Constitution (Article 32). A citizen has the right to move the Supreme Court by appropriate proceedings and the Supreme Court has the power to issue directions or writs for enforcement of these rights. Under Article 226 of the Constitution, the High Court enjoys similar powers to issue writs in cases of violation of Fundamental Rights.

#### *Directive Principles*

Although the Directive Principles are not enforceable by law like the Fundamental Rights, the principles laid down therein are fundamental for good governance and it is the duty of the State to apply these principles in making laws (see Box 2.1). A State is required, in particular, to direct its policy towards securing the health and strength of workers, both men and women, prevent child abuse and employment of citizens in locations unsuited to their age or strength because of economic necessity [Article 39(e)].

#### **Box 2.1: Supreme Court on Enforceability of Directive Principles**

While discussing the importance of Fundamental Rights *vis-à-vis* Directive Principles of State Policy, in *Akhil Bhartiya Shoshit Sangha vs. the Union of India* [AIR 1981, SC 298], the Supreme Court observed: "However it is also evident that Directive Principles cannot in the very nature of things be enforced in a Court of Law, but it does not mean that Directive Principles are less important than Fundamental Rights or that they are not binding on the various organs of the State."

### Legal Framework/Provisions

The legal framework, which embodies various measures and standards to provide safety and quality of goods and services, can be broadly classified under two heads: *legislative* and *administrative*. Of the provisions under these heads, some are already in place while others need to be installed at the earliest.

### *Legislative Provisions*

Among the legislative provisions, the following are important:

- Standardisation, regulation and enforcement
- Mandatory standards and regulatory systems for hazardous goods and services
- Safety parameters in all legislation governing services such as, electricity, transportation etc
- Standardisation body for certification
- Adoption of food standards of FAO, WHO CODEX Alimentarius or generally accepted international food standards
- Legislations governing not only compensation, but product liability, product recall and replacement

### *Administrative Arrangements*

With the above mentioned legislative measures, the corresponding administrative arrangements act as necessary facilitators:

- International and regional standards for ensuring safety standards which are implementable across different cultures
- Availability of easy facilities for consumers to check adulteration and sub-standard goods
- Facilities for comparative testing to be done by consumer organisations
- Participation of both government officials and industry in the deliberations pertaining to consumer viewpoints of standards

## **Policy Provisions and Various Acts to Realise this Right**

Safety is an overarching issue of every aspect of our life. How safe is the food we eat, the water we drink, the air we breathe, the transport we use to commute in, the houses we live in, the workplace we work, the schools we send our children, the entertainment parks, the malls, the cinema halls and everything else. Therefore, any an act or policy cannot ensure safety of all aspects of our life.

In India, safety measures are implemented through various acts passed by the Parliament from time to time. Some of the acts that relate to safety are as follows:

### **Consumer Protection Act, 1986 (COPRA) — to safeguard overall safety of consumers, both product and services**

The Consumer Protection Act, 1986, a milestone in the history of socio-economic legislation in the country, is one of the most progressive and comprehensive piece of legislations enacted for the protection of consumers. The provisions of this act are intended to provide effective and efficient safeguards to the consumers against various types of exploitations and unfair dealings. The provisions of the act are compensatory and not punitive or preventive in nature unlike other laws. This act provides more effective protection to the consumers than any corresponding legislation, in force, in countries that are considered to be more advanced. Right to safety is one of the most important rights enshrined in this act.

The following provisions provide relief to consumers:

- Sale and marketing of goods that are hazardous to life and property are prohibited—hazardous goods cannot be sold; have to be withdrawn from the market; and even manufacture of such goods should cease.
- Service providers should desist from offering services which are hazardous in nature.
- The right of the consumer to be informed about quality, quantity, purity, composition and standards is strengthened.

## **Bureau of Indian Standards (BIS) Act, 1987 — for standardisation and quality control of products and services**

Bureau of Indian Standards (BIS) came into existence, through a Parliament Act April 1, 1987, with a broadened scope and more powers taking over the staff, assets, liabilities and functions of erstwhile Indian Standards Institution (ISI) with following objectives:

- Harmonious development of activities of standardisation, marking and quality certification
- To provide a new thrust to standardisation and quality control
- To evolve a national strategy for according recognition to standards and integrating them with growth and development of Industrial production and exports

**BIS is operating the following important schemes for the benefit of consumers:**

### *Formulation of National Standards*

The Indian Standards are formulated by BIS. It also lays down the parameters for products and services. The standards are prepared by Technical Committees that are represented by experts from various fields including scientists, technologists, manufacturers and consumers.

## **Certification Schemes**

### *Product Certification Scheme*

The Product Certification Scheme of the BIS is governed by the Bureau of Indian Standards Act, 1986 and rules and regulations framed there under. Presence of Standard Mark on product indicates conformity to the relevant Indian Standard. Before granting licence to any manufacturers, BIS makes sure of the availability of required infrastructure and capability of the manufacturer to produce conforming to the relevant Indian standard. Periodic tests are also undertaken.

### *Mandatory Certification*

Keeping consumer's interests in view, the BIS Certification Scheme has been made compulsory for items that are meant for mass consumption, consumer safety, health and energy conservation. However, for other kinds of items, it is voluntary.

133 products have been covered under the Mandatory Certification Scheme. The orders have been issued under various acts or regulations such as, Essential Commodities Act, Food Safety and Standards Act, Coal Mines Regulations and Indian Gas Cylinders Rules. Some of the items brought under mandatory certification are milk powder, packaged drinking water, LPG cylinders, oil pressure stoves, clinical thermometers etc.

As on March 31, 2008, 20025 certification-marks licenses are in operation under the scheme, covering about 1000 different items ranging from food products to electronics.

### *Eco Mark Scheme*

The Eco Mark Scheme is for labelling of household and other consumer products that meet certain environmental criteria along with quality requirements prescribed in relevant Indian standards.

The Eco Mark, however, did not take off in a big way in India.

### *System Certification Scheme*

In addition to Product Certification Scheme, BIS also operates following System Certification Schemes.

- (i) **Quality System Certification Scheme:** The Quality System Certification Scheme is being operated by BIS against IS/ ISO 9000 series of standards which has also been accredited by Raad Voor Accreditatie (RVA), Netherlands. Under this scheme, the capability of supplier of goods or services is certified under IS/ISO 9000 series of Standards for ensuring the quality of goods and services to satisfy the customers.
- (ii) **Environmental Management System Certification Scheme:** BIS is operating Environmental Management System (EMS) Certification Scheme against IS/ISO 14000 series Standards.
- (iii) **Hazard Analysis and Critical Control Point (HACCP) Scheme:** The HACCP Certification Scheme has been launched against IS 15000 to ensure consistent high quality of food safety, compliance with regulations, international acceptance, global competitiveness and total customer satisfaction for the food processing units.

### ***Complaints and Grievances***

A full-fledged Grievance Cell of BIS is functioning at its headquarters in New Delhi and Public Grievance Officers are placed at all Regional & Branch Offices to provide consumers with prompt attention and speedy redressal of their grievances.

In case of any complaint about the quality of ISI Marked products, the consumers should get in touch with the nearest office of the Bureau of Indian Standards. When the complaint is found to be genuine, BIS has a system of replacement/ repair of ISI Marked products. It is ensured by BIS that corrective measures are taken by erring manufacturers so that other consumers are not put to inconvenience.

### ***Consumer Protection***

A separate department with a specific mandate of providing consumer protection and welfare and dealing with public grievances has been established by BIS. On consumer issues, this department maintains liaison with Central Consumer Protection Council and consumer associations and coordinates with the Ministry of Consumer Affairs and Public Distribution. It is guided in its activities by a Consumer Policy Advisory Committee. This Committee advises BIS on all policy matters relating to efficient discharge of the functions and for making standardisation and certification activities user-friendly.

### **Food Safety and Standards Act, 2006**

**The Food Safety and Standards (FSS) Act** was passed in 2006 and the **Food Safety and Standards Authority of India (FSSAI)**, established under this Act, **became functional from January 2009**. **The FSS Act and rule was notified and its commencement started from August 2011**. With the commencement of this Act, various central acts such as Prevention of Food Adulteration Act, 1954, Fruit Products Order, 1955, Meat Food Products Order, 1973, Vegetable Oil Products (Control) Order, 1947, Edible Oils Packaging (Regulation) Order 1988, Solvent Extracted Oil, De-Oiled Meal and Edible Flour (Control) Order, 1967, Milk and Milk Products Order, 1992 etc have been repealed.

FSSAI has created a single reference point for all matters relating to food safety and standards, by moving from multi-level, multi-departmental control to a single line of command, which consolidates various acts & orders that have hitherto handled food related issues in various ministries and departments. It has also been created for laying down science-based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import to ensure availability of safe and wholesome food for human consumption. FSSAI and the State Food Safety authorities are designated to enforce various provisions of the FSS Act, 2006.

**FSSAI has been mandated by the FSS Act, 2006 for performing the following functions:**

- Framing of regulations to lay down the standards and guidelines in relation to articles of food and specifying appropriate systems of enforcing various standards thus notified.
- Specifying the limits for use of food additives, crop contaminants, pesticide residues, residues of veterinary drugs, heavy metals, processing aids, myco-toxins, antibiotics and pharmacological active substances and irradiation of food.

**No article of food should contain any food additive or processing aid, contaminant, naturally occurring toxic substances or toxins or hormone or heavy metals, insecticides or pesticides residues, veterinary drugs residues, antibiotic residues, solvent residues, pharmacological active substances and micro-biological counts in excess unless such tolerance limits are specified by regulations.**

**In order to ensure that no insecticide shall be used directly on article of food except fumigants registered and approved under the Insecticides Act, 1968 (46 of 1968).**

- Laying down of mechanisms and guidelines for accreditation of certification bodies engaged in certification of food safety management system for food businesses.
- Laying down procedure and guidelines for accreditation of laboratories and notification of the accredited laboratories.
- Provide scientific advice and technical support to Central and state governments in the matters of framing the policy and rules in areas which have a direct or indirect bearing of food safety and nutrition.
- Collect and collate data regarding food consumption, incidence and prevalence of biological risk, contaminants in food and residues of various contaminants in foods products, identification of emerging risks and introduction of rapid alert systems.
- Create an information network across the country so that the public, consumers, panchayats, etc receive rapid, reliable and objective information about food safety and issues of concern.
- Provide training programmes for persons who are involved or intend to get involved in food businesses.
- Contribute to the development of international technical standards for food, sanitary and phyto-sanitary standards.
- Promote general awareness about food safety and food standards.

**The FSS Act 2006 spells out the provisions and procedures of the following in detail:**

Responsibilities of the food business operator; Liability of the manufacturers, packers, wholesalers, distributors and sellers; Food recall procedures; Authorities responsible for enforcement of the act; Licencing and registration of food business; Improvement notices; Prohibition orders; Emergency prohibition notices and orders; Notification of food poisoning; Powers of Food Safety Officer; Purchaser may have food analysed; Power of search, seizure, investigation, prosecution and procedures thereof; Procedure for launching prosecution; Recognition and accreditation of laboratories, research institutions and referral food Laboratory; Recognition of organisation or agency for food safety audit; Food Analysts and their Functions; Sampling and analysis; General provisions relating to offences.

**Penalty for** – selling food not of the nature or substance or quality demanded, for sub-standard food, for misbranded food, for misleading advertisement, for food containing extraneous matter, for failure to comply with the directions of Food Safety Officer, for unhygienic or unsanitary

processing or manufacturing of food, for possessing adulterant, for contraventions for which no specific penalty is provided.

**Punishment for** – unsafe food, for interfering with seized items, for false information, for obstructing or impersonating a Food Safety Officer and for carrying out a business without licence.

**Compensation** – in case of injury or death of consumer, Offences by companies.

Penalty for contravention of provisions of this act in case of import of articles of food to be in addition to penalties provided under any other Act, Adjudication, Establishment of Food Safety Appellate Tribunal, Procedure and powers of the tribunal, Civil court not to have jurisdiction, Power of court to try cases summarily, Special courts and Public Prosecutor, Power to transfer cases to regular courts, Appeal, Time limit for prosecutions, Power of court to implead manufacturer etc., Defences that may or may not be allowed in prosecution under this act.

#### **Box 2.2: Some Highlights of the Provisions within the FSS Act 2006**

- **IMPORT:** No person shall import any unsafe or misbranded or sub-standard food or food containing extraneous matter into India.
- **RESPONSIBILITY OF Food Business Operator (FBO):** No FBOs shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food that is unsafe or misbranded or sub-standard or contains extraneous matter.
- No FBO shall employ any person who is suffering from infectious, contagious or loathsome disease.
- Where any food that is unsafe in part of a batch, lot or consignment of food of the same class or description, it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment within a specified time.
- **OFFENCES AND PENALTIES:** If any person whether by himself or by any other person on his behalf, manufactures or distributes or sells or imports any article of food causing injury to the consumer or his death, it shall be lawful for the court to direct him to pay compensation to the victim or the legal representative of the victim, a sum:
  - not less than five lakh rupees in case of death
  - not exceeding three lakh rupees in case of grievous injury
  - not exceeding one lakh rupees, in all other cases of injury at the earliest and in no case later than six months from the date of occurrence of the incident
- **MISLEADING ADVERTISEMENTS:** Any person who publishes, or is a party to the publication of an advertisement that falsely describes any food or is likely to mislead as to the nature or substance or quality of any food or gives false guarantee, shall be liable to a penalty that may extend to 10 lakh rupees.
- **RECALL:** A FBO shall immediately inform the competent authorities and co-operate with them, if he considers or has reasons to believe that a food that s/he has placed on the market may be unsafe for the consumers.

### Box 2.3: Glimpse of FSSAI's Recent Activities

- The National Toll Free Food Safety Helpline No. (1800 11 2100) has become functional along with website.
- Linkages established with Indira Gandhi National Open University (IGNOU) for developing a training module on Food Safety for housewives and the young girls.
- The draft regulations for Trans Fatty Acids is in the process of being notified and draft regulations on nutraceuticals, labelling and claims, food supplements and imported food are ready.
- States are putting in place adequate enforcement structure/machinery to administer the FSS Act. It involves posting of the designated officers at the district level and food safety offices at the sub-district level. At the state level, the Food Safety Commissioner is the head of the machinery. Many states have appointed their Food Safety Commissioners.
- The FSSAI has laid down standards for 10 types of milk that include buffalo, cow, goat or sheep, mixed, standardised, re-combined, toned, double-toned, skimmed and full-cream milks. The food and drugs department of the state will be responsible for monitoring of the milk samples for bacteria content. FSSAI will also check randomly for bacteria content once in a while.
- The FSSAI had provided manual for food inspectors.

### Box 2.4: Tribunal to Keep Watch on Street Food

Ahmedabad will have the state's first food safety tribunal that will not only provide teeth to food safety inspectors to keep quality checks on food sold in the city but also nail defaulters who make false claims about nutritional value of their products. The tribunal will be set up within the next two months.

The tribunal will look into cases where defaulters are caught selling food that is not of the nature or substance or quality as demanded. It will also hear cases of substandard and misbranded food and misleading advertisements. "Food containing adulterants, unsanitary processing or manufacturing of food, offences by companies and compensation in case of injury or death of consumer among others are few of the cases that the tribunal will look into. We are integrating the municipal health machinery into the system," said the food & drugs control administration commissioner H G Koshia.

The state government has already approved the post of a presiding officer, chaired by a retired district judge and six other posts. The tribunal has become mandatory with the Food Safety and Standards Rules, 2011 being implemented. Food safety inspectors are being trained by Food Safety Standards Authority of India (FSSAI) officers with short-term chemical tests that can reveal adulterants in food instantaneously. Food inspectors of municipal corporations and the food and drugs department are part of this exercise.

"Working of the tribunal will not clash with consumer courts as they deal with special issues. The tribunal is purely for enforcement purposes and an appellate body for those who have been penalised by our officers," Koshia added.

*Source: Paul John, Times of India, June 04, 2012*

### Agricultural Produce (Grading and Marketing) Act, 1937

The Agricultural Produce (Grading and Marketing) Act provides various provisions and specifications with respect to the safety of food and food products. Specifications popularly known as 'AGMARK' standards, that signify 'agricultural marketing standards for a statutory

seal ensuring quality and purity', are provided under the act, not only are grades and grade standards prescribed and the quality of each grade-designation defined, but the manner in which the produce is to be packed, sealed and marked has also been specified.

### **Motor Vehicles Act, 1988**

The Motor Vehicles Act, 1988 (59 of 1988) is a Central legislation through which the road transport is regulated in the country. The Act was amended in 1994.

The Hon'ble Supreme Court while disposing writ petition no. 270 of 1988, dated 28.08.1989 observed that all injured in road accidents, when brought to a hospital/medical centre, have to be offered first aid, stabilised and then shifted to a higher centre, if required. It is only after this that the hospital can demand payment or complete police formalities. If a bystander wishes to help somebody in an accident, his responsibility ends as soon as he leaves the person at the hospital. He will not be questioned by the police. The hospital has the responsibility to inform the police and provide first aid.

Following the Supreme Court order in 1989, the Motor Vehicles Act was amended in 1994, to make it mandatory on both the driver/owner of the vehicle to take the accident victim to the nearest doctor, and the doctor to treat the victim without waiting for any formalities. The provisions of Section 134, Motor Vehicles Act 1988 read as follows:

**Duty of driver in case of accident and injury to a person** – When any person is injured or any property of a third party is damaged, as a result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicles –

- a. Unless it is not practicable to do so on account of mob fury or any other reason beyond his control, take all reasonable steps to secure medical attention for the injured person ( by conveying him to the nearest medical practitioner or hospital, and it shall be the duty of every registered medical practitioner or the doctor on the duty in the hospital immediately to attend the injured person and render medical aid or treatment without waiting for any procedural formalities), unless the injured person or his guardian, in case he is a minor, desires otherwise;
- b. Give on demand by a police officer any information required by him, or, if no police officer is present, report the circumstance of the occurrence, including the circumstances, if any, for not taking reasonable steps to secure medical attention as required under clause (a) at the nearest police station as soon as possible, and in any case within 24 hours of the occurrence;
- c. Give the following information in writing to the insurer, who has issued the certificates of insurance, about the occurrence of the accident, namely:
  - i. Insurance policy number and period of its validity
  - ii. Date, time and place of accident
  - iii. Particulars of the persons injured or killed in the accident
  - iv. Name of the driver and the particulars of his driving licence

**Failure to comply with this action is punishable** – Under Section 187 of Motor Vehicles Act, 1988 whoever fails to comply with the provisions of the clauses of Section 134, shall be punishable with imprisonment for a term which may extend to 3 months, or with fine which may extend to ₹500 and, or with both. If it is the second time for the person concerned, then the penalty is harsher. The imprisonment may extend to 6 months, or with fine, which may extend to ₹1000 or with both.

Section 185 of Motor Vehicles Act states imprisonment as one of the punishments against drunken driving and under Section 20 provides for suspension of driving licenses where there has been conviction under Section 185.

Under the Motor Vehicles Act there is a provision for different punishment for the first traffic rule violation and for subsequent ones. As most states do not have a data base for traffic rules violations, enhanced punishment is not possible.

**National Road Safety Policy** was approved on March 15, 2010 to ensure safer vehicles, safer road infrastructure, to establish Road Safety Information Database; Safety of vulnerable road users; safer drivers; enforcement of safety laws; raise awareness, education and training on traffic safety; emergency medical services for road accident victims; and strengthen enabling legal, institutional and financial environment for road safety.

**Four working groups** were created by the Road Safety cell of MoRTH to address the 4Es critical to Road Safety, namely, Engineering (roads and vehicles), Enforcement, Education and Emergency medical services. Pradeep S Mehta, Secretary General of CUTS, was the Chairman of the Working Group on Road Safety Education and CUTS took the initiative in preparing the Synthesis report of the four working groups.

**Box 2.5: Actions proposed by the working groups for road safety:  
What governments can do?**

- Make road safety a political priority.
- Institutional development

Appoint a lead agency for road safety, give it adequate resources, and make it publicly accountable.

- Develop a multidisciplinary approach to road safety.
- Set appropriate road safety targets and establish national road safety plans to achieve them.
- Support the creation of safety advocacy groups.
- Create budgets for road safety and increase investment in demonstrably effective road safety activities.

**Automotive Industry Standards** was notified on November 22, 2011 for various parts, components and assemblies used in the manufacture of motor vehicles. It covers *inter alia*, Safety and Procedural Requirements for Type approval of CNG operated vehicles and Braking systems and performance requirements of the combination of Agriculture tractor and trailer.

***The Amended Railways Act and The Amended Railways Protection Force Act, 2003***

Security of railway passengers is at present a shared responsibility of the Railway Protection Force (RPF) and the Government Reserve Police (GRP). The amended acts supplement the efforts of the state governments to reinforce the security of the passengers and the passenger areas on Indian Railways. In view of latest amendment, RPF is entrusted with following duties:

1. To protect and safeguard railway property, passenger area and passenger
2. To remove any obstruction in the movement of railway property or passenger area
3. To do any other act conducive to the better protection and security of railway property, passenger area and passenger
4. To enquire and to prosecute persons committing offences under the Railways Act

**Some measures to enhance safety of Railways**

- **Special Railway Safety Fund** – Creation of a non-lapsable Special Railway Safety Fund of ₹17000 crores has been an important step in this direction. During the IX<sup>th</sup> Five Year Plan,

over ₹13,400 crores have been spent on safety related infrastructure up-gradation. This included over 15,000 kms of track renewals, rehabilitation of over 3100 bridges, replacement of over 600 signalling systems and track circuiting at over 4200 locations etc.

- Onboard train warning and protection/collision prevention systems would be installed after evaluation of trial results of different projects currently under way.
- In order to prevent cases of “Signal Passing at Danger” (SPAD) and check over speeding by drivers, the pilot project of Train Protection and Warning System (TPWS) has been commissioned on sub-urban section (50 route kms) of Southern Railway. The trial of TPWS system on non-suburban section is underway on Delhi-Agra section (200 route kms).
- Mobile train radio communication and extension of Optical Fibre Cable (OFC) over the entire route are among the measures to be used to improve reliability of the communication system and enhance the capability and safety of the transport system.
- Deployment of women police force has been made for security and assistance of women passengers.

Having peeped into the safety provisions of the above six acts, we may conclude that in terms of legal entitlements and provisions, India is on the right track. Through its laws and policies, railways have guaranteed access of safety benefits to its consumers. Additionally, putting in place and strengthening of the institutional mechanism, though late, has begun and is picking up momentum. However, the crucial aspect to understand the state of the Indian consumer would be to analyse how aware is the Indian consumer of these legislative provisions provided to him/her by laws and acts and whether they are equipped to access these benefits. If not, what are the road-blocks?

Before proceeding to understand that, let us see some of the other acts that have provision to ensure safety of consumers:

#### **Some Acts to Ensure Medical and Chemical Safety**

- 1) Drugs and Cosmetics Act, 1940
- 2) Insecticide Act, 1968
- 3) Bio-Medical Waste( Management and handling Rules), 1998
- 4) Narcotic Drugs and Psychotropic Substances Act, 1985
- 5) The Pharmacy Act, 1948
- 6) Indian Medical Council Act, 1956 and the Medical Degrees Act
- 7) Dangerous Machines (Regulation) Act, 1983
- 8) The Explosives Act, 1884

#### **Some Acts to Ensure Other Kinds of Safety**

- 1) Essential Commodities Act
- 2) Water (Prevention and Control of Pollution) Act, 1974
- 3) Environmental Protection Act, 1986
- 4) Delhi Fire Service Act 2007 (Delhi Act 2 Of 2009) and Delhi Fire Services Rules, 2010
- 5) Fire and Life Safety of National Building Code of India
- 6) Gas Cylinders Rules, 1981
- 7) The Explosive Act, 1884
- 8) Coal Mines Regulations and Indian Gas Cylinders Rules
- 9) Factories Act 1948
- 10) Electricity Act 2003
- 11) Atomic Energy Act, 1962
- 12) Radiation Protection Rules, 1971

## The Acts and Provision Exists — But Who Knows?

### Does the common man/consumer know? What does the survey reveal?

#### *Level of Awareness of Consumers*

*'Safety' comes very low in the priority-list of the Indian mass—this is the common perception. Most Indians do not know how to demand safer roads, workplace, food or environment. Is this true? Let us find out what the consumer survey done in 19 states and 3 union territories with a sample size of 10,500 respondents under the Consumer Up project reveals. Is the common Indian consumer even aware of acts such as Food Security Act which have been created to take care of their basic needs? Therefore, to understand the level of awareness of the Indian consumer, a deeper analysis of the survey findings which extends beyond safety would not be very inappropriate.*

#### *Awareness regarding Acts, Policies and Government Schemes*

Given below are survey findings:

- Only about 20 percent total respondents were aware of the Consumer Protection Act, 1986 or had heard about the act. It is the best known act followed by Weights and Measures Act, 1976 and Food Safety & Standards Act, 2006.
- The alarming revelation shows that almost 50 percent of respondents are not even aware of “Jago Grahak Jago” Campaign.
- Only about 14 percent consumers are aware about the proposed Food Security Act. The awareness is largely limited to recognition of the term “Food Security Act”. Awareness level is highest in northern region (22 percent) and lowest in eastern region (10 percent).
- Only about 24 percent respondents are aware about government schemes such as *Nirmal Gram Yojana*/Integrated Low Cost Sanitation Scheme/National Urban Sanitation Programme aimed at providing affordable and hygienic sanitation facility.
- 11 percent of the total respondents have never received food grains from PDS/FPS on government prescribed price. On the other hand, close to 10 percent respondents are not even aware about govt. prescribed rates and 81 percent of such respondents are from rural areas.
- Among the regulatory agencies, the Reserve Bank of India (RBI) is the most common name recognised by 40 percent respondents followed by Telecom Regulatory Authority of India (TRAI 27 percent) and Electricity Regulatory Commission (ERC 26 percent). Awareness regarding regulatory bodies is limited to recognition of their names and knowledge about their basic mandate or sector.
- However, the encouraging fact is that 72 percent of those who know about these acts/ policies and schemes have reported benefiting directly or indirectly from implementation of the same, while the remaining 28 percent respondents do not agree with this.

#### *Consumer Knowledge and Awareness About Product Safety*

Now, let us see what the survey reveals about Indian Consumers where Safety is concerned.

- Only 22 percent respondents have reported that they always assess products or services considering their potential to cause threat/ hazard.
- 32 percent respondents NEVER consider safety aspect of a product before making a purchase. Proportion of such people are more in rural areas as compared to urban areas. This is largely due to lack of knowledge among consumers regarding safety certifications.
- Based on the survey results, ISI is the most known certification referred by 44 percent respondents.
- Yet, the survey revealed that 40 percent respondents do not refer to any safety or quality certifications such as ISI, ISO, Agmark, Codex etc. before making a purchase.

- Only 13 percent respondents are aware about other certifications and initiatives viz. Energy Star Rating, Bharat/Euro Emission for Automobiles, Organic Food and Natural Textiles and Recyclable Plastic etc.
- Just 2.5 percent respondents were able to correctly name at least one products other than cigarettes, pan masala, liquor, food material and medicines that should carry mandatory warnings/ safety provisions or certifications, while 1.8 percent were able to correctly name two products
- Close to 50 percent respondents in western and central region do not refer to any certification before purchasing a commodity. On the other hand, in states / UTs like Chandigarh, Karnataka, Kerala, and Goa more than 70 percent of respondent do not buy any product without referring to proper certification.
- However, the good news is that about 83 percent respondents believe that certification and warnings are an important means to ensure right to safety.
- Awareness regarding consumer protection and related acts is highest in southern region as compared to the other 4 regions.

#### *Facts and Consumer Perception about Services Linked To Health & Safety*

- Only 69 percent respondents believe that the water that they get from the various sources is potable and safe for drinking.
- About 26 percent respondents have to travel more than 5 km to access institutional health care facility.
- 31 percent respondents have rated quality of healthcare facility as “good”. Majority of them are from urban area. Close to 50 percent respondents have rated healthcare facility as “fair”, neither good nor bad.
- In rural areas, 33 percent do not have access to toilet facility, though access to sanitation is everyone’s right irrespective of region and financial status.
- About 12 percent do not have access to any toilet and majority of them are from BPL Households.
- Only 38 percent of those who use community toilets have reported them to be clean with adequate water supply and lighting arrangements.
- According to 59 percent respondents, doctors do not generally prescribe generic or competitively priced drugs/medicines.

#### *Facts Related to Complain Redressal Mechanism as Revealed by the Survey*

- Based on the responses received, about 55 percent respondents do not know about internal redressal mechanism of a company.
- About 53 percent respondents do not know about the external redressal mechanism.
- When it comes to actual grievance reporting, the survey shows that 93 percent respondents have never made a complaint, while 3 percent respondents have registered their grievance with the company/ producer.
- Only 0.3 percent respondents have approached consumer forums for grievance redressal, while 0.1 percent people have approached sector ombudsman for redressal. These figures clearly indicate limited reach to consumer courts or ombudsman among Indian consumers. The reach is further low in rural area and among BPL households.
- Based on their experience, 78 percent respondents who have approached consumer forums or sector ombudsman have rated the grievance redressal process as “difficult”, while remaining 22 percent have rated it to be easy.
- Only 25 percent cases were completely redressed while the remaining 75 percent cases were either partially redressed or not redressed at all. Only 18 of such unresolved cases were taken to a higher authority for redressal.

- Only 12 percent believe that the present grievance redressal mechanism is empowered to compensate aggrieved consumer, while 53 percent were not able to comment on this query.

## Roadblocks to Effective Consumer Protection

### Lack of Consumer Awareness and Education — the first and foremost reason

It is said that an aware consumer is an asset to the society, but unfortunately the survey reveals that even after 25 years of COPRA, not even 25 percent of the Indian mass is aware of this Act and the rights conferred to them through this act. Majority of the Indian consumers do not have access to the benefits provided to them by law because they are not equipped to avail the benefits or demand and act as a discerning consumers. They lack the capacity to make an informed choice of goods and services. The findings clearly bring out the rural-urban imbalance in the consumers' capacity to access the benefits of the legislative and institutional provisions.

Given similar institutional settings, we see that while a meagre number of consumers are able to access their rights, most of them are not. This is mainly because of insufficient attention, effort and resource allocation towards education of the Indian consumers through these 25 years. The Indian consumer, the rural consumer in particular, has not been made to participate in the Change process that has been happening since 1990s. On this front, there has been a colossal failure. And, that is why we see that 40 percent respondents are ignorant about any safety or quality certifications such as ISI, ISO and Agmark and why only 2.5 percent respondents were able to correctly name at least one product other than cigarettes, pan masala, liquor, food material and medicines that should carry mandatory warnings/ safety provisions.

The survey finding also brings out the regional disparity. A glimpse into the number of cases filed/ disposed of/ pending in District Fora of different states reaffirms this finding:

The number of cases filed in District Foraas on April 27, 2012, since its inception in Andhra Pradesh<sup>1</sup> was 19,014, in Nagaland, it was only 246. In Assam, it was 13,704, in Arunachal Pradesh it was only 340. In West Bengal it was 81,723 and in Sikkim, it was 283.

This difference can be attributed to the difference in the initiative and efforts of the States towards creating aware consumers. And the above difference in statistics of states once again points to the fact that capacity building and awareness generation of consumers is the fundamental need of the hour.

### Perceptions and Opinions

The Survey further reveals that 34 percent of presidents and members of State Consumer Disputes Redressal Commissions (SCDRC) and the National Consumer Disputes Redressal Commission (NCDRC) feel that the grievance redressal process can be made smoother and more convenient for consumers through consumer education.

Different consumer organisations and individual activists also feel that one of the top three reasons and limitations for delay in redressal is the educational status of complainants (16 percent – due to limited education and awareness, aggrieved consumers are not able to pursue the cases and blindly depend on advocates which leads to delay.

## Existing Institutional Mechanism — Insufficient Infrastructure and Capacity

### *Number of cases filed in consumer courts*

An analysis of number of cases filed in a few SCDRCs *vis-à-vis* the population of that state will further bring to light whether the existing institutional mechanism is sufficient and efficient enough to meet the demand of its population, if made aware.

#### **Box 2.6: A Case Study of West Bengal State Consumer Disputes Redressal Commission**

As per the report published by the Census of India on March 31, 2011, the state of West Bengal's total population was 91, 347, 736 ( 9.13 crore) and the number of cases filed in the West Bengal SCDRC<sup>2</sup> during the year was only 969, which is 0 .001 per cent of the total population. This reflects the pathetic and abysmal state of affairs of consumer empowerment in the state which is not very different from the other states.

And, it is interesting to further note that the number of cases pending at the beginning of 2011 in the West Bengal SCDRC was 773. The total number of cases to be redressed during the year was 1742, but only 821 cases were disposed, leaving 921 cases pending.

What does this point to? Does this not point to the insufficiencies of the exiting institutional mechanism? What will happen when more number of consumers becomes aware of their rights?

Keeping in view of the changing economic scenario, the number of complaints would certainly increase in future. Therefore, the Consumer Forums and Commissions established under CoPRA needs to be given extra attention, infrastructure support to ensure its efficient effective, fair and inexpensive functioning.

## Poor Governance and Lax Implementation — The Third Roadblock

We have seen from the above sections that it is not enough to have laws and acts, and just put in place institutional mechanisms for ensuring safety and quality standards for goods and services. To ensure affectivity, these efforts have to be supported with appropriate publicity and a strong and efficient enforcement mechanism to review and monitor the performance from time to time.

Statistics on occurrence of accidents and daily media reports point to the fact that there is huge (undesired) gap between the rules and regulations and their implementation and monitoring. Action on safety happens only in spurts. And, that is why,

- In just one year (in this case 2010), 1,34,513 persons were killed and 5,27,512 persons were injured in 4,99,628 reported road accidents in the country. These numbers translate into one road accident every minute and one road fatality every four minutes. In terms of road fatalities, India has the dubious distinction of being at the top amongst all nations.
- As per latest data published by the Transport Research Wing of Ministry of Road Transport & Highways, road accidents in India have increased by 2.7 percent during 2010 compared to 2009. A review of the incidence of casualties due to road accidents in India during the past five years presents a disturbing trend:

A newspaper article by Pradeep S Mehta on June 23, 2012 quoted that the number of deaths is equal to three jets crashing every day (410 human beings), but since aircraft are not involved, they do not make headlines. Annually about 150,000 people die every year due to road accidents, and about 400,000 people get maimed, the cost of which is about ₹1 trillion.

Table 2.1: Incidence of Casualties		
Year	Number of deaths	Number of injuries
2005	94,968	4,65,282
2006	1,05,749	49,6,481
2007	1,14,444	5,13,340
2008	1,19,860	5,23,193
2009	1,25,660	5,15,458
2010	1,34,513	5,27,512

*Source: Transport Research Wing, Ministry of Road Transport & Highways*

Implementation and monitoring of safety is lax — that is why we see media reports of fire accidents almost everyday, happening in schools, hospitals, workplace, residential areas and where not. While the author writes this article, fire in Maharashtra Mantralaya and in the Home Ministry's Office at the North Block, New Delhi were reported on consecutive days. Even such important and sensitive buildings are ill equipped to fight disaster!

Fire accidents result in catastrophic personal injury and devastating damage. Every year, crores of rupees in property damage occur as a result of fire. Victims of fire accidents suffer serious harm, including burn injury to their entire body. Fire accidents cause death not only from burns but also from smoke inhalation and toxic gases, as witnessed in the recent AMRI Fire Accident which killed about 90 people in Kolkata.

<b>Box 2.7: Some of the major fire accidents in the last 10 years in schools, hospitals, marriage halls, trade fairs, factories and where not...</b>
<b>August 06, 2001:</b> 28 mentally ill people were killed in a fire mishap at a private mental asylum in Erwadi in Tamil Nadu.
<b>January 23, 2004:</b> 50 people died and 40 were injured when a fire broke out at a marriage hall in Srirangam in Tamil Nadu.
<b>July 16, 2004:</b> 91 school children were killed in a fire accident at Kumbakonam in Tamil Nadu.
<b>September 15, 2005:</b> 35 people were killed and 50 injured in a fire in three illegal firecracker factories in Khusropur village of Bihar.
<b>April 10, 2006:</b> 64 people died and 80 sustained injuries after a fire engulfed the tent at a crowded consumer trade fair in Meerut.
<b>February 22, 2006:</b> 10 people were killed and 19 injured in a fire in a fireworks plant in Tamil Nadu.
<b>February 23, 2010:</b> A massive fire broke out in the third floor of a multi-storey office building, Carlton Towers in Bangalore, killing three and trapping many office goers on Tuesday, February 23 evening. Karnataka IG P S Sandhu said the fire had started due to an electric short-circuit.
<b>November 20, 2011:</b> 14 people died and over 30 injured when a fire broke out at a community function of eunuchs in Nandnagari in East Delhi.
<b>December 09, 2011:</b> At least 90 dead in fire at AMRI Hospital in Kolkata.
<b>Dimapur, February 2011:</b> 14 students of the private run Holy Angel Hostel were killed in a massive fire that occurred in the hostel at Palin, in KurungKumey district of Arunachal Pradesh. All the children involved in the accident were students of Don Bosco School, Palin. Some were seriously injured.

### **Box 2.8: Safety, a low Priority for Private Service Providers?**

At least, 90 people were killed in a fire that ravaged a hospital here in the early hours of Friday. Most of the victims choked to death on the upper floors, even as the toxic smoke engulfed the building.

The fire broke out in the basement of the seven-storey building of the Advanced Medical Research Institute (AMRI) Hospitals at Dhakuria. Soon the smoke swept through to the top, threatening the lives of the 164 in-patients.

Amid frantic cries for help, some youths from the nearby locality joined in the rescue, pulling out those still alive, long before firefighters reached the spot. The death toll would have been less had the hospital authorities allowed them in to evacuate the patients earlier, the locals claimed.

“Most of the victims died of suffocation. The building was centrally air-conditioned, and there was no ventilation channel for the smoke to come out,” a Fire officer said, even as desperate firefighters smashed the glass windows to let the fumes out. The basement where the fire started housed a pharmacy, a central storeroom and the biomedical department, all containing inflammable articles, he said.

“The hospital authorities did not inform the Fire Department about the incident. It was the local police station that made the call ” Minister for Fire and Emergency Services Javed Ahmed Khan said.

In all, 28 fire-tenders and three sky-lifts were pressed into action and the blaze was put out late in the afternoon. The survivors were shifted to five hospitals.

*Source: The Hindu, Kolkata, December 04, 2011*

### **Box 2.9: Do Amusement Parks Ride Roughshod Over Safety?**

On January 16, an 11-year-old girl drowned while on a boat ride at Queensland Amusement Park near Poonamallee. This was not the first death in a Chennai amusement park: an employee at MGM Dizzee World on ECR was hit by a merry-go-round and died in April 2007, and a 6-year-old girl from Guduvancherry drowned in a swimming pool at Kishkintha in May 2006.

#### **No regulatory mechanism**

The culture of going to theme parks may be well-entrenched and more than a decade old in the city, but there is still no licensing or regulatory authority to evaluate safety in these parks. Until four years ago, there were no safety guidelines or standards for parks to follow in building safe rides.

The Bureau of Indian Standards introduced guidelines for structural safety in 2004, but there is still no enforcing agency to ensure that they are in place.

While parks have to obtain structural stability certificates on an annual basis from the Public Works Department, this is a common practice that most inspections are not carried out specifically to assess the safety of rides.

Sources say that even this basic certification is not strictly observed.

#### **First Aid facilities**

Parks are also expected to offer full-fledged first aid facilities at the venue with a competent medical professional available on call, but the lack of regular monitoring by independent authorities amounts to the fact that this remains poorly enforced.

*Contd...*

In countries such as the United States, parks are required to have safety certificates from independent agencies, and are also subjected to inspections by local government authorities.

V. G. P. Ravidas, President, Indian Association of Amusement Parks and Industries and Managing Director, VGP Universal Kingdom, says that while the IAAPI “encourages” member-parks to apply for certificates from international bodies such as the American Society for Testing and Materials (ASTM) and TUV SUD, a German certifying company, it cannot force them to do so.

#### **Periodic process**

“We need a fixed certifying authority as in the West to make inspections a regular and periodic process,” Ravidassays.

The lack of specific licensing for amusement parks also makes it harder for police to take action when accidents occur.

“Only when a license is issued for a specific purpose, we can suspend or seal the premises,” a senior officer said.

“Neither the police nor the fire and rescue services are empowered to take any action. The government is examining the possibility of strengthening the laws.”

*Source: Chennai Bureau*

#### **Box 2.10: Around 13% of Food Samples Found Contaminated Nationwide**

After milk, the Food Safety Standards Authority of India (FSSAI) has found contamination to be quite common among food items across the country.

A comparative analysis has shown adulteration rates as high as 40 percent in Chhattisgarh, 34 percent in Uttarakhand, 29 percent in Uttar Pradesh, 23 percent in Rajasthan and 20 percent in West Bengal and Himachal Pradesh. Besides, nearly 17 percent of the food samples tested in Bihar and Chandigarh, 16 percent in Nagaland, 15 percent in Punjab, Madhya Pradesh and Orissa, 14 percent in Haryana, 12 percent in Tamil Nadu and 10 percent in Maharashtra were adulterated.

*Source: Kounteya Sinha, Times of India, January 11, 2012*

We find Indian markets flooded with electrical goods and equipments without ISI marks, promotion of unethical, spurious and unsafe drugs becoming a major threat; safety rules being flouted at construction sites, boating accidents, repeat of Uphaar and AMRI fire accidents in hospitals, schools, workplace, while, dummy nonfunctional/models of fire hydrants, and smoke detectors continue to remain displayed.

Violation of inspection rules and grant of illegal permission is a common practice. We witness repeated reports of children falling into abandoned open bore wells and tube wells and meeting their death. The latest in the series of 45 deaths was the heart-rending tragedy that occurred in a Haryana village: the body of little Mahi, who fell into a 70-foot-deep borewell on June 20 while playing with her friends on her fourth birthday, was pulled out after some 80 hours of rescue efforts. These accidents happening year after year bring out the scale at which safety rules are flouted and the monitoring which never happens.

But, there is no compulsion for officials-in-charge to change their ways – they continue to remain non-alert, slow and sluggish turning a blind eye to the sad state of affairs choosing not to learn any lessons.

## Where and What is the Solution?

### Long-Term, Nation-wide, Planned and Structured Consumer Education and Training Program On Safety —The Fundamental Solution

To find the solution, all the three reasons analysed in the earlier section have to be addressed – the ignorance of consumers which results in consumer inaction; strengthening of the redressal mechanisms and the poor governance which results in lax implementation and monitoring

The solution to all the three problems is one. It lies in our ability to successfully harness the consumer power and utilise it to change the current status of affairs.

Consumer power in a market driven economy is a formidable force to reckon with, if steered in the right manner. And, the enabling factor for it is consumer education and consumer training, because an aware and empowered consumer is an asset to the economy. The consumers themselves can then play the roles of a watchdog, a police and that of a doctor by successfully utilising all the provisions that are provided to them by the law of the land. Therefore, long-term, nation-wide, planned and structured consumer education and training programme on safety is the fundamental solution to the problem.

Consumer education, training and empowerment will consequently erode away the consumer inaction that is prevalent today and the empowered consumers will urge and demand good governance and speedy redressal. Only then will change happen.

It is recommended that the Department of Consumers Affair should take up this initiative with the support of business, CSOs, schools, colleges, universities and media to make it a people's movement.

#### Box 2.11: Public Action Forces Municipality to Do its Duty

Residents of a locality at Ratlam moved the Sub-Divisional Judicial Magistrate to take action to remove the nuisance of stench and stink caused by open drains and public excretion of slum dwellers. They succeeded in getting orders issued to the municipality and the municipality to construct drain pipes with adequate flow of water to wash the fifth and stop the stench.

The directions sought were given by the magistrate and were confirmed by the High Court and the Supreme Court. It was upheld that the duty of the municipality is to remove dirt, fifth etc. and clear the city. Paucity of funds, staff etc. could not be an excuse for failing to perform their primary duties.

### Promotion of Good Governance through Consumer Protection Act

In the judgement of the Supreme Court in Lucknow Development Authority Vs M.K. Gupta, while establishing the Jurisdiction of the Consumer Disputes Redressal Agencies emphasised that the service provided by a private body or statutory or public authority are within the jurisdiction of the COPRA. In this context, the Supreme Court also laid down that any defect or deficiency in such service would be treated as unfair trade practice and would amount to denial.

The Supreme Court<sup>3</sup> observed as follows:

“The administrative law of accountability of public authorities for their arbitrary and even *ultra-vires* actions has taken many strides. It is now accepted that the state is liable to compensate for loss or injury suffered by a citizen due to arbitrary actions of its employees..... No functionary in exercise of statutory power can claim immunity...Public authorities acting in violation of constitutional or statutory provisions oppressively are accountable for their behaviour....Each

hierarchy in the Act is empowered to entertain a complaint by the consumer for value of goods or services and compensation...The Commission or the Forum in the Act is thus entitled to award not only value of goods or services but also compensate a consumer for injustice suffered by him.”

The above case upholds the personal accountability of the concerned public functionary. This is an appreciable contribution to the body of the law on public accountability which is one of the major concerns of good governance movement.

Such exemplary cases should be highlighted and publicised among consumers so that they can use COPRA effectively to improve governance and change the pathetic scenario of safety in our society.

### **Formation of an Independent Overarching Safety Commission?**

Safety is an over arching issue that has been dealt in at least 25 different Indian acts. It is vast and differentiated for different sectors. It involves private and public sector, from manufacturers to traders to end-users, from issues like food, water to complex issues such as radioactivity and jet science. It has linkages and cross linkages between different sectors, departments and acts. But, safety can broadly be classified as Product Safety and Service Safety.

And each sector already has its set of legislative provisions and guidelines to ensure safety. So what is lacking is a periodic monitoring mechanism to ensure that the rules and regulations are being implemented to minimise risk. This periodic monitoring can be done by an independent Safety Commission. This commission could have two different wings – Product Safety and Service Safety. It should also have the teeth to punish where non-compliance.

The commission, in addition to periodic monitoring, could undertake research and analysis of data, coordinate with and between ministries/departments working in isolation to bring about better understanding of cross linkage issues and sharing of good practices from across the world and thus enhance overall safety. It could set achievable safety goals and visions for different sectors, industry and government departments and help them to achieve it by facilitating exchange of information between ministries/different groups.

#### **Box 2.12: Good Practice**

In Europe, 30 countries have a Rapid Alert System for non-food consumer products (RAPEX). The CPSC in the US and RAPEX regularly exchange notes on consumer products and their safety.

Till the time such a commission is established, the Department of Consumer Affairs can proactively undertake some of the above mentioned activities and urge the relevant authorities to form such a commission.

## **Conclusion**

In India, to realise the right to safety, it is not enough to just have Safety acts and policies in place. It is more important that the acts and policies are implemented well, monitored and popularised among the mass, so that people too can play a constructive and participatory role to ensure their own safety. This will then bring down the number of accidents and the loss and cost to the economy caused by ignorance of consumers and low priority given to safety among the Indian mass. So clearly it is now time for action.

## Endnotes

- 1 Website of National Consumer Disputes Redressal Commission
- 2 As per information provided by Registrar, State Commission
- 3 Consumer Protection in India: Some Reflections by S S Singh and Sapna Chadah, IIPA, New Delhi



# 3

## Right to Choice

– Vandana Vasudevan

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### Background to Consumer Rights

The right to choice is a very emotive subject because it straddles social, moral and economic spheres. In the context of feminist theory, the right to choice refers to the right of a woman to reproductive freedom. In a democracy, we exercise our right to choose our future leaders through an electoral mandate. The Universal Declaration of Human Rights adopted by the UN General Assembly in 1948, to which India subscribes, mentions about the right to choose in two of its Thirty Articles. Article 23 says that everyone has a right to free choice of employment and Article 26 says that parents have a prior right to choose the kind of education that shall be given to their children. Choice is indicative of the degree of freedom in a society. The more mature a society, the more choices are available to its people in the social, personal and economic spheres.

### The Evolution of the Right to Choice in India

In 1991, following currency devaluation, the Indian government undertook a series of economic reforms which heralded the era of liberalisation and open markets in erstwhile socialist India. Before that, in every product category, a consumer had only two or three brands to choose from. As the government's policies did not encourage entrepreneurship, a few large manufacturers provided most goods and services to the Indian public- a classic case of monopolies and cartels.

Even the airways were restricted and there was only one TV channel, the State controlled Doordarshan. Life for the Indian consumer was indeed staid and dull while he could only hear stories of the sheer variety of consumer goods that were available in markets of western countries and even those of the Asian Tigers.

However, after the reform process began in 1991, consumers observed dramatic changes in their lifestyle and consumption patterns and an explosion of choice in many spheres. The factors which support this are listed below:

**a. Free Entry into Previously State Controlled Sectors** – An example of this is the entry of private players in the domestic airline industry. A host of budget airlines like Air Deccan, Go Air, Spice Jet and Indigo entered the market and the Indian flyer no longer had to forcibly fly the badly run, state owned Indian Airlines. A 2005 advertisement of Air Deccan showed a poor villager taking his first flight, after his son sends him a ticket on Air Deccan. The closing line said “For millions of Indians flying is no longer a dream.” This was indeed true. Suddenly, Indian passengers had a choice of choosing between train and air because with the arrival of low cost airlines, now they could afford the air fare.

**b. Technology and the Internet** – Technology has revolutionised our choices in many everyday activities. After the railways set up the IRCTC website, passengers do not need to stand in queue at railway stations or contact agents to book a ticket. Similarly, online booking of cinema tickets has removed black marketeers from the cinema halls. Through travel portals, a consumer can get a detailed list of all the airlines flying to a particular destination and choose what suits best. The consumer can exercise his right to choice of hotels or places to visit, even when he is planning a trip abroad, by visiting travel planning sites like tripadvisor.com which was quite unthinkable before the internet era. Portals like mouthshut.com provide consumers with reviews of products and services, and depending on the ratings awarded by users, a consumer can decide whether he wants to make the purchase or not.

**c. Government Policies Favouring Entrepreneurship** – First time entrepreneurs have managed to create very successful brands and companies in the past two decades that have brought about remarkable changes in the way Indians buy goods. For example, makemytrip.com, a pioneer in travel portals, was created by a first time entrepreneur. So also was naukri.com, which has revolutionised the way young people find jobs. No longer do they have to queue up outside the employment exchange like they did before. They can choose to apply to a host of companies sitting in the comfort of their homes. The boom in retail which has created Big Bazaar and other chain stores offering discounts in rates and convenience to millions of Indians, are all a product of a change in the government’s outlook towards new businesses, post the opening up of the economy.

However, despite these changes, as India’s entry into the world of open markets is relatively new, Indian consumers are still to exercise their right to choice as vigorously as their counterparts in developed economies do. Given below are some of the key factors which prevent them from doing so.

#### **What are the factors that impede a consumer’s right to choice?**

1. Lack of choices due to presence of oligopolies and cartels in an industry
2. Lack of information
3. Too many choices
4. Poor implementation of government policies and laws
5. High switching costs – either in terms of money, time or effort
6. Let us examine each of them in more detail with examples

#### **How oligopolies and cartels reduce consumer choice?**

Monopolies, or exclusive control of a market, have prevailed throughout history from the days of the Roman Empire when a senator or nobleman used to be assigned a monopoly (monopolium in Latin) over a particular sector like shipping or mining. The East India Company too was conferred monopolistic status by a royal charter of the British crown which gave it exclusive shipping and trade rights. Firms involved in monopolistic trade practice act against a consumer’s Right to Choice by:

- 1) Trying to eliminate competition from the market;
- 2) Taking advantage of their monopoly and charging unreasonably high prices;
- 3) Showing indifference to product quality;
- 4) Limiting innovations and technical development; and
- 5) Often adopting unfair trade practices as they can act with impunity.
- 6) Internationally, the big technology behemoth of our age – Microsoft has been accused of monopoly. Microsoft lost the antitrust case against it that criticised its policy of bundling all its products and making its operating system incompatible with competitor’s offerings, such

that the buyer had no right to choice. A consumer who bought MS operating system had to buy Windows software as other applications would not work on it.

The Indian Monopolies and Restrictive Trade Practices (MRTP) Act, 1969, (repealed in 2009) aimed at preventing economic power concentration in order to protect consumer interest. Yet throughout the 1970s and 80s, in the days of licence-permit raj, industrial and import licenses conferred monopoly or quasi-monopoly positions on the licensee. He could produce shoddy goods and not bother too much about efficiency improvement and costs because he could pass on rising costs to the consumer. The public sector was given monopoly positions unless there were pre-existing private producers or suppliers in that sector. Electricity, water, roads, railways, civil aviation, oil and gas exploration, refining and distribution, and insurance were only a few of the instances.

In other sectors like steel, aluminum, electricity and banks, new entrants were not allowed. The customer's right to choice is what suffered the most, until this regime ended with the economic liberalisation of the early 1990s. The MRTP Act was repealed in September 2009 and replaced by the Competition Act of 2002.

The aim of this Act is “to provide, keeping in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India...”, The Act provides for:

- 1) Prohibition of forming anticompetitive agreements
- 2) Prohibition of abuse of dominant position
- 3) Regulation of combinations, i.e. mergers and acquisitions of companies
- 4) Creation of a Competition commission which can impose penalties for violation of the Act
- 5) Creation of a Competition Appellate Tribunal to hear appeals against the decisions of the commission and adjudicate on the amount of penalties and compensations.

Despite many monopolies having broken down, the Indian consumer is still not free from the grip of monopolies in some key markets. The Competition Commission of India (CCI) fined ₹6000 crores on 11 cement companies in June 2012 which were held guilty of price cartelisation.

In the forthcoming section, three instances will be examined where a monopolistic market negates a consumer's right to choice – pharmaceuticals, energy and railways.

#### **a. Pharmaceutical Industry**

An important area where the right to choice of the Indian consumer has been heavily compromised by the Indian government's decision to enter into free trade agreement with the EU is pharmaceuticals. Before 1970, the pharma industry was underdeveloped and foreign companies charged very high prices for patented drugs. The Patent Act of 1970, abolished product patent protection in pharmaceuticals and restricted patents only to process. This meant that anyone was free to invent a medicinal product without fear of being sued by someone. This eliminated the monopoly power of a few pharma companies, the industry experienced rapid growth and India emerged as a major player in the global pharmaceutical industry receiving world-wide recognition as a low-cost producer of generic drugs of high quality.

Generic drugs are those which are marketed using its chemical name rather than advertising a particular brand. For example, Aspirin is a generic drug, whereas Saridon is a brand. Generic drugs cost less because there is intense competition among manufacturers, and this prevents any

single company from dictating the overall market price of the drug. When a pharmaceutical company first manufactures a drug, it is under a patent that allows only the company which developed the drug, or its licensees to market it, until the patent expires. Pharma companies are notorious for extending patents by resorting to aggressive litigation, by say, reintroducing the drug in the market with a minor change in one compound used. Therefore, generic drugs offer affordable choices to the customer, while more patented drugs incline the market towards monopolies.

Prof. Sudip Chaudhuri<sup>1</sup> of IIM Calcutta has published a detailed paper in November 2011, called “Multinationals and Monopolies: The Pharmaceutical industry in India after TRIPs”. Trade Related Aspects of Intellectual Property Rights (TRIPs) is an international agreement administered by the WTO to member countries to regulate intellectual property rights (IPRs).

In his paper, Chaudhuri points out that after India signed the TRIPs agreement in 1994, various amendments were made to the Patent Act until 2005 to comply with TRIPs. Following this, drug product patent protection has been re-introduced in India which brings back the days of product monopolies and high prices. In the product patent regime, prices of new drugs depend on what price the company holding the patent would charge. Chaudhuri demonstrates that multinational companies who are benefiting most from the TRIPs agreement, market 92 out of the 180 new drugs. Within those 92, they have a monopoly in 33 products and more than 50 percent market share in 53 products.

Chaudhuri’s paper gives many examples where in case of life-threatening diseases, exorbitant prices are being charged for the new patented drugs. For these patients, it is a question of not getting proper treatment if they cannot afford the high cost.

#### **b. Energy**

India has the world’s fifth largest coal reserves but still it faces a huge energy crisis. Every year several industrial projects are held up due to lack of power, and power cuts are an inevitable feature of the Indian summer across the country. Most of India’s electricity is generated through coal. There is just one company in the public sector, Coal India, which has a monopoly over extraction of coal.

Coal India’s output for the past two years has been stagnant, in large part due to its own inefficiencies, and in some part, due to external factors like Maoist struggles in coal mine areas. India’s ratio of production to reserves is well below China’s. It is reported to be riddled with trade unionism and gangs who steal coal. This is another example of how a monopoly which is unable to meet the demand of a growing economy, **leaves consumers with no choice but to face load shedding and blackouts each year.**

#### **c. Railways**

The Indian Railways have been a monopoly since Independence. In recent times, the question of whether railways should be privatised is often debated, especially whenever there is an accident. With India’s varied natural surroundings of mountains, rivers, seas and forests, a train journey could be pleasurable for many Indians, who now choose to fly, ever since budget airlines have made an appearance. The reason is that trains, even the Rajdhani and Shatabdis, are ill managed. The coaches are unclean and the food is often prepared under unhygienic conditions.

Railway stations, especially in small towns, are awfully dirty with stray dogs, beggars and filth accumulating on the tracks. These tracks are also very inconvenient, with many of them unfriendly to disabled and old people. There is often no lift, and surprisingly railway officials often encourage

people to cross over the tracks to get to one platform from another. In short, an Indian railway station is a study in chaos and always has been, as there is no pressure or incentive for a monopolistic seller to do any better.

Further, if a passenger wants to travel somewhere urgently, it is virtually impossible to get a ticket by train. The tatkal quota on the IRCTC website fills up within seconds of the window opening. The railways record of accidents in recent years is also very shocking. India accounts for 15 percent of the world's train accidents in the last 4 years. In 2011 alone, there were 11 train accidents.

What choice does it give to the Indian passenger? If someone wants to travel to his hometown in the interiors, he may have no option but to depend on the Indian railways, as no airlines may fly to that small town. Even to reach places which have an airport, there is a question of affordability as air fares are much higher than rail fares. Therefore the monopolistic status of the Indian Railways needs to be challenged if we want to get better coaches, safer trains and a pleasurable journey.

### **Why is “Too Much Choice” Adverse to the Right to Choice?**

Ironically, when there is too much choice, the consumer's right to choose is actually compromised, though intuitively, we would think that there is no such thing as too much choice in a capitalist market. Two contemporary theories in the field of consumer behaviour challenge this assumption.

Prof. Sheena Iyengar of Columbia Business School says in her acclaimed book *The Art of Choosing*<sup>2</sup> that too much choice is counterproductive to consumers beyond a certain point. That point is not yet determined and may be different for different industries. Beyond that point, a consumer experiences confusion and cognitive dissonance and is even likely to make choices detrimental to his long term interests. She establishes this through various studies, the earliest of which was something which has come to be termed the jam experiment. The jam experiment (officially titled “When choice is demotivating: Can one desire too much of a good thing?”) was something

Prof. Iyengar tried in a high end store in Menlo Park, California. On one table were 6 jams and on the other 24. Consumers were asked to taste the various flavours on these tables. Researchers found that consumers who tasted fewer jams were more likely to purchase those jams than the other set which tasted 24 jams, got confused and just walked away, probably experiencing negative emotions like dissatisfaction, about the whole thing. More is less, she says i.e. more choice actually is less beneficial to consumers.

Professor Barry Schwartz of the Swarthmore College had exactly this in mind when he propounded the theory of the Paradox of Choice<sup>3</sup> in the eponymous book. It focuses on a ubiquitous aspect of modern urban life: the abundance of choice and whether that is good for us psychologically and emotionally. Classical economists believed choice is good and associated it with freedom. More choice meant more freedom, and who does not value that? Schwartz disagrees forcefully with that for two main reasons. One is that choice paralyses the consumer. Choice was supposed to set us free but it ties us up in chains. With a mind-boggling array of choices, he says, the act of choosing itself has become a challenge.

While both these powerful theories appear more relevant to markets which have reached saturation, like in the developed countries, in India too, there are markets where this concept can be observed.

One example is in the urban financial sector which has introduced a mind boggling array of mutual funds. With the entry of private sector funds in 1993, a new era started in the Indian mutual fund industry, giving the Indian investors a wider choice of fund families. The number of mutual fund houses went on increasing, with many foreign mutual funds setting up funds in India and also the industry has witnessed several mergers and acquisitions.

As per the Association of Mutual Funds of India (AMFI), at the end of January 2003, there were 33 mutual funds with total assets of ₹1,21,805 crores. In March 2008, there were 33 mutual funds floating 956 schemes! In March 2011, the asset base of mutual funds had grown to ₹5,92,250 crores. Funds may be open or close ended, growth or income, balanced or money market fund depending on the investor's objective. An equity fund may invest small cap, blue chip, large cap, medium cap or growth stocks. Other types include tax saving funds, index funds, exchange traded funds or sector specific funds.

It is impossible for an investor to keep pace with the frenetic pace in which this industry is growing. All these schemes are being pushed so aggressively that the average consumer is typically lost about which one will suit his investment needs best. It becomes even more difficult to make the right choice in the face of pushy relationship managers from banks and fund houses who have their own short term targets to meet, and rarely take a decision from the investor's perspective. The Indian stock market is very volatile and is mostly dependent on foreign investment and a host of variables that are beyond the understanding of customers. Even the so called experts are way off the mark when it comes to predicting market behaviour.

In such a scenario, the investor's right to choose amounts to nothing because he is not really choosing. He is being led to choose by someone who has his own short term agenda to fulfill and who is himself dealing with variables he has no control and understanding of. Further, mutual funds are just one product. The basket of financial instruments include others like Initial Public Offerings, government bonds, gold, futures and options, infrastructure bonds etc. An investor visiting his bank branch to do some routine transaction will be pushed to choose one of these, depending on what is the current flavour of the month. There is enough evidence to show that small investors invest without adequately understanding the risk associated with a scheme. If they see "tax saving" or "insurance" in the name of the scheme, they will put their money in it, only to exit later with losses and regret.

While the choice of investment options is certainly a welcome change from pre 1993, when Indians had only bank deposits or government saving schemes, a certain amount of regulation is required to ensure that the investor's right to choice doesn't boomerang on him with an unmanageable array of choices. There are risk mitigation mechanisms that need to be institutionalised such as the investor education programmes and an impartial third party regulator who ensures investors are not misled by financial industry executives who have a direct interest in where the money goes.

As professor Iyengar and Schwartz say, "Too much choice paralyses such consumers into making investment choices that are often not entirely understood."

### **How does Lack of Information for the Consumer Restrict the Right to Choice?**

While the urban consumer is bewildered by the choices among complex financial products, new ones of which appear continuously, for vast swathes of consumers in India's rural areas, the right to choose a financial product is restricted by their illiteracy. A December 2009 RBI report<sup>4</sup> points out that the country has 600,000 habitations – clusters where the population is 100 or more – but only 30,000 have a commercial bank branch. Less than half the population has a bank

account, with the disparity greater in the northeast. Only about 10 percent of the population has life insurance, and less than one percent has other types of insurance policies. A full 37 percent of the population still lives below the poverty line. The main challenge, bankers point out, lies in financial education. It is very necessary to help the masses to understand these products, and the benefits of saving and investing.

According to a report<sup>5</sup> by the NCAER, while medium and large farmers save about 39 percent of their incomes, this declines to nearly 20 percent in the case of small and marginal farmers. Landless households have the highest tendency to save their money in the form of cash at home, and the lowest tendency to save it in a bank account. While 51.6 percent of them kept their meagre savings in cash at home, this figure fell to just 36 percent for large farmers. Nearly 54 percent in this group kept their savings in the bank. However, in the absence of financial literacy, even those among the rural poor who have bank accounts keep virtually no money in them, not because of affordability but because they are ignorant about the value of saving. This makes the cost of servicing the accounts very high for banks because of which they are reluctant to open rural accounts.

In light of above, one can get a reasonable understanding of financial health of rural families. It results in about a fourth of rural families as financially vulnerable i.e. all those households whose total reported income is less than its total (routine and non-routine) expenditure.

It is interesting to note that the state of vulnerability is not limited to poor households. Even prosperous households can be financially vulnerable. For instance, while 28 percent of landless households are financially vulnerable, this share for medium and large farmers is 23 percent each. Further analysis of data indicates that majority of vulnerable households are not able to manage their unplanned expenditure through current savings. This also suggests that such households do not plan their future, nor do they save long-term.

**Thus, the right to choice of financial instruments, so much in evidence in urban areas, does not find its full expression among the rural populace.**

### **How does poor implementation of government controls impede choice?**

When the mechanism of supplying a good to a consumer breaks down or the government's controls on quality fail, then the consumer has no choice if:

- i) The good concerned is an essential commodity
- ii) When the consumer is largely dependent on this supply mechanism
- iii) Both these happen in the case of the two examples we take below – the public distribution system (PDS) through which low income consumers obtain their ration and the second is of adulterated foodstuff being sold in our markets.

#### ***Public Distribution System***

The first example is the much lamented breakdown of the Public Distribution System (PDS) in many parts of the country due to appalling gaps in control and execution. As per the consumption surveys of the National Sample Survey (NSS) and the official figures of the Ministry of Consumer Affairs, Food and Public Distribution, the leakages in the PDS are estimated to be 40 percent. Leakages are the shortfall between reported and actual consumption.

The PDS provides subsidised food grains viz. rice and wheat. The PDS used to be universal till 1992. Presently, the PDS serves the interests of the below poverty line (BPL) population only. A study by Khera and Dreeze<sup>6</sup> on the PDS system, whose findings were presented in November 2011, identifies the following problems associated with the PDS:

- a. Half of the poorest quartile doesn't have BPL cards;
- b. Criteria to identify the poor are faulty;
- c. Criteria are not implemented properly (which sometimes happens due to local politics);
- d. In reality, there exists transient poverty. As a result of which the poor fall, come out and fall back again in the poverty trap.

At an operational level, the study found PDS constrained by:

- a. Corruption, which has to do with APL (above poverty line) quota and non-grain commodities;
- b. Quality of grains supplied under the PDS;
- c. Lack of predictability (such as opening of ration shop);
- d. Access to (geographical distance) ration shops;
- e. Lack of adequate grievance redressal – no supplies, harassment by dealer etc.

**With all these issues that PDS is beset with, the population dependent on it is left with little choice except to buy at costlier prices in the open market.**

For the purpose of the one year ConsumersUp initiative that CUTS has undertaken in coordination with the Ministry of Consumer Affairs, a field study was conducted by IDCG (Ideas Design Consultation Group) in close coordination with CUTS. A total of 11,499 respondents were surveyed across 88 districts. The survey showed that a fair price shop (FPS) of the public distribution system (PDS) is preferred source for food grains of less than a fifth of the respondents. While half of the respondents had an access a privately owned retail shop, others used a mix of both options.

Of those using the PDS-FPS, almost three-fourths were BPL families. Just over a quarter of the respondents accessing PDS-FPS had never received their entire entitlement while 11 percent had not received it at the prescribed price. A fifth and tenth of such respondents respectively were unaware about their entitlements and the prescribed price. However, about 18 percent respondents often made complaints regarding irregularities in PDS/FPS operations.

### **Box 3.1: The Right to Choose Your Food**

The state of food security delivery in India through the public distribution system is much lamented, with the government of India's own estimates suggesting that only 27 percent of expenditure on the PDS reaches intended beneficiaries. This has prompted suggestions that it may be worth considering replacing targeted PDS entitlements with equivalent cash transfers. Potential advantages of cash transfers include lower leakage and administrative costs, greater flexibility for households to choose their consumption baskets, and portability of benefits for migrant populations.

At the same time, there are concerns that cash transfers may be implemented poorly, provide inadequate protection against price volatility, or be used irresponsibly for "temptation goods" like alcohol and tobacco.

Over the past six months we have been working with the government of Bihar on the details of a cash transfer pilot and evaluation. One component of this work was made in an April 2011 survey of 500 BPL and Antyodaya card-holding households in Patna district — covering 300 rural and 200 urban households. Our survey aimed to understand households' experiences with the PDS and the extent of their interest in cash transfers as an alternative.

The results confirm a number of commonly cited problems with the PDS: fair price shops (FPS) are open infrequently (10 days/month in urban areas and 6 days/month in rural areas on an average), have long lines even when they are open (52 percent of rural respondents waited for more than 45 minutes), and frequently received adulterate food grains (80 percent of respondents) and/or they were under-weighted (75 percent of respondents). In light of these issues, it is not surprising that 94 percent of respondents in our survey said that they would like to participate in a pilot programme that provides a cash equivalent subsidy in lieu of their current PDS entitlements.

*Contd...*

This large number might seem a compelling argument for switching to a system of cash transfers. There are several reasons to exercise caution, however. First, respondents may have unrealistic expectations about how well cash transfers could be implemented.

Second, in a recent survey by Jean Dreze and his colleagues, only 54 percent of (approximately 136) households in Bihar expressed a preference for cash. This could reflect sampling and site variation, but also suggests that responses to hypothetical questions can be quite sensitive to the manner in which they are posed.

Third, even if a majority of households prefer cash, we should also be concerned about protecting the interests of the minority who do not, especially if they are among the most vulnerable. Finally, households may prefer cash *ex ante* but end up using it irresponsibly *ex post*.

#### *How then should we proceed?*

The approach we propose is both simple and innovative: we recommend conducting pilots that give households a choice between cash and in-kind transfers. Several states are planning to modernise the PDS using biometric authentication technology such as the one developed under Bihar's e-Shakti initiative. While this technology may reduce outright leakage, it does not allow flexibility in consumption, or address issues of adulteration and under-weighting of goods. To test the added value of cash, a selection of households (chosen by lottery) can be offered an option to receive cash transfers in lieu of their rations. The technological back-end can track whether the form of entitlement opted for is cash or kind, and disburse the corresponding amount of cash (through business correspondents) or grains (through the FPS). The system can also accommodate beneficiaries changing their choices at quarterly intervals.

Introducing choice will help clarify the issues raised above. Households will have the opportunity to learn from experience as to which option suits them best — for example, to learn whether or not cash transfers are implemented well and adequately indexed to variation in food prices. Households that prefer the *status quo* will be protected. Comparing nutrition and health outcomes across households offered the choice and those in the *status quo* will allow us to rigorously quantify the extent to which cash transfers are used responsibly and ensure food security.

Maintaining both the PDS and a cash transfer system in parallel over the longer term may involve higher overhead costs, but would allow different households to choose the benefit that best matches their needs. However, regardless of whether the long-term structure of food security involves PDS, cash, or a choice, our key argument is that juxtaposing the two approaches on a pilot basis and letting beneficiaries choose between them can generate critical insights on a key policy question that ought to be decided with empirical evidence, not just theoretical arguments.

This approach mirrors a key theme of the draft of the food security bill recently approved by the Empowered Group of Ministers, which recognises the diversity of situations across states and avoids a “one size fits all” straitjacket. While it states unambiguously that the PDS remains the default, it leaves open the option for states to consider alternative approaches. Similarly, even within states, it is possible to preserve the PDS as the default but leave open the option for households to try an alternative.

Aggregating individual preferences through actual choices can also serve as a powerful feedback mechanism to policymakers about beneficiary preferences. Finally, providing such a choice puts beneficiary voices at the heart of anti-poverty policy – a powerful precedent for the world's largest democracy to set. As Dreze says, “if people are best judges of their own interest, why not ask them whether they prefer food or cash?”

Source: Karthik Muralidharan, Paul Niehaus, Sandip Sukhtankar, *The Indian Express*, August 02, 2011

Three researchers from universities in the US, worked with the Bihar government to see whether cash transfers could be an alternative to PDS. The summary of their experience is given in Box 3.1.

### *Adulteration in essential commodities*

The Food and Adulteration Act and its failure to ensure safe food products in the market has flooded Indian markets with adulterated fruits and vegetables, spices, grains and pulses. Unless one grows one's own vegetables or procures them from very high-end organic farms, for the vast majority of city dwellers, their daily intake of green groceries includes harmful substances which would not have been there if the government had implemented the law.

The consumer awareness advertisements regularly released in newspapers by the Consumer Affairs Ministry that are captioned *Jago Grahak Jago* minces no words when it says, "food adulteration is a serious problem" and goes on to add, "you, however, can test the purity of the product yourself". This acknowledges that adulteration has grown beyond the government's control. In other words, since it cannot protect you systemically, it does the next best thing by telling you that you must protect yourself. Consumers must therefore reconcile themselves to this fact and be aware of the following handy household tips to separate grain from the chaff.

The ads warn that milk could be synthetic. Sugar and salt can be contaminated with chalk powder. Chilli powder could be mixed with brick powder grit or sawdust. The common adulterant in tea leaves is artificial colour. Mustard seeds could be substituted with harmful argemone seeds. Coriander powder may have horse dung in it. All festivities are now discoloured by adulterated *khoya* (thickened milk) and false silver foil on sweets which is often aluminium.

Food adulteration rocked the Lok Sabha in August 2010, with a Congress Member of Parliament citing various instances of the crime and asking the Health Minister to mete out capital punishment for the offence that kills people in large numbers. He pointed to vacancies in enforcement agencies and the shortage of laboratories to test food items as reasons for rampant adulteration.

The Food Safety and Standards Act 2006 exist to protect consumers from impure food items. In August 2011, all previous food safety laws including the Prevention of Food Adulteration Act 1954, were consolidated as the Food Safety and Standards Rules and Regulations 2011, under a single regulator Food Safety and Standards Authority. Like in all spheres, in food safety too, we have well thought out and detailed laws but their implementation remains woefully inadequate.

Ahead of Diwali in 2009, 10 tonnes of spurious *khoya* disappeared hours after it was seized in east Delhi. In January 2010, the Gujarat government admitted in the state high court that 80 percent of those charged with adulterating food have been acquitted due to laxity and delays by the government in prosecuting them.

How does lax quality control of food products impact consumer choice? The list of food items that the ad *Jago Grahak Jago* warns us about are all essential commodities such as sugar, salt, tea, and spices. None of them can be avoided by a consumer. If there is rampant adulteration of these products in the market, what choice is left for the consumer? What can they be substituted with? One could argue that branded commodities are likely to be free from impurities and consumers could buy them. But branded commodities are priced higher and many lower income consumers buy these commodities loose, not packaged. As a result, they are left with no choice but to consume what is on offer even though it may be adulterated. They also have no means of knowing whether it is indeed adulterated or not.

The situation is worse in case of fruits. Across the markets of this country, fruits do not look or taste the way they used to a generation ago. They no longer look like nature intended them to be — most of them are imperfect, with blotches here and there, some slightly misshapen and each a tiny bit different from the other. They don't look natural because they no longer are natural. Plant tissues produce a chemical called ethylene naturally, which then triggers the enzymes that cause ripening.

Given the compulsions of the modern economy, fruit is transported in various stages of rawness and put in large refrigerated warehouses where they are exposed to ethylene gas in low concentration – at a level safe for humans – to induce the ripening process. But as a widespread practice, unscrupulous traders – which would mean almost all traders in India – do not want to take the long route of putting fruits to regulated amounts of ethylene gas in warehouses. They use an easier solution of wrapping a small quantity of calcium carbide in a paper packet and keeping it near a pile of bananas, or a box of mangoes, for a couple of days. The moisture in the fruit reacts with calcium carbide and produces acetylene gas, which hastens the ripening process. Calcium carbide, colloquially called *masala*, is a gas used for welding steel. It is cheap; a kilo costs ₹25-30 and can ripen tonnes of fruit. Calcium carbide is a classified carcinogenic, besides causing mouth ulcers and gastric trouble. Acetylene affects the nervous system, triggering anything from dizziness to seizures.

Section 2.3.5 of the Food Safety and Standards Regulation 2011, (Prohibitions and Restrictions on Sales), titled, “prohibition of use of carbide gas in ripening of fruits” says “*No person shall sell or offer or expose for sale or have in his premises for the purpose of sale under any description, fruit which have been artificially ripened by use of acetylene gas, commonly known as carbide gas.*”

The health ministry occasionally awakens to the gravity of the problem and alerts all state food authorities under the Food Safety and Standards Authority of India to this issue. A procedure for detection of acetylene in go down or treatment chamber for detection of artificial ripening of fruits as developed by Central Food Technology Research Institute (CFTRI), Mysore has been circulated to all the States/UTs requesting them to bring it to the notice of all enforcement staff of the State/UT for their guidance and compliance. Health is a state subject and while the ministry can warn and castigate, the strictness of implementation is up to each state government.

Ensuring compliance will however require strict monitoring and not random raids as has been the case till now because the practice of infusing masala is very well entrenched among growers and traders, so much so that traders these days wonder what the sudden fuss is about. The leader of the fruits and vegetables trade in Mumbai has been quoted in a news report of July 2011 saying, “Calcium carbide was being used for ripening fruits all across the country from a long time. I fail to understand why raids are being conducted all of a sudden.”

In an overt pointer to the widespread usage of masala, Mother Dairy in 2011 started advertising its papayas as naturally ripened without the use of calcium carbide, to differentiate from papayas being sold elsewhere.

Fruit supply channels are the same for all consumers. The final retail outlet may be different but all fruits are procured from a mandi and transported via middlemen to different bazaars and thereafter to smaller retailers. So in the case of adulterated fruits, even being a rich consumer doesn't offer any alternatives. **There are not any branded fruits that come with a guarantee of safety. Organic is not an easy alternative, thus leaving the public utterly choice less.**

## High Switching Costs in Terms of Documents/Technical Difficulties

The presence of different service providers in the telecom sector allows mobile subscribers the freedom to choose the telecom company (Telco) that gives them the best value. The Mobile Number Portability (MNP) provision that was introduced in January 2011 after many delays, allows subscribers to switch service providers but retain their mobile number which would get ported to the new provider. Anyone could switch – prepaid, post-paid, GSM, CDMA – as long as they were with the old operator for a minimum of three months.

An SMS is sent to the Telecom Regulatory Authority of India (TRAI), a unique porting code is received, which has to be taken to the existing service provider's office and a few documents filled. Behind the scenes, the operator would take the request to the mobile portability clearing house which will deactivate the number from the old and restart it with the new provider. Theoretically, in just seven working days, a consumer could switch his Telco.

Within 40 days of the launch of MNP, there was a flood of applications. Around 4 million dissatisfied customers applied to change their operators. The maximum demand came from Gujarat where 365,000 subscribers applied to change their operators by the end of February. Karnataka followed with 318,000 requests and then in Tamil Nadu 270,000 people grabbed the chance to change their Telco.

These are substantial numbers, but even three months later, subscribers were dismayed by the complications they had to face for availing a long awaited facility. In April 2011, I spoke to some customers across the country, whose names have been changed to protect privacy. These examples illustrate the various ways in which the mobile customers are unable to exercise their right to choose a service provider.

S. Chatterjee's 70-year-old mother lives alone in Kolkata after two knee replacement surgeries. Her number had been disconnected without intimation and restored after a lot of follow up. Upset by this incident, Chatterjee, who works for NTPC Ltd, Nagpur, seized the opportunity provided by MNP to switch to Bharat Sanchar Nigam Ltd (BSNL). Three months later when his request was still pending, the Airtel office in Gariahat suggested that he should call TRAI directly or resort to stalling. BSNL says several such requests are pending and there's nothing they can do until Airtel releases him from its network.

Sachin Kumar who works for Hindustan Aeronautics Ltd, Kanpur, wanted to port out from Reliance Communications to Airtel, for better coverage in the interior areas of Uttar Pradesh. He was surprised when he was informed that he was under a "lifetime contractual obligation" with Reliance, and hence could not move out. He could not recall someone visiting his home and getting his signature on any such document, but Reliance insisted on making such an agreement with him. The second attempt made by him to move was also rejected for the same reason. The third due to "technical reasons".

Vikram Patni, a businessman in Basavangudi, Bangalore, gave a request in the end of January to Reliance Communications so that he could port out to Idea. Tired of getting tossed around between the two, he decided to go to Tata Docomo. Reliance applied charges for call barring and some SMS services which he never asked for, and so he could not fulfil the zero balance criterion. He cleared the charges but now when he sends the "PORT" SMS to 1900, he receives the message that his "number porting out is under process". So he was neither able to get a new unique code nor achieve portability. He made wasted visits to the nodal officer's office, which is at a fair distance from his home.

There are no exceptions among the Telcos, when it comes to dissatisfying customers who want out. Citing “lifetime contracts”, outstanding dues or subscription to special plans, incumbent operators are able to create hurdles for existing users. This is a design flaw in the policy and defeats the freedom that the MNP promised. Customers feel that things are made deliberately difficult for high usage customers who have stayed with the same provider for long. The process itself takes much longer than the stipulated time of a week.

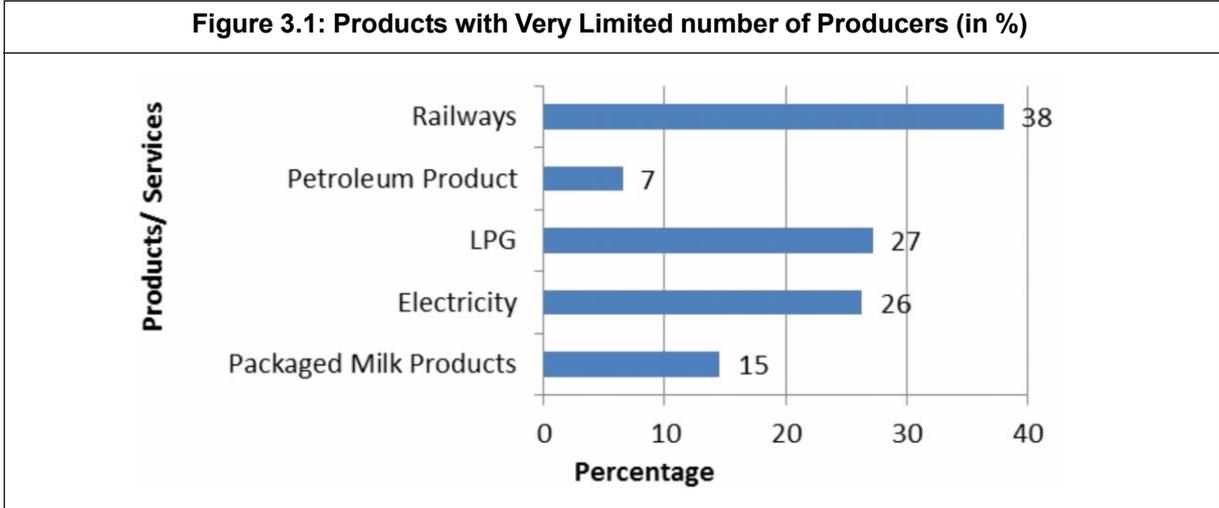
Further, a request is valid for 15 days and if erroneously rejected, cannot be corrected and the whole process has to begin again. That’s why S. Manohar in Chennai is yet to switch from Aircel to Airtel after his request got rejected for “technical limitations”. Several calls were made to the customer care numbers, who gave him conflicting responses. Sometimes even a pending amount of ₹1.50 is shown as “overdue charges”.

The inability of the Telcos to let go their customers infringes on their right to choice of the best service provider.

### Field Survey Results on the Right to Choice

In the CUTS field study, a sample of 11,499 respondents was asked a question to test their knowledge about the choices available to them as consumers. The question was “Could you name any two products or services, for which you have only 1-2 provider/producer/seller?”

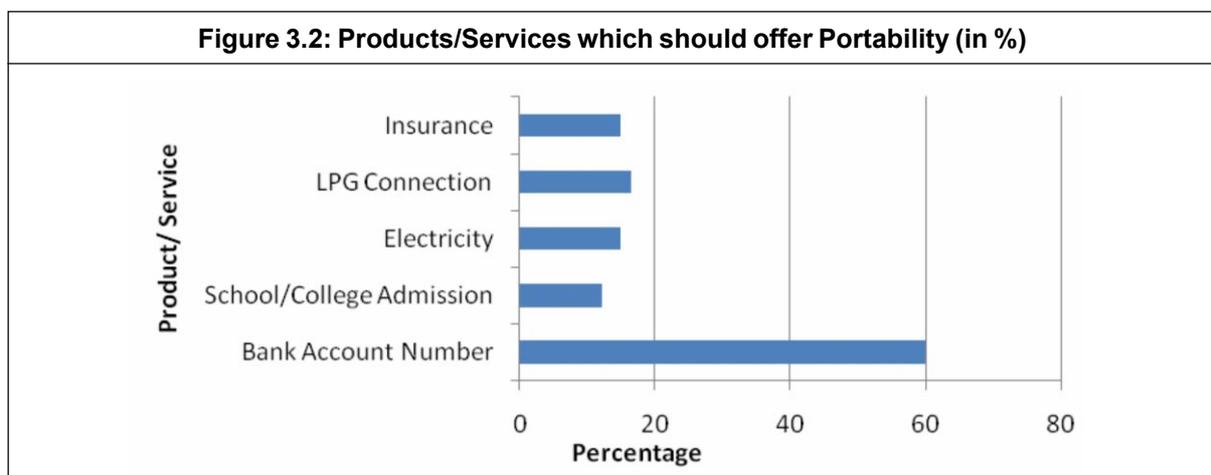
Only 1.6 percent were able to correctly name at least one product/service which has only one or two producers/providers, while 0.2 percent were able to name at least two such products correctly.



All put together only 213 respondents were able to name 6 different products or services which have very limited (1-2) producers/ providers. Top five responses are presented in Figure 3.1. The above responses clearly indicate that overall awareness among respondents about categories where they do not have much choice, is quite low.

### Products/Services which should Offer Portability

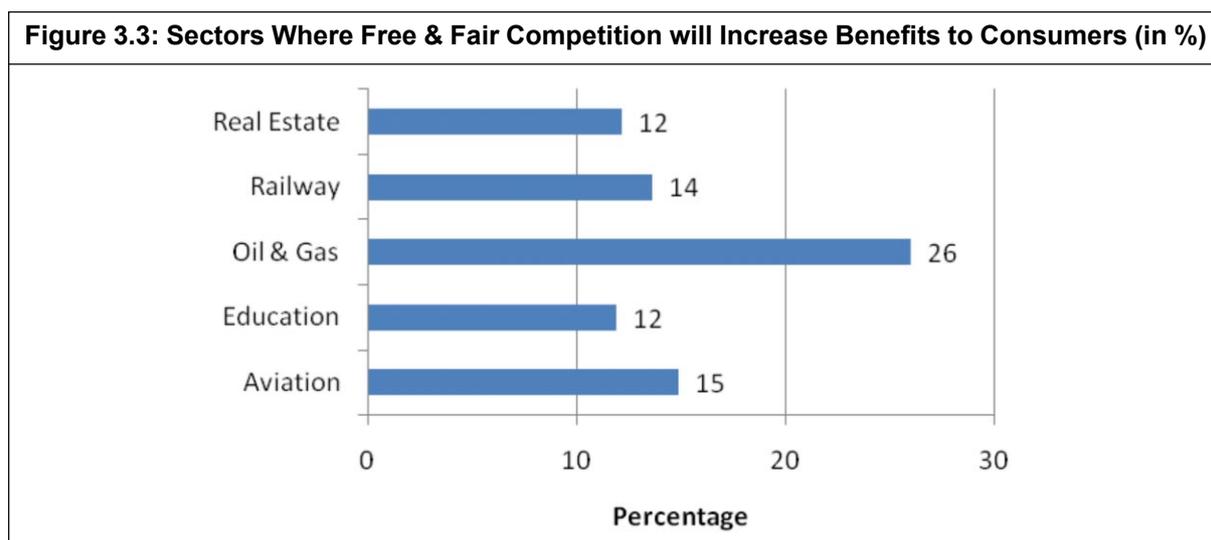
The second question to test knowledge about choices was: “Could you name any two products or services other than telecom which should also be provided with portability?”



Out of 11,499 respondents only 3.4 percent respondents were able to name at least one product/service other than telecom which should be provided with portability, while 1.8 percent were able to name at least two such products. All put together only 593 respondents were able to name 16 different products or services which should be provided with portability. Top five responses are presented in Figure 3.2.

### Free and Fair Competition

Out of 11,499 respondents, only 2.1 percent respondents were able to name at least one sector where free & fair competition will increase benefits to consumers, while 1.5 percent were able to name at least two such sectors. All put together, only 411 respondents were able to name 21 different sectors where free and fair competition will increase benefits to consumers. Top five responses are presented in Figure 3.3.

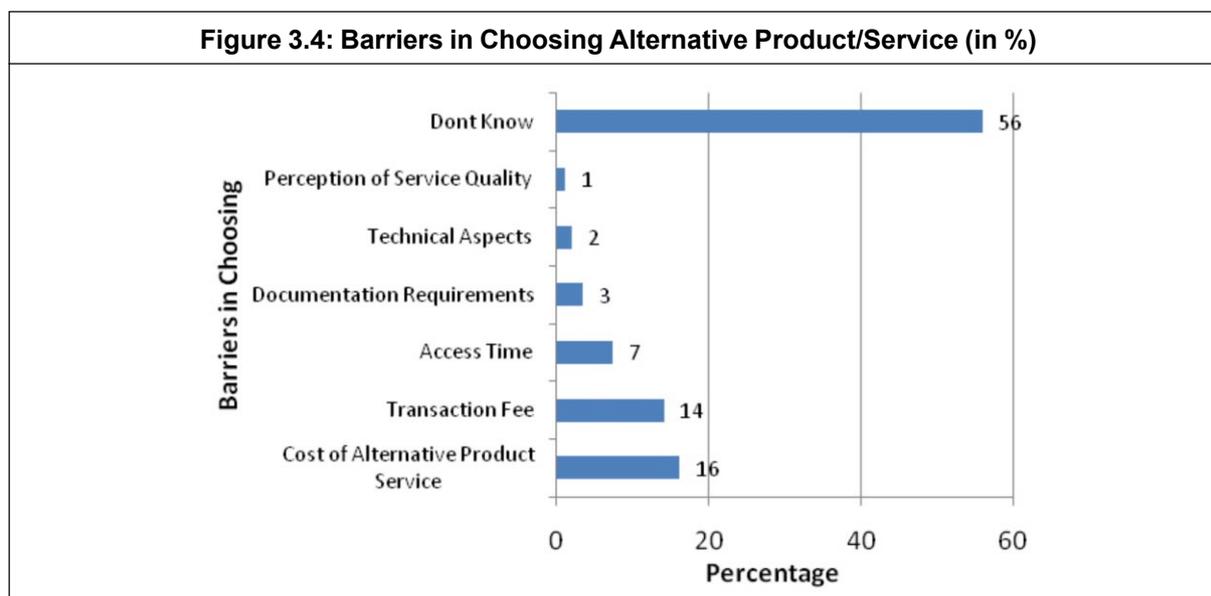


About 26 percent respondents have expressed their desire to have more competition in the oil and gas sector, to reduce the growing fuel prices.

### Barriers to Switching to Alternate Products and Services

To the question: “What are the key barriers to accessing other options for various products & services?” – cost of alternative product/service (16 percent) and transaction fee (14 percent) came out as the two main barriers in choosing alternative product/ services. More than 50 percent

**Figure 3.4: Barriers in Choosing Alternative Product/Service (in %)**



respondents were not able to respond to this question. Other major barriers in choosing alternative products/ services include Access Time (7 percent), Documentation Requirement (3 percent), Technical Aspects (2 percent) and perception of Service.

The results of the study show that consumers' knowledge about the Right to Choice is very low. Awareness is the first step to exercising a right, and as very few consumers are even conscious of the fact that many sectors do not offer choices in products, it shows that the Indian consumer is highly tolerant of oligopolistic practices.

This is possibly because of our socialist background of many decades. This is further reinforced by the fact that more than 50 percent of the respondents were unable to even answer the question of what barriers prevent them from switching to other sellers. It is an indication that the matter has not even crossed their minds.

## Conclusion

The choices available to Indian consumers across the basket of goods and services have multiplied ever since the reforms of the early 1990s, whether in telecommunications, air travel, banking, electronics or fast moving consumer goods. A consumer of the 1970s and 80s would not be able to recognise the Indian marketplace of today; such is the profusion of choices brought about by the opening up of the economy.

In fact, it would not be an exaggeration to say that the Right to Choice offered by the COPRA 1986 began to find its true expression only from the nineties. Yet, as India awoke late to being a free market economy, consumers are still apathetic towards monopolistic practices which stifle their Right to Choice. This is evident in our tolerance towards frequent power breakdowns, the shoddy services of the Indian Railways and our helpless acceptance of rising prices of fuel or sugar, which are controlled by quasi monopolies or cartels.

In rural areas, the Right to Choice is stymied by the low literacy levels, due to which the understanding of the financial products available to them is very limited. This is the reason that despite a vast network of rural branches, only half of India has a savings account. Microfinance

institutions have only scratched the surface of rural credit and informal means of loans are still the dominant practice in villages, despite high interest rates. All this is due to a lack of awareness, knowledge and understanding of choices available to them.

On the other hand, in the urban financial market, we are witnessing a problem of plenty where a mindboggling array of mutual fund schemes and very little correct guidance to the investor makes a mockery of the right to choice. Poor implementation of government policies and laws is another impediment to the right to choice. The gaps in PDS leaves the below poverty line consumers who depend on rations virtually choice less, while laxity in enforcing the Prevention of Food Adulteration Act, is flooding the market with toxic fruits and vegetables which consumers have no choice but to buy, because these are essential goods and there are no viable alternatives to procure them.

Another way in which the right to choice is negated by sellers is by making the cost to switch over from one merchant to another very high, either in terms of time spent in documentation or in terms of cost, as seen in the case of mobile number portability. At the micro level, the Indian consumer is often duped of his right to choice even by small time vegetable vendors who form price cartels in bazaars.

The Indian consumer's right to choice, as enshrined in the Consumer Protection Act 1986, can only flourish by the elimination of the various factors which currently impede it. The strength of the Right to Choice of consumers is directly proportional to the level of competition in the economy. Competition provides consumers with variety in goods and services, while keeping a check on price and pushing each producer to improve quality.

In more developed economies, consumers' right to choice exists in its truest form because there are fewer imperfections in the market and consumers have the fiscal ability to take legal recourse if their rights are infringed upon. As India moves to become one of the world's developed economies in the years to come, the Indian consumer's right to choice will find its full expression. As the writer George Eliot said "the strongest principle of growth lies in human choice."

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## Endnotes

- 1 Prof. Sudip Chaudhuri, IIM Calcutta , "Multinationals and Monopolies: The Pharmaceutical Industry in India after TRIPs". November 2011
- 2 "The Art of Choosing" by Prof. Sheena Iyengar, Columbia Business School
- 3 "The Paradox of Choice : Why More is Less", Prof. Barry Schwartz, Swarthmore College
- 4 "Financial Inclusion: Challenges and Opportunities". December 2009. RBI report
- 5 "How India Earns, Spends and Saves, 2007-08. NCAER
- 6 "PDS Leakages: The Plot Thickens", Dreze, Jean and Reetika Khera, The Hindu, August 13, 2011, p. 10

# 4

## Right to Information

– Y G Muralidharan

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### Introduction

When John F Kennedy gave his assent to the Bill of Consumer Rights in March 1962, he might not have thought that the consumer rights would spread across the globe. 23 years later [1985], when the United Nations adopted the Guidelines on Consumer Protection, it got world-wide recognition. Today, many nations, including India, have framed consumer protection laws based on the UN Guidelines. Besides, the UN Guidelines is considered as a bench mark for evaluating the status of consumer protection. Of the six consumer rights recognised in India, the right to information is crucial as the realisation of other rights depends on the availability and accessibility of accurate and reliable information. If the right to safety presupposes availability of information about hazards of a product, a consumer can make a right choice only on information available at his disposal. Availability of information about the redressal mechanism decides the usage of the right to redress. Whether it is products or services, information holds the key to consumer empowerment.

### About Right to Information

Traditionally, consumers' need for information was restricted to the quality, quantity, potency, purity, standard and price of goods and services. The UN Guidelines under Clause F [Education and Information Programmes] paragraphs 35 to 41 deals with informational needs of the consumers. The focus is on health, nutrition, prevention of food-borne diseases, product hazards, product labelling, and redress mechanism, environmental protection of efficient use of materials, energy and water. In essence, the UN Guidelines addressed the interests and needs of consumers worldwide and recognised two interrelated concerns, i.e. (a) the imbalance that consumers face in economic terms; and (b) the importance of promoting just, equitable and social development.

For a consumer, the right to be informed means the right to be given the facts needed to make an informed choice or decision. Consumer information is anything that adds to the knowledge about a product, a service, a law, even an environmental issue, anything, in fact that relates to the things that consumers buy and use in everyday life. The manufacturers, sellers, marketing agents and advertisements are some of the sources of information. But, the wary consumer, however, knows that information from sources like these often contains a selling element and is careful to distinguish between the facts and advertisement. Not all sources of consumer information are of equal use. Getting the right information that gives us all the facts we need, is very important indeed if we are to survive in the consumer jungle. Without the right information, consumers would have great difficulty in exercising their basic consumer rights.

The need for information is varied. However, consumers need information for four purposes. Firstly, information is crucial for safety of consumers. For instance, non-availability of information

about using electrical gadgets could make the difference between life and death. Secondly, consumers need information to get value for money. If consumers do not have information about different goods and services, they have no means of comparing them, and perhaps of discovering that some of them are very bad value indeed. Thirdly, it is only through proper information that consumers can fight for their justice. The availability of legal protection in itself may not ensure justice. Consumers should have accurate information about such protection. Finally, the right to choose depends on availability of information. If a consumer do not know what is available in the market, how it performs, what it costs and whether it represents value for money, he or she cannot make a choice.

Based on the Consumer's International Eight Consumer Rights, the law on right to be informed should:

1. Require all necessary information to be given to consumers about the goods and services they acquire, especially in relation to therapeutic goods and toxic products by:
  - a. Requiring appropriate statements and warnings to accompany toxic products
  - b. Regulating the supply of therapeutic goods and toxic products to ensure information is disclosed in a manner consistent with international best practice
  - c. Establishing procedures to monitor national and international developments relating to therapeutic goods and toxic products
  - d. Prescribing mandatory information standards to require particular information to be disclosed about particular goods not otherwise regulated
2. Ensure consumers are able to compare different products by;
  - a. prohibiting deceptive packaging
  - b. requiring packages to clearly identify their price and their contents
3. Protect consumers from conduct which is false or misleading by:
  - a. Prohibiting conduct, in relation to the supply of goods or services to a consumer, that is misleading or deceptive, or likely to mislead or deceive, or which is unfair
  - b. Prohibiting representations about goods or manufacturers and suppliers which are not true or which could mislead consumers
  - c. Prohibiting any particular sales or marketing practices that act to the detriment of consumers
4. Require all necessary information to be given to consumers about food and drinks in order to enable them to make informed decisions regarding health and nutrition
5. Ensure that necessary information about goods and services is required to be accurate and comprehensible

## Paradigm Shift

Since 1985, when the UG Guidelines were issued, there have been radical changes in the world economy necessitating consumer advocacy groups to rethink the issues and advocacy models they were pursuing since the 60's. The process of economic liberalisation has had significant impact on consumer welfare. The economic policies and establishment of international institutes to promote and regulate trade and business have influenced consumer protection policies, including that of consumers' right to information. Some of the changes are:

- a. a move towards large trading blocks and a global market where borders and government jurisdictions are becoming increasingly relevant;
- b. removal of tariffs and other impediments to the free trade of goods between countries;

- c. massive changes in technology that impact the way consumers are able to transact business, particularly financial services;
- d. the massive take-up of internet has become a means of exchanging information, conducting consumer transactions and being used by business as a form of distance selling;
- e. privatisation of a range of services, particularly essential services previously supplied by governments; and
- f. more focus on government as a provider of services.

A host of new issues like biotechnology, IPRs, competition policy, governance, corruption, accountability of the state etc. has become part of consumer advocacy. There is a growing realisation that consumer movement cannot restrict itself to products and services but also to have a say in law making. Economic governance and consumers' involvement in policy making are fast gaining recognition as part of consumer rights movement. What was once confined to getting relief to a consumer for wrongs done by the market, the consumer movement has taken the shape of a citizens' movement. Hence, the consumers' right to information needs to be analysed on the basis of the different roles a consumer performs in a modern democracy. Basically, the citizens as consumers need information as (a) a buyer of goods and services (b) tax payers (c) voters

#### **Box 4.1: Consumer Information Centre Fails to Provide Information**

The Udupi Consumer Forum and Information Centre, a NGO working in the field of consumer protection for the past 30 years, has been pulled up by the Karnataka Information Commission (KIC) for not providing information to a citizen in time. As per the Right to Information (RTI) Act, only those NGOs which are substantially funded by the Government are only covered under the RTI Act. However, KIC have taken a view that details of all financial grants/funds received by the State should be made public under the RTI Act.

The KIC has issued summon to the Udupi Consumer Forum and District Consumer Information Centre for delay in providing information sought by an applicant. K S Upadhya of Lakshmindra Nagara in Udupi had sought information on accounts of Consumer Forum, the expenditure and revenue of the Forum through RTI on September 28. However, the Forum had failed to submit the information within 30 days. Accordingly, Upadhya had filed a complaint with the KIC on November 13. After the inquiry, the Commission issued summons to the Udupi Consumer Forum, District Information Centre's convener Damodar Aithal. The Commission has also directed the Forum to provide details to the applicant within 15 days. The Commission has asked why fine should not be imposed to the Forum for not furnishing the details. The Commission has asked the convener to give the answer in writing within 30 days .

*Source: The Deccan Herald, July 07, 2011*

## **The Legislative Framework**

The Constitution of India and a host of other legislations provide consumers' right to information. Over the years, the Supreme Court and various High Courts have handed over innumerable orders that have strengthened consumers' right to information. In addition, a number of subject specific laws have been enacted casting a duty on the producers of goods and services to provide information on their own. A brief review of these provisions is made in following paragraphs:

The Constitution of India guarantees fundamental rights subject to restrictions that may be imposed by law upon them within the limits drawn by the Constitution. Article 19 (1) gives seven rights to citizens, one of which is the right to freedom of speech and expression. Though, the word 'right to information' is not included in the Constitution, a series of decisions by the Supreme Court has established that freedom of speech and expression guaranteed under Article

#### **Box 4.2: Reports of all Panels Should be Made Public, Rules CIC**

In a significant ruling, the Central Information Commission (CIC) has said reports of all expert committees and commissions, constituted by the government, should be made public to ensure greater transparency in decision-making. Allowing a petition seeking a copy of a report of the Western Ghats Ecology Expert Panel (WGEEP), the Commission has rejected the contention of the Public Information Officer (PIO) that the disclosure would adversely affect the economic interests of the nation. (It issued the directive while hearing the plea of G. Krishnan of Kerala, who sought copies of the summary of the report of the WGEEP, under the chairmanship of Professor Madhav Gadgil, on the Athirappally hydro-electric project in Kerala, reports PTI). Set up in 2010 by the Union Ministry of Environment and Forests, the WGEEP was mandated to assess the ecological status of the Western Ghats region, demarcate areas required to be notified as ecologically sensitive and make recommendations for conservation, protection and rejuvenation of the region. The Commission said Sections 8 and 9 of the Right to Information (RTI) Act only exempted disclosure of information that undermined the country's sovereignty and integrity, security or strategic interests. And, it did not agree with the PIO's contention that the disclosure of the report would impact the "scientific or economic interests of the State."

Under Section 4 of the Act, it was mandatory to disclose all reports of panels, experts, committees and commissions set up by the government with public funds. If parts of such a report were exempted as per the act, this should be stated, and such portions could be severed after stating the reasons. "If the entire report relates to the security or strategic interest of India, this should be stated. Such a practice would be in accordance with the provisions of Section 4 of the RTI Act and would result in greater trust in the government and its actions."

It said there was no provision in the Act that exempted disclosure of a report that had not been finalised or accepted by a public authority. The Commission said Section 4 was a statutory direction to all public authorities "to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have [a] minimum resort to the use of this act to obtain information."

"The government sets up such panels, committees, commissions or groups and selects members whose expertise and wisdom are recognised by it. Significant amounts of public funds are deployed for this purpose in order to address the nation's concerns. Therefore, it is imperative for citizens to know about such reports," it said. "If such reports were put in the public domain', the Commission said, 'citizens' views and concerns could be articulated scientifically and reasonably; and in case, the government had reasons to ignore the reports, these should be put before the people logically. Otherwise, citizens would believe that the government's decisions were arbitrary or corrupt."

*Source: The Hindu, April 11, 2012*

19 (1) also includes the right to information. Way back in 1962, in *Sakal Newspapers (Private) Limited v India*, the Supreme Court held that the Newspaper (Price-Page) Act, 1956 and the Daily Newspapers (Price-Page Order) 1960, which regulated the prices of newspapers in relation to their pages and sizes, imposed unconstitutional restriction on freedom of the press.

Similar curbs were imposed by the Newsprint Control Order of 1972-73 issued under the Essential Commodities Act 1955. This was challenged by the Bennett Coleman Co. that publishes the Times of India and various other magazines. The Supreme Court by a majority held that the order violated the freedom of the press and therefore was ultra vires of Article 19 (1)(a) of the Constitution. The Court held that the Order did not merely violate the right of the newspapers to publish, which was inherent in the freedom of the press but also violated the right of the readers to get information which was included within their right to freedom of speech and expression.

#### **Box 4.3: Answer-sheets can be Accessed under RTI**

In a landmark ruling, a Supreme Court bench said students have the right to access their answer-sheets under the Right to Information (RTI) Act. The court held that evaluated answer-sheets were covered under the definition of “information” under the RTI Act, 2005. The bench, comprising Justices RV Raveendran and AK Patnaik, upheld a February 5, 2009 ruling of the Calcutta High Court that examination conducting agencies were not exempted under the transparency law from disclosing the answer-sheets.

The verdict will benefit lakhs of students appearing for various examinations, including those conducted by the UPSC, as it gives a student the right to inspect answer sheets by just applying to the relevant university, council, board or commission. The court dismissed the arguments of the Calcutta University, West Bengal Board of Secondary Education and CBSE, which contended that students have no right to have access to a disputed answer-sheet as there is a fiduciary relationship between the examiner and examination conducting agency.

*Source: Hindustan Times, August 10, 2011*

Over the years, a series of decisions by the Supreme Court has upheld the citizens’ right to information as part of Article 19 (1) of the Constitution. In the State of UP v Raj Narain, it was observed by Mathew. J, that the right to know that is derived from the concept of freedom of speech, though not absolute is a factor that should make one wary when secrecy is claimed for transaction which can, at any rate, have no repercussion on public scrutiny. The Court observed that for a responsible government like ours, where all the agents of the public must be responsible for their conduct, there can be few secrets. The people of this country have right to know every public act that is done in a publicly by their public functionaries.

#### **Box 4.4: Exam Body to Reveal Information under RTI**

New Delhi, September 3, DHNS: All examinations conducting body in the country are liable to reveal information under the Right to Information (RTI) Act with regard to standard criteria for awarding marks to a candidate, the Supreme Court has held. “As the examining bodies and the examination processes of examining bodies have not been exempted, the examining bodies will have to gear themselves to comply with the provisions of the RTI Act,” a Bench of Justices R V Raveendran and A K Patnaik said. The apex court made the observations while directing the Institute of Chartered Accountants of India (ICAI) to reveal “standard criteria” relating to moderation employed by it for the purpose of making revisions to a candidate. “The RTI Act does not bar or prohibit the disclosure of question papers, model answers (solutions to questions) and instructions, if any, given to the examiners and moderators after the examination and after the evaluation of answer scripts is completed, as at that stage they will not harm the competitive position of any third party,” the court said. The bench rejected the contention of ICAI that it would burden the examination body with extra work.

“Additional workload is not a defence. If there are practical insurmountable difficulties, it is open to the examining bodies to bring them to the notice of the government for consideration so that any changes to the Act can be deliberated upon.” “Examining bodies like ICAI should change their old mindsets and tune them to the new regime of disclosure of maximum information. Public authorities should realise that in an era of transparency, previous practices of unwarranted secrecy have no place. Accountability and prevention of corruption are possible only through transparency. Attaining transparency, no doubt, would involve additional work with reference to maintaining records and furnishing information,” the court said. The bench also noted that the Parliament has enacted the RTI Act providing access to information, after great debate and deliberations by the Civil Society, and in its wisdom, has chosen to exempt only certain categories of information from disclosure and certain organisations from the applicability of the Act.

*Source: Deccan Herald, September 04, 2011*

In *S.P.Gupta v Union of India* it was held that ‘the concept of an open government is the direct emanation from the right to know that seems to be implicit in the right of free speech and expression guaranteed under Article 19 (1)(a). Therefore, disclosure of information in regard to the functioning of the government must be the rule and secrecy an exception’. This decision emphasised the citizens’ right to information in the following words:

*“No democratic government can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the government. It is only when people know how government is functioning that they can fulfill the role which democracy assigns to them and make democracy a really effective participatory democracy.”*

### **Right to Information as Buyer of Goods and Services**

A consumer has to have access to information before he decides to buy goods and services. The basic objective of providing information is to enable the consumer to make an informed choice. Providing information on the labels is one of the methods adopted across the globe. Even before the Consumer Protection Act (CPA) was enacted in 1986, the right to information of a buyer of goods and services was codified in various sector specific legislations. Some of them are discussed below:

#### **Food Safety and Standards Act, 2006**

Food safety has been one of the major concerns of consumers. The health of a consumer depends on the food they consume. Therefore, it is essential that consumers know what they are eating, what it contains and how healthy it is. In other words, consumers are to be fed with information about the benefits as well as dangers of food they consume. Earlier, the Prevention of Food Adulteration Act, 1954 regulated food safety and informational requirements. This law has been replaced by the Food Safety and Standards Act, 2006. The Food (Packaging and Labelling) Regulations, 2011 requires the food manufacturers to provide a range of information to the consumers. In other words, consumers right to information with regard to food are codified in this regulation.

According to this regulation, every prepackaged food shall carry a label containing information in English or Hindi (in Devanagiri script) and any other language in addition to English or Hindi. The prepackaged food shall not be described or presented on any label or in any labelling manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect

The label in pre-packaged foods shall be applied in such a manner that they will not become separated from the container. The contents on the label shall be clear, prominent, indelible and readily legible by a consumer under normal conditions of purchase and use. Where the container is covered by a wrapper, the wrapper shall carry the necessary information or the label on the container shall be readily legible through the outer wrapper and not obscured by it

Every food package shall contain information on the label with regard to name of the food, list of ingredients and percentage of ingredients subject to certain conditions. Nutritional information or nutritional facts per 100 gm or 100 ml or per serving of the product containing the energy value in kcal, the amounts of protein, carbohydrate and fat in gram or ml shall be given on the label. Considering the fact that many consumers would like to choose between vegetarian and non-vegetarian food, the regulation requires the label to contain a symbol with a colour code.

### **Labelling of Genetically Modified Foods**

Very recently (June 05, 2012), the Ministry of Food and Consumer Affairs, Government of India, has issued a notification under the Packaged Commodity Rules, making it mandatory to disclose the contents if it is genetically modified (GM). The notification says that ‘every package containing the genetically modified food shall bear at the top of its principal display panel the words GM’. The intention in introducing the GM labelling is to educate consumers and make them aware of GM products, much in the manner that there is labelling to distinguish non-vegetarian food from vegetarian.

#### **Box 4.5: Police vehicles running without no-pollution certificates: RTI info**

After Himachal Roadways Transport Corporation (HRTC) buses plying without no-pollution certificates, a group of youngsters through information obtained under RTI Act, 2005, have highlighted that most of the vehicles used by HP police department in Shimla, Kullu, Mandi, Hamirpur and Kinnaur districts are running without no-pollution certificates. Kanika Bunker, Suman Kadam and Sunil Jaitley, who are on a mission to create awareness about pollution in the state. “Information was sought earlier from regional managers of 23 HRTC depots in the state and it was discerned that many of the depots did not possess smoke meters and that the buses were plying without the mandatory no-pollution certificates.

After this, information was sought from offices of police SP in Shimla, Mandi, Hamirpur, Kullu and Kinnaur about no-pollution certificates for vehicles used by police in the respective areas.” The information highlights that 99 heavy and light vehicles are in the possession of police in Shimla district and none of these vehicles possess no-pollution certificate. Similarly, in Mandi district, police are using 30 heavy and light vehicles, 56 in Kullu and 29 in Kinnaur, while none of them possess no-pollution certificates. The only exception was Hamirpur where three vehicles of police possess no-pollution certificate, out of the total 36 heavy and light vehicles being used.

Besides this, information was sought under RTI about different facilities in police booths in Shimla and it was revealed that out of the total 37 booths, 27 were running without electricity connection while no heaters/heat convectors were provided for persons on duty in the booth in winter season. Taking cognisance of the RTI information, DGP Dr D S Minhas has ordered that no-pollution certificates should be procured within a month for all vehicles used by HP police.

*Source: Times of India, January 01, 2012*

### **Legal Metrology Act, 2009**

The Weights and Measures Act of 1976 and the Packaged Commodities Rules, 1977 & 1985 are legislations that made it mandatory for the manufacturers to provide information to the buyers, i.e. consumers. These act and rules have been replaced by the Legal Metrology Act, 2009. The manner and form of in which information is to be provided is prescribed in the Legal Metrology (Packaged Commodities) Rules, 2011 made under section with effect from the April 01, 2011. Rule 4 and 6 requires every pre-packed commodity offered for sale, distribution or delivery to contain on the label the following declarations:

- The name and address of the manufacturer, or where the manufacturer is not the packer, the name and address of the manufacturer and packer and for any imported package the name and address of the importer
- The name, address, telephone number, e-mails ID, if available, of the person who can be or the office which can be, contacted, in case of consumer complaints
- The common or generic names of the commodity contained in the package and in case of packages with more than one product, the name and number or quantity of each product
- The net quantity, in terms of the standard unit of weight or measure, of the commodity contained in the package or where the commodity is packed or sold by number, the number of the commodity contained in the package

- The month and year in which the commodity is manufactured or pre-packed or imported
- The retail sale price of the package
- Where the sizes of the commodity contained in the package are relevant, the dimensions of the commodity contained in the package and if the dimensions of the different pieces are different, the dimensions of each such different piece

**Box 4.6: Consumers' Right to Safety**  
**Delhi Fire Service told to put up fire safety information on website**

The Central Information Commission has directed the Delhi Fire Service (DFS) to put up certain categories of information pertaining to the buildings in Delhi on its website. Neelam Krishnamurthy, President of the Association of the Victims of Uphaar Tragedy (AVUT), in which she had demanded that certain categories of essential documents, which chart the safety aspects of various buildings, should be published on the website of the Delhi Fire Services under Section 4 of the Right to Information (RTI) Act so that the general public is aware of the safety situation and omissions, if any. The Central Information Commission (CIC) directed the department to fulfill its obligations under the RTI Act by specifically making available on its website the copy of the detailed inspection proforma on the basis of which the Fire Safety Certificate is issued; along with the name and designation of the officers who have inspected the premises of the concerned building.

Further, the department has been asked to upload the copy of the fire safety certificate issued to the owner/occupier of the building under Rule 35 of the Delhi Fire Service Rules 2010 and copy of the declaration taken from the owner/occupier of the building that the fire prevention and safety measure provided in the buildings are in best repair and that adequate checks had also been carried out on the pandals or tents and exhibitions. The DFS has also been told to put up information on action taken against any building or premises found unfit from fire safety point of view.

*Source: The Hindu, July 26, 2011*

**Box 4.7: Airport Auto Ban Shaky shows RTI Query**

The turf war between auto rickshaw drivers at Sardar Vallabhbhai Patel International Airport refuses to end. After a ban on auto rickshaws other than Green Auto (G-Auto) - a state-sponsored initiative by an IIM-A alumnus - to pick up passengers from Ahmedabad airport, the rickshaw drivers have now used Right to Information (RTI) Act to clarify the rulebook. Ahmedabad Auto rickshaw Drivers Sangarsh Samiti had filed a RTI application, on August 16, 2011, seeking information about the rule using which the airport authorities banned them from the terminal.

The Airport Authority of India (AAI)'s reply to the RTI plea has clearly exposed the double speak of authorities and caught them on the shaky ground, the applicants said. AAI have replied that there is no ban on any auto rickshaw driver to operate at the airport. "On paper they said there is no ban, but since the last two months only G-Autos are allowed to operate at the airport. The security officials standing guard at the barricades on the approach road to the domestic and international terminals have restricted entry of rickshaws other than G-Auto. The move has left hundreds of rickshaw drivers jobless," said Harihar Mishra, a member of the association. The auto drivers alleged that the G-Auto drivers charge passengers an additional fare of ₹20, which is divided among the promoter of G-Auto and airport authority.

"There is no ban on rickshaw drivers to enter the airport. The auto drivers other than G-Auto are, however, checked from taking passengers from the terminal. The move was taken after state police and traffic officials met senior airport officials and discussed the several bouts of brawls between auto drivers," said an airport official. Airport sources said that the RTI plea has revealed that there is no provision under any of the rules under which the airport authorities can single out a company and restrict other auto rickshaw drivers from operating at the airport.

*Source: Times of India, October 03, 2011*

The Legal Metrology Act, 2009 also contains provisions with regard to the form in which the declarations are to be made. Rule 8(1) requires every declaration to appear on the principal display panel and the area surrounding the quantity declaration shall be free of printed information. The height of any numeral in the declaration on the principal display panel should be according to the specifications mentioned in the rules. In case of soft drinks, the maximum retail price (MRP) may be indicated on the crown or on the bottle. Every declaration shall be legible and prominent in contrast colours. As in the case of Food Safety and Standards Act, the declaration should be in English or Hindi (in Devnagri script). Local language can be used in addition only.

With regard to the MRP the regulation requires manufacturers to provide information in a particular form. It says 'the manner of declaring MRP will be 'Maximum or Max. retail price Rs/₹ .....inclusive of all taxes or in the form MRP Rs/₹ .....incl., of all taxes after taking into account the fraction of less than fifty paise to be rounded off to the preceding rupees and fraction of above 50 paise and up to 95 paise to be rounded off to fifty paise The declaration of quantity shall be expressed in terms of such unit of weight, measure or number or a combination of weight, measure or number as would give accurate and adequate information to the consumer with regard to the quantity of the commodity contained in the package. It is important to note that the declaration on the package should not be qualified by the words 'when packed' or some such words.

### **The Drugs and Cosmetics Act, 1940**

The Drugs and Cosmetics Act, 1940 as amended from time to time provides for regulation of import, manufacture, sale and standards of drugs and cosmetics thereby protecting the interests of the consumer in the area of drugs and cosmetic industries in India. The objective of this Act is to ensure that the drugs and cosmetics are of the required standards of quality, purity and strengthen and are packed in containers giving all necessary information about them and their manufacturer. Drugs are one item on which a consumer has no choice. It is the medical practitioner who decides what a consumer (patient) has to consume. Nevertheless, the information about the drugs and cosmetics is crucial to the health of the consumer. The rules under the amended act has a long list of information that needs to be printed on the label or container of drugs and cosmetics.

All drugs sold should contain information about the name of the medicine, name and address of the manufacturer, batch number, date of manufacture and date of expiry of the medicine, detailed composition of the medicine, and precautions regarding harmful effects or side effects of the medicine. If the medicine contains a substance specified in Schedule G (of the Act), the label should contain the words 'Caution: it is dangerous to take this preparation except under medical supervision'. Similarly, if a medicine contains a substance specified in Schedule H (of the act) the label should have the symbol Rx conspicuously displayed on the left top corner of the label and be also labelled with the words 'Schedule H Drug – Warning: To be sold by retail on the prescription of a Registered Medical Practitioner only'

The act has specified labelling requirements for ointments, antiseptic creams etc. The container of a embrocation, liniment, lotion, liquid antiseptic or other liquid medicine for external application shall be labeled with the word in capital 'For External Use only'. The container of a medicine made up ready for treatment of an animal shall be labelled conspicuously with the words 'Not for human use; for animal treatment only' and shall bear a symbol depicting the head of a domestic animal. The letters 'I.P.' shall be entered on the label of the drug only for the purpose of indicating that the drug is in accordance with standards set out in the Indian Pharmacopoeia or in any such pharmacopoeia or official compendium of drug standards recognised under the Rules.

#### Box 4.8: CIC Cracks Whip on Health Ministry's Incubator Deaths

Reacting to a complaint on incubator deaths, the Central Information Commission (CIC) has directed the Union Health Ministry and hospitals to make details public of equipment worth ₹1 lakh and above purchased since 2007. The Ministry has been asked to put out this information on its website, while hospitals should have signboards with the details in both Hindi and English. The ministry has been given six months to submit a compliance report. The order came in response to a complaint filed by Anushree Jain under Section 18 of the Right to Information (RTI) Act demanding that as a public authority the procurement and the maintenance schedules of hospital equipment should be available.

Jain argued that there have been innumerable cases, where incubators meant for infants catch fire leading to deaths. Information commissioner Shailesh Gandhi said, "The list shall be proactively displayed on the website of the Ministry of Health and Family Welfare and respective departmental and hospital websites, for patient care equipments costing above one lakh, incubators and neo-natal radiant warmers, for equipment purchased on or after April 01, 2007". The list is expected to be updated by the 10th of every month.

The Health Ministry has been directed to send a circular with instructions to state governments. Hospitals have been asked to set up signboards mentioning that details of procurement and maintenance of equipment. The information will also be available on the department's website. Gandhi has ordered that acronyms and abbreviations should not be used, information be put out in English and Hindi and installed at a location easily accessible to the public.

Source: *Times of India*, November 13, 2011

In the past few years, alternative systems of medicines have become popular not only in India, but throughout the world. Particularly, use of Homoeopathic medicines is fast catching up. Part IX-A of the Drugs and Cosmetic Rules specifies the manner of labelling of Homoeopathic medicines. Accordingly, containers should contain the words 'Homoeopathic medicine', name of the medicine, description of the true nature of the drug, manufacturing license number etc. In case of medical devices, the labels shall conform to the Indian Standards Specifications laid down from time to time by the Bureau of Indian Standards in addition to any other requirement prescribed under the said rules.

### Safeguarding Textile Consumers

Clothing is one of the basic needs of consumers. Perhaps after food, it is clothing that is an essential part of human life. In view of the inherent importance of clothing, the Government of India has taken certain steps to protect the interest of textile consumers. The government has enacted the Textiles (Consumer Protection) Regulation, 1988 under the provisions of Textiles Development and Regulation Order, 2001 and under Section 3 of the Essential Commodities Act, 1955. These regulations are applicable to wool tops, yarn made wholly from cotton, cotton textiles and woolen textiles. The objective of the regulation is that the essential textile quality and quantity parameters and the other relevant information should be made known to the consumer of textiles by way of markings, stampings on the tops, yarn and cloth, so that the consumer is satisfied about the quality, type, price etc. of textile items.

The regulations prescribe the following markings to be made by the manufacturers before the packing of textiles:

- (i) Markings on Tops containing wool fibre: Name and address of the manufacturer, net weight, mean fibre length and fibre composition of tops
- (ii) Markings on Yarn made wholly from cotton: Name and address of the manufacturer, count of yarn, net weight and month and year of packing

- (iii) Markings on cloth containing cotton and/or wool fibre: Name and address of the manufacturer, length and width, fast to normal washing or not, seconds or damaged piece as the case may be, month and year of packing fibre composition and fibre composition

The Regulations also provides that all the markings are to be made in Hindi and English. No fake or misleading markings are to be made and no person shall offer or store for sale with fake or misleading markings of without markings. The markings are to be made on the face-plait of the cloth. Some of the particulars are to be made on the selvedge at every alternate metre. However, certain types of cloth like cloth meant for export, cloth supplied to industries for industrial use etc. are exempted from the provisions of markings.

### **Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954**

With all the scientific developments in the field of medicine there are certain diseases that have no known cures. As on date some of the ailments do not have medicines. Yet consumers are being taken for a ride by unscrupulous persons claiming to have medicines for such diseases. With a view to protect consumers from such false claims, the Government of India has enacted the Drugs & Magic Remedies (Objectionable Advertisements) Act, 1954. By prohibiting certain advertisements the act tries protect the interests of the consumers. This is consumers' right to not to be mislead.

According to this Act, magic remedy include a talisman, mantra, kavacha and any other charm of any kind which is alleged to possess miraculous powers for or in the diagnosis, cure, mitigation of any disease in human beings or animals. Section 3 of the Act prohibits advertisement of certain drugs for treatment of certain diseases and disorders. The Act says that no person shall take any part in the publication of any advertisement referring to any drug in terms which suggest or are calculated to lead to the use of that drug for-

- the procurement of miscarriage in women or prevention of conception in women; or
- the maintenance or improvement of the capacity of human beings for sexual pleasure; or
- the correction of menstrual disorder in women; or
- the diagnosis, cure, mitigation, treatment or prevention of any disease, disorder or condition specified in the Schedule, or any other disease, disorder or condition (by whatsoever name called) which may be specified in the rules made under this act:

Section 4 prohibits misleading advertisement relating to drugs. No person can take any part in the publication of any advertisement relating to a drug if the advertisement contains any matter that directly or indirectly gives a false impression regarding true character of the drug. Further, Section 5 prohibits the advertisement of magic remedies for treatment of certain diseases and disorders.

### **Information about Hazards of Tobacco Products**

Providing information along with warnings about the hazards of tobacco products like cigarettes has been a controversial issue. Yet, India, being a party to the WHO Framework Convention on Tobacco Control, has taken steps to protect the health of the consumers by making it compulsory to carry messages and other information on the hazards of tobacco usage on packets, containers etc. The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA) has prescribed the manner in which the information and health warnings are to be printed. Section 7 of COTPA says that 'no person shall, directly or indirectly, produce, supply or distribute cigarettes or any other tobacco products unless every tobacco package carries a specified warning including a pictorial warning as may be prescribed in the rules.

Further, Section 8 of the COTPA says that the specified warning on the package of cigarettes or any other tobacco products shall be legible and prominent, conspicuous as to size and colour. Every package containing cigarettes or any other tobacco products shall be so packed as to ensure that the specified warning appearing thereon, or on its label, is before the package is opened, visible to the consumer.

Incidentally, the rules for the COTPA were notified on March 15 (World Consumer Rights Day), 2008. It says that the health warning 'Smoking Kills' and 'Tobacco Kills' is to be printed in white font on a red background. Pictorial depiction of the ill effects of tobacco use on health is placed below the health warning. The health message 'Tobacco causes cancer' is printed in black font on a white background.

### **Prize Chits and Money Circulation Schemes (Banning) Act, 1978**

The object of this act is to ban the promotion or conduct of prize chits and money circulation schemes. The act prohibits printing or publishing any ticket, coupon or other document for use in the prize chit or money circulation scheme. No person or company can sell, distribute, offer, advertise for sale or distribution of any document for use in the prize chit or money circulation scheme.

### **Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977**

During the seventies and eighties, a large number of private companies in the guise of investment cheated the consumers worth crores of rupees. With very less regulation in place consumers (investors) lost their hard earned money. Popularly called as fly-by-night companies these (Non-Banking Financial Company) NBFCs had to be regulated in the interests of the consumers. Hence, the Non-Banking Financial Companies and Miscellaneous Non-Banking Companies (Advertisement) Rules, 1977, was framed and came into effect from July 01, 1977. These regulations specify the information to be provided to the prospective investors, which in other words is the investors' right to information.

Every company intending to invite any deposit from the public should issue an advertisement in a leading English newspaper and one vernacular newspaper circulating in the state in which the registered office of the company is situated. The advertisement should be issued in the name of the Board of Directors of the company and should contain details like name of the company, date of incorporation, business carried on, brief particulars of the management, names, addresses and occupations of the directors, profits of the company, dividends declared by the company, a summarised financial position etc.

The Reserve Bank of India (RBI) has issued several circulars, codes, guidelines etc. through which it is made mandatory for banks and financial institutions (FI) to provide information to its consumers. Special mention may be made with regard to the consumers' right to information about rejection of loans by banks. The guidelines on Fair Practices Code for Lenders says that the lenders should convey in writing, within stipulated time, the main reason/reasons which, in the opinion of the bank/FI have led to rejection of the loan applications. Further, the banks/FIs should furnish a copy of the loan agreement along with a copy each of all enclosures quoted in the loan agreement to all the borrowers at the time of sanction of loans. It is compulsory for the banks to display in the bank premises the details of service charges.

The Banking Codes and Standards Board of India (BCSBI) has developed Code of Bank's Commitments to Customers', which sets minimum standards of banking practices and disclosure

of information to customers. The information to be provided include details of interest rates, tariff schedule, fees and charges, terms and conditions, privacy and confidentiality, credit reference agencies, collection of dues, complaints & grievances redressal mechanism etc.

### Information in the Offer Document

The Securities Exchange Board of India (SEBI) has issued guidelines to be followed by the companies while inviting for shares and debentures. The offer document i.e. prospectus should contain detailed information about the company, project, share capital, amount raised, its usage etc. A summary of the Initial Public Offer (IPO) is to be published in the newspapers.

#### Box 4.9: Tax Details not out of RTI Ambit

Information given to income tax authorities by assessee does not come under any fiduciary relationship and cannot be denied to a Right to Information (RTI) applicant on this ground, the Central Information Commission (CIC) has ruled. Hearing the plea of Rakesh Kumar Gupta, who sought information on estimated tax evasion figures, the panel rejected the income tax department's argument about such a relationship. Information commissioner Annapurna Dixit said the fiduciary relation exists when there is scope to protect the rights or interests of a beneficiary. "The information is provided by the assessee who is under the scrutiny of the department of income tax, no benefit can be seen to accrue to the assessee. Such information is clearly being given under pressure to the official," Dixit said. She, however, agreed on another exemption clause cited by the tax authority — that a disclosure would adversely affect ongoing cases and allowed it to withhold the information.

Source: *Telegraph*, October 18, 2011

### Consumers' Right to Information and Independent Regulation

Establishment of independent regulatory commissions and authorities is one of the significant developments in the arena of consumer protection. Commencing from the Telecom Regulatory Authority of India (TRAI), today we have the Insurance Regulatory Development Authority (IRDA) and Electricity Regulatory Commission (ERC), which are important from the view of consumer welfare. These independent bodies have framed rules and regulations primarily with a view to provide accurate information to the consumers.

The IRDA established under the Insurance Regulatory Development Authority Act] 1999 (41 of 1999) is an independent regulatory authority mandated to govern the insurance industry in the country. The IRDA has accorded primary importance to protect the consumers (policyholders). Though, the IRDA is just a decade old institution, it has put in place multiple systems to insulate consumers from the possible unethical and unfair practices that may be adopted by insurance companies. Two important regulations that focus on consumers' right to information may be highlighted.

### Insurance Regulatory and Development Authority (Insurance Advertisements and Disclosure) Regulations, 2000

According to these regulations, every insurer or intermediary or insurance agent is bound to follow the norms, specified by the IRDA, while issuing advertisements. The advertisements released by the insurance companies should not be unfair or misleading. The advertisements are considered to be unfair or misleading, if-

- a. that fails to clearly identify the produce as insurance
- b. makes claims beyond the ability of the policy to deliver or beyond the reasonable expectation of performance
- c. describes benefits that do not match the policy provisions

- d. uses words or phrases in a way that hides or minimises the costs of the hazard insured against or the risks inherent in the policy
- e. omits to disclose or discloses insufficiently, important exclusions, limitations and conditions of the contract
- f. gives information in a misleading way
- g. illustrate future benefits on assumptions that are not realistic nor realisable in the light of the insurer's current performance
- h. the benefits are not guaranteed, does not explicitly say so as prominently as the benefits are stated or says so in a manner or form that it could remain unnoticed
- i. implies a group or other relationship like sponsorship, affiliation or approval, that does not exist
- j. makes unfair or incomplete comparisons with products which are not comparable or disparages competitors

The regulation requires every advertisement to be issued by an insurance agent, which affects an insurer, be approved by the insurer in writing prior to its issue. It shall be the responsibility of the insurer to ensure that all advertisement that pertain to the company or its products or performance comply with these regulations are not deceptive or misleading. However, an agent shall not be required to obtain written approval of the company prior to issue for:

- a. those advertisements developed by the insurer and provided to the agents
- b. generic advertisements limited to information like the agent's name, logo, address and phone number
- c. advertisements that consist only of simple and correct statements describing the availability of lines of insurance, references to experience, service and qualifications of agents; but making no reference to specific policies, benefits, costs or insurers

The regulations also contain provisions relating to advertisement on the internet and the action that will be taken against the insurance company, in case there is a default.

### **Insurance Regulatory and Development Authority (Protection of Policyholders' Interests) Regulations, 2002**

This is another important regulation issued by the IRDA with a view to protect the interests of the consumers/policyholders. The above regulation has come into effect from October 16, 2002.

According to this regulation, any insurance product should clearly state the scope of the benefits, the extent of insurance cover and explain the warranties, exceptions and conditions of the insurance cover. In case of life insurance, whether the product is with profits or without profits (participating or non-participating) should be indicated. The allowable rider or riders on the product should be spelt out and in no case the premium relatable to all the riders put together shall exceed 30 percent of the premium of the main product.

The regulations has specified that all life insurance policies should contain the following information:

- (a) the name of the plan governing the policy, its terms and conditions
- (b) whether it is participating in profits or not
- (c) the basis of participation in profits such as cash bonus, deferred bonus, simple or compound reversionary bonus
- (d) the benefit payable and the contingencies upon which they are payable and the other terms and conditions of the insurance contract
- (e) the details of the riders attaching to the main policy

- (f) the date of commencement of risk and the date of maturity or dates on which the benefits are payable
- (g) the premiums payable, periodicity of payment, grace period allowed for payment of the premium, the date the last installment of premium, the implication of discontinuing the payment of an installment of premium and also the provisions of a guaranteed surrender value
- (h) the age at entry and whether the same has been admitted
- (i) the policy requirements for (i) conversion of the policy into paid up policy (ii) surrender (iii) non-forfeiture (iv) revival of lapsed policies
- (j) contingencies excluded from the scope of the cover, both in respect of the main policy and the riders
- (k) the provisions for nomination, assignment, and loans on security of the policy and a statement that the rate of interest payable on such loan amount shall be as prescribed by the insurer at the time of taking the loan
- (l) any special clauses or conditions, such as, first pregnancy clause, suicide clause etc
- (m) the address of the insurer to which all communications in respect of the policy shall be sent
- (n) the documents that are normally required to be submitted by a claimant in support of a claim under the policy

All general insurance policies should contain information such as, name and address of the insured, details of the bank any person having financial interest in the subject matter of the insurance, description of the property and its location, period of insurance, sums insured, perils covered and not covered, premium payable, policy terms and conditions including conditions & warranties, obligation of the insured in relation to the subject matter of the insured, provision for cancellation of the policy on grounds of misrepresentation, fraud, non-disclosure of material facts, address of the insurer to which communications may be sent and details of the riders attaching to the main policy.

### **Telecom Regulatory Authority of India (TRAI)**

The telecom service in India has been traditionally a monopoly of the government. The Indian Telegraph Act of 1885 (13 of 1885) was the only legislation governing the sector. Since, the telecom service was provided by the state-owned undertaking; the subscribers (consumers) had little choice either in terms of service, quality or grievance handling procedures. Though, the Department of Telecom specified some regulations, they were not effective. The need for an independent mechanism to regulate the telecom service was felt and as a result the Telecom Regulatory Authority of India Act, 1997 was enacted.

The Telecom Regulatory Authority of India (TRAI) was established in 1997 with a mission to ensure that the interests of the consumers are protected and at the same time nurture conditions for growth of telecommunications, broadcasting and cable services in a manner and at a pace that will enable India to play a leading role in the emerging global information society. The important rules and regulations issued by TRAI with regard to consumers (subscribers) right to information are as follows:

- All publication/advertisements of tariffs shall be in a specified format and shall provide certain essential information.
- The websites of the service providers and the tariff brochures available in the retail outlet shall contain complete details of the tariff plans.
- No chargeable value added service shall be provided to a customer without his explicit consent.
- The pulse rate/tariff for premium rate service shall be published in all communications/ advertisements.

#### Box 4.10: Six MPs' Phone Bill Dues Run to Nearly ₹20 lakh

As many as six Members of Parliament (including one from the Rajya Sabha) — five of them from the ruling Congress - have ₹19,78,027 as outstanding towards payment of telephone bills. Of the amount, ₹10,18,098 is due towards payment for Mahanagar Telephone Nigam Limited (in Delhi) and ₹9,59,929 for Bharat Sanchar Nigam Limited (in their constituency). According to information received by Right to Information activist Subhash Chandra Agarwal, Janata Dal (United) Lok Sabha member from Hajipur (Bihar) Ram Sunder Das has an outstanding as high as ₹9,49,866 and of this ₹6,11,053 is due for MTNL alone. Another Lok Sabha member from Kalahandi in Odisha and belonging to the Congress Bhakta Charan Das has kept ₹3,31,020 as pending dues. The other Congress MPs are: G.V. Harsha Kumar (Amalapuram in Andhra Pradesh) — ₹2,06,880, M. Krishna Swamy (Arani in Tamil Nadu) — ₹3,19,740, Harsh Vardhan (Maharajganj, Uttar Pradesh) — ₹36,744 and Rajya Sabha member Narender Budhanian (Rajasthan) — ₹1,33,777. It was also revealed that 399 former MPs, including some former Union Ministers and a former Deputy Speaker of the Lok Sabha, still owed MTNL/BSNL a whopping ₹7,10,88,719 as dues for the telephone usage made in New Delhi and in their constituencies. Interestingly, some of them even died without settling the bills. Due to nonpayment, the telephone companies have imposed interest on their dues and in a particular case the interest amount alone has come to as high as ₹1,77,046.

Source: *The Hindu*, November 22, 2011

- Service providers shall inform customers in writing, within a week of activation of service, the complete details of his tariff plan. The changes in any item/aspect of tariff in the chosen package shall also be intimated to the customers in writing.
- No tariff plan shall be offered, presented, marketed or advertised in a manner that is likely to mislead the subscribers.
- All monthly fixed recurring charges that are compulsory for a subscriber under any given plan shall be shown under one head.

Further, to enhance the consumer awareness, TRAI has issued certain guidelines that are to be followed by the service providers. Accordingly, the service providers shall provide printed material in English and vernacular language to customers at the time of enrollment containing the following information:

- Full and complete tariff information sheet
- The features of the service offered with special emphasis on roaming, premium rate services and other optional and value added services
- The terms and conditions including the exceptions attached to the service in unambiguous terms
- The rights of the consumers emanating from the various decisions of the TRAI
- The common charter of service agreed upon by the service providers

## Electricity Regulatory Commissions

The Government of India has enacted the Electricity Act, 2003, under which the Central Electricity Regulatory Commission (CERC) and the State Electricity Regulatory Commissions (SERC) are established. One of the objects of the regulatory commissions is to protect the interests of the electricity users. The SERCs are mandated to specify appropriate regulations for this purpose. Most of the SERCs have published the Consumers Right to Information Statement indicating the rights and responsibilities of consumers. Every electricity supply company is required to provide information about the consumers' right to obtain electricity connection, documents to be submitted, fees to be remitted etc. Consumers are to be provided with information about the billing procedures, grievance handling machinery etc.

As for electricity service is concerned, consumers right to information about bills and disconnection and reconnection of service are important. The bills issued by electricity supply companies should contain the following information:

- a. Name and address of the consumer, Revenue Register (RR), number and address of the issuing office;
- b. Period covered by the bill, type of service and the tariff applicable to the consumer;
- c. The dates and readings of current and previous meter readings;
- d. Present consumption, contract demand, sanctioned load, power factor etc;
- e. Details about other charges like fixed/demand/minimum charges, energy, taxes, rebates and net amount payable;
- f. Wheeling charges and surcharges if any to be shown separately if the distribution company provides only network service;
- g. The amount of arrears or credits outstanding to the consumer's account;
- h. Summary of payment methods and details of additional charges such as interest and penalties, if any;
- i. Last date of payment without penalty and action for non-payment after the due date;
- j. Details of the Consumer Grievance Redressal Forums and Ombudsman; and
- k. Designation, address, telephone number, email etc. of the official of the distribution licensee with whom complaints can be lodged.

### **Information to be Provided before Disconnection of Electricity Supply**

Every electricity consumer has the right to be informed by the distribution licensee, before the electricity supply is disconnected. It is illegal to disconnect supply of power without following the procedure laid down in the Electricity Act, 2003 and regulations specified by the State Electricity Regulatory Commission. A notice to be issued to the consumer should specify the reason for disconnection and likely action by the licensee. It should include a clause requesting the consumer to contact the local office of the licensee, if required.

The National Commission in the case of Madhya Pradesh Poorva Kshetra Vidyut Vitran Company Limited v. Hindustan Krishi Sewa Kendra, has said that serving of notice in advance, before disconnection is mandatory and if this is not followed, it amounts to deficiency in service. The MP Electricity Supply Code, 2004 lay down that if a consumer fails in payment of any bill in full, the service connection can be disconnected. But, before doing so the board would serve a written notice of 15 clear days. In this case, the electricity company failed to produce any record about issue of notice. Hence, the District Forum, State Commission and the National Commission (NC) held the company deficient in its services. The NC directed the company to deposit ₹10000 in the Consumer Legal Aid Account [IV(2011)CPJ 320(NC)].

### **Consumers' Right to Information as Voters**

Consumers' are not only buyers of goods and services they also choose their representatives to rule the country by casting their votes in elections. The Representation of the People Act, 1951 and the rules framed there under constitute the basic law, which governs the elections process in India. For the past few years, elections are plagued with several problems. Important among them are the entry of persons with criminal background and corrupt practices indulged in by the candidates in the fray. As a result, democracy has suffered. The quality of governance depends on the quality of the persons elected. It is the responsibility of the consumers as voters to choose worthy candidates. This depends on the availability of information about the candidates.

The Supreme Court of India in a landmark judgment held that 'under our Constitution, Article 19(1)(a) provides for freedom of speech and expression. Voters' speech or expression in case of

election would include casting of votes that is to say, voter speaks out or expresses by casting vote. For this purpose, information about the candidate to be selected is must. Voters' right to know antecedents including criminal past of his candidate contesting election for MP or MLA is much more fundamental and basic for survival of democracy' [Union of India v Association for Democratic Reforms and another, Civil Appeal NO.7178 of 2001, date of judgment May 02, 2002].

In 2002, the President of India promulgated an ordinance to amend the Representation of the People Act, 1951. The ordinance laid down a procedure for disclosing information about the criminal background (if any) of people contesting elections to Parliament and state legislatures. It also provided for compulsory declaration of income and assets. This ordinance was based on the decision of the Supreme Court in the case of People's Union for Civil Liberties v. Union of India [JT 2003(2)SC 528].

As the law stands, candidates standing for elections are required to reveal in their affidavits only if they have been convicted of some crimes including murder, rape, bribery etc. Candidates must also reveal whether they have been held guilty for corrupt electoral practices such as booth capturing or removing ballot papers from polling stations. The affidavit should also contain the assets and liabilities of candidates and their spouses/family members.

Closely connected with voters right to information about the candidates, information about political parties is also crucial. The Central Information Commission [CIC] constituted under the Right to Information Act, 2005 delivered a landmark judgment on April 29, 2008, which makes it obligatory on the part of the Income Tax Department to disclose certain information about political parties. In other words, consumers, as voters, have the right to seek information about Income Tax dealings of political parties. In the case of Association for Democratic Reforms, Delhi, the CIC has directed the concerned Income Tax Officials to provide Income Tax Returns of the political parties filed with the public authorities and the Assessment Orders to the applicant.

### **Disclosure of Information by the Government**

Post economic liberalisation, there has been a wide spread discussion about good governance. There is no sector or section of the society that is not affected by mis-governance or bad-governance. Increasingly, it is realised that all the rights of the consumers can be realised only through good governance. In fact, there is a demand to include good governance as one of the rights of the consumers.

In general terms, good governance implies an administration that is sensitive and responsive to the needs of the consumers. Good governance is understood as a process that when implemented in its totality leads to sustainable development and change. For the World Bank, 'good governance is epitomised by predictable, open and enlightened policy making, a bureaucracy imbued with a professional ethos, an executive arm of government accountable for its actions, and a strong civil society participating in public affairs, and all behaving under the rule of law'. The United Nations Development Programme (UNDP) defines governance as the exercise of economic, political, and administrative authority to manage a country's affairs at all levels. It comprises mechanisms, processes, and institutions, through which citizens and groups articulate their interests, exercise their legal rights, meet their legal obligations, and mediate their differences. One of the instruments to achieve good governance is right to information.

From the consumer's point of view good governance is essential with reference to efficient delivery of public services by the State. The Government of India organised a conference of Chief Secretaries of States and Union Territories on November 20,1996, focusing on accountable,

open and citizen-friendly government. This was followed by a Conference of Chief Ministers in May 1997, which concluded that governance has to extend beyond conventional bureaucracies and actively involve citizens and consumer groups at all levels. An action plan was adopted with the following three themes:

- a. Accountable and citizen friendly government
- b. Transparency and right to information
- c. Improving the performance and integrity of public services

More than five decades after the Constitution was adopted, the Government of India took a bold step to give its citizens the Right to Information. The historic Right to Information (RTI) Act came into effect from October 12, 2005. It is derived from the Fundamental Right of expression under Article 19 of the Constitution of India. The consumer movement in India has witnessed four instruments, i.e. the Consumer Protection Act, Citizens' Charters, the RTI Act and now the Public Service Guarantee Legislation. The RTI Act is considered as an off shoot of the consumer movement. As observed in the beginning of this chapter, the horizontal growth of consumer movement has given rise to the need for RTI Act. If the COPRA Act is applicable to goods and services, the RTI is for obtaining information about services rendered by the State.

The RTI Act has come into effect from October 12, 2005 and it extends to the whole of India, except Jammu and Kashmir. The object of the act is to promote transparency and accountability in public administration. The secondary objective is to ensure people participation in governance. Broadly, the RTI has three sides. The first represents the information to be provided suo motu by the public authorities. The second is the process of processing applications from public seeking information. The third is the appeal process at the department level and thereafter at the level of the Information Commission.

Under the RTI Act, information means any material in any form including records, documents, memos, email, opinions, reports, orders, logbooks, samples, papers etc. It also includes information held in any electronic form. Further, the right to information means the right to inspect works, documents, records, take certified samples of material etc. Thus, information as used in the RTI Act has a wider reach. It refers to what public authorities have to declare about themselves, have to make it known to the public, what citizens can ask public authorities about or relating to them and last what citizens can ask from public authorities relating to any private body.

Public authorities to which, RTI Act applies are under obligation to publish two categories of information i.e. (a) Information of facts (b) Information on the reasons in support of a decision of an administrative or statutory authority. Public authorities should disclose information like the particulars of the organisation, functions, duties, powers of its officials, directory of the employees, norms set by it for the discharge of its functions, rules, regulations, instructions used by its employees etc. The public authority should also publish the budget allocated, subsidy paid, list of beneficiaries, names and designations of public information officers and appellate authorities. The rationale behind dissemination of information is to facilitate citizens to access information without resorting to the RTI Act.

Though, the RTI makes it possible for citizens to get most of the information from public authorities, there are certain types of information that are not open to disclosure. For instance, information that would prejudicially affect the sovereignty and integrity of India will not be disclosed. Information that is expressly forbidden by any court of law or tribunal will not be provided to the citizens. The other forms of information that can be denied include information about commercial confidence, trade secrets, IPRs, information available to a person in a fiduciary capacity and information that will impede the process of investigation etc. Cabinet papers will

not be disclosed till a decision is taken by the Cabinet. Similarly, personal information that does not have any public interest can be denied.

Citizens who are in need of information other than what is available can obtain it by submitting an application to the concerned public information officer (PIO). The application fee varies but in most of the states it is ₹10. Further, the applicant has to pay ₹2 per page of information or document. Applicants belonging to the Below the Poverty Line category are exempted from payment of any fees. The PIO will provide the information if it pertains to his office. If not, the same is transferred to the office where is ordinarily available. Different time limits are specified in the RTI Act within which the information is to be provided. For normal information it is 30 days and for information concerning life and liberty it is 48 hours. In case of information involving third parties, the maximum time allowed is 40 days.

If the applicant is not satisfied with the information provided or there is no response within the time limits specified in the act, the applicant can make an appeal with the immediate senior official of the public authority or to the designated Departmental Appellate Authority. The applicant can also approach the Central or State Information Commission as the case may be, by way of a complaint or an appeal. The Information Commission will hear the complaint or appeal and decide accordingly.

The strength of the RTI Act lies in the powers of the Information Commission to levy fine on the erring official and recover the same from him. The fine that can be levied is ₹250 per day of delay, up to a maximum of ₹25000. The Information Commission can levy fine for:

- a. not accepting an application;
- b. delaying information release without reasonable cause;
- c. malafidely denying information;
- d. knowingly giving incomplete, incorrect, misleading information;
- e. destroying information that has been requested; and
- f. obstructing furnishing of information in any manner.

### **Public Service Guarantee Legislations**

The success of the RTI Act has led to what is known as Right to Public Service (RTPS) in many of the States. Within a span of two years (2010-2012), more than 15 states have enacted RTPS that guarantee time-bound delivery of selected services to the citizens. Besides, the Central Government of India has also prepared a bill with similar provisions. One of the requirements of the RTPS is that every public authority/department under the scheme is required to display of information about the services delivered by the respective departments/public authorities along with the documents to be submitted and the fees to be remitted to access the service. Public authorities are also required to display the time limits within which a particular service will be delivered. It is believed that this important piece of legislation will enable consumers to obtain various services without resorting to unfair means.

The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011, has been introduced in the Lok Sabha on December 20, 2011. The bill makes it mandatory for every public authority to publish a Citizens' Charter within six months of the commencement of the act. The Citizens' Charter shall contain the following:

- a. the details of goods and services provided by the public authority
- b. name of the person responsible for providing the goods or services
- c. the time frame within which such goods or services have to be provided
- d. the category of people entitled to the goods and services
- e. details of the complaint redressal mechanism

The bill also envisages establishment of Information and Facilitation Centres in every public authority, for efficient and effective delivery of services and redressal of grievances, which may include establishment of customer care centre, call centre, help desk and people's support centre.

### **The Ground Realities**

A brief survey of the rules, regulations and it may appear that the Indian consumer is well protected in terms of his/her informational needs. It is obvious that there is no dearth of legal instruments that enhances the consumer's knowledge about products and services. Almost all statutory requirements with regard to consumers' right to information are in place. However, the ground reality is something different. As with other laws, the requirements relating to consumers' right to information have not had the desired effect. A large sections of the consumers are either not aware of these legislations or are not serious. The results of two studies – one relating to Weights and Measures Act (now Legal Metrology Act) and the other relating to Drugs and Medicines are noteworthy because the findings and recommendations are applicable equally to other products and services.

The survey conducted by CUTS as part of this study has found that only 14 percent have knowledge about the Weights and Measures Act, 1976. Even among those who are aware of the act have preferences. The survey shows that about 63 percent respondents always check weight quantity of product before purchasing and only 32 percent check price of the product before making a purchase. Whereas, other important information like details of producer, terms & conditions, warning, quality certification has less weightage in comparison to the afore mentioned details in making purchases. It is observed that information about guarantee, warranty, safety precautions etc. does not get primacy from the consumers. A similar survey was conducted by a women's college in Bengaluru, and found that over 80 percent of the respondents were not aware of the Legal Metrology Act and the labelling requirements.

In 2007, the Centre for Trade and Development (CENTAD) made an analysis of consumer drug information in India. The objectives of the study was to determine the nature of information currently being disseminated to consumers, identify actors involved in dispensing such information and to examine the law and policy regimes applicable to drug information disseminated to consumers. The main conclusions of the analysis are:

- a. The availability of consumer drug information in India is very low in terms of quantity;
- b. Information is not provided in a user-friendly manner in most cases;
- c. Information is provided mostly on allopathic drugs, and there is only limited information on traditional medicines, medical technologies and equipment and on diagnostics;
- d. There is particular lack of information relating to drug prices and there is no single, dedicated actor concentrating only on consumer drug information;
- e. There is no coordination among different actors providing consumer drug information and there is no level of consistency with respect to the information supplied;
- f. Most technical information with respect to drugs is directed to medical professionals and not consumers;
- g. Information to consumers is not made available in a simple manner, since this is usually done through the publication of books, booklets or CDs or other formats that would not normally be accessed by common consumers;
- h. Information is made available mostly in English; and
- i. The current law and policy regime does not deal comprehensively with issues of consumer drug information.

The survey made the following recommendations:

- a. For bigger packs of medicines, leaflets and printed materials should be given;

- b. Disseminating detailed information on drugs to consumers in a simple, easy to understand manner and not only in English but also in local languages;
- c. Making information on prices of drugs and comparisons between the prices of various branded and generic versions of the drug, more readily available for consumers; and
- d. Encouraging consumers to be more proactive in seeking information.

Providing information to consumers and adhering to labelling requirements is a difficult task in India. Firstly, a majority of consumers in India is illiterate and the information provided on packets and cartons makes no difference. Secondly, with multiple languages, manufacturers have genuine difficulties in catering to all linguistic groups. For example, it would be impracticable for the manufacturer to print information in all the languages, just because the product is sold throughout the country. However, these and other issues should not be an impediment to provide the required information to the consumers. Not long ago some of the manufacturers were printing package inserts in six or eight languages giving in brief about the product, its usage, hazards, price, quantity etc. There is a need to revise this system.

## Conclusion

From the above analysis, it may be concluded that there are enough rules and regulations in place that requires the manufacturers and packers to provide the essential information to the consumers. What is lacking is strict enforcement and monitoring. There is acute shortage of manpower in various departments. While there is huge growth in the number of products and the quantity produced, the enforcement machinery has remained stagnant. Hence, the first step will be to strengthen the institutions involved in implementing various rules, regulations and laws.

Secondly, there is a need for massive awareness campaign and information dissemination among the consumers about the necessity of labelling requirements. A survey done in 2012 by the Consumer Rights, Education and Awareness Trust (CREAT), a consumer advocacy group based in Bengaluru, it was found that the Legal Metrology Department of Karnataka Government had no budget provision for consumer awareness activities. The same is the case with Drugs Control Department. The situation may not be different in other states. It is essential that separate provision is made for consumer awareness programs.

It is observed that the labelling laws are being diluted over the years. The Legal Metrology Act is an example. Earlier, the Standards of Packaged Commodity Rules was truly standardised. But, recently the rules have been modified and products like biscuits, cookies and other products can be sold in different standard packages. As a result, consumers are unable to compare the prices and quantities. There is a need for strengthening the consumer advocacy.

Finally, there is a need to frame a law to deal exclusively with providing information to the consumers be it food products, medicines, motor vehicle spare parts or any other consumables.

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## Annexure

### List of Case Studies under the Right to Information Act, 2005

#### RTI Leading to Change in Record Keeping

The City Municipal Councils (CMCs) and other local bodies collect Property Taxes from the citizens. According to the municipal laws, the details of taxes collected should be made available in a particular form as prescribed in the act/rules. However, it is observed that some CMCs are unable to provide information for the simple reason that records are not maintained or are not in the prescribed formats.

An RTI application was submitted to Chintamani CMC requesting the Public Information Officer (PIO) to provide information about the property Tax collected for each ward. The PIO furnished only the recovery statement (bill collector wise) and not the required information. A complaint was filed in the Karnataka Information Commission (KIC). The PIO stated that there are 31 wards in the CMC and they have been grouped into five divisions and based on this the information has been provided.

The KIC noted that the CMC should prepare the statement (DCB) ward wise rather than preparing them bill collector/recovery officer wise. The KIC directed the Commissioner of the CMC to devise a suitable reporting format for recovering the demand, collection, balances of the taxes and given to the bill collectors who will fill up this form, ward wise every month depicting the progress of collection.

#### RTI Stirs Dormant Green Law to Life

Hundreds of laws are enacted in this country. But, nobody knows to what extent they are implemented. However, effective use of RTI Act by Consumer Rights, Education and Awareness Trust (CREAT) network partner in Gulbarga has brought a 25 year old law into operation.

The Karnataka Parks, Playfields and Open spaces (Prevention and Regulation) Act, 1985, was enacted with the objective of protecting open spaces from encroachment. According to the rules made to this law urban local bodies are required to file annual returns in respect of parks, playfields and open spaces to the government. Information was sought about the status of returns filed by ULBs in the state. The concerned public authorities could not furnish correct information as none of the departments were aware of the act or rules. On appeal, the KIC directed the Secretary, Urban Development Department (UDD) to furnish the information and also the action taken in the matter. Subsequently, the UDD has issued a letter to the applicant indicating that action is being taken to get the reports from ULBs.

On the other hand the Gulbarga Mahanagar Palike took action and demolished illegal and unauthorised structures in Mahboob Gulshan, the only large public garden in Gulbarga city.

## Bank Pays ₹5 lakh Fearing RTI Application

The T.Muniswamappa Trust [TMT] is a public charitable trust involved in social activities. The trust had an account with the State Bank of Mysore [SBM]. One of the employee/staff of the bank committed irregularities and was suspended. An inquiry was ordered. By that time, there was no balance left in the TMT's account. The TMT made some attempts to get back the money (₹5 lakhs), but could not succeed. On the advise of CREAT an RTI application was filed with the SBM and information sought about the outcome of the inquiry and action against the concerned staff. The SBM furnished the proceedings of a meeting wherein it was decided that the amount illegally withdrawn by the staff is to be refunded to the real depositors/account holders. However, this was not implemented for three years. Another RTI application was filed about refund of funds. Within three days the bank refunded ₹5 lakh to TMT. Another RTI application has been filed to get back interest on this amount.

## Local Audit Circles to Issue Acknowledgement to Public Authorities

CREAT has observed that there has been inordinate delay on the part of the PIOs in furnishing information/documents sought under the RTI Act. One of the reasons for delay is that the relevant records are with the Controller of State Accounts. In such case, the PIO has to transfer the application to the audit department. However, in the absence of acknowledgement for having received the documents/files, there is delay in furnishing information or transferring the application.

An application was submitted to the Kaiwara *Gram Panchyat* (GP), seeking information about the expenses incurred out of GP funds. As there was delay in furnishing the information the applicant filed a complaint in the KIC. The PIO stated that since the records were produced for audit, there was delay in procuring the records and furnishing information.

The KIC directed the Controller of State Accounts to issue circular instructions to all the Local Audit Circles in the State, to ensure that wherever the books of accounts have been received from public authorities for audit, they should invariably issue acknowledgements so that the GP could transfer the request to Local Audit Circle.

## Scam in ICDS Purchases comes to Light

The Integrated Child Development Scheme (ICDS) is a social welfare scheme under which Anganwadi's are set up. An RTI application to the local ICDS officer has revealed that suppliers have cheated the state in the name of VAT.

An application was submitted to the Child Development and Welfare Office, Chintamani, seeking copies of bills/invoices of three suppliers of tables, chairs, utensils etc. to the *Anganawadi*. The PIO furnished copies of invoices/bills of three suppliers. The total amount was ₹85,25,560. The invoices included VAT at 12.5 percent. Another RTI application to the local Commercial Tax Office revealed that the concerned supplier had not remitted any VAT. All the documents were submitted to the Commissioner of Commercial Tax. Within few days the officials raided the suppliers' premises and the concerned official has been suspended. It is interesting to note that one supplier's office/shop does not exist.

## **RTI Gives a Plot to the Applicant**

R.S.Rajaram, a senior citizen is a well known book publisher in Karnataka. He was a member of the Vyalikaval House Building Society for the past several years. He found that other juniors were allotted a site/plot by the society overlooking his seniority. He filed a petition before the tribunal, which directed the society to allot Rajaram a site/plot in the immediate next phase of layout formation. Rajaram came to know that the society had formed layouts, but not allotted him a site/plot.

On the advice of CREAT, he filed an RTI application to the society to know the number of sites/plot allotted and the names of the persons to whom allotted. The society denied information on the ground that RTI is not applicable to housing societies. An appeal to KIC also failed. Thereupon, CREAT filed an application to Bangalore Development Authority (BDA) seeking information about the layouts formed and approved by it in respect of the Vyalikaval Society. The BDA furnished full details with layout plan, drawings, letter of allotment etc. It was observed that over 1200 sites/plots were approved by BDA after the date Rajaram got an order from the tribunal. Armed with this information, a petition has been filed in the High Court. A favourable order is expected.

## **Minister Refund's Dues to Guest House**

CREAT and its network partners have been using RTI to improve governance. An application was submitted to the public authority in charge of government owned guest houses, seeking details of the guests who used the guest house, the amount due from them. The public authority gave a list of guests, which included ministers, MLAs, MPs, state guests etc. Even before CREAT could take further action, the care taker of the guest houses sent letters to the entire guests who had dues against their names. The next day a Minister refunded ₹60,000 to the guest house. CREAT had spent ₹10 and the government got ₹60,000.



# 5

## Right to Consumer Education

– C Rajashbekhar

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### Introduction

Education has been considered as a process of empowerment. An educated person is considered as a *sine qua non* for the successful functioning of constitutional democracy. Similarly, educated and informed consumers are essential for the emergence and sustenance of an efficient market. An educated consumer can make a rational choice of goods and services and protect his rights and interests from the exploitation of unscrupulous businessmen or service providers. Where literacy rate is high and social awareness is greater, the consumers cannot be subjected to exploitation. Thus, consumer education becomes a priority concern.

### Consumer Education

Consumer education has no definite connotation and it is susceptible of different interpretations and means different things to different people. Thus, for an ordinary consumer, education is viewed as information to help him make choices of goods and services in the market place. For a businessman, consumer education means activities that assist in selling services and products. A bureaucrat views consumer education as a programme to complement and supplement laws and regulation that fosters trade competition. Bureaucrats believe that a healthy competition and an educated body of consumers will ensure protection for consumers. A consumer advocate sees consumer education as providing information to consumers to protect them from fraudulent trade practices and exploitation.

According to US Department of Education, “Consumer Education is a process by which consumers develop skills to make informal decisions in the purchase of goods and services in the light of personal values, maximum utilisation of resources, available alternatives, ecological consideration and changing economic conditions”. Further, the consumers become knowledgeable about the law, their rights and methods of recourse, in order to participate effectively and self-confidently in the market place and take appropriate action to seek consumer redress. The consumers also develop an understanding of the citizens’ role in the economic, social and government systems and how to influence those systems to make them responsive to consumer needs.

Consumer education means to educate the consumers as to what, where, when, how and how much to buy and how to use what they have bought. The consumers should buy products which meet their needs and priorities and are of good quality. They should buy just the quantity as per their need.

Consumer education needs to be functional. The consumers must learn to obtain information of goods and services, discriminate between sources of information, understand the psychology of

selling and advertising, learn to shop wisely, understand the alternatives of conserving and saving rather than buying and consuming. Consumer education should enable the consumers to learn how to share and care. Consumers are a part of society. Consumer education must enable the consumers to understand that individual consumer decisions have broad social impact and influence on such important things as the overall allocation of resources within the society. Such education should enable consumers to consider seriously the environmental and social impact of their economic decisions. The consumer education must equip the consumers with the knowledge to use the redressal mechanism to get redressal of their grievances. In a country like India, where a substantial number of consumers are based in rural areas, educating them in these aspects is no doubt a herculean task, but is an essential necessity.

## Profile of Indian Consumer

An important feature of the India's consumerism is the emergence of the rural market as an important component of Indian market. Three-fourth of India's population is based in rural areas and it contributes one-third of the national income. As the consumerism spreads to rural areas, India has emerged as a lucrative market for consumer goods. According to product market study conducted by MATRADE, Chennai in 2005, among the total 164.8 million households in India, 80.7 million households come under low income group, followed by 50.4 million lower middle income households, 19.7 million middle income group, 8.2 million upper middle group and 5.8 million high income group.

The same study also reports that the Indian rural market has been growing at 3-4 percent per annum, adding more than 1 million new consumers every year and now accounts for close to 50 percent of the volume consumption of fast moving consumer goods. In recent years, due to the increasing literacy in the country, exposure to the West, satellite television, foreign magazines and newspapers, there has been a significant increase of consumer awareness among Indians. Therefore, Indian consumer is gradually becoming more and more selective in the quality of products.

The other facet of Indian consumerism is the fast paced urbanisation, as more and more people are migrating to cities. This phenomenon of urbanisation is influencing the life style and purchasing behaviour of the consumers. Bulk purchases from superstores owned by corporate giants are becoming a trend among the consumers.

That apart, the Indian market place is not free from fraudulent and deceitful practices of unscrupulous traders. The Indian consumers still face various difficulties and problems in the market. The problem is further aggravated by corrupt officials and lax implementation of consumer protection laws. The menace of adulteration is quite rampant in the Indian markets. Adulteration of food articles with harmful colours, worm infested and stale ingredients, poor quality of adulterated oil, etc. is quite common. Such products are very harmful for the health and safety of consumers.

The Indian consumers are not a homogenous lot. The population is marked by diversity in religion, language, culture, tradition and social customs. One billion people of India belong to seven different religious groups. What is accepted in one religion is a taboo for the other, and something banned in one religion is an accepted practice in another religion. The same kind of diversity is seen in the matter of language. 22 languages have been specified in the Constitution as national languages, besides hundreds of dialects. If a marketing man has to approach the entire national market of India, this linguistic diversity is a big challenge. There is huge diversity with regard to food also. There is a basic difference in food habits between the south and the north and the west and the

east. If a marketer wants to market his products in India, he has to consider all the above diversified aspects before planning his marketing strategy. The marketers therefore try to understand the needs of different consumers and after understanding their different behaviours, which require an in-depth study of their environment, they formulate their plans for marketing. Thus, the Indian market is a formidable area even for the marketers.

The Indian consumers, who are not homogenous, who are slowly waking up to the changes taking place in the market, are hugely vulnerable to deceit and fraud played on them by the traders. They need extensive protection in the market. As John Kenneth Galbraith stated: “It is not the consumer who is the king, but it is the large corporation who is the king in the economy. Whatever happens is not because the consumers want it that way, but simply because large powerful corporations prefer it that way”. This statement aptly applies to Indian situation also.

The exploitation of consumers is not confined merely to the developing countries; it is prevalent even in developed countries also. Owing to the lobbying by the Consumer International, the UN adopted various Guidelines for consumer protection in 1985. These Guidelines deal with needs of consumers worldwide and provide a broad framework for governments, particularly those of developing and newly independent countries, to use for elaborating and strengthening consumer protection policies and legislation.

While framing the guidelines, the UN noted the interests and needs of consumers in all countries, particularly those in developing countries. It was recognised that consumers often face imbalances in economic terms, educational levels and bargaining power and that consumer should have the right of access to non-hazardous products, as well as the right to promote just, equitable and sustainable economic and social development.

The UN guidelines for consumer protection have the following objectives:

- (a) to assist countries for providing adequate protection for their population as consumers;
- (b) to facilitate production and distribution patterns responsive to the needs and desires of consumers;
- (c) to encourage high levels of ethical conduct for producers and distributors of goods and services;
- (d) to assist countries in curbing abusive business practices by enterprises;
- (e) to facilitate the development of independent consumer groups;
- (f) to further international co-operation in the field of consumer protection; and
- (g) to encourage the development of market conditions which provide consumer with greater choice at lower prices.

These guidelines are intended to provide safety to consumers, promote and protect economic interests, enhance access of consumers to adequate information so as to enable them to make informed choice, increase consumer education and availability of effective redressal mechanism, and provide freedom and opportunity to consumer organisations so as to enable them to present their views in decision-making processes affecting them.

## UN Guidelines and Consumer Education

Consumers today operate in increasingly complex markets, challenged by growing amounts of information and an expanding choice of products. Making of good choices by the consumers and protecting their interests require a wider range of skills and knowledge. In a country like India, where fraud and deceit are common in markets, the problem of safeguarding uninformed consumer is a herculean task. In this respect consumer education plays a crucial role in the protection of the interests of consumers.

The UN Guidelines on Consumer Protection lay emphasis in consumer education. The Guidelines impose an obligation on governments to develop or encourage the development of general consumer education and information programmes, bearing in mind the cultural traditions of the people concerned. The aim of such programmes should be to enable people to act as discriminating consumers, capable of making an informed choice of goods and services, and conscious of their rights and responsibilities. In developing such programmes, special attention should be given to the needs of disadvantaged consumers, in both rural and urban areas, including low-income consumers and those with low or non-existent literacy levels. Further, consumer education should, where appropriate, become an integral part of the curriculum of the educational system, preferably as a component of the existing subjects.

The Guidelines lay down that the consumer education and information programmes should cover such important aspects of consumer protection as the following:

- (a) Health, nutrition, prevention of food-borne diseases and food adulteration;
- (b) product hazards;
- (c) product labelling;
- (d) Relevant legislation, how to obtain redressal, and agencies and organisations for consumer protection;
- (e) Information on weights and measures, prices, quality, credit conditions and availability of basic necessities; and
- (f) Pollution and environment.

The governments should encourage consumer organisations and other interested groups, including media to undertake education and information programmes, particularly for the benefit of low income consumer groups in rural and urban areas. Even the businessmen should undertake or participate in factual and relevant consumer education and information programmes. The government should also develop or encourage the development of consumer information programmes in mass media. Lastly, governments should organise or encourage training programmes for educators, mass media professionals and consumer advisers to enable them to participate in carrying out consumer information and education programmes.

## **Recommendations of OECD's Committee on Consumer Policy on Consumer Education**

In addition to UN Guidelines, an analysis of OECD Committee Recommendation on consumer education is also quite instructive and useful in developing a comprehensive consumer education policy and programme. Recognising the increasing importance of consumer education and the role it can play in tandem with enforcement in raising public awareness, the OECD Committee on Consumer Policy carried out a major project to examine how countries are providing such education, with a view towards identifying the most-effective approaches. An analysis report was prepared that examined: (i) the goals and institutional frameworks supporting consumer education in various countries, (ii) the role of non-governmental stakeholders, (iii) the main approaches being pursued in countries, and (iv) programme evaluation and principal challenges.

The Project identified six key issues and challenges for governments: (i) overall educating strategies are lacking in most countries, (ii) there is a need to enhance the quality of education, (iii) only limited opportunities for consumer education exist in most school settings, (iv) consumer education could be better integrated into other educational areas, (v) there is a need to enhance motivation to teach and learn about consumer issues; and (vi) resources for promoting consumer education are limited.

Based on the findings in the report and discussion that took place in a Conference of Stakeholders in 2008, the OECD's Committee on Consumer Policy has made some very pertinent recommendations under three focused areas for making consumer education more effective.

- (1) Clearly defined objectives and strategies can increase the effectiveness and efficiency of consumer education policies. To enhance coherence, such objectives and policies should be coordinated among entities at national and other appropriate levels of government.
- (2) Consumer education should begin at an early age and cover all life stages; it should be incorporated into educational programmes for life long learning or school curriculum, where appropriate.
- (3) Programme design should be based, when possible, on research into the educational needs of the affected consumers.
- (4) Stakeholders, including consumer organisations, teacher and parent associations and other civil society groups, should be encouraged to assist policy makers in identifying educational needs.
- (5) Examining the extent to which educational programmes achieve goals is critical and should be pursued. Developing methods for evaluating the programmes by using a variety of tools and sharing good practices would be beneficial. It could be helpful in this regard to develop benchmark that would enable stakeholders to evaluate changes in the knowledge levels and behaviour of students following education.
- (6) School provides an important opportunity to teach children about consumer issues and to help them to develop critical skills. Although effective consumer education programmes exist outside the classroom, these initiatives could be enhanced by incorporating consumer education into school curricula.
- (7) Consumer education should be disseminated in a variety of ways, taking advantage of both online and offline resources.

The choices that consumers make have significant social, economic and environmental implications. In particular, consumer choices can have an impact on sustainable development. There is a need to develop sustainable consumption, and consumer education can play an important role in promoting it. Such education should be incorporated into school curricula and should include awareness raising campaigns as well as initiatives targeting adults and children.

Consumer education should focus on: (i) increasing awareness of the importance and benefits of sustainability both for individuals and society, (ii) developing practical knowledge of what consumers can do to support sustainable consumption, and (iii) providing necessary skill and attitudes for putting this knowledge into everyday practices.

The United Nations Educational, Scientific and Cultural Organisation, the United National Marrakesh Task Force on Education for Sustainable Consumption and the United Nations Environmental Programme have played a leading role in promoting education for sustainable consumption. Their work highlights the importance of promoting international exchanges so that social, economic and cultural diversity can be better reflected.

## **India's Approach to Consumer Welfare**

In the wake of adoption of UN Guidelines on April 09, 1985, India enacted the COPRA, 1986. The Act enshrines various rights to safeguard the consumer, which include: protection against marketing of goods/services which are hazardous to life and property; information about quality, quantity, potency, purity, standard and price of goods and services to ensure protection against unfair trade practices; assurance, wherever possible of access to variety of goods and services at

competitive prices; and redressal against unfair trade practices. The Act has provided for the establishment of quasi-judicial consumer disputes redressal machinery at the District, State and National level to enable the consumers to get redressal of their grievances. This redressal machinery is designed to render simple, inexpensive and time bound redressal to consumer complaints.

The sub group on “Consumer Protection and Redressal Mechanism” constituted by the Planning Commission has opined that the existing legal framework for consumer protection is reasonably good in India. The problem is only with its implementation. The Central and state governments should work towards strengthening the available legislative and institutional framework so as to protect the consumer interest.

According to the subgroup (i) the institutions who have to implement the law and protect the interest of consumers need to be strengthened; (ii) should ensure that the consumers are protected from unsafe goods and services; (iii) the competitiveness of industry and services sector should be strengthened by increasing demand for high quality products and services; (iv) a definite policy or uniform guideline should be framed to help consumers make informed choice so that they are able to make the right decisions and protect themselves from abusive practices; (v) the urban and rural consumers should be empowered to make informed choices so that they can, not only protect their health and safety, but also can get more value for money.

It is a well established fact that mere enactment of a legislation is not enough and what is more important is its proper implementation. For the proper implementation of the COPRA, informed consumers are also important. Consumer education should be imparted and proper information dissemination be made through a proper and adequate system. A periodic evaluation of the implementation would reveal the effectiveness of the law. After the enactment of the COPRA 1986, the first independent evaluation of the Act was made by the Indian Institute of Public Administration (IIPA) in 1994, where it was found that a large majority of consumers belonging to various categories and income groups were still completely ignorant of the existence of COPRA and the redressal agencies created under it.

Of the 1168 respondents interviewed on a random sampling basis in 10 districts of five states, awareness of the Act was only 16.44 percent. The majority of consumers both in urban and rural areas of the districts under study indicated that they had not taken advantage of the Act mainly because of lack of awareness of their rights and remedies available to them under the COPRA.

In 2005, in a survey conducted by ORG Centre for Social Research by the CAG in 25 States/UTs covering 48,732 consumers, 6237 complainants, 249 manufacturers and service providers, 39 NGOs, and 34 laboratories, it was found that 34 percent of respondents were aware of consumer rights whilst as high as 82 percent were unaware of the COPRA. Out of the 6657 complainants before consumer courts interviewed in the survey, 48 percent stated that their knowledge of redressal agencies was through electronic media, 61 percent stated it was through print media and for 68 percent it was through friends and relatives and 4.9 percent claimed NGOs as their source of awareness. These statistics show the importance of promoting consumer education so that they can protect their rights by making use of the redressal machinery functioning under the Act.

50<sup>th</sup> National Development Council (NDC) has identified consumer awareness and redressal as a thrust area at its meeting held on December 21, 2002. During the Tenth Plan, the allocation of the Department of consumer affairs was merely for ₹55 crore for the entire plan period, out of which ₹15.50 crore was for consumer protection and awareness, ₹3.05 crore was earmarked

for consumer awareness in 2002-03 and due to the unstinted support of the Planning Commission, the allocation for this activity was hiked to ₹69.97 crore in 2005-06. However, educating more than 100 crore of people of various categories on various subject matters of consumer interest is a gigantic task and for its successful achievement the Planning Commission must provide for a substantial budget.

The 11<sup>th</sup> Five year Plan (2007-2012) has seen a significant ramp up of budgetary support for consumer awareness and protection. In the 11<sup>th</sup> plan, the total allocation for consumer awareness was significantly revised upwards to ₹409 crores. The Department has taken up the challenge by implementing in right earnest the plan scheme during the period and consumer awareness has been carried through various means.

## India's Consumer Awareness and Education Programmes

### Multi-media campaign

Media can play a significant role in creating consumer awareness about their rights and remedies. It is rightly said that a good consumer makes a good citizen and ultimately a good democrat. Promoting awareness by spreading information is the primary task that media can perform towards development of consumerism. Information is an asset. Exploitation of consumers is mainly due to absence of this vital role by providing right information at right time to consumers. Ignorance regarding prices and price-behaviour changes market structure and fluctuations in economy are not understood by ordinary consumers and as a result, they fall prey to exploitation and malpractices.

During 10<sup>th</sup> and 11<sup>th</sup> Plan periods, the Department of Consumer Affairs, Government of India drew an ambitious multimedia campaign on consumer awareness programme. However, the major thrust in consumers' awareness through plan funds has started only from 2005-06, since earlier, the consumer awareness activities lacked cohesion due to inadequate availability of funds. In consultation with the I & B Ministry, an inter-ministerial Multimedia Committee was put in place for overseeing the campaign. This Committee also had representation from the media and voluntary consumer organisations (VCOs). As a result of these efforts, now '*Jago Grahak Jago*' slogan has become a recognisable name to the literate consumers in the country.

Consumer campaign was carried on through electronic media, largely through 30 second spots on Television and Radio jingles on topics ranging from MRP to gold hallmarking, BIS/ISO certified products, expiry dates and consumer rights. In this campaign, the focus was on empowering the consumer to enable him to take informed decisions, advising him on in-house redressal mechanism available with retailers, manufacturers and service providers, before he chooses to take his grievance before a consumer court. Apart from the Multimedia Committee, recently an Empowered Committee has also been set up under the Chairmanship of Secretary to approve the annual media plans and guide the campaign.

In order to strengthen the campaign, even outdoor publicity has been included in the Media plan. Moreover, State Governments and PRIs are involved in the campaign. Under the scheme, funds to the tune of ₹10-15 crore were released to the state governments /UTs to facilitate translations/dubbing of existing media materials into local language and for outdoor publicity.

Additionally, the Department of Consumer Affairs has launched many publicity activities to enhance consumer awareness and education.

### ***Publicity through Print Media using Newspaper Advertisements***

Advertisements have been released through the Directorate of Advertising and Visual Publicity (DAVP) in national dailies as well as regional newspapers in local languages in accordance with the new advertisement policy of the DAVP. Each advertisement has been released through a network of more than 400 newspapers throughout the length and breadth of the country. The publicity campaign focuses on the issues that are directly relevant to the role of the Department such as ISI, Hallmark, Labelling, MRP, weights and measures.

A major initiative has been taken wherein issues that have come into focus on account of new emerging areas such as telecom, real estate, credit cards, financial products, pharmaceutical, insurance, travel services, medicines etc., have been taken through the print advertisement either through joint campaigns with these departments or after joint consultations with these departments.

### ***Publicity through Electronic Medium by Telecast of Video Spots***

The Department has got produced Video Spots of 30 seconds duration on various consumers related issues such as struna measurement of Petrol, Grievances Redressal System, MRP, ISI and Hallmark, Financial Literacy, Medicines, Travel Services, Education, Consumer Protection Act, Agmark, Food Adulteration, Food safety etc., which are being telecasted through Doordarshan and Satellite Channels such as Sony, Star Plus, Zee News, Star News, Doordarshan National Network, Kalyani Programme of DD-1, Krishi Darshan, Regional Channels, Sun Network, ETV Network, and others. Special Programmes have been telecasted on Lok Sabha TV also to highlight the issues relating to consumer awareness. Issues pertaining to rural and remote areas have been given prominence in the various advertisement spots.

The Department of Consumer Affairs in consultation with Department of Post has disseminated consumer awareness messages through Meghdoot Postcards to reach far-flung rural areas including North Eastern States. In addition, posters carrying messages pertaining to consumer awareness have been displayed in 1.55 lakh Post Offices in the country.

The Department has printed a folder entitled '*Jago Grahak Jago*' containing the salient features of COPRA, 1986, provisions of Weights and Measures Act, information about standardisation such as ISI, Hallmarking, Education Services etc, for distribution. The publicity material relating to consumer awareness has also been translated into regional languages and is being disseminated to various state governments.

The Department has launched National Helpline and the Toll Free Number 1800-11-4000 which is being operated by Delhi University for counselling the consumers to redress their grievances. Through various advertisements pertaining to Department of Consumer Awareness, adequate publicity has been made of the National Helpline so that the affected consumers could seek guidelines/counselling through it.

The Department has launched Consumer Online Resources and Empowerment (CORE) Centre Website [www.core.nic.in](http://www.core.nic.in) for consumer advocacy and online redressal of consumer grievances. Through various advertisements relating to consumer awareness, adequate publicity has been made of the activities of CORE and its website so that the interested consumers could take the help of online counselling /guidance being provided through the CORE centre.

The Department has also associated with other ministries for publicising the issues relating to consumer welfare. Thus, the Department of Chemical and Fertilisers, National Pharmaceuticals Product Authority (NPPA), Ministry of Civil Aviation, Food Safety Standards Authority of India, Department of Agriculture and Cooperation, Insurance Regulatory Development Authority

(IRDA), Ministry of Urban Development, Ministry of Human Resources Development, Reserve Bank of India and Ministry of Health and Family Welfare have released advertisements on the specific consumer related issues to educate consumers. Advertisements were released through Print Media as well as Electronic Media on the new emerging areas of consumer interest such as Real Estates, Credit Cards, Financial Products, Pharmaceuticals, Insurance, Food Safety, Agmark, Food Adulteration, etc.

### *Use of Internet*

Internet is emerging as an important means of communication. In India where 70 percent population is under 35 years, the younger generation is using internet for different purposes. Therefore, a major initiative is being taken to spread consumer awareness by the Department to spread consumer awareness through the internet medium. All the print advertisements of the department are also uploaded on the Website of the Ministry, [www.fcamin.nic.in](http://www.fcamin.nic.in).

The sustained multimedia publicity campaign undertaken in both the conventional and non-conventional mediums of publicity has also ensured that targets relating to expenditure for the consumer awareness plan scheme have been suitably met. Due to significant increase in the plan outlay for consumer awareness in the 11<sup>th</sup> Plan, there has been a commensurate increase in the awareness about consumer rights as revealed by various studies. In studies conducted by Indian Institute of Mass Communication (IIMC) during August-September 2006 and through M/s Santek Consultants in April to June 2009, it has been established that a significantly higher proportion of the citizens are now aware about the consumer rights under COPRA. The survey conducted by IIMC covered 12 states, 36 districts and 144 villages.

### *Role of NGOs and VCOs*

Consumer awareness was also sought to be created by involving NGOs/VCOs supported through the Consumer Welfare Fund created in 1992. The specialisation of VCOs and NGOs has been of great help in the implementation of various consumer welfare schemes. The sub-committee on consumer awareness and redressal has opined that the people living in remote and rural areas do become victims of unlawful trade practices being adopted by wrong doers of less education and poor knowledge. In view of this, the national awareness programme '*Jago Grahak Jago*' requires to be launched aggressively at the district levels with the help of State Governments and local VCOs for the benefit of vulnerable group of people.

The NGO's/VCOs can effectively contribute in the promotion and propagation of the programmes and schemes relating to consumer education and awareness at the grass root levels. VCOs in rural areas are contributing to the overall efforts of government and their role in helping the schools in running consumer clubs has been well recognised. The VCOs who have sufficient expertise working with consumer clubs and development of materials for such consumer clubs should be identified and supported to develop Resource Centres, which can cater to the requirements of such consumer clubs. Apart from creating print, digital, audio-visual materials, these centres would also train and guide teacher-in-charge of the consumer clubs and also organise events, which involve a number of consumer clubs on one platform.

## **Role of Educational Institutions**

### *Consumer Education in Schools*

Educating consumers at a young age when they are still in schools is very important. The marketers target them and exploit their innocence to create pressure on the parents to purchase certain goods and services. Involvement of schools in consumer education will give fillip to movement for consumer protection. In the 10<sup>th</sup> Plan period, Consumer Welfare Fund (CWF) had extended

financial assistance to the tune of 33 crore for the purpose. Consumer Education has been gaining popularity in the schools as well. The Department of Elementary Education and Department of Secondary Education need to be involved to include consumer protection/consumer education in the school curriculum.

According to a scheme launched in 2002, a consumer club is to be set up in each Middle/High/Higher Secondary School/College affiliated to a government recognised Board/University. A grant of ₹10,000 per consumer club for 2 years is admissible under the scheme. This scheme has been decentralised and transferred to the State/UT Governments from 2004. Till the end of March 2006, 4661 consumer clubs have been sanctioned in various states. The working group of the Planning Commission in its 12<sup>th</sup> plan proposal has recommended that efforts should be made to ensure that by the end of the plan period, there should be new consumer clubs in 50,000 colleges in the country, by adding 10,000 new clubs each year.

#### ***Resource Centres for Consumer Clubs***

While the consumer clubs would be set up by managements of colleges under guidance from UGC or state governments, Working Group felt the need to nurture, support and resource centres to develop materials which such clubs would need in their functioning. According to the Working Group, VCOs who have sufficient expertise of working with Consumer Clubs and development of materials for such Consumer Clubs should be identified and supported to develop Resource Centres, which can cater to the requirements of such Consumer Clubs.

#### ***Consumer Education in Universities and Colleges***

Teaching consumer welfare and protection to college students is more effective in educating the younger generation to become enlightened consumers. Consumer affairs is not a traditional subject, which is taught in Universities. The working group has made a suggestion that efforts should be made to introduce new papers in existing degree courses in major Universities.

The University of Delhi has recently introduced an optional application course on “Consumer Affairs” in their restructured programme. Similarly, the University has introduced an optimal paper in its restructured B.Com (Hons.) programme.

Unfortunately, in spite of the development of Consumer Law over last two decades, most LL.B. programmes in Universities do not have papers in Consumer Law or Consumer Jurisprudence. Efforts can be made with the Bar Council of India and UGC to introduce such a paper in the LL.B. Syllabus in Universities and National Law Schools. In some Universities consumer law is taught as part of the law of torts.

Some Universities have introduced Consumer Law as course in their LL.M. programme. The P.G. Department of Studies in Law, Karnatak University has incorporated Consumer Law as one of the courses for the past 15 years. The National Law School of India and School of Legal Studies, Cochin University have also included it as a course in the LL.M. Programme.

Working group has opined that the Universities need to be encouraged to develop new syllabi or include topics on scientific aspects of consumer issues, like the domain of standardisation, national and international standards, certification and conformity assessments, accreditation of labs, quality systems etc.

#### ***NLSIU Chair on Consumer and Practice***

First time in Indian history, the Chair on Consumer Law and Practice (CCLAP) was established in August 2008, at National Law School of India University (NLSIU) by the Ministry of Consumer

Affairs, Food & Public Distribution Department of Consumer Affairs, for teaching Research and Training in Consumer Law and Practice. The Chair undertakes outreach programmes in the form of workshops, seminars, publications and training programme for academicians, professionals, government officials, consumer forum members, and NGOs. Also, Consumer Chair has designed independent subject on Consumer Law and Practice for Undergraduate and Post Graduate course students of NLSIU.

Since 2008, Consumer Chair has been publishing Bi-annual newsletter i.e., 'March of Consumer Law and Practice', which contains information related to new bills, laws related to consumer protection, new articles and books on consumer issues, summary of landmark decisions of Supreme Court, High Courts, National Commission and State Commission etc. In 2012, the Consumer Chair launched an annual international journal entitled "International Journal on Consumer Law and Practice" and its first issue will be released in January 2013. The peer-reviewed journal solicits high quality articles pertaining to National and International consumer protection issues. This journal will not only be a helpful tool to students of Consumer Protection Law and academicians across the country, but it is also intended as a source of information for NGOs, Bar & the Bench and layman also. Basic purpose of this journal is to provide recent and relevant information relating to National and International consumer issues to the consumers.

During 2011-12 academic year, the Consumer Chair started distant education course i.e., Post-Graduate Diploma in Consumer Law and Practice (PGDCLP) for all Graduate Students. The syllabus of diploma course is very comprehensive and covers all consumer issues. The five modules/papers of PGDCLP are as follows:

- MODULE 1: Introduction to Law and Indian Legal Systems
- MODULE 2: Development of Consumer Protection Law and Drafting Skills
- MODULE 3: Product Liability and Service Providers' Liability
- MODULE 4: Alternative Dispute Redressal Mechanism
- MODULE 5: Dissertation

Because of success of activities of Consumer Chair at NLSIU, Ministry of Consumer Affairs established Chair and Centres in different Law Schools of India.

#### *Fellowships for Research*

Over the 11<sup>th</sup> Plan period, fellowships for full time M.Phil or Ph.D. students were instituted in selected Universities to encourage original research on subjects of consumer interest. Fellowships were intended for students to write dissertations based on original work on a selected list of topics, identified as thrust areas over the plan period.

#### *Grants for Books and Journals to University Libraries*

University, College and Research Institutions including National and State Training Institutions and Libraries are given grants over the plan period to acquire books, journals and audio-visual material in the area of consumer affairs in the thrust areas identified.

#### *Promoting Involvement of Research Institutions/Universities/Colleges in Consumer Welfare*

Bureau of Indian Standards organises education utilisation of standards programmes in various polytechnic and engineering colleges to educate the students at the college level. Efforts are being made to increase the number of such programmes and popularise them. Under this scheme, research and evaluation studies in the field of consumer welfare to provide solution to the practical problems being faced by the consumers are sponsored. The scheme is also meant to sponsor Seminars, Workshops and Conferences on consumer related topics and to provide necessary

input for the formulation of policy/programme/schemes for protection and welfare of consumers. The Indian Institute of Public Administration (IIPA), New Delhi is the nodal organisation to administer the scheme.

#### *Training workshop for University/College Teachers*

Indian Institute of Public Administration (IIPA) as part of the above scheme, *interalia*, evolved a training workshop on “Consumer Protection and Consumer Welfare” of five-day duration for University and College Lecturers and was able to organise six such training workshops. The major objective of the programme was to create resource persons on long-term basis in Universities and Colleges in the area of consumer protection with a view to provide fillip to the consumer education and awareness programmes in educational institutions.

### **Involvement of State Governments**

The Department has recognised the need to involve state governments in awareness campaign as crucial in taking forward the movement to rural, remote and backward areas. Hence, it has decided to involve the State/UT Governments in expanding the area of consumer awareness. In the 11<sup>th</sup> Plan Scheme of consumer awareness also, the involvement of the states has been given prominence in spreading the message of consumer awareness.

In fact the effectiveness of the scheme to a great extent relies upon involvement of States/UTs/PRIs and hence the Grant-in-Aid has been given to the states/UTs for carrying on consumer awareness activities in the local media using the local language and emphasis has been made on involving Panchayat Raj Institutions with consumer awareness campaign.

#### *Focus on North East Region*

North Eastern region of the country is largely inhabited by tribal people and has some unique features than the mainland. Hence, specific focus has been given to publicity regarding consumer awareness in the North Eastern region. A unique approach has been adopted for the region and innovative measures are being undertaken for spreading consumer awareness. Doordarshan and All India Radio have Kendras and Radio Stations throughout the length and breadth of North Eastern region. Outdoor publicity medium such as banners, hoardings, printing of messages on Railway Tickets, Reservation Charts, etc., was also used suitably for reaching out to the people in the North Eastern region.

### **Concurrent Evaluation and Monitoring**

Getting feedback about the effectiveness of the various publicity programmes is also very important. Planning Commission has time and again stressed on the need to undertake evaluation and monitoring studies on the publicity campaign undertaken by the Department. In order to achieve this objective, various steps have been taken as below:

#### *Monitoring by the Multimedia Committee*

Regular meetings of the Multi-Media Committee are organised, which analyse various proposals relating to consumer awareness. The Committee has representation of Ministry of Information and Broadcasting, DAVP, Doordarshan, All India Radio and VCOs to suggest the various mechanisms for undertaking publicity campaign for consumer awareness.

#### *Feedback from NCH*

Suitable note is kept of the feedback that is received through National Consumer Helpline and suitable adjustments are made in the publicity plan keeping in view the same.

### *Findings of IIMC Survey*

A comprehensive survey was undertaken in 2011 by the IIMC that covered 12 States and 144 Districts in the country. The survey has come out with encouraging picture regarding the impact of publicity campaign carried out by Department of Consumer Affairs. The survey brought out the fact that electronic media emerged as a preferred source of information by respondents both in the urban and rural areas. The survey has brought out that about 62.65 percent respondents from both rural and urban areas were found to be aware of the publicity campaign run by the Department. Findings of the IIMC survey have been duly considered and incorporated while finalising the media plan for undertaking consumer awareness activities.

### *Findings of CUTS Survey (2012)*

The survey done by CUTS as part of 'ConsumersUp' Project in 2012 has revealed that a little more than 40 percent respondents are aware about consumer rights, while the remaining 41 percent are not. However, the awareness does not really translate into complete knowledge about all the rights whereas it is limited to familiarity with the term 'consumer rights'.

Awareness regarding consumer rights is quite high in urban area respondents as compared to their rural counterparts. 78 percent of the respondents learnt about consumer rights from Television, 10 percent learnt about it from Newspapers while another 8 percent learnt about it from radio programmes.

Only 51 percent of respondents are aware of "Jago Grahak Jago" campaign. Out of these, about 54 percent belong to urban area and APL Family. About 80 percent respondents learnt about the campaign from Television, 9 percent from Radio, and 7 percent from Newspaper. Close to 50 percent of those who knew about "Jago Grahak Jago" campaign have reported that they have benefitted directly or indirectly from the campaign. This meant that whatever little knowledge that they had obtained through TV, Radio and Newspapers had benefited them in some way or the other.

In the survey, about 63 percent respondents consider TV to be most important means of communication for consumer education, as TV has a wider reach than any other means of communication.

The survey has also shed light on the working of consumer organisations. Three major activities of consumer organisations are:

- (a) Awareness generation through Seminar, Workshop, Books, Publications, Media, Newspapers, street Play, FGD, Public Meetings and Campus among different sections of the society.
- (b) Community engagement/Community Development Programmes.
- (c) Consumer counselling – door to door counselling and individual counselling sessions for aggrieved consumers.

30 percent of consumer organisations have reported lack of consumer awareness as one of the most important hurdles in promoting consumer right. Almost 62 percent of consumer organisations have reported spreading consumer awareness as a major tool for promoting consumer rights, while 9 percent respondents have highlighted the need to enhance government support to NGOs for promotion of consumer rights wherein such organisations can play a vital role in safeguarding consumer interest by educating and counselling them. Another 9 percent of the VCOs have highlighted the need to include consumer education in School, College and University Syllabus.

### *Concurrent Evaluation of the Plan Scheme*

To assess the effectiveness of the campaign, a concurrent evaluation has also been undertaken. Under this evaluation, questionnaires were sent to more than 12,000 persons on various aspects of 'Jago Grahak Jago' campaign. Additionally, the media plan for the next year was suitably devised keeping in view the findings of this campaign.

### **Consumer Advice Centres**

The Department has set up Consumer Advice Centres on a Pilot basis in four States mainly to cater to rural consumers as an extended arm of State Helplines and provide consumer with up-to-date and reliable information as well as independent consultation. The Consumer advice Centre in the Districts will be the first point of contact for comprehensive consumer information and independent advice. In another joint initiative with FICCI and GTZ, Media Advisory Centre (MAC) is being established in four States on pilot basis. MAC is expected to cater to pending cases referred to by consumers and new cases coming directly or through the Registrar. This is likely to bring down the number of cases going in for litigation. The Department proposes to integrate all these into an integrated Consumer Advice Network during the 12<sup>th</sup> plan.

### **Popularising Reach of Comparative Testing Results**

The most effective consumer awareness function, which can assist a consumer in day-to-day buying as a consumer, is information from comparative testing of goods and services. It is a well-established form of raising consumer awareness in many parts of the world. VCOs in many developed countries like US and most countries of Europe have become self-sustaining based on subscription of consumer magazines on a large scale by individual consumers.

In India, the Department of Consumer Affairs has been supporting this activity by two national level VCOs, 'Voice Society' Publishes, 'Consumer Voice' in English, monthly and Hindi, bimonthly magazines. CERC publishes 'Insight' English, bimonthly. Both these publications are able to test and report about 10 to 12 products in a year. It has been reported that the 'Consumer Voice' has commenced comparative evaluation of services and covers two services a year. Apart from the fact that their capacity to test more products and services is limited, they had considerable difficulties in enrolling subscribers for their magazines. Consequently, results of comparative testing did not reach a large number of consumers.

However, this problem is not unique to India; similar problems are being faced by similar VCOs in a number of developing countries. The Consumers International has set up a working group on 'Capacity Building' and 'Business Development'. It examined comparative testing magazines in seven developing economies and found that they were facing similar problems of low subscriptions and required intervention and support till there was widespread consumer acceptance and subscription base beyond the break-even point was reached. However, the Consumers International is unable to assist these VCOs directly and national agencies are expected to support these activities till the break-even points of the magazines are achieved.

To operationalise the above activity, the following new initiatives were envisaged by the Department of Consumer affairs in India.

### *Enhance Testing and Evaluation Capacity*

At the beginning of the 11<sup>th</sup> plan, the capacity of the two testing magazines was to test and publish about 10-12 products each per annum. This was proposed to be enhanced to 20 to 24 products each per annum. For this purpose, additional plan support to the capacity for comparative

testing was estimated at ₹50 lakh per annum for each organisation or ₹1 crore for both per annum.

The capacity for comparative Evaluation of Services was only two services per annum. If this capacity was enhanced to 6 services per annum, it was estimated that an additional support of ₹50 lakh per annum would be required over the plan period.

### ***Joint International Testing of Indian Products***

International Consumer Research and Testing (ICRT) based in London is a body, which carries out joint testing of products, which are sold in a number of countries. Both the Indian publications are associated with ICRT. 'Consumer Voice' has an arrangement to publish test results of products imported into India. It has published European Test results of digital cameras, laptops, chargeable batteries, scanners, printers etc in past. As a result of this linkage, it can participate in joint testing by introducing Indian brands and models for testing jointly with ICRT members. It is proposed that a modest beginning be made with two products for joint testing while adding two new tests each year to reach 10 jointly tested products by the end of 11<sup>th</sup> plan. The cost was estimated at ₹10 lakh per joint test.

### ***Enhancing Availability and circulation of Magazines***

It was proposed to make these magazines available to general public by (a) supporting subscription of magazine in English and Hindi for (i) School libraries, (ii) College and University Libraries, (iii) Public Libraries, and (iv) *Panchayati Raj Institutions* (PRI). The subscriptions charge would be paid under the scheme and the magazines would be mailed directly to the libraries. All the libraries where consumer clubs in schools and colleges are set up were to be covered over the 11<sup>th</sup> plan period. (b) the publishers would be encouraged to publish regional language editions so that the same could be distributed to schools and colleges, public libraries and PRIs where regional languages are predominant and readership in Hindi and English is low.

## **Involvement of Journalists in Consumer Awareness**

Involving journalists in consumers' awareness programmes is definitely a good idea. It has been observed that generally journalists do not take interest in 'Consumer Affairs' because of the perception that:

- (a) It is not as interesting or glamorous as writing on politics of economics or even films;
- (b) The media itself does not think it as a 'hot' subject unless there is something sensational in the case;
- (c) Most journalists do not even think that this is a subject worth specialising;
- (d) Publishers and broadcasters generally avoid news on consumer affairs because of the fear of losing advertisement revenue.

The working group had made the following suggestions as solutions to the above

- (a) It may be a good idea to 'introduce consumer protection/rights as a subject of specialisation in journalism schools.
- (b) An award for journalists who do exceedingly well in consumer affairs journalism might also encourage some of them to take up the subject.
- (c) The Ministry may also think of instituting a fellowship for journalists to do useful research in the area of consumer protection. The fellowship would mean paying the selected journalists about ₹25000/- per month for a year to complete the work and also pay any other additional expenses such as travel, research, secretarial assistant, etc. The journalists should be attached to VCOs who are publishing consumer magazines or maintaining websites. In fact, the Rural Development Fellowship initiated by the Ministry of Rural Development and the Lok Sabha

Fellowship initiated by the Lok Sabha Secretariat for the very same purpose are worth emulating.

- (d) The working group has further stated that the campaign can be deepened by inducting experienced VCOs into the campaign because so far the campaign has a shallow intellectual basis, as it is relying almost entirely on advertising agencies who have limited experience in this area. Leading VCOs may be better equipped with ideas, expertise and motivation to add vigour to the campaign. The entry of such VCOs will also help in widening and deepening of the campaign. National and Regional level VCOs having the capacity, resources and man power to participate in this campaign should be inducted and supported to take up more elements of the campaign alongside the approved advertising agencies.

## **Grant of Awards to VCOs and Individuals**

The Department of Consumer Affairs has been recognising consumer organisations, youths as well as women involved in consumer protection by giving them awards from time to time based on nominations filed by potential awardees in response to the advertisements in the news papers by the Department of Consumer Affairs, or through publicity conducted by the state governments at the state level. However, the working group has opined that the response to such advertisements neither very encouraging nor far reaching.

### **Awards to Consumer Friendly Business**

The working Group has recommended that the Department of Consumer Affairs should also propose to bring other categories of citizens into the scope of such awards like “Most Customer Friendly Retailer of the Year”. Similarly, there could be awards for companies with effective compliant management systems. The consumer clubs initiated in schools should also be recognised through such awards apart from media persons writing columns regularly on consumer related issues which are of high education value to the consumers.

### **Celebrate and Publicise Awards**

Every year, the Department of Consumer Affairs should hold a high profile National Award night to facilitate such categories and also telecast the same as is done for several other award nights in the country on various activities like movies, artists and business personalities. There is a dire need to recognise and reward persons and organisations who are contributing towards building the Indian consumer movement and also towards maintaining quality and standards of products and services to meet the customer expectation. Based on the outcome of the comparative testing of products, manufactures and service providers should be also recognised on such award nights so that magazines and reports carrying comparative testing are made more popular and visible.

### ***Awards to Consumer Forums/Commissions***

Awards should be given to district forums and state commissions in recognition of the best performance against agreed bench mark developed by the NCDRC.

### ***Commercial Advertisements and Consumer Education***

Advertisements are the important means to promote and popularise a product or service. Advertisement has been considered as a powerful instrument for educating consumers about the best and most useful products. In the market there is cutthroat competition among the manufactures, who produce the same product, each trying to edge out other. Advertisement is the means they often use to extol the virtues of their product and denigrate other products.

Given the potent nature of advertising, the absence of a self imposed, industry supported set of guidelines to ensure truth, decency and fair play in advertising, would lead to a free for all resulting in consumers getting misled on the value of the products, which would lead to unfair competition. Hence, advertisement should be fair and truthful.

Often one finds advertisements which exaggerate the virtues of a product. But such exaggeration should not go beyond a particular level. Advertisements which misrepresent the facts become false, thus misleading the consumer. Such advertisements are objectionable.

These misleading advertisements are categorised into two groups. In the first category are those that basically violate the consumer's right to information and choice, thereby causing financial loss and mental agony to the consumer. The second category of advertisements are those that peddle health cures and drugs of questionable efficacy. This class of advertisements is the most dangerous as they can also have a severe repercussion on the health of the consumer.

The impact of advertisements on the consumer has become more pervasive due to emergence of electronic media. While earlier advertisements could be seen only in the print media, now one can see them on television and internet, thereby influencing large number of people, even the illiterate. Proliferation of advertisements through television marketing networks and promoting health cures, slimming and other beauty gadgets of unproven value is a cause of great concern. Producers and traders often indulge in false and misleading campaigns with the intentions of cheating customers.

Purchasing of such goods would put the consumer to financial loss and harm to health. The misuse of women and children in advertisement has also often been observed. Such advertisements are considered as 'unfair trade practice' under the COPRA, 1986. Further there are many other laws dealing with misleading advertisements. But, these laws have not really been enforced effectively. Due to such ineffectiveness of the law enforcement, several manufacturing and service providers get away by making false claims or misleading advertisements, and the helpless consumers become victims of such misinformation and unfair trade practice.

As advertisements of products and services are very powerful means of communication there is a dire need to curb the false and misleading advertisements. The attempt by the industry of self regulation through the Advertising Standards Council of India has not been very successful. Hence sub-committee of the working group on Consumer Policy has recommended for the setting up of a National Consumer Protection Authority within the Ministry of Consumer Affairs to deal promptly with misleading, objectionable and indecent advertisements and take corrective measures to not only provide the honest and truthful information to the consumers, but all such advertisers should be made to advertise the corrective message in the manner they had advertised the misleading advertisements. All the profits earned from such misleading advertisements should be recovered from the advertisers immediately and used for consumer education and awareness. This suggestion is worth for serious consideration by the Ministry.

## Road Map for Future Action

India is a developing country with large number of people still below the poverty line. Despite the various initiatives of the Government of India, the Consumers are still exploited and the consumer movement is still in its infancy. Hence, creation of awareness among consumers about their rights and interests needs to be given top priority.

For this purpose, the following steps are to be taken immediately.

- (1) Consumers' right of education and awareness programmes should be pursued aggressively at the District and Taluka levels. Mobile Vans should be commissioned to carry the message to small towns and villages of the country. Appropriately equipped mobile vans can display an interesting audio-visual content to create awareness among rural people. Mobile Vans may be used to show documentaries as well as display exhibitions or simple experiments to demonstrate tests related to product quality etc.
- (2) The publicity campaign so far has been identified by its slogan "*Jago Grahak Jago*" with the intention of waking up consumers to know their rights. The working group on consumer policy suggested that in the 11<sup>th</sup> plan, the campaign could graduate to a higher level where consumers are exhorted to "ASSERT RIGHTS, PURSUE REMEDIES". This aspect of public campaign needs to be pursued vigorously.
- (3) Giving publicity to leading judgements and orders by the National Commission and State Commissions, according to working group, will inspire confidence among the consumers about the effectiveness of adjudicatory bodies.
- (4) Consumer education should be included in curriculum from primary education to college level. More number of consumer clubs should be set up in schools and colleges. In operating the clubs, the help from VCOs should be obtained to make them more effective.
- (5) There should be monitoring of the activities of the Consumer Clubs, District Consumer Protection Councils, District Consumer Information Centres, and Universities through VCOs by Consumer Affairs Department of the State Governments.
- (6) In order to make the multimedia campaign more broad based and dynamic, a scheme may be worked out to support experienced VCOs in running their own media units on different areas of specialisation like Print, Radio, Television, Folk Media etc.
- (7) Resource materials should be developed for training teachers in schools and colleges. Publication of newsletters aimed at students where they can provide feedback regarding consumer issues should be initiated.
- (8) A Consumer Awareness Index should be developed and survey conducted periodically so as to bring out the relative change in consumer awareness over a period of time in various parts of the country and among various categories of consumers.

## Conclusion

The consumer education is very crucial to make consumers aware of their rights and interests. An informed consumer cannot be subjected to fraud, deceit and exploitation easily. In India where a large number of consumers are in rural areas, they are susceptible to easy exploitation by unscrupulous businessmen. An intensive and broad based multimedia campaign is slowly yielding fruits, as the percentage of consumers who are aware of their rights and interests is increasing. Introduction of consumer right issues in school and college curriculum, establishment of consumer clubs in education institutions and increasing involvement of VCOs/NGOs in consumer awareness programmes are strengthening the task of consumer education. But still, as the several studies have revealed the progress that has been made in making the consumers aware of their rights and interests has not been quite satisfactory. So, the propaganda campaign has to be made more intensive and broad based so that consumers even in remote rural areas can be made aware of their rights.

# 6

## Right to Redressal

– Ashok R Patil

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### Introduction

It is the duty of the Welfare State to guarantee everyone in this country a right to live with human dignity, free from exploitation. The right to seek redressal is set out in the Preamble to the Constitution of India, wherein it has been declared that the people will strive for social, economic and political justice and for equality of opportunity. This right to live with human dignity enshrined in Article 21 derives its life breath from the directive principles of state policy. The state shall secure a social order for the promotion of welfare of the people and shall effectively work to achieve a social order.

Article 19(1)(g) of Indian Constitution gives all citizens the right to practise any profession, or to carry on any occupation, trade or business; thereby ensuring that the State cannot prevent a citizen from carrying on a business. However, a state may make a law imposing reasonable restrictions in the interest of general public under Article 19(6).

Equal access to justice is a cardinal principle on which the entire system of administration of justice is based. It is also recognised as the basic requirement, i.e. the basic human right in any egalitarian legal system. However, rendering justice to the people, rich or poor, is not a minor problem but an issue engrossing the fundamental character of the state and the civil society. According to Article 14 of the Indian Constitution, the State cannot deny any person equality before the law or equal protection of laws. Article 14 is enough to provide blanket protection to the right of redress and right to justice.

A welfare state must provide adequate and effective means of dispute resolution to every citizen, and at reasonable costs. Effective dispute resolution is also indispensable to ensure justice: social, economic and political. The importance of the right to seek redressal lies in addressing and securing justice. Therefore, the United Nations came up with the UN Guidelines on Consumer Protection in 1985. The Indian government enacted an exclusive law for consumers' protection in 1986 (COPRA). The COPRA provides for a separate enforcement machinery and redress forum with the aim to provide the consumers a simple, less expensive and expeditious solution to consumer problems.

In one of the Public Interest Writ Petitions filed by “Common Cause”, New Delhi, the Supreme Court intervened and issued pre-emptory orders and directed all state governments, which had not established State Commissions and District Fora in their States, to comply with their statutory obligations within the time limit specified in the order. As a result, all the states and union territories have set up State Commissions and most of the states have established District Forums as well. The consumers are thus able to seek redressal of their grievances.

As on January 31, 2012, there are 35 State Commissions, one each in every State and UT (all are in function), and 629 District Fora among which 601 District Fora are currently working and the rest 28 are in a non functioning stage.

Since the shift from *Caveat Emptor* to *Caveat Venditor*, the Consumers are considered to be the King in a free market and the sellers are guided by the will of a consumer. Yet even after 25 years of COPRA, the object of the COPRA has not been achieved satisfactorily because the manufacturers and service providers are not doing business ethically and the state governments have failed in implementing COPRA properly.

### **How to Approach the Issue**

In simple terms, the objective of the right to redressal is based on the principle of making justice feasible as well as approachable, i.e. catering for an enabling framework for consumers to take advantage of the judicial system. In short, different aspects of the right to redressal have to be analysed under the broad objective of *reaching justice*. Furthermore, there is the imperative for an over encompassing law covering the rights and responsibilities of end-users (consumers) as well as producers to get and to deliver the redressal mechanism appropriately.

This chapter deals with the right to redressal as a stand-alone issue.

## **National Consumer Policy**

### **Objective**

The basic objective of the National Consumer Policy draft dated 6<sup>th</sup> November 2009 is the need to ensure that goods, services and technology are available to the consumers at reasonable prices and at acceptable standards of quality. India has a wide variety of consumers, ranging from the highly educated and wealthy whose consumption is focused at the lifestyle enhancement consumables, to totally illiterate and impoverished who access the market to obtain basic needs. Reaching out to each of these segments is a daunting task that needs to be addressed through suitable information, education and communication strategies. There is a consumer dimension in almost every area of governance, and therefore there exists a pressing need to take into consideration consumer's interests in all policy decisions and implementation thereof.

In India, there are a large number of laws, which have provisions for protecting the consumers. The over-arching law for consumer protection is the Consumer Protection Act of 1986. Section 6 of this Act lays down the Rights of Consumers, which are enforced through three tier Consumer Fora at the District, State and National level with clearly defined jurisdiction. However, while these Fora have performed a very important role, there is still a need to lay down a National Consumer Policy. This would ensure uniform standards to the various arms of Government both in the Centre and in the States as well as to the various regulatory bodies and the Consumer Fora. It will also lay down guiding principles of complaint resolution.

Implementation Strategies have the following components: Internal dispute resolution mechanism for all manufacturers and service providers; Use of legislation for enforcement of the rights of consumers; Ensuring better harmonisation of standards, national and international, to promote better choices.

### **The Internal Dispute Resolution Mechanism**

The Complaints Resolution is the cardinal feature of Consumer Policy since it is fundamental to promotion of consumer confidence in the market place. An effective complaint redressal system

impacts the behaviour of traders since it acts as an incentive to behave honestly. Formal systems of complaint resolution is already in existence; there are Consumer Fora set up under COPRA, Sectoral Departments of the Government have Regulatory Bodies, Appellate Tribunals and Ombudsmen. Industry should be provided with incentives to resolve disputes at the earliest possible stage through internal handling mechanism. This can be most effectively done by each Industry Body evolving a Code of Conduct and binding the producers and service providers through an MoU, which could be voluntary in nature.

Ideally, self-regulation is the most effective mechanism of regulation. The Industry Body can adopt Internal Complaint Resolution standards (already notified by ISO and BIS), which could be uniformly followed by its members. Such a system should be informal and should have an inquisitorial approach so that the complaints could also be investigated. The complainants should engage legal representatives to access this system and this should work on the principle that the consumers' right to access courts is preserved and is not truncated in any manner.

Wherever necessary, manufacturers, traders and service providers should be mandated to provide in-house grievance redressal machinery with the provision for one stage appeal in-house and one stage of review against the appeal to an independent body financed by the concerned industry.

## **Strategic Plan 2011-15 of Department of Consumer Affairs, Government of India**

### **Strategy**

The strategic Plan for 2011-15 devised by Department of Consumer Affairs, Government of India with the long time perspective outlook aims to achieve the targets fixed as per the vision of the this Department within the specified time frame.

The Government of India is undertaking Performance Monitoring and Evaluation System (PMES) for all Government Departments. Under PMES, each Department is required to prepare a Results-Framework Document (RFD). RFD is the instrument to implement strategy and convert Departmental vision into reality. The Strategic Plan exercise will identify clear priorities which will lead to time-bound action plans (based on projected capacities, capabilities and resources) with anticipated results and processes for monitoring the progress and conducting evaluation.

Accordingly, the Department of Consumer Affairs have made the exercise for devising Strategic Plan for 2010-15 in consonance with the targets and success indicators fixed in the Result-framework Document for successful implementation for achieving the targets fixed.

### **Vision and Mission**

The vision is to protect the rights and interests of consumers, to spread awareness about consumer rights, duties and responsibilities and to promote consumer welfare by strengthening consumer movement in the country.

The mission will fulfil through progressive consumer related legislations and effective implementation of various consumer welfare schemes. Active participation of state governments, academic and research institutions, schools and voluntary organisations will be sought to create a vibrant consumer movement in the country. Strict parameters regarding consumer products will be developed and enforced along with regular monitoring of prices to ensure the sovereignty of consumers.

## Objectives

1. To empower consumers by making them aware about their rights and responsibilities.
2. To provide effective, inexpensive and speedy redressal system to consumers.
3. To strengthen the infrastructure on Consumer Fora through computerisation and computer networking across the country.
4. To augment the infrastructure of enforcement machinery of Legal Metrology Department of States and UTs and implementation of The Legal Metrology Act, 2009
5. To make National Test House (NTH) more self sustaining.
6. To strengthen National Test House (NTH) laboratories and installation of a Management Information System (MIS).
7. To regulate the Commodity Futures Markets efficiently.
8. To strengthen Forward Markets and Forward Markets Commission.
9. To formulate Standards & Strengthen Conformity Assessment of Products and Services.
10. To monitor prices of essential commodities.
11. To regulate essential commodities.
12. To assist consumers by giving them advice and guidance on consumer- related issues through National and State Consumer Help lines.
13. To implement various schemes and programmes under Consumer Welfare Fund to create awareness on Consumerism, to protect and promote the interests of Consumers.
14. To educate and sensitise the consumers about their rights and responsibilities through continuous publicity campaigns.
15. To create avenues for consumers for settlement of consumer-related cases through Mediation process involving voluntary organisations (VOs).
16. To dispose-off all grievances and complaints through a well-established Grievances Redressal Mechanism.

## Implementation

In India, consumers' can seek redressal through judicial and quasi-judicial State organisations. The consumers can also seek redressal through various codes of practice, i.e. the informal redressal delivery system.

In simple words, the informal mechanism is one that is built-in within the business to resolve consumers' grievances. However, ignorance on the part of consumers, procedural delays and lack of vigorous implementation makes it (by and large) a non-functioning mechanism.

## Redressal Under Consumer Protection Act, 1986 (COPRA)

The COPRA is a milestone in the history of socio-economic legislation in India. COPRA was partially successful in achieving objects after completion of 25 years. The COPRA was amended three times in the year 1991, 1993, 2002 & presently Consumer Protection Amendment Bill, 2011 is pending before the Parliament. The main objective of this Act is to provide for better protection of the interests of consumers and for the purpose to make provisions for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith.

### COPRA – Salient features

- Less expensive redressal system
- Consumer friendly environment in Consumer Forums and or Commissions
- Summary procedure to decide the matter
- Speedy disposal

- Additional remedy available
- Defines consumer as the one who purchases or hires services for consideration
- Remedy for defective products and poor service
- Remedy for Restrictive Trade Practice and Unfair Trade Practice
- Party in person can appear
- No need for Advocates to represent the cases
- Civil Remedy (compensation) available
- Consumer Forums and Commissions are Quasi Judicial Authority
- Covers the right to safety, the right to information, the right to choice, the right to be heard, the right to redressal and the right to consumer education

### ***Consumer Forum is Not a Regular Court***

The Consumer Redressal System is having consumer friendly environment Layperson and consumers will fear in presenting his case because of new regulations called the Consumer Protection Regulations, 2005. Some of the important regulations are discussed below.

### ***Arrangements in Consumer Forum***

- (1) A Consumer Forum, being not a regular court, shall have the arrangements as to depict it distinct from a court.
- (2) In the hall in which the Consumer Forum shall hear the parties, the dais may not be kept more than 30c.m. in height than the place earmarked for the parties to occupy.
- (3) At the dais of the hall, the President and the members of the Consumer Forum shall use the same type of chairs at the same level and these chairs need not have high backs.

### ***Dress Code for Members***

- (1) The President and members of every Consumer Forum while presiding over the Benches -
  - (a) shall wear simple and sober dress;
  - (b) shall not wear
    - (i) flashy dress or dress display any affluence;
    - (ii) Jeans or T-shirts
    - (iii) as if they are holding Courts as Judges of a High Court or a District Court.
- (2) The advocates shall be allowed to appear in the usual dress as prescribed by the High Court but without the gown.

### **Additional Remedy**

Section 3 clarifies that the remedy under COPRA shall be in addition to and not in derogation of the provisions of any other law, for the time being in force. The remedies available to a consumer under this Act constitute an additional dispensation. These are supplementary in nature and have no overriding effects so far as the existing laws are concerned. Therefore, a consumer may initiate proceedings in a civil court under the law of contract or sale of goods or law of torts or any other existing law. The provisions of the COPRA do not debar a consumer from going to a civil court for compensation for loss or damage which might have been caused to him due to defect in the goods purchased by him.

### **Important Definitions**

**Consumer** means one who consumes either goods or hires or avails of any services for consideration. The word 'consumer' is defined separately for the purpose of goods and services.

- a) For the purpose of goods, a consumer means a person belonging to any of the following two categories: one who buys any goods for a consideration or one who uses such goods with the approval of the buyer.

- b) For the purpose of services, a consumer means a person belonging to any one of the following: one who hires any service or services for a consideration or one who is a beneficiary of such service.

The consideration may be paid or promised or partly paid and partly promised, or under any system of deferred payment.

A person who buys goods for commercial purposes is not a consumer. In other words, only a person who buys goods for personal use with self-employment only is a consumer.

**Goods** means (according to section 2(7) of Sale of Goods Act, 1930) every kind of movable property including:

- a) stock and shares,
- b) growing crops and grass, and
- c) things attached to or
- d) things forming part of the land, which are agreed to be severed before sale or under the contract of sale.

This it excludes actionable claims and money.

**Defect** means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard in relation to any goods:

- a) which is required to be maintained by or
- b) under any law for the time being in force or
- c) under any contract, express or implied or
- d) as is claimed by the trader in any manner whatsoever

**Service** means service of any description, which is made available to potential users and includes:

- a) banking, financing insurance, transport,
- b) processing, supply of electrical or other energy,
- c) board or lodging or both,
- d) housing construction,
- e) entertainment, amusement or
- f) the purveying of news or other information,
- g) similar type of other services for consideration

However, this does not include the rendering of any service free of charge or under a contract of personal service.

**Deficiency in Service** means

- a) any fault, imperfection, shortcoming in any service or
- b) any inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or
- c) has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

**Restrictive Trade Practice** means any trade practice which requires a consumer to buy, hire or avail any goods or, as the case may be, services, as a condition precedent for buying, hiring or availing of any other goods or services.

**Unfair Trade Practice** means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair deceptive practice.

### **Complainant means**

- (i) A consumer; or
- (ii) Any voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force; or
- (iii) The Central Government or any state government,
- (iv) One or more consumers, where there are numerous consumers having the same interest; and
- (v) In case of death of a consumer, his legal heir or representative; who or which makes a complaint.

### **What are grounds for the Complaint?**

**Complaint** means any allegation in writing made by a complainant that—

- (i) An unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider;
- (ii) The goods bought by him or agreed to be bought by him suffer from one or more defects;
- (iii) The services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect;
- (iv) A trader or service provider, as the case may be, has been charged for the goods or for the services mentioned in the complaint a price which is in excess of the price –
  - (a) Fixed by or under any law for the time being in force
  - (b) Displayed on the goods or any package containing such goods;
  - (c) Displayed on the price list exhibited by him by or under any law for the time being in force;
  - (d) agreed between the parties;
- (v) Goods which will be hazardous to life and safety when used or being offered for sale to the public,
  - (a) in contravention of any standards relating to safety of such goods as required to be complied with, by or under any law for the time being in force;
  - (b) If the trader could have known with due diligence that the goods so offered are unsafe to the public;
- (vi) Services which are hazardous or likely to be hazardous to life and safety of the public when used, are being offered by the service provider which such person could have known with due diligence to be injurious to life and safety.

### ***Procedure to File Complaints before Consumer Forums and Commissions***

- Send notice to the seller or service provider about the problem
- Collect all evidences like receipt, photo, video etc. related to complaint
- Decide before which Consumer Forums and Commissions complaints will be filed on the basis of Pecuniary Jurisdiction and Territorial Jurisdiction
- File within 2 years from the cause of action otherwise file interim application for condonation of delay
- Pay court fee depending on your claim
- Write a complaint on white paper name of the Consumer Forum/Commission; parties description; facts in chronological order; cause of action; Limitation; Court fee; Territorial and pecuniary jurisdiction; prayer; verification; signature.
- Attach affidavit, receipt, authority letter
- A model format of the complaint is provided in Annexure 6.1

### **Establishment of Consumer Redressal System and Jurisdiction**

The rationale of the Act is to take the system of redressal to peoples' doorsteps. The details of which are given in Table 6.1.

<b>Table 6.1: Jurisdiction of COPRA</b>			
<b>S.N.</b>	<b>Court and Place</b>	<b>Pecuniary Jurisdiction</b>	<b>Territorial Jurisdiction</b>
1	District Forum (District Headquarter)	0-20 lakh	District
2	State Commission (State Capital)	Above 20 lakh to 1 crore and appeals against District Forum Orders	State or Union Territory
3	National Commission (New Delhi)	Above 1 crore & appeals against State Commission Orders	The Territory of India

Furthermore, COPRA established the Consumer Protection Councils at the Centre, States and in the Districts, whose main objectives are to promote and protect the rights of consumers. These Councils are advisory bodies and meet twice and thrice a year with a generalised agenda. Most of these district councils are not functioning properly. They are only on paper.

### Complaint on the Basis of Territorial Jurisdiction

A complaint shall be instituted in a District Forum within the local limits of whose jurisdiction,—

- the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint,
- actually and voluntarily resides or
- carries on business or
- has a branch office or
- personally works for gain, or
- the cause of action, wholly or partly, arises.

### Low Court Fee

Every complaint filed shall be accompanied by a court fee which is as specified in Table 6.2.

<b>Table 6.2: Value of Goods/Services and Claim for Compensation</b>		
<b>Sl. No.</b>	<b>Total value of goods or services and the compensation claimed</b>	<b>Amount of fee payable in ₹</b>
	<b>District Forum</b>	
(1)	Upto one lakh rupees – For complainants who are under the Below Poverty Line holding Antyodaya Anna Yojana Cards	Nil
(2)	Upto one lakh rupees – For complainants other than Antyodaya Anna Yojana card holders.	₹100
(3)	Above one lakh and upto five lakh rupees	₹200
(4)	Above five lakh and upto ten lakh rupees	₹400
(5)	Above ten lakh and upto twenty lakh rupees	₹500
	<b>State Commission</b>	
(6)	Above twenty lakh and upto fifty lakh rupees	₹2000
(7)	Above fifty lakh and upto one crore rupees	₹4000
	<b>National Commission</b>	
(8)	Above one crore rupees	₹5000

*Note: The complainants who are under the Below Poverty Line shall be entitled for the exemption of payment of fee only on production of an attested copy of the Antyodaya Anna Yojana cards.*

## **Limitation Period**

The District Forum, the State Commission or the National Commission shall admit a complaint within two years from the date on which the cause of action has arisen.

A complaint may be entertained after 2 years if the complainant satisfies the Forum, Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period:

## **Powers of Consumer Forums and Commissions**

The District Consumer Forum after the proceeding conducted under section 13, satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to do one or more of the following things under section 14, namely:

- (i) to remove the defects pointed out by the appropriate laboratory from the goods in question;
- (ii) to replace the goods with new goods of similar description which shall be free from any defect;
- (iii) to return to the complainant the price, or, as the case may be, the charges paid by the complainant;
- (iv) to pay such amounts as may or injury suffered by the consumer due to the negligence of the opposite party. Provided that the District Forum shall have the power to grant punitive damages in such circumstances as it deems fit;
- (v) to remove the defects in goods or deficiencies in the services in question;
- (vi) to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;
- (vii) not to offer the hazardous goods for sale;
- (viii) to withdraw the hazardous goods from being offered for sale;
- (ix) to cease manufacture of hazardous goods and to desist from offering services which are hazardous in nature;
- (x) to pay such sum as may be determined by it, if it is of the opinion that loss or injury has been suffered by a large number of consumers who are not identifiable conveniently: provided that the minimum amount of sum so payable shall not be less than five percent of the value of such defective goods sold or services provided, as the case may be, to such consumers: provided further that the amount so obtained shall be credited in favour of such person and utilised in such manner as may be prescribed;
- (xi) to issue corrective advertisement to neutralise the effect of misleading advertisement at the cost of the opposite party responsible for issuing such misleading advertisement;
- (xii) to provide for adequate costs to parties.

Similarly, State Commission and National Commission have same powers with appellate jurisdiction.

## **Speedy Disposal**

The Consumer Forums and Commissions is a quasi-judicial authority and follows the summary proceedings in disposal of cases. The disposal rate of pending cases before Consumer Forum has been improved after, enacting Consumer Protection Regulations 2005 because the Consumer Forum reduced number of adjournments without any valid reason. According to regulation 11, every proceeding shall be conducted as expeditiously as possible and as per the requirements of the Act and the Consumer Forum shall record the reasons for any adjournment made by it. The cost of the adjournment, if asked by the opposite party (ies), shall not be less than ₹500 per adjournment and could be more depending upon the value and nature of the complaint as may be decided, by the Consumer Forum.

The complainant, appellant or petitioner, may also be burdened with cost unless sufficient cause is shown for seeking adjournment: Provided that in the circumstances of a particular case, the amount of cost imposed may be less than ₹500 but in no case less than ₹100. The cost imposed may be given to the other party(ies) or be deposited in the Consumer Legal Aid Account. If any adjournment is granted without awarding cost, the order sheet shall mention the reasons thereof. All adjourning orders shall be signed by the President and Members and not by the Court Master or Bench Clerk.

Non-availability of a lawyer who is representing the party shall not be a ground for seeking adjournment of the matter unless absence is beyond the control of the lawyer such as his sudden illness or bereavement in the family. Imposing cost for unnecessary adjournment is a good move to avoid delay of the disposal of the matters. But discretionary power of fixing and imposing cost shall be given to the judges because they know the ground realities of the matters, otherwise petty matters may not be attracted by Consumer Forum.

Now onwards the matters will not be adjourned for non-availability of advocates unless in case of sudden illness and bereavement in the family, otherwise heavy cost will be imposed. This regulation helps for the speedy disposal of matters before Consumer Forum.

According to regulation 13 the arguments before Consumer Forums should be as brief as possible and to the point at issue. Where a party is represented, by a counsel it shall be mandatory to file a brief of written arguments 2 days before the matter is fixed for arguments. In case of default to file briefs, the cost shall be imposed at the same rates as laid down for grant of adjournments. This will help both parties for their effective preparation of final arguments. It also helps to the Presiding Officers for their preparation of effective order. No counsel will default in submitting written argument due to heavy costs. This will help in quick disposal of the matters.

In case of review, it shall set out clearly the grounds for review. Unless otherwise ordered by the National Commission, an application shall be disposed of by circulation without oral arguments, as far as practicable between the same members who had delivered the order sought to be reviewed. Under section 22(2) of the Consumer Protection Act, 1986, only the National Commission has been given the power to review any order made by it, when there is an error on the face of record. By regulation 15, the power to review has been given to District Forum and State Commission.

According to regulation 17, *ex-parte* interim order issued by the Consumer Forum shall stand vacated after 45 days if in the meanwhile objections to the interim order are not heard and disposed off. Under section 13 (2) (b), (ii) was inserted in the 2002 amendment of the Consumer Protection Act, 1986, which has given power to *ex-parte* order on the basis of evidence brought to its notice by the complainant where the opposite party omits or fails to take any action to represent his case within the time given by the Forum. By this regulation, even after filing the objections, if the consumer forum has not been heard for 45 days from the date of *ex-parte* order, then that order automatically stands vacated. As a result this regulation has put full stop to those parties who are in a habit of taking *ex-parte* interim orders and dragging the case for long period without final order to harass the opposite parties.

## **Appeal Procedure**

### ***Appeal Procedure from District Forum to State Commission***

According to section 15, any person aggrieved by an order made by the District Forum

- may prefer an appeal against such order to the State Commission within a period of 30 days from the date of the order,

- in such form and manner as may be prescribed;
- provided that the State Commission may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for not filing it within that period.
- provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District forum, shall be entertained by the State Commission unless the appellant has deposited in the prescribed manner 50 percent of that amount or ₹25000, whichever is less.

#### State Commission to National Commission

According to Section 19, any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of Section 17:

- may prefer an appeal against such order to the National Commission within a period of 30 days from the date of the order;
- in such form and manner as may be prescribed;
- provided that the National Commission may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for not filing it within that period;
- provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited in the prescribed manner 50 percent of that amount or ₹35000, whichever is less.

#### National Commission to Supreme Court

In the same way the appeal against the order of the National Commission is filed before Supreme Court within 30 days from the date of the order with by depositing 50 percent of the amount claimed or ₹50,000 whichever is less.

### Execution of the Order

A legal fiction has been created in Section 25 of the Act to the effect that an order made by the District Forum/ State Commission or National Commission will be deemed to be a decree or order made by a civil court in a suit. Legal fiction so created has a specific purpose, i.e. for the purpose of execution of the order passed by the Forum or Commission. It is a well-settled cardinal principle of interpretation of statute that Courts or Tribunals must be held to possess power to execute their own orders. A Statutory Tribunal, which has been conferred with the power to adjudicate a dispute and pass necessary order, has also the power to implement its order. However the execution power is not given to the Forum and Commissions under this Act.

For execution of orders of Forum or Commissions, it has to issue a certificate for the said amount to the Collector of the district (by whatever name called) and the Collector shall proceed to recover the amount in the same manner as arrears of land revenue.

Under COPRA, Consumer Redressal Agencies do not have powers to execute their own powers like regular courts. This is a loophole in the COPRA. Therefore, the Supreme Court's decision helps the consumer to execute the order more effectively. The Central Government also considered this loophole and suggested to give full powers to consumer redressal agencies (sec.25) to execute its own order like regular court under Consumer Protection Amendment Bill, 2011, which is pending before the Parliament.

## Penalty and Imprisonment

Section 27 is one the strongest provisions in the COPRA. Where a trader or a person against whom a complaint is made or the complainant fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person or complainant:

- shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than ₹2000 but which may extend to ₹10,000, or with both.
- Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Forum, the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of the First Class category for the trial of offences under this Act, and on such conferment of powers, the District Forum, the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be the Judicial Magistrate of the First Class for the purpose of the Code of Criminal Procedure, 1973.
- The District Forum, the State Commission or the National Commission may try all offences under this Act summarily, as the case may be.
- Thus, the above analysis clearly establishes that there is well-established machinery for securing redressal of injuries suffered by a consumer *inter alia* due to any defect in products or deficiency in services.

Sl. No.	Name of Agency	Cases filed since inception	Cases disposed of since inception	Cases Pending	% of total Disposal
1	National Commission	76909	66560	10349	86.54%
2	State Commissions	581102	485156	95946	83.49%
3	District Forums	3169197	2925782	243415	92.32%
	<b>TOTAL</b>	<b>3827208</b>	<b>3477498</b>	<b>349710</b>	<b>90.86%</b>

Source: <http://ncdrc.nic.in> accessed on 28.09.2012

## Consumer Protection Amendment Bill, 2011

After completion of 25 years of COPRA, the Central Government comes to know some of the loopholes in the COPRA. Hence, the Central Government proposed amendment to the COPRA, i.e., Consumer Protection Amendment Bill, 2011. This Bill is still pending before the Parliament. The highlights of the Bill are as follows:

Online filing of complaints, a daily monetary fine for non-compliance of consumer forum orders, more flexibility in functioning of the fora, giving it the status at par with civil courts and many more powers to the state in appointing members are some amendments proposed by the union government in the Consumer Protection Act, to speed up disposal of cases and firm up the complaint redressal machinery. The government has also proposed a charge of ₹500 or 1/5<sup>th</sup> of the Award, whichever is higher-per day to offenders in case the forum's order is not complied with.

### Online Filing of Cases

The government proposes to enable consumers to file their complaints online to further speed up the process of justice. This will be first checked by the forum and a decision whether to admit

it or not would be taken. The consumer will have to be personally present at the time of admission of the complaint.

### **Bench of District Forum**

To resolve the matter of pending cases and piling up of cases, the new amendment also proposes flexibility in the functioning of consumer forum.

New sub-clauses are added to Jurisdiction of the District Forum i.e., section 11(3) and section 11A of COPRA. Under these clauses of the jurisdiction, powers and authority of the District Forum may be exercised by benches thereof. A Bench may be constituted by the President with one or more members as the President may deem fit. Provided that the single member bench shall exercise jurisdiction, power and authority in relation to such matters as may be prescribed by the State Government in consultation with the State Commission and it shall not, in any case, dispose of any case fixed for final hearing.

The District Forum shall ordinarily function in the district headquarters and perform its functions at such other places, as the State Government may, in consultation with the State Commission, notify in the Official Gazette from time to time.

### **Members' Experience and Eligibility**

The government has proposed to increase the minimum age for appointment as member in the case of state commissions from 35 to 45 years, and in case of national commission from 35 to 55 years. Similarly, there is a proposal to increase the years of experience required for appointment as a member in the state commission, from 10 years to 20 years and in case of a national commission from 10 years to 30 years.

### **Unfair Contract**

New Section inserted on Unfair Contract as a section 2(1)(s). Under this section 'unfair contract' means a contract which contains any one or more of the following clauses:

- (i) requires excessive security deposits to be given by a party to the contract for the performance of contractual obligations; or
- (ii) impose any penalty on a party to the contract for the breach thereof which is wholly disproportionate to the loss occurred due to such breach to the other party to the contract; or
- (iii) refuses to accept early repayment of debts on payment of applicable penalty; or
- (iv) entitles a party to the contract to terminate without reasonable cause the contract unilaterally.

### **Unfair Trade Practice**

Three new clauses are added to section 2(1)(r) i.e., Unfair Trade Practice of COPRA. Those clauses are as follows:

- after selling such goods or rendering of such services, fails to issue bill or cash memo or receipt for the goods sold or service rendered;
- after selling such goods or rendering of such services, refuses to take back or withdraw the goods or withdraw or discontinue the service and refuses to refund the consideration thereof, if paid, within a period of 30 days after the receipt of goods or availing of services it is so requested by the consumer; and
- discloses to any other person any personal information given in confidence by the consumer: provided that disclosure of personal information given with express or implied consent of the consumer or under provisions of any law in force or in 30 public interest shall not be constructed as a deficiency of service.

## Execution of the Order

The proposed amendment to Section 25 of COPRA, every order made by the District Forum, the State Commission or the National Commission shall be enforced by it in the same manner as if it were a decree made by a court in a *suit* pending therein, and it shall be lawful for the District Forum, the State Commission or the National Commission to send, in case of its inability to execute such orders, to the court within the local *limits* of whose jurisdiction in the case of an order against a company, the registered office of the company where it is situated; or in the case of an order against any other person, place where the person concerned voluntarily resides or carries on business or personally works for gain, is situated.

It shall also be the duty of the party against whom the order is passed by the District Forum or the State Commission or the National Commission, as the case may be, to report back to the District Forum or the State Commission or the National Commission, as the case may be, about the status of implementation of the order and the proceedings would be deemed to be continuing till the implementation of the order and it shall be the responsibility of the District Forum or the State Commission or the National Commission, as the case may be, to monitor the same till its implementation and to take appropriate penal action wherever necessary

It is sure that there will be a better consumer protection, if the Consumer Protection Amendment Bill, 2011, becomes a legislation and enforced as early as possible.

## Special Law vs General Law

During pre-independence and post independence up-to 1986, in India, the need for consumer protection was paramount in view of an ever-increasing population, lack of education, poverty, illiteracy, lack of information, traditional outlook of Indians to suffer in silence and also due to delay in justice, high court fees, advocate fees, time consuming, complicated procedures for consumers to represent his case party in person before court etc.

Therefore the COPRA has been enacted by the Parliament specifically for consumers with the special object to promote some basic rights of consumers, namely the right to safety, to be informed of quality potency and purity of products, to access to variety of goods of competitive prices, to redressal of grievances and to consumer education. COPRA has covered all important aspects of the United Nations Guidelines on Consumer Protection.

The Consumer Forum established under the COPRA does not exercise jurisdiction upon each and every matter, rather the jurisdiction of the Consumer Forum can be invoked only on the matters and or disputes where the consumer element is involved. As per Section 3 of the COPRA, the provisions of the Act shall be in addition to and not in derogation to any other provisions of any other law for the time being in force.

Giving due regard to the scheme of the Act and purpose sought to be achieved to protect the interest of the consumers, better the provisions are to be interpreted broadly, positively and purposefully in the context to give meaning to additional, extended jurisdiction, particularly when Section 3 seeks to provide remedy under the Act in addition to other remedies provided under other Acts unless there is a clear bar. So despite provisions for referring the dispute to arbitration in the certain Acts and Laws, the object and purpose of the COPRA cannot be frustrated as the provisions of the COPRA are in addition and not in derogation of any other law in force.

It is a settled law that the law enacted by the Parliament cannot be changed or made useless by judicial interpretation. The provisions of the enactments have to prevail over the judicial decisions. The question of interpretation comes only when the provisions of legislative enactments are either not clear, ambiguous or cannot depict the true meaning. When the provisions of the legislative enactments are plain, clear and unambiguous, then these cannot be refuted through judicial interpretation. Reliance can be placed upon various authorities of the Hon'ble Supreme Court of India on this point.

The Hon'ble SC in *State of U.P. & Others Versus Jeet S. Bisht & Anr.*, wherein the Hon'ble Supreme Court has specifically held that court cannot add or substitute word in a statute. By judicial verdict the court cannot amend the law made by the Parliament or State Legislature. It has been further held by the Hon'ble SC in the said authority that a mere direction of the Hon'ble SC without laying down any principle of law is not a precedent. It is only where the Hon'ble SC lays down a principle of law that will amount to a precedent. The courts are subordinate to law and not above the law.

In one of the landmark judgments, the Hon'ble Supreme Court of India in *Lucknow Development Authority v. M.K. Gupta*, has observed that a legislation which is enacted to protect public interest from undesirable activities cannot be construed in such a narrow manner as to frustrate its objective. It has been further observed in the said authority that any attempt to exclude services offered by statutory or official bodies to the common man would be against the provisions of the Act and spirit behind it.

The Hon'ble Supreme Court of India has further observed that truly speaking it would be a service to the society if such bodies instead of claiming exclusion subject themselves to the Act and let their acts and omissions scrutinised, as public accountability is necessary for healthy growth of the society.

In view of above reasons, COPRA is a special law enacted for the better protection of the interests of the consumers with specific objects and remedy available under COPRA is additional remedy. Even then Hon'ble Supreme Court in two cases i.e. *Chairman, Thiruvalluvar Transport Corporation v. Consumer Protection Council* (AIR 1995 SC 1384) and *General Manager, Telecom vs. M. Krishnan and Another* (2009 INDLAW SC 1082) held that Consumer Protection Act, 1986 is not applicable on the basis of Special Law prevail over the General Law.

## **Administrative and Judicial Framework**

Depending on the nature of cases courts, quasi judicial authorities may be classified into following ways:

### **Metropolitan Cities**

Civil Side there are Courts of Small Causes Courts and above them the City Civil Courts.  
Criminal Side there are Metropolitan Magistrates' Courts and above them the Sessions Courts.

### **In the District and Moffusil**

Civil Side, there are Courts of Civil Judge (Junior Division), Civil Judge (Senior Division), and District Courts.  
Criminal Side, there are the Courts of Judicial Magistrate First Class, Judicial Magistrate Second Class and Sessions Courts.

### **Alternative Redressal System**

Then there are LokAdalat, Consumer Forum/ Commission, Labour Courts, Family Courts, Co-operative Courts, Ombudsman, Regulatory Authorities, and various Tribunals.

### **In Totality**

Above all the aforesaid Lower Level Courts, Tribunals and others quasi judicial authorities, there are High Courts in each of the States, and above the High Courts is the Supreme Court of India in New Delhi.

### **Alternative Redressal System**

An aggrieved consumer has various external channels open to her/him to redress her/his grievances. In India, internal redressal systems in business organisations, companies and public utilities etc., for resolving consumer disputes expeditiously and inexpensively, are either non-existent or ineffective. Hence, consumers are left with no alternative but to approach the redressal machinery provided by the legal and administrative system.

### **National Consumer Helpline (NCH)**

NCH is a project of the Union Ministry of Consumer Affairs, operating from the University of Delhi. The project recognises the need of consumers for a Telephone Helpline to deal with a multitude of problems arising in their day-to-day dealings with business and service providers.

NCH provides a National Toll Free No-1800-11-4000 (for BSNL/MTNL Users), Other users can dial- 011-27006500 (normal call charges applicable). A SMS to 8800939717 can also be sent mentioning the name and city.

A consumer can call to seek information, advice or guidance for his queries, complaints and guidance. National Consumer Helpline supports consumers by:

- Guiding consumers in finding solutions to problems related to Products & Services.
- Providing information related to Companies and Regulatory Authorities.
- Facilitating consumers in filing complaints against defaulting Service Providers.
- Empowering consumers to use available Consumer Grievances Redressal Mechanisms, Educating Consumers about their Rights and Responsibilities.

### ***Lok Adalat***

ADR (Alternate Dispute Resolution) system has been an integral part of our historical past. The concept of *Lok Adalat* (Peoples' Court) is an innovative Indian contribution to the world jurisprudence. The institution of *Lok Adalat* in India, as the very name suggests, means, People's Court. 'Lok' stands for 'people' and the term '*Adalat*' means court. India has a long tradition and history of such methods being practiced in the society at grassroots level. In ancient times, the disputes were referred to '*panchayat*' which were established at the village level. *Panchayats* used to resolve the dispute through arbitration. It has proved to be a very effective alternative to litigation.

This very concept of settlement of dispute through mediation, negotiation or through arbitral process known as decision of '*Nyaya-Panchayat*' is conceptualised and institutionalised in the philosophy of *Lok Adalat*. It involves people who are directly or indirectly affected by dispute resolution.

The evolution of movement called *Lok Adalat* was a part of the strategy to relieve the heavy burden on the Courts with pending cases and to give relief to the litigants who were compelled to long queues to get justice.

The advent of Legal Services Authorities Act, 1987 gave a statutory status to *Lok Adalats*, pursuant to the constitutional mandate in Article 39-A of the Constitution of India. It contains various provisions for settlement of disputes through *Lok Adalats*. It is an Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise *Lok Adalats* to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

There is a Central Authority called the 'National Legal Services Authority'. Its patron is the Hon'ble Chief Justice of India. Its Executive Chairman is the senior most Judge of the Supreme Court of India.

So far as the State Legal Services Authorities are concerned, it is headed by a Patron-in-Chief who is none other than the Hon'ble Chief Justice of the High Court. In almost all the State Authorities, except perhaps one or two, a sitting Judge of the High Court functions as the Executive Chairman.

### **Redressal by Arbitrations**

Arbitration is a form of dispute resolution. Arbitration is the private, judicial determination of a dispute, by an independent third party. The disputing parties hand over their power to decide the dispute to the arbitrator/s. Arbitration is an alternative to court litigation, and generally, just as final and binding (unlike mediation, negotiation and conciliation which are non-binding). Unlike mediation or conciliation, in which a third party facilitates the end of a dispute by issuing a binding agree to abide by the arbitrator's ruling. The Arbitration and Conciliation Act, 1996 govern the Arbitration proceedings in India. There are two types of Arbitration: Voluntary Arbitration and Compulsory Arbitration.

Voluntary arbitration implies that the two contending parties, unable to compromise their differences by themselves or with the help of mediator or conciliator, agree to submit the conflict/ dispute to an impartial authority, whose decisions they are ready to accept. In other words, under voluntary arbitration, the parties to the dispute voluntarily refer their dispute to an impartial party whose decision they are ready to accept. This type of reference is known as "voluntary reference", for the parties themselves who volunteer to come to a settlement through an arbitration machinery.

Compulsory arbitration is one where the parties are required to accept arbitration without any willingness on their part. When one of the parties to an industrial dispute feels aggrieved by an act of the other, it may apply to the appropriate government to refer the dispute to adjudication machinery. Such reference of a dispute is known as 'compulsory' or 'involuntary' reference, because reference in such circumstances does not depend on the wish and will of the contending parties or any party to the dispute. It is entirely the discretion of the appropriate government based on the question of existing dispute, or on the apprehension that industrial dispute will emerge in particular establishment.

## Redressal Through Ombudsman

### *Banking Ombudsman*

Reserve Bank of India (RBI) introduced the Banking Ombudsman Scheme in 1995 under Section 35A of the Banking Regulation Act, 1949, to provide an expeditious and inexpensive forum to bank customers for resolution of their complaints relating to banking services. The Scheme covers banking services rendered by scheduled commercial banks and scheduled primary cooperative banks. The objective of the Banking Ombudsman Scheme is to be a visible and reliable system of dispute resolution mechanism for bank customers. The Ombudsmen generally resort to conciliation or mediation for settlement of complaints. The Banking Ombudsman Scheme was revised in 2002 to cover Regional Rural Banks and to permit the view of the Banking Ombudsman's Awards against the banks by the Reserve Bank. The Scheme was further revised in 2006 called Banking Ombudsman Scheme, 2006 (BOS) giving it a much wider scope by including several new areas of customer complaints.

A Banking Ombudsman has been appointed by the Reserve Bank of India, for speedy and inexpensive redressal of complaints by bank customers against deficiencies in banking services. Under BOS there are total 15 Banking Ombudsman throughout India. They are located at Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Chandigarh, Chennai, Guwahati, Hyderabad, Jaipur, Kanpur, Kolkata, Mumbai, New Delhi, Patna and Thiruvananthapuram.

### **Jurisdiction of Banking Ombudsman**

The Banking Ombudsman will deal with all complaints relating to a deficiency in banking service such as:

- non-payment and or inordinate delay in the payment or collection of cheques, drafts/bills etc.;
- non-acceptance, without sufficient cause, of small denomination notes;
- non-issuance of drafts;
- non-adherence to prescribed working hours by banking branches;
- failure of banks to honour guarantee/letter of credit commitments;
- claims with respect of unauthorised or fraudulent withdrawals from deposit accounts etc.
- complaints pertaining to the operations of any savings, current, or any other account maintained with a bank;
- complaints from exporters in India, provided they pertain to the bank's operations in India; and
- complaints from non-resident Indians having accounts in India, in relation to their remittances from abroad, deposits and other bank-related matters. In respect of loans, only matters relating to delays in sanction beyond the prescribed time schedule, and non-observance of directives on interest rates and any other directions of the Reserve Bank in this regard will be considered.

### **Issues for the Banking Ombudsman**

Every year the numbers of complaints are increasing, but there is no proportionate increase in the number of offices of Banking Ombudsmans (BOs). The rural and semi urban region consumers are not as well benefited as compared to urban and metropolitan region consumers by this scheme. The reason is that the BOS details are not displayed in most of the rural and semi urban banks.

There is a lack of awareness about the existence of Banking Ombudsman. Even if the consumers know about the procedure, there is no easy accessibility of the Banking Ombudsman to urban people. If RBI takes necessary steps to remove these defects, then BOS will be a model among all other Ombudsman under different legislations and automatically it reduces the burden on regular courts and Consumer Fora.

### ***Insurance Ombudsman***

The Insurance Regulatory Development Authority (IRDA) has been set up under the IRDA Act 1999. One of the objectives of the IRDA is to regulate the insurance sector and protect the interests of the policy holders. The Insurance Ombudsman Scheme has been notified by the Government in November 1998. The Insurance Ombudsman is appointed on the basis of the recommendations of the insurance council formed under Section 40C of the Insurance Act 1938. Till today 12 insurance ombudsmen are in operation located at (1) Bhopal, (2) Bhubaneswar, (3) Cochin, (4) Guwahati, (5) Chandigarh, (6) New Delhi, (7) Chennai, (8) Kolkata, (9) Ahmedabad, (10) Lucknow, (11) Mumbai, (12) Hyderabad.

**Powers of the Ombudsman** – One of the functions of the Insurance Ombudsman is to look into the grievances of the policyholders and settle the same as quickly as possible. The Ombudsman is empowered to receive and consider complaints with respect of insurance services. Some of the complaints which can be taken up by the Ombudsman are

- a. Partial or total repudiation of claims by the insurance companies
- b. Dispute with regard to premium paid or payable in terms of the policy
- c. Dispute on the legal construction of the policy wordings in case such dispute relates to claims
- d. Delay in settlement of claims
- e. Non-issuance of any insurance document to customers after receipt of premium

While discharging his function of settling the grievances, the Insurance Ombudsman may adopt two procedures i.e. (a) Conciliation and (b) Passing an Award. The Insurance Ombudsman can entertain complaints and grievances in respect of insurance contracts the value of which does not exceed ₹20 lakh. The insurance companies are required to honour the awards passed by an Insurance Ombudsman within three months.

The complaint should be lodged not later than one year after the insurer had replied. The Insurance Ombudsman shall not entertain a complaint which is already pending before any court, consumer forum or arbitrator.

Now a policy holder can register complaint online also by using the Integrated Grievance Management System (IGMS) system. For further details, please visit [www.igms.irda.gov.in](http://www.igms.irda.gov.in) or [www.policyholder.gov.in](http://www.policyholder.gov.in)

**IRDA Grievance Call Centre (IGCC)** can be accessed through

- a toll free number 155255 for voice calls
- [complaints@irda.gov.in](mailto:complaints@irda.gov.in) for emails

**Award of Insurance Ombudsman** – The award should be passed within a period of three months from the receipt of the complaint. Awards are binding upon the insurance companies. In case the policy holder is not satisfied with the award, he can approach other forms of grievance redressal machinery like consumer forums etc. for redressal of his complaint.

### ***Income Tax Ombudsman***

The Income Tax Ombudsman Guidelines was announced by the Central Government in January 2006. The objective of these guidelines is to enable the resolution of complaints relating to public grievances against the Income Tax Department. The IT Ombudsman is appointed by the Central Government on the recommendations of a committee consisting of Secretary, Department of Revenue, Chairman, Central Board of Direct Taxes and Member, Central Board of Direct

Taxes. The IT Ombudsman is empowered to take up complaints on issues like delay in issue of refunds, sending envelopes without refund vouchers in case of refunds, non-adherence to the principle of first come first served in sending refunds, delay in disposing cases of interest waiver, delay in giving effect to the appellate orders, delay in allotment of Permanent Account Number etc.

A complainant can also file his complaint through electronic means (email). The Ombudsman will accept it and a print out of such complaint shall be taken on the record of the Ombudsman. The printout of the complaint made through electronic means should be signed by the complainant at the earliest before the Ombudsman takes steps for conciliation or settlement. The signed printout shall be deemed to be the complaint and it shall relate back to the date on which the complaint was made through electronic means.

The Ombudsman will endeavour to promote a settlement of the complaint by agreement between the complainant and such authority through conciliation or mediation. The Ombudsman may follow such procedure as he may consider appropriate for settlement of the complaint.

If the complaint is not settled by agreement within a period of one month from the date of receipt of the complaint the Ombudsman may pass an Award. The Ombudsman is empowered to extend this period of one month by such time he feels adequate.

The Award passed by the Ombudsman shall be a speaking order. It shall direct the concerned IT authority to perform its obligations like expediting delayed matters, giving reasons for decisions, issue apology to complainants etc. However the Award shall not contain any direction that affect the quantum of tax assessment or imposition of penalties under the Income Tax Act.

### *Electricity Ombudsman*

The Electricity Act 2003 (EA) requires every electricity distribution company to designate an Ombudsman for electricity. It is the obligation of the State Electricity Regulatory Commission (SERC) to nominate a person as the Ombudsman. Unlike Banking, electricity service is a State subject and each of the SERCs has their own rules and regulations relating to electricity Ombudsman. However the Forum of Regulators (FOR) has published a Model Rules for Ombudsman Scheme. In accordance with subsection (6) of Section 42 of the EA 2003, the SERC may, from time to time, appoint or designate a person as the Ombudsman to discharge the functions in accordance with subsection (7) of Section 42 of the EA 2003. The SERC may appoint more than one Ombudsman for a licensee or a common Ombudsman or Ombudsmen for two or more licencees. This depends on the number of complaints/representations received, geographical area etc.

**Precondition/limitation for entertaining complainant's representation** - The representation may be entertained by the Ombudsman only if all of the following conditions are satisfied:-

- it has been filed by the complainant being the aggrieved consumer or the association representing the consumer/s. For avoidance of doubt, a licensee is not allowed to file a representation before the Ombudsman against the order of the Forum;
- the complainant had, before making a representation to the Ombudsman, approached the Forum constituted under Section 42(5) of the EA 2003 for redressal of his/her grievance;
- the representation by the complainant, in respect of the same grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority; a decree or award or a final order has not been passed by any such court, tribunal, arbitrator or authority;

- the representation is not in respect of the same cause of action which was settled or dealt with on merits by the Ombudsman in any previous proceedings whether or not received from the same complainant or along with one or more complainants or one or more of the parties concerned with the cause of action;
- if the complainant is not satisfied with the redressal of his/her grievance by the Forum or the Forum has rejected the grievance or has not passed the order within the time-limit specified;
- the complainant has filed the representation before the Ombudsman within 30 days from the date of receipt of the decision of the Forum or date of expiry of the period within which the Forum was required to take the decision, whichever is earlier. Provided that the Ombudsman may entertain a representation after the expiry of the said period of 30 days if the Ombudsman is satisfied that there is sufficient cause for not filing it within that period;
- the complainant has deposited with the Ombudsman, an amount equal to one-third of the amount assessed by the Forum, if any; and
- the complainant who claims compensation from the Distribution Licensee has paid such fees as may be stipulated by the SERC from time to time.

The Ombudsman shall pass a written order within 60 days from the date of receipt of the representation. The order shall state the nature of the relief to which the complainant is entitled as per the order. The Ombudsman has the powers to issue interim orders, provided the complainant makes a request in this regard.

### *Telecom Regulatory Authority of India (TRAI)*

**Redressal Mechanism for the Telecom Sector:** The telecom sector in India is growing at a tremendous speed. With a view to regulate the telecom industry the Government of India passed the Telecom Regulatory Authority of India Act in 1997 and thereafter the TRAI was established. One of the objects of TRAI is to protect the interests of the consumers. TRAI has taken several steps in this direction. Detailed guidelines have been prescribed to look into the grievances of the consumers. Establishment of call centres, appointment of nodal and appellate authorities etc. are some of them. TRAI has also published Quality of Service standards.

The first level for the consumers to register their complaint is the Call Centre. Every service provider shall, within sixty days from the date of commencement of these regulations should establish a Call Centre for redressal of consumer grievances. The Call Centre shall be accessible to its consumers round the clock during all days in a week. The service provider will employ sufficient number of officers or employees at its Call Centers and allot a basic telephone or cellular mobile telephone number having sufficient lines to be called as the “toll free number” or “consumer care number” or “help line number” or “special number”, as the case may be, at its Call Centre.

As soon as the call center is established the service provider will have to issue a public notice in a newspaper published in Hindi and English and in a local language giving details of the call centre, its contact details, toll free number etc. If the service provider is issuing a bill, the details of the call centre should be printed in it. This public notice should be repeated at least once in 12 months.

### **Time limits for Services**

The Regulations has specified the following time limits for the services and redress of complaints received at the Call Centre:

<b>S. No.</b>	<b>Service Parameter</b>	<b>Time Limit</b>
1	Provision of telephone	Within 7 days subject to technical feasibility
2	Fault Repair & shifting telephones	Within 3 days
3	Termination/closures	Within 7 days
4	Resolution of billing complaints	Within 4 weeks
5	Refund of deposits after closure	Within 60 days after closure

### **Right to Public Services Legislation**

Right to Public Services legislation comprises statutory laws which guarantee time bound delivery of services for various public services rendered by the Government to citizen. The Right to Public Services Legislation was enacted by many states like Karnataka, Jammu & Kashmir, Madhya Pradesh, Bihar, Delhi, Punjab, Rajasthan, Himachal Pradesh, Uttarakhand, Haryana, Uttar Pradesh and Jharkhand for effectuating the right to service to the citizen. Even Kerala, Chhattisgarh and Central Government are contemplating to enact similar Act. Majority of the provisions of these legislations are similar. Some of them are as follows:

#### **Public Services Coverage**

Public services, which are to be granted as a right under the legislations, are generally notified separately through Gazette notification. Some of the common public services which are to be provided within the fixed time frame as a right under the Acts, includes issuing caste, birth, marriage and domicile certificates, electric connections, voter's card, ration cards, copies of land records, etc.

#### **First Appeal**

On failure to provide the service by the designated officer within the given time or rejected to provide the service, the aggrieved person can approach the First Appellate Authority. The First Appellate Authority, after making a hearing, can accept or reject the appeal by making a written order stating the reasons for the order and intimate the same to the applicant, and can order the public servant to provide the service to the applicant.

#### **Second Appeal**

An appeal can be made from the order of the First Appellate Authority to the Second Appellate Authority, who can either accept or reject the application, by making a written order stating the reasons for the order and intimate the same to the applicant, and can order the public servant to provide the service to the applicant or can impose penalty on the designated officer for deficiency of service without any reasonable cause, which can range from ₹500 to ₹5000 or may recommend disciplinary proceedings. The applicant may be compensated out of the penalty imposed on the officer. The appellate authorities have been granted certain powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, like production of documents and issuance of summons to the Designated officers and appellants.

This legislation should be implemented effectively in all the states as well as by the Central Government, so that majority grievances are solved within the department without approaching Courts and the Forums.

## **Rajasthan Right to Hearing Act 2012**

Adding to a number of progressive central and state laws related to governance and grievance redressal enacted in the recent past, to provide the right of hearing to the people within stipulated time limits, Rajasthan State Legislature enacted the Rajasthan Right to Hearing Act 2012, which came into force from August 01, 2012. Thus Rajasthan became the first state in the country to implement such an Act, which ensures time-bound hearing and disposal of complaints related to governance. This Act guarantees the hearing of the grievances, problems, concerns and service delivery lacunas faced by the citizenries of the state at multiple levels. Under the Act, Public Hearing Officers and Appellate authorities are appointed to ensure the hearing within 15 days, to the complainant at *gram panchayat, tehsil*, sub-block, district and divisional headquarters.

### **Business Codes of Ethics (Code)**

This Code helps to maintain the standards of business. This Code is designed to deter wrongdoings and promote, among other things; honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships; full, fair, accurate, timely and understandable disclosure in reports and documents we file with or submit to the public communications; compliance with applicable laws, rules and regulations; the prompt internal reporting of violations of this Code, and accountability for adherence to this Code. The Company is committed to continuously reviewing and updating its policies and procedures. Majority of Indian Institutions, multinational companies have adopted these codes. Some of the examples are as follows:

#### ***Council for Fair Business Practices (CFBP)***

The CFBP is the brainchild of leading industrialists like J R D Tata, S P Godrej, Ramakrishna Bajaj, Arvind Mafatlal, Harish Mahindra and S L Kirloskar who recognised the imperative need for business and industry to regulate itself. Born on October 02, 1966, it is one of the few organisations of businessmen and professionals who function for the benefit of the consumers.

The CFBP seeks to create an environment where business confidence is built through best business practices and fostered in an atmosphere of trust and respect between business and professionals, on the one hand, and consumers and other stakeholders on the other hand. Towards this end, it works to promote the highest ethical standards in business and professions, maximum transparency, objective consideration of consumers' viewpoints as well as satisfying consumers with prompt, efficient and friendly service at a reasonable price. A Code of Conduct for businessmen to this effect has been formulated.

The Department of Consumer Affairs, Ministry of Food & Agriculture, Government of India, has recognised the CFBP and extended a grant to enable it to step up redressal of consumer complaints and conduct education programmes for the benefit of consumers. An MOU has been signed between the Department of Consumer Affairs and the CFBP at the Office of the Department in New Delhi.

#### ***Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002***

Recently the Medical Council of India (MCI) via amendment to the "Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulation 2002" has brought out the code of conduct for doctors and professional association of doctors in their relationship with pharmaceutical and allied health sector industry which prohibit them from accepting any gifts, travel facility or hospitality, from any pharmaceutical company or the health care industry. According to the new rules, a medical practitioner may carry out, participate in or work in research projects funded by pharmaceutical and allied health care industries, but has to ensure

that the particular project has due permission from the competent authorities. The practitioner also has to ensure that the research project gets clearance from an institutional ethics body. These Regulations may be called the “Indian Medical Council (Professional Conduct, Etiquette and Ethics) (Amendment) Regulations, 2009 - Part-I”.

### ***Advertising Standards Council of India (ASCI) Code on Advertisements***

In 1985, this Code for Self-Regulation has been drawn up by people in professions and industries in or connected with advertising, in consultation with representatives of people affected by advertising and has been accepted by individuals, corporate bodies and associations engaged in or otherwise concerned with the practice of advertising with the following as basic guidelines with a view to achieve the acceptance of fair advertising practices in the best interests of the ultimate consumer:

- To ensure the truthfulness and honesty of representations and claims made by advertisements and to safeguard against misleading advertisements.
- To ensure that advertisements are not offensive to generally accept standards of public decency. Advertisements should contain nothing indecent, vulgar or repulsive which is likely, in the light of generally prevailing standards of decency and propriety, to cause grave or widespread offence.
- To safeguard against the indiscriminate use of advertising in situations or of the promotion of products which are regarded as hazardous or harmful to society or to individuals, particularly minors, to a degree or of a type which is unacceptable to society at large.

To ensure that advertisements observe fairness in competition so that the consumer’s need to be informed on choices in the market-place and the canons of generally accepted competitive behaviour in business are both served. Both the general public and an advertiser’s competitors have an equal right to expect the content of advertisements to be presented fairly, intelligibly and responsibly. The Code applies to advertisers, advertising agencies and the media.

### **Free Legal Service Cell (FLSC) in Law Schools**

In the present times, there is a need to bring law close to the people, so that it is able to appreciate, understand and solve the problems of the child, the women, the downtrodden, the weak, and also the underprivileged sections of the society. There are two legal maxims, which are very important in this regard. One is ‘*Ignorantia juris non excusat*’, means ‘Ignorance of law is no excuse’. Another issue is ‘*Vigilantibus non dormientibus jura subveniunt*’, means the ‘laws assist those who are vigilant, not those who sleep over their rights’.

However, in India all law schools have made an attempt to fulfil the objects of ‘free legal services’ under the Indian Constitution and other statutes like Consumer Protection Act, 1986 etc., by constituting ‘Free Legal Services Cell’ (FLSC) within their schools to help the needy people. By Granting legal sanctity to the FLSC of law schools like Voluntary Consumer Organisations, the objects of free legal services may be achieved for better than before. The major problem of lack of consumer awareness, economic problem of poor people to fight against exploitation of manufacturers, distributors and retailers, need to be removed from India. This kind of transformation is necessary if the manifesto of ‘justice to all and equal access to justice’ is to become a living reality.

### **Functions of FLSCs**

In India all law schools have constituted FLSCs, which are under the strict supervision of full time teachers and the law students. Each law school is regularly organising legal awareness programmes and free legal aid to the needy people of the remote villages. The law students are

communicating the different legal aspects including consumer protection laws more effectively through their street plays, folk songs, speeches, etc. in colloquial languages.

The major task before FLSC is to defend persons entitled to avail free legal services including consumer disputes under Section 12 of the Legal Services Authority Act, 1987. The criteria for giving legal service under Section 12 of the Legal Services Authority Act, 1987 states that every person who has to file or defend a case shall be entitled to legal services under this Act if that person is:

- a) a member of a Scheduled Caste or Scheduled Tribe; or
- b) a victim of trafficking in human beings or beggars as referred to in Article 23 of the Constitution; or
- c) a woman or a child; or
- d) a mentally ill otherwise disabled person; or
- e) a person under circumstances of underserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
- f) an industrial workman; or
- g) in custody, including custody in a protective home within the meaning of clause (g) of Section 2 of the Immoral Traffic (Prevention) Act, 1956, or in a juvenile home within the meaning of clause (j) of Section 2 of the Juvenile Justice Act, 1986 (53 of 1986), or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of Section 2 of the Mental Health Act, 1987 (14 of 1987); or
- h) in receipt of annual income less than ₹9,000 or such other higher amount as may be prescribed by the State Government, if the case is before a Court other than the Supreme Court and less than ₹12,000 or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.

### Recognition of FLSC

Even though, FLSC is actively involved in FLSs to the society, it is not so effective since FLSC do not have legal sanctity in the view of law. No one is taking seriously the usefulness of FLSCs' representation on behalf of persons entitled to avail legal services under Section 12. There are legal services programmes in countries such as United States, Latin America, Zambia and Indonesia, which permit students under proper supervision to appear and argue cases in open court on behalf of indigent clients.

In India, the members of the FLSCs are not allowed to represent those needy persons in any courts including Consumer Forums. 'Therefore, there is a necessity of involving law schools in legal aid programmes. The students of law in the colleges and in the universities are in the prime of their youth. They are full of energy and this should be properly channelised and used for productive activities. The law students would become an inexpensive and enthusiastic resource for providing meaningful legal aid to India's vast population.

It is unfortunate that the COPRA, 1986 gives legal sanctity to the Voluntary Consumer Association, however not to the FLSC of law school, even though FLSC is better placed in all aspects compared to the Voluntary Consumer Association. In this regard, there is a need for amendments to the COPRA, Consumer Protection Rules, 1987, Consumer Protection Regulations, 2007 and all other consumer legislations to give legal sanctity to the FLSC.

## ConsumersUp Project: Indian Consumer in the New Age, 2012

The Statistics on Right to Seek Redressal in the Consumer Survey under ConsumersUp Project Indian Consumer in the New Age, May 2012 are discussed.

### Major Reasons for Delay in Timely Redressal

This section presents key findings from qualitative survey of State Consumer Disputes Redressal Commission (SCDRC) and District Consumer Disputes Redressal Forum (DCDRF).

It has been observed that a large number of cases are not redressed within the stipulated time-frame prescribed by the law due to various reasons. The following figure presents the major reasons and limitations cited by the President and Members of State Consumer Disputes Redressal Commissions and District Consumer Disputes Redressal Forums for not being able to dispose of complaints within the stipulated time period.

Based on the responses received, three major reasons for delay in redressal are adjournments sought by advocates/ parties (27 percent), lack of adequate administrative and support staff (19 percent) and educational status of complainants (11 percent).

Other major reasons and limitations include vacant position of President and Member (9 percent), limited number of benches (8 percent), limited infrastructure (Computer/ office etc) (7 percent), delay in lab testing (5 percent), limited training initiatives (4 percent) and financial status of complainant (3 percent).

#### *Other Minor Reasons/Limitations include*

- Delay in service of summons and notices as they have to rely on postal service and or courier service which is not reliable and accountable.
- Heavy backlog – is leading to accumulation of unresolved cases which is further delaying the redressal process, which is becoming like a vicious circle.
- Limited financial resources – of forums and commission hamper their functioning and in turn affect the process of redressal.
- Untrained members – usually members are not trained in judicial procedures which contributes to the delay.
- Strikes – frequent strikes in some states also lead to delay in redressal.
- Low salary of members – some members have also cited issues like low salary of members and unavailability of office vehicle for commuting to office as the reasons that delay the redressal process.
- Powers for fine recovery or implementation of judgments – should be with the consumer court, normally these judgments are implemented through the District Collector or the Police department. This process delays the actual implementation even after passing the orders, which is equivalent to an unresolved case.

#### *Empowerment Status of Present Grievance Redressal Mechanism*

About 24 percent SCDRC members believe that the present grievance redressal mechanism is empowered to sufficiently compensate aggrieved consumers. On the other hand, 73 percent members are dissatisfied with the present grievance redressal mechanism due to the following reasons:

- The present system does not provide timely redressal of cases.
- It does not have the power to execute orders
- Not able to control unnecessary adjournment sought by parties,

- Not as strongly empowered as compared to Civil Courts
- No effective fine and or compensation recovery mechanism.

About three percent members did not wish to comment on the present status of grievance redressal mechanism in India.

### *Representation in Commissions and Forums*

Despite the fact that the law allows an aggrieved consumer to represent himself/herself, only nine percent consumers are doing so and about 89 percent aggrieved consumers are represented through advocates in SCDRC and DCDRC.

On the other hand, only 1 percent aggrieved consumers are represented by NGOs and Government bodies each. Representation from government bodies is a very rare phenomenon.

### *The Summary of the survey is as follows:*

- Over three-fifths normally voice their complaints to seller (the last person in the supply chain who directly interacts with the user).
  - 93 percent respondents have never actually made a formal complaint, while 3 percent respondents have registered their grievance with the company and or producer. Only 0.3 percent respondents have approached consumer forums for grievance redressal, while 0.1 percent people have approached sector ombudsman for redressal.
  - Close to four-fifths have rated the grievance redressal process as “difficult”. Three-fourths of cases were not properly redressed while 18 percent of such unresolved cases were taken to a higher authority for redressal.
  - Over two-thirds of the cases were not redressed within stipulated time frame of 90 days or 150 days, whichever is applicable. Three major reasons for delay in redressal is adjournment sought by advocates and parties (27 percent), followed by reasons such as lack of adequate administrative and support staff (19 percent) and educational status of complainant (11 percent).
  - Over a fifth reported that the direct cost of seeking redressal was high.
- 55 percent respondents do not know about internal redressal mechanism of a company.
  - Only seven percent respondents believe that the internal redressal mechanism is not transparent and accountable.
- About 53 percent respondents do not know about the external redressal mechanism.
  - Only 28 percent of those who know about external redressal mechanism believe that it is easily accessible by a common man while 37 percent of these believe that the external redressal mechanism is independent and accountable.
- Only 12 percent believe that the present grievance redressal mechanism is empowered to compensate aggrieved consumers.
- About 34 percent of forum members believe that effective consumer education with respect to consumer rights should be helpful. On the other hand 24 percent members believe that providing free technical and legal assistance to complainant will make the process more convenient for consumers.
- Only 24 percent SCDRC members believe that the present grievance redressal mechanism is empowered to sufficiently compensate aggrieved consumers.

## Conclusion

The COPRA, 1986 has been in existence for 25 years. Because of paradigm shift from *Caveat Emptor* to *Caveat Venditor*, the Consumers are considered to be king in a free market and the sellers are guided by the will of a consumer. Even-then even-after completion of 25 years of COPRA, the object of the COPRA has not been achieved satisfactorily because the state governments have failed in implementing COPRA properly. Majority of state governments do not have independent Ministry for Consumer Affairs.

The Consumer's Right to Redressal is one of the Fundamental Rights of the human beings in civil society. Even then consumers are facing problems in seeking redressal for their problems. To improve the Grievance Redressal Process, the following suggestions may be considered:

### Suggestions for Grievance Redressal Process

- Consumers should be given effective consumer education with respect to consumer rights.
- Provide free technical and legal assistance to complainant to make the process more convenient for consumers.
- The District Forum, State and National Commissions should drop the procedure of filing affidavits for whatever they have already stated in their complaints with declaration, as also the opposite party's version and rejoinders, thus making it more complicated and further delaying the decision on the complaint.
- Ensure timely redressal.
- Provide financial assistance to complainant.
- E-enable the complaint registration process.
- Lok Adalat and Circuit Benches should be organised so that people do not have to travel all the way from villages to state head quarters.
- Restriction of Advocates in State Consumer Disputes Reddressal Commission (SCDRC)/ District Consumer Disputes Reddressal Forum (DCDRF).
- X-party judgments should be promoted.
- Use of local language at SCDRC/ DCDRF.
- All procedures need to be simplified. Procedures should be in such a manner that a common man can easily understand and follow them the current procedures in place force a common man to hire an advocate for his assistance. To overcome this, either a counsellor or an advisor may be appointed at the consumer forum to help such complainants. These counsellors advisors should have practical working knowledge of consumer court procedures.
- Establishment of additional forum/ benches for quick redressal.
- Members should be at least law graduates.
- Proper and timely implementation of judgments.
- Establishment of new laboratory for redressing the time taken for lab testing.
- To establish and strengthen more institutions and regulatory authorities like IRDA, TRAI, SERC and CERC. Such agencies should be made powerful to regulate the business and dispose of issues pertaining to their sector at their level.
- Introduce system of asking bank guarantee from respondents at the time of first hearing and this bank guarantee should be immediately seized if the judgment is in the favour of consumer. This bank guarantee should depend on the nature of the case.

The Central Government has already considered some of these suggestions and proposed amendments to the COPRA, 1986 through Consumer Protection Amendment Bill, 2011. This Bill is still pending before the Parliament. After implementing this amendment, COPRA will become better than before.

**Annexure**  
**Format of Complaint under Consumer Protection Act, 1986**

BEFORE THE HONORABLE NATIONAL COMMISSION / STATE COMMISSION /  
DISTRICT CONSUMER DISPUTES REDRESSAL FORUM AT (CITY)

COMPLAINT UNDER CONSUMER PROTECTION ACT, 1986.

IN THE MATTER OF

(Full Name, Age, Gender and Address of complainant)

..... COMPLAINANT

**Vs.**

(Full Name, Age, Gender and Address of opposite party)

..... OPPOSITE PARTY

**INTRODUCTION**

A brief paragraph about the complainant explaining the name, residence address and occupation of the complainant.

A brief paragraph about name, address and occupation of the opposite party.

**THE COMPLAINANT RESPECTFULLY SUBMITS THAT:**

1. Description of the deal and services promised by the opposite parties for the value paid by the complainant.
2. Description of the advertisements given by the opposite parties which attracted the complainant to purchase the commodity and services.

**TRANSACTION**

Details of the price of goods and services.

Details of the bill/invoice (bill number and date, item and amount)

Details of payments made by complainant (cheque number/cash, etc.)

**NATURE OF COMPLAINT (*select from list or write as required*):**

1. Misleading advertisements and false representation.
2. Cheating by giving false promises.
3. Deficiency in after sales service or not abiding by warranty clause.
4. Harassment by the opposite party.
5. Not delivering the goods and services for which payment is made.
6. Charging excess amount.
7. Any other factors that affected the consumer.

**CAUSE OF ACTION**

## OTHER EVIDENCES IN SUPPORT OF COMPLAINT

Copy of advertisement and catalogue that promised the concerned goods and services.  
Copy of bill as evidence of purchase.  
Other documents such as agreement copies, bounced cheques, opposite parties' letters.  
Copy of letters sent to the opposite party to request for rectification of fault and settlement of the grievance.

## TERRITORIAL JURISDICTION

## PECUNIARY JURISDICTION

(Select one)

As the total amount involved is more than Rupees 1 crore, the complaint is being filed with the Hon'ble National Consumer Disputes Redressal Commission.

**OR**

As the total amount involved is more than Rupees 20 lakhs and less than 1 crore, the complaint is being filed with the Hon'ble State Consumer Disputes Redressal Commission.

**OR**

As the total amount involved is less than Rupees 20 lakhs, the complaint is being filed with the Hon'ble District Consumer Disputes Redressal Forum.

## COURT FEE

## PRAYER

*The complainant therefore prays :-*

- i) relief be granted to the complainant as demanded herein.
- ii) that such orders be passed as the Hon'ble Consumer Forum may deem fit in the circumstances of the case.
- iii) that the accused should be punished severely so that culprits of similar kind would be afraid to indulge in such criminal activities.
- iv) mention any other statement of prayer you wish to state.

PLACE  
DATED

SIGNATURE  
NAME OF THE COMPLAINANT

## VERIFICATION

I (name of complainant), resident of (residential address) hereby declare that I have not misrepresented any facts nor have tried to hide any information in my above complaint. All the facts mentioned herein are true to the best of my knowledge.

PLACE  
DATED

SIGNATURE  
NAME OF THE COMPLAINANT

## Arrangement of the complaint papers:

All papers to be kept in paper file in following order:

1. Complaint
2. Affidavit
3. Documents

# 7

## Right to Representation

– *Shirish Vasudeo Deshpande*

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Right to Representation is one of the four basic consumer rights that were conferred on American consumers by US President by John F. Kennedy on March 15, 1962. This was followed by intensive lobbying by International Organisation of Consumers Union – IOCU (now known as Consumers International) with United Nations which culminated into “United Nations Guidelines for Consumer Protection” in April 1985. These UN Guidelines recognised eight consumer rights.

### UN Guidelines on Right to Representation

UN Guidelines have taken cognisance of the fact that consumers in all countries, particularly those in developing countries, often face imbalances in economic terms, educational levels and in bargaining power in market place. In order to promote just, equitable and sustainable economic and social development and environmental protection, the UN Guidelines have recognised the eight rights of consumers.

Right to Representation (also often referred to as Right to be Heard) means that in policy-making and decision-making processes, the consumers’ voice must be heard. Consumers must have a say in policy-making and decision-making. It is common knowledge that most of the economic policies and social welfare policies impact consumers in some way or the other. The Trade and Business, with their considerable clout with the government, always remain in a position to shape and influence the government policies and decisions in their favour at the cost of consumer interests.

Consumers being the largest and all pervasive class in the society, is often unorganised, uninformed and gullible too. Thus with very well-organised and resourceful Trade & Business lobby on one hand and unorganised and uninformed consumers on the other hand, the government policies tend to be unfair and unjust to consumers. Keeping these realities in mind, UN Guidelines have consciously recognised the consumers’ Right to Representation. UN Guidelines thus direct UN member nations to involve the consumer groups in the policy-making and decision-making processes of the government.

The UN Guidelines on Consumer Protection deal with the issue of consumer representation or advocacy in a number of ways. UN Guidelines’ objective 1 (e) calls for government action to facilitate development of independent consumer groups. The UN Guidelines also make a mention that opportunities need to be provided to consumer groups for presenting their views in decision making process or to speak up on behalf of consumers and, in particular, measures are to be put up in place to represent the interests of disadvantaged consumers.

Robin Brown of Consumers International, in his paper on “*The UN Guidelines on Consumer Protection: Making Them Work in Developing Countries*”, has underscored the importance of

Right to Representation by stating that “laws and policies which are designed to protect the interest of consumers are almost certain to fail in their objective unless there is a systematic opportunity for consumers and their representatives to influence the policy, its expression in legislation and the administration of that legislation or regulation.”

### **Right to Representation and its Relevance in Ensuring Inclusive Growth**

The Right to Representation plays very crucial role in socio-economic life of consumers. In India, where a significant percentage of the population is below poverty line and the overall literacy rate also is not so impressive, it is of paramount importance that the government policies are made to address the issues of such a large population of disadvantaged consumers. In the absence of assertion of consumer’s right to representation, there is a good deal of possibility of government policies and decisions becoming lop-sided in favour of affluents in the society. The right to representation, thus seeks to correct this imbalance by providing consumers and consumer groups the Right to Representation which can thereby ensure inclusive growth instead of lop-sided growth.

It is common knowledge that every year the Finance Minister holds pre-budget consultations with representatives of business & industry. But the consumers groups were not being invited for such pre-budget consultations. However, somewhere in late 90s, the Finance Minister took the initiative to invite leading consumer groups for pre-budget consultations. This practice continued for three or four years. But thereafter this practice of inviting the consumer groups for pre-budget consultations was quietly discontinued for reasons unknown. According to one of the senior consumer activists, the practice was discontinued because the contribution of consumer groups in such pre-budget consultations was not found up to the mark by the government. If this is true, then it is for the consumer groups to introspect on this issue seriously.

However, the fact is that such pre-budget consultations do not take place is a reality now. The consultation process and involvement of consumer groups, with whatever their ability, can make the growth process inclusive. But keeping the consumer groups away from the consultation process will not ensure inclusive growth as visualised by the government.

On this background it is pertinent to recall that Atiur Rahman, Governor of the Bangladesh Bank, in his keynote address in a 2009 conference on Consumer Protection in Bangladesh, had regretted the lack of civil society organisations’ involvement in representing consumers’ interest within that country.

### **Right to Representation and the common people**

Common man’s voice very often does not reach the powers-that-be. Often, there is no coherence amongst the wide spectrum of consumers. It is, therefore, necessary that the authentic, credible and representative voice of common consumer is conveyed to the decision-makers. And this is where the consumer groups can play a pivotal role of an important and effective link between the common man and the decision- makers.

It is interesting to note that out of the eight consumer rights recognised by the UN Guidelines, barring the Right to Representation, remaining seven rights are individualistic rights which are very often asserted by individual consumers. The Right to Representation is the right which the consumers can assert in a collective or representative manner or even in an individual capacity.

When a lay consumer buys any product or avails any service, and if he has any complaints against the same, he has not only the right to complain against the same but also has a right to be heard

and a further right to satisfactory redressal of his complaint. Thus the right to be heard and right to redressal get combined in such a situation. On an individual level, the right to be heard may be confined to the quality or the quantity of the product/service supplied or the price charged for it. Thus this right is addressable at micro level by any individual consumer.

However, this Right to Representation has a wider application at macro level. Macro-level assertion of this right helps protect consumer interest on a much wider scale. Effective representation by a consumer group at macro-level for influencing any policy-making or policy decision, benefits a large number of consumers or a society at large and can bring in systemic changes for the benefit of consumers.

## Right to Representation in India

Although UN Guidelines universally recognised consumer rights including Right to Representation way back in 1985, India has a unique tradition of recognising common consumer's Right to Representation since ancient times. It is well known that King Akbar had provided a huge bell outside his palace which was accessible to any and every aggrieved person in his Kingdom. Similarly, Chanakya had also prescribed policies with a view to promote and protect the consumer interest in the market place by prescribing harsh and deterrent punishments for those traders who indulged in food adulteration or short changing consumers in prices, weights and measures or quality.

In modern times and much before the introduction of UN Guidelines on Consumer Protection, Indian polity and also the Judicial System did provide channels for representation from citizens in various ways. The Petitions Committee of the Indian Parliament entertains representations from the citizens on any important public issue. Similarly, an Indian citizen or a group of citizens can also approach High Court or even Supreme Court in the most informal manner under, what is popularly known as, "Public Interest Litigation" or PIL in short.

There have been instances where the High Courts and the Supreme Court have entertained simple letters or post cards from aggrieved citizens/consumers as petitions and issued notices to the Government Authorities to redress their grievances. Sometimes the High Courts and the Supreme Court have acted *suo moto* on reading certain instances of gross injustice in newspapers.

### Box 7.1: High Court Treats Widow's Letter to Editor as a Writ Petition

One of the leading newspapers carried a letter from a widow narrating her woes in getting provident fund dues of her deceased husband. This letter caught attention of a Judge of the Bombay High Court who decided to treat this letter in the newspaper as a writ petition. Accordingly, a notice was issued to the Provident Fund Commissioner by the Registrar of the High Court asking him to appear before the High Court on a particular day.

Shaken up by this notice from the High Court, the PF Commissioner immediately took cognisance of the long pending matter of this widow, issued the cheque in her favour and personally delivered it to her through his officer. On the date of hearing, the PF Commissioner informed the High Court that acting on the notice of the High Court, his office has settled the dues of the widow.

India was one of the first countries which immediately acted upon the UN Guidelines for consumer protection. The UN Guidelines were passed by the UN General Assembly on 9th April, 1985. The Indian Government, under the leadership of Prime Minister Rajiv Gandhi took the initiative and the Indian Parliament passed the COPRA in December, 1986. This Act recognised following six rights of the Indian consumers: Right to Safety, Right to Information, Right to Choice, Right

to be heard (i.e. Right to Representation), Right to Redressal of Grievances, and Right to Consumer Education.

## **Consumer Protection Councils – Role Model for Right to Representation**

In order to promote and protect the above-mentioned six rights, the Consumer Protection Act provided the setting of Consumer Protection Council at the National and state level. (Refer sections 6 and 8 of the COPRA. In 2003, the Consumer Protection Act was amended whereby it provided for setting up Consumer Protection Council also in each District (See Section 8A). Creation of Consumer Protection Councils under the Consumer Protection Act is a classic example of an effort to translate the Right to Representation or right to be heard in reality.

The composition of the Consumer Protection Council at the District, State and at the National level includes representative of the Government, public bodies, consumer representatives and representatives of trade and business. The Minister in charge of consumer affairs in the Central Government is the Chairman of the Central Consumer Protection Council (CCPC). Similarly, the Minister in charge of the Consumer Affairs in the state government is the Chairman of the State Consumer Protection Council (SCPC) in each state. At district level, the Collector of each district is supposed to be the chairman of the District Consumer Protection Council (DCPC).

The Consumer Protection Act provides that these Consumer Protection Councils shall meet at least twice a year to discuss on the issues and policies affecting the consumer rights and consumer interest. These Consumer Protection Councils are true role models of how the Right to Representation of the consumers can be effectively implemented through these Councils.

**Functioning of Consumer Protection Councils:** Since Consumer Protection Councils have a great potential and inherent strength in becoming a role model for transforming consumer rights into reality, it is necessary to consider at some length how these Consumer Protection Councils have been functioning at the central, state and district levels.

**Central Consumer Protection Council:** The CCPC, in the initial years, had adopted a methodology to constitute Working Groups on certain consumer related issues. These Working Groups comprising of government officials, Consumer Representative and Representative of the trade bodies used to study such issues in depth and would come out with recommendations to the Central Government for taking policy measures to protect and promote consumer interest. Unfortunately, this practice of setting up Working Groups under the CCPC was later on discontinued, for reasons unknown.

During last three four years, the CCPC at Delhi also did not function satisfactorily. This apex body meets hardly for a half day in a year to deliberate the consumer issues. The number of consumer bodies on CCPC is also drastically reduced. As a result, several consumer bodies from different parts of India feel left out. There is an impression that the government is holding a meeting of the CCPC once in a year just as a matter of ritual and nothing concrete is being discussed or decided. The consumer bodies do feel that the meetings of the CCPC can be more fruitful and productive.

**State Consumer Protection Councils:** At the state level, the performance of Consumer Protection Councils is not found to be so inspiring or even satisfactory, barring perhaps a few cases. It is reported that in Rajasthan many members of CUTS networking grass route groups serve on the DCPCs. This has empowered the grass root groups phenomenally and given them credibility and the strength to raise and resolve many consumer problems at the local level.

As per the statistics of the Central Government, as on March 31, 2011, out of 35 states as many as 15 states had not constituted the State Consumer Protection Councils in their states at all. Although Maharashtra has indicated that the State Consumer Protection Council has been constituted in Maharashtra, but the fact is that no such Council was and has been established by Maharashtra Government as of date.

**District Consumer Protection Council:** Although the provision for setting up DCPC came into effect from March 15, 2003, as on March 31, 2011 i.e. after a lapse of more than 8 years, as many as 16 states had not constituted DCPCs in any of their districts. In remaining states also, DCPCs have been constituted in only some of the districts of these states. Gujarat is perhaps the only state which has claimed that DCPCs have been constituted in all districts.

The experience of Maharashtra in respect of functioning of Consumer Protection Councils at district and state level is totally dissatisfactory. In spite of a statutory mandate under the COPRA to set up the State Consumer Protection Council and ensure at least two meetings every year, the Maharashtra Government has failed and neglected the constitution of such State Consumer Protection Council for last more than 5 years.

However, strangely, the Maharashtra government has given wrong information to the Central Government as stated above, that the SCPC has been constituted in the state. The Government has also neglected to set up District Consumer Protection Councils in as many as 33 out of 35 districts. Even the term of the DCPCs set up in 2 districts of Maharashtra has not been renewed by the government. As a result, as of date there is not a single District Consumer Protection Council existing or functioning in Maharashtra. Repeated requests from Consumer groups failed to prompt the government to take steps to set up these Consumer Protection Councils in Maharashtra.

Ultimately, *Mumbai Grahak Panchayat* (MGP), on the occasion of National Consumer Day filed a Public Interest writ petition in Bombay High Court on December 24, 2011 seeking direction of the court to Maharashtra Government for setting up these Consumer Protection Councils. Pursuant to this writ petition, the High Court has directed the government to file an affidavit explaining its failure to set up the Consumer Protection Councils as mandated by the COPRA.

There is thus over all apathy and lack of interest on part of the governments (Central as well as state governments) to ensure that the Consumer Protection Councils function effectively to protect and promote the consumer rights. This apathy of the government gets further reflected in the Department of Consumer Affairs' strategic planning during Plan period 2012-2017. In this policy document, there is no mention about ensuring proper functioning of the Consumer Protection Councils at Central, State and District levels.

In view of this situation, it is a major challenge for the consumer groups to see that this potentially effective instrument of Consumer Protection Council is activated at all the three levels to ensure promotion and protection of consumer rights including right to be heard.

## **Consumer Courts and Right to Representation**

The Consumer Protection Act also provides a three-tier grievance redressal system at District, State and National Level. This is popularly known as Consumer Courts. The Act provides that one of the members on the Forum or the Commission will be a person having experience, *inter alia*, in field of consumer movement. Accordingly, several District Forums in India have members of consumer groups on the benches of various District Forums.

There have been instances where the consumer representatives on these benches have made significant contribution in development of healthy consumer case law. There have also been instances where such consumer representatives have, at times, given dissenting judgements to protect the interest of consumer and that such dissenting minority judgements have been upheld in appeal in favour of the consumers.

## **Consumer Representation in Consumer Courts**

The Consumer Protection Act also provides unique opportunity to consumer groups and individuals to represent the consumer interest or consumer cause before the Consumer Courts. The Act allows the consumer to be represented through a person who is not a professional advocate. As a result, any representative of a consumer group or an individual consumer activist can represent the individual consumer before the consumer court as an authorised representative of the consumer. This provision is in recognition of consumer's Right to Representation. In order to ensure that consumer has an option and opportunity to have his cause represented in an inexpensive manner (i.e. without engaging professional advocate), the Act has made the special provision of allowing the consumers to be represented by any person who is not an advocate.

There have been several stimulating experiences where consumer groups and individual consumer activists have very effectively and successfully represented consumers' cases in the Consumer Courts and obtained reliefs in their favour. However, on the flip side, there have been also some stray cases where individual consumer activists are also seen changing sides and representing business and trade against the consumers in the Consumer Courts. There have also been cases where representatives of consumer groups or individuals consumer activists are found wanting in effectively representing consumer interest in the Consumer Courts. At times, the quality of representation by consumer groups or activists in consumer courts has alarmed not only consumer courts including the National Commission but also the Supreme Court.

## **Consumer Representatives to Pass Qualifying Test**

Last year the Supreme Court, while recognising the need for representation of consumers in the Consumer Courts through non-advocates, has directed the National Consumer Disputes Redressal Commission (National Commission) to ensure a minimum standard of those who wish to represent consumers in Consumer Courts on regular basis. It is a welcome decision of the Supreme Court which has stressed the need for quality representation of consumers in Consumer Courts.

Accordingly, the National Commission has been asked by the Supreme Court to grant recognition only to such persons to represent consumers who would pass certain tests to be prescribed by the National Commission. Supreme Court's anxiety in ensuring qualitative representation of consumers needs to be welcomed by consumer groups in India. But apart from welcoming this direction of the Supreme Court, the consumer groups must also take note of the fact that there is an urgent need to train and adequately empower consumer activists to represent the consumer cause on various platforms.

The Consumer Protection Act thus provides very effective and meaningful platform for consumer representation through Consumer Protection Councils at District, State and National level on one hand and through Consumer Courts on the other hand.

## **Right to Representation Under Electricity Act 2003**

Apart from the Consumer Protection Act, there are other Indian statutes which provide for Consumer Representation. After economic liberalisation, India has been witnessing Regulatory Regime in many sectors. Electricity Act 2003 provides for two-fold Consumer Representation in the power sector. The Act provides Central Electricity Regulatory Commission (CERC) at the Centre and State Electricity Regulatory Commissions in all states of India.

In the first instance, these Electricity Commissions at Centre and state levels provide representation to consumer groups. The consumer groups and individuals consumer representatives are expected to actively participate and contribute in the process of tariff determination of power generation, transmission and distribution companies. These consumer groups on the Commissions are also expected to participate in various other proceedings of the Commissions involving disputes between power companies and consumers.

In the second instance, at the micro level, Electricity Act 2003 makes it obligatory for every power company to have their own grievance redressal system to redress consumer grievances in a simple, speedy and inexpensive manner. The Consumer Grievance Redressal Forum (CGRF) to be set up by each power company comprises of a President who is normally a retired District Judge and two other Members – one from the power company and other – a member from recognised consumer organisation.

In Maharashtra the Consumer Grievance Redressal Forums, set up under the Electricity Act by each power company, are working quite satisfactorily. The presence of the consumer representative on each CGRF ensures fair deal and justice to aggrieved Electricity consumers.

Although Electricity Act 2003 has provided for compulsory representation of consumers on the State and Central Electricity Commissions, it needs to be mentioned that the consumer representatives on this Commissions face quite an uphill task. The tariff determination process is an extremely complex process involving technical, economic, social, legal and accounting issues. Very rarely consumer groups and their representatives are well-versed with all these issues.

On the other hand, the power utilities who approach the Electricity Regulatory Commissions for tariff hikes are well equipped and aided/assisted by experienced professionals and experts to push their cases for tariff hikes. In such circumstances, it is an uneven battle for consumer groups to effectively and ably represent the consumer interest before Electricity Regulatory Commissions. This is the area which consumer groups must take it seriously in the coming years.

## **Right to Representation in the Telecom Sector**

The Telecom Regulatory Authority of India (TRAI) also offers opportunities for consumer representations in the process of Telecom tariff policies and other policies as regards quality of service of telecom companies. The TRAI issues Consultation Papers on various telecom issues of consumer interest and invite suggestions, objection from all stake holders, including consumer groups. Several consumer groups in India do participate in this consultation process of TRAI and contribute their views and ideas in order to promote and protect the consumer interest.

Apart from Power and Telecom sectors, Aviation, Petroleum, Food Safety and Standards are some of the areas where there is a statutory provision for consumer representation. In fact, the Indian laws have taken due note of the consumers' Right to Representation. It can thus be said that Indian laws have duly recognised consumers' Right to Representation. It is now for consumer

### **Box 7.2: TRAI Applies Breaks on TV Ads**

As a direct result of consultation process adopted by TRAI (in which some consumer groups including MGP participated), the frequent interruption of ads during TV programmes is soon going to stop. TRAI has, after hearing all stake holders including consumer groups, issued guidelines to TV broadcasters to restrict the total duration ad time during the TV programmes to 20 percent per clock hour. This means that in a 30-minute popular serial even during peak hour, the TV channel cannot show advertisements for more than 6 minutes.

Although consumer groups succeeded through their effective representations to persuade TRAI to issue such consumer-friendly guidelines, the broadcasters are now trying to put pressure on the Government and TRAI to dilute this provision. So once again it is a challenge for consumer groups to counter the behind-the-scene lobbying by the broadcasters.

groups and consumer activists to meet the expectations of consumers in representing their cause effectively before various Regulatory authorities.

## **Right to Representation in Transport Sector**

In Maharashtra, MGP has succeeded in asserting consumers' Right to Representation in a big way in transport sector. When taxi fares were unilaterally hiked by the state Government due to pressure from taxi men's union in 1996, MGP strongly protested against such unilateral hike in taxi tariff and represented to the Chief Minister that the consumer view point must be heard before taxi tariff hike. The Chief Minister was convinced with MGP's demand and appointed a Taxi Trade enquiry committee and included MGP representative in the committee which decided the formula for taxi tariffs.

MGP made significant contribution in the proceedings of the said Taxi Committee and impacted the outcome. As a result of MGP representation on the Taxi Trade enquiry committee, Maharashtra government has always invited MGP to represent the consumer view point in respect of any taxi or auto rickshaw tariff hike proposal during last 15 years. Normally, no hike in taxi or auto fare is approved by Regional Transport Authority unless consumer view point is heard in Maharashtra.

### **Box 7.3: MGP Instrumental in Switch Over to E-Meters for Taxies/Autos**

In Mumbai and Thane, consumers are often over-charged by Auto-rickshaw drivers by tampering the mechanical meter. To overcome this widespread problem, MGP was strongly lobbying with Maharashtra government and Transport Authorities to make Electronic Meters compulsory for taxies and autos all over Maharashtra. The auto unions strongly resisted these efforts in order to protect the vested interest of auto drivers. However, MGP's persistent lobbying and representations to the government and also in the media resulted in the Government issuing notification making installation of E-meters compulsory for taxies and autos in Maharashtra from April-May 2012.

However, auto unions even challenged this notification in the High Court. MGP once again represented the consumer interest in this petition and vehemently opposed the auto unions' move to defeat government's decision to compel E-meters for taxies and autos. Upholding the consumer interest, the Bombay High Court dismissed the auto unions' writ petition.

The Unions approached the Supreme Court in appeal. But Supreme Court also reiterated that installation of E-meters is in consumer interest and hence, not only dismissed the appeal but directed the High Court to monitor strictly the implementation of E-meters to protect the consumer interest.

## **Right to Representation and Lobbying & Advocacy**

Consumer's Right to Representation also has another important dimension in terms of lobbying and advocacy. Apart from statutory representation of consumer groups in different sectors as seen above, there are occasions where consumer groups have to take initiative on their own to represent the consumer cause in the wider interest of consumers.

In 1997, the US-based Enron company floated a proposal for setting up a power plant in Maharashtra and invited suggestions/objections in respect of the Power Purchase Agreement (PPA) which was to be entered into with Government of Maharashtra. In response to the public advertisement, MGP sought inspection of the draft Power Purchase Agreement from Enron. However, Enron refused to provide the copy of the PPA on the ground of confidentiality. Enron further claimed that the PPA is a technical and complex document and that a consumer group would not be able to understand the same. The reply from Enron was in a way denial of consumers' Right to Information as well as Right to Representation.

MGP, therefore, challenged Enron decision to deny information and its attempt to prevent representation of consumer view point and filed a public interest writ petition in the Bombay High Court asserting consumers' Right to Information and Right to Representation. The High Court, in its landmark judgement, upheld consumers' Right to Information and Right to Representation and directed Enron to give inspection of the Power Purchase Agreement to MGP representatives.

After inspecting the said PPA of Enron, MGP observed various provisions which were detrimental to consumer interest. MGP therefore, opposed the Enron's proposed power project in Maharashtra. Although Maharashtra government succeeded in bringing Enron in Maharashtra for a while, after sometime Enron had to pack off from Maharashtra because of its own misdeeds.

## **Single Consumer Representing Numerous Consumers**

Consumers' Right to Representation is multi-faceted right. There are cases where a single consumer needs to be represented by a consumer group or a consumer activist. There are also cases where a class of consumers needs to be represented by a consumer group or a consumer activist. But at times there are cases where even a single consumer himself can represent numerous other consumers. The Indian Parliament amended Consumer Protection Act in 1993 to specifically allow a single consumer to represent the cause of numerous similarly circumstanced consumers in the Consumer Court. However, what is interesting in this matter is that it is the case filed by MGP in National Commission which prompted the National Commission President to recommend this consumer-friendly amendment in the Consumer Protection Act. (For details, read the story in Box 7.4).

The amendment to the COPRA in 1993 thus, allowed a single consumer to espouse the cause of numerous similarly circumstanced consumers in the Consumer Courts. Of course, in such cases, such single consumer wanting to represent numerous consumers is required to obtain permission from the concerned Consumer Court and then, also publish a public notice in the newspapers to that effect. In such cases, similarly circumstanced consumers can also join the consumer who initiates such action.

This provision of single consumer espousing the cause of numerous consumers is really a blessing for the consumers and the consumer movement. Very often, we read news items where numerous consumers are cheated by investment companies or builders or any other service providers. There

#### **Box 7.4: MGP's LML Case Leads To Amendment of COPRA**

##### ***Single Consumer Allowed To Represent Numerous Consumers***

Somewhere in 1989 Mumbai Grahak Panchayat (MGP) filed a case before the National Commission on behalf of 937 consumers who were denied refund of the deposit amount of ₹500 by a scooter company M/s. LML. Whilst applying for refund for these 937 consumers, MGP also made a request in the petition for directing LML to refund the amounts to more than 4 lakh other consumers who were also denied refund by LML but whose names were not available with MGP.

During the hearing, the National Commission agreed to grant refund to those 937 consumers whose names and receipts for deposits were brought on record by MGP. However, the Commission expressed inability to grant relief to those more than 4 lakh consumers since their names were not on record and the CPA did not have the provision to entertain "class action" cases. MGP then relied on rule 10 of Consumer Protection Rules and sought a direction to LML to bring on record names of all those 4 lakh and odd consumers.

The Commission accepted this suggestion and directed LML to bring on record the comprehensive list of all those consumers who had demanded refund of their deposits, with their names, addresses, dates of booking, dates of cancellation, etc. As a result, LML had to bring in a tempo, 35 cartons of computerised lists of 4 lakh 22 thousand consumers who were denied refunds by LML. Once these names came on record, the National Commission gave directions to LML to refund their deposits with interest to all these consumers.

Realizing the manner in which these names of more than 4 lakh consumers had to be brought on record, the Hon'ble President of National Commission Justice Eradi recommended to the Central Government an amendment in the CPA to allow even a single consumer to espouse the cause of numerous such consumers (i.e. class action cases). And accordingly, the Indian Parliament in 1993 passed this amendment.

are also cases where a particular decision or an action of the service provider affects large number of consumers. For example, a mobile telephone company announcing certain package of tariff for the benefit of customers and later on refusing to give benefit thereunder to large number of customers.

In such cases, it would not be necessary for all such customers to rush to the Consumer Court for a relief. Taking advantage of this amendment carried out in 1993, it would be sufficient if any one of the affected customer files case against such company on behalf of all such affected customers. The Consumer Courts, in such cases are now fully empowered to grant relief to all such numerous affected consumers although they may not be a party in this case. It is thus, a unique provision where a single consumer can effectively and successfully represent interest of numerous consumers.

It is, however, a matter of regret that in spite of such stimulating provision in the CPA on one hand and on the other hand rampant instances of investment companies duping hundreds and thousands of investors and consumers day in and day out, very rarely this provision in the CPA has been used to represent interest of large number of consumers by a single consumer.

**Public Hearings/Public Consultations:** This is one of the settled practices in India where in any matter involving a larger public interest, a public notice is given for inviting suggestions/objections and also for public hearings. This is also a sort of giving effect to consumers' 'Right to Representation'. Unfortunately, in these cases also the involvement of public participation is not satisfactory.

## Findings from the Field Survey

The survey conducted by CUTS in 2012 throws light on this aspect. Among Indian consumers surveyed, only 23 percent are aware about the process of public consultation or consumer representation. Level of awareness was found to be noticeably high in western and southern of India as compared to other three regions. In rural areas, only 18 percent respondents were found to be aware about such events.

The survey further observed that only 28 percent of those who were aware about public hearing/public consultation or consumer representation have actually participated in such events. Thus, apart from level of awareness, the level of participation in such public consultations/consumer representations is also found to be very low. It is however, encouraging to note that 81 percent of those who have ever participated in such public consultations/consumer representations believe that their participation resulted in taking public-friendly/consumer-friendly decisions. This feedback from the survey, in fact, underscores the importance of consumer representation in such public consultation/hearing process.

By now it is well established that the process of public hearing/public consultation is highly desirable in order to have the consumers' view point duly heard and reflected in the policies and the decisions at various levels. This process also ensures public involvement, transparency and goes a long way in ensuring that the consumer view point is taken into consideration in the formulation of a public policies and decisions.

## Ensuring Effective Consumer Representation

Having seen the importance and advantages of consumers' Right to Representation, it is necessary to probe why the level of participation of consumer bodies and consumer activists in such process is so low. Apart from low level of participation, the quality of the contribution by consumer groups in representing the consumer interest is also a matter of great concern for the consumer movement.

### Barriers Faced while Making Effecting Representation

**Lack of Funding:** Although there has been considerable growth in number of consumer groups, the fact remains that when it comes to representing the consumer interest either in Consumer Courts or in Regulatory Commissions or with Government Bodies, many consumer bodies find it difficult to make effective and studied representations before such authorities.

One of the reasons for this state of affairs is that most of the consumer bodies in India are voluntary organisations with hardly any financial support. In the absence of sufficient funds, the consumer groups are unable to attract the necessary talent from the society for representing consumer cause before such authorities. Even those talented consumer activists, who with their own expertise and knowledge, can contribute effectively in representing consumer cause, are not adequately rewarded or compensated by the consumer groups for want of funds.

**Lack of Expertise:** Effective consumer representation before any government authority or regulatory authority calls for specialised knowledge in that particular subject. Very often, consumer bodies full of enthusiasm and vigour lack such expertise and also cannot afford to engage experts in the respective fields. Any representation without being backed by expert's advice, is less likely to make any impact, particularly when the other side is fully backed by experts and specialists.

**Lack of Training Facilities:** There are no adequate training facilities whereby the volunteers of consumer groups can be trained and empowered to make effective representation of consumer cause before various authorities. Moreover the issues which require representation by consumer bodies are so many, so complex and so diverse that it is practically impossible for any single consumer group to take up all these issues.

On this background, there are some impressive examples where some consumer groups like CUTS, CERC, etc. operate on professional basis and make dedicated efforts on certain select issues and effective representation of consumer cause before various authorities. These groups also raise sufficient funds for such projects and thereby ensure effective consumer representation.

Besides such efforts, there are some NGOs who are focused on only one or two issues of consumer interest and concentrate all their energies and efforts on those selected issues. PRAYAS from Pune is one such NGO which is focused on Energy issue and thus, is in a position to make significant contribution before Maharashtra Electricity Regulatory Commission (MERC) and CERC.

However, not withstanding such encouraging signs, the fact remains that in India the effective consumer representation will continue to be a big challenge before the consumer groups so long as the most important issue of funding is not resolved.

In developed countries, consumer groups have been successful in building membership or supporter groups by essentially selling the results of their product testing. In these developed countries, particularly the US, considerable funding is available from donations from charitable foundations. However, even in US, where consumer organisations are better resourced from their own efforts than anywhere else, there is still a need for state assistance. William Gromley, in his paper (1991) "The Bureaucracy and Its Master" while commenting on need for state assistance has observed: "*Without such support, citizens must often choose between passive acquiescence and hysterical appeals to the mass media for publicity. With government support, citizens can sharpen their own understanding of complex issues before they make a case to the bureaucracy. The playing field (between producer and consumer interest) may not be equalized but it does become more equal.*"

If this can be stated of US, we can only imagine what can be said of Indian scenario. Comments of William Gromley emphasise the need for state funding for representing consumer cause before any authority. However, the state funding too has its own limitations. State funding has a potential to make the recipient organisation subservient to Government and can make the consumer group pliable to government's line of thinking. State funding can also lead to favouritism by favouring a particular consumer group which is not so critical about the government views and policies and denying funds to a consumer group which is critical of government's policies.

Thus, it is quite possible that this provision of state funding may be used as an instrument to silence the criticism and to encourage sycophancy. The consumer groups will have to be mindful of such dangers and will have to maintain their independence which cannot be compromised in consideration of the state funding.

In India we have some state funding through Consumer Welfare Fund. There is a formal scheme of the Central Government of making funds available to consumer groups for specified objectives.

Strictly speaking, this cannot be called as a state funding because the money coming into this fund is the money due to consumers by way of refund of extra excise duty already charged and recovered

from consumers. However such consumers being scattered and not easily identifiable, the refund amount due and payable to them is credited in the Consumer Welfare Fund maintained by the Central Government as per the directions of the Supreme Court.

Unfortunately, the guidelines of this Consumer Welfare Fund do not specifically permit utilisation of this fund for the most important and costly issue of consumer representation before any regulatory or government authority. The funds are largely made available for consumer education activities or for some research projects. The time has come when the consumer groups will have to demand adequate funding for consumer representation before regulatory authorities from this Consumer Welfare Fund in order to ensure effective consumer representation in coming years.

**Consumer Representation before the Regulatory Authorities:** Consumer Representation before regulatory authorities is quite challenging for a variety of reasons. Any public utility such as electricity company, telecom company, an oil company or an insurance company is always a resourceful and technically competent party armed with battery of experts in all fields such as accountancy, law etc. apart from their own technical field.

Interestingly, the utilities/companies who engage the best possible talent to represent their matters/cases before the regulatory authorities, do so by recovering these hefty fees of the experts from the consumers only. In fact, the regulators also engage costly consultants to assist them in discharging of their duties at the cost of the consumers only. The revenue earned by the regulatory authorities comes from the fees paid by the utilities/companies which again are recovered eventually from the consumers of these utilities. But when it comes to consumer groups wanting to represent the consumer cause before such regulatory authorities against such utility or a company, they do not get any financial assistance from the consumers or from the utilities or the regulators or even from the government.

As a result, the consumer representation before the regulatory authorities as regards tariff determination or some policy making regulations etc. is often a very meek and ineffective response on behalf of consumers. The consumer groups wanting to represent the consumer cause before the regulatory authorities or the government departments often struggle to get assistance of some worthy experts. Very often consumer groups get such assistance more as some favour from such experts and hence such arrangements have their own limitations and cannot be expected as a long term or long lasting arrangements.

**Consumer Funding:** With this sort of uneven level playing field, consumers can rarely hope to succeed in their mission to represent the consumer cause effectively before any regulatory authority. What then is the solution to this uneven battle of consumer representation? The solution is to ensure the level-playing field for consumer groups to take on powerful utilities and companies and even the government authorities. How to achieve this level playing field? Is it possible to achieve such level playing field at all? Yes, it is not impossible to achieve such level playing field, although it may be difficult.

Since state funding has its own limitations and weaknesses as discussed above, we need to create an environment where consumers themselves should agree to pay the consumer groups for representing their cause before any regulatory authority or government authority. The number of consumers being huge in most of the cases, the amount any individual consumer will have to contribute to such consumer groups will be just pittance and the consumers will not feel the pinch and can expect in return effective consumer representation and adequate consumer protection from such consumer groups. It will thus be the case of consumers financially empowering the consumer groups who in turn will effectively protect such class of large number of consumers.

Let us take an example of representing the cause of electricity consumers before any SERC or before CERC or before Appellate Tribunal of Electricity (ATE) or before the Supreme Court. In Mumbai, there are four Distribution Companies (Discoms) viz. Tata Power, Reliance Infra, BEST and MSEDCL. They have a total consumer base of approximately 45 lakhs.

The applications for tariff determination of all these four Discoms come before MERC annually where consumer groups have to represent and protect consumer interest. If all electricity consumers are charged just One Rupee annually in their electricity bill to contribute to the Consumer Fund to be created for the above purpose, it will generate ₹45 lakhs in just one stroke for the consumer bodies. This annual fund of ₹45 lakhs, which would be administered by the MERC, can be made available to at least two eligible consumer groups in Mumbai to make effective consumer representation before the MERC.

Similarly in rest of Maharashtra, there are about 1.20 crores of electricity consumers which are being mainly catered by a single state Discom viz. MSEDCL. Generation of ₹1.20 crores once in a year from these consumers ( i.e. just ₹1 per consumer per year) as a Consumer Fund can assist at least 6 consumer groups in Maharashtra for representing consumer cause before MERC or ATE or even in the Supreme Court in matters of electricity issues of consumer interest. Very often, consumer groups have to simply give up the fight against injustice just for want of funds.

The example of Mumbai and Maharashtra is just illustrative to make a point. This can be applied with equal force to any state in India and for any organised service sector. What is illustrated above in case of electricity consumers can be replicated with some modifications in other fields too. Telecom, Insurance, Banking & Investment, Petroleum & Natural Gas, Aviation, Railways etc are some other sectors where such scheme of Consumer Funding can be successfully implemented. But in principle, consumers in India must realise and accept that if they want their interest to be genuinely protected by the consumer groups, they must be ready to pay for such efforts. No doubt, due precautions need to be taken to administer such scheme to prevent abuse and misuse of such funds by some unscrupulous consumer groups.

The creation and availability of such Consumer Fund will certainly empower the consumer groups in true sense. The Consumer Funding has its own advantages over the scheme of State Funding. The sanction and disbursement of state fund is often at the mercy of the sanctioning authority in spite of specific guidelines for grant of such funds. The release of such funds also very often gets caught in red tape, consequent delays followed by corrupt practices. The scheme of Consumer Funding can be channelised through Regulator where the utilities will be required to deposit such amount collected from the consumers through their bills.

Only consumer groups with established and proven track record for last at least 5 to 10 years and authorised to represent consumer cause before the regulator can be considered for such funding. Such consumer groups will also be required to file proper audited returns showing utilisation of such funds to the satisfaction of the Regulator.

## **Effective Consumer Representation – A Way Forward**

Having seen various problems which prevent a large number of consumer bodies from making effective consumer representation before various authorities and also having discussed the possible solutions, what should be the way forward to ensure effective consumer representation in coming years.

1. The consumer groups have to realize that consumer representation before regulators or any other government authorities is going to assume considerable importance in coming years.
2. Consumer groups will have to decide their specific areas/issues to handle, based on their own interest, availability of the competent persons within the group, need of the society,
3. Consumer groups must explore ways and means of adequate funding from Governments' Consumer Welfare Fund or from some funding agencies.
4. Consumer bodies must also explore possibilities of the consumers of public/private utilities such as electricity, telecom, banking, insurance, transport, etc. contributing a small amount per consumer through such utilities and making it available to recognised consumer groups to take care of their activists/volunteers in terms of honorarium, study material, training facilities etc.
5. Consumer bodies must share know-how and expertise among various consumer groups.
6. Efforts must be made to create a permanent infrastructure for training and educating volunteers of consumer groups to make effective consumer representation before various authorities.
7. Serious efforts must be made to ensure that the machinery of Consumer Protection Councils at District, State and National level under the COPRA is active and effective.
8. Interaction with elected representatives including Ministers and government officials must be improved in order to make consumers' voice heard in the process of policy making and decision making.
9. All out efforts are necessary to ensure that Consumer Courts under the COPRA work efficiently and in a consumer-friendly manner.
10. It must be remembered that Right to Representation is an important right for consumers. Indian laws are increasingly recognising this fact and are providing for such consumer representations before various regulatory authorities. However, consumer bodies need to gear up to accept this challenge by taking timely steps to train their volunteers/activists for ensuring effective representation of consumer cause.



# 8

## Right to Healthy Environment

– Roopa Vajpeyi

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### Introduction

The Right to Healthy Environment, emerged as one of the Consumer Rights as an afterthought because earlier the safety of the environment was perhaps never in question. One of the concerning aspects of a thriving urban environment is disconnect between consumers and the environment. It is not that human dependence on nature and its resources has been reduced, replaced or obliterated, but it has certainly been rendered almost invisible, submerging its vital connectivity to human life, under man-made scientific and technological constructs dominating urban lives.

For average consumers, attributes of a natural environment are not in the forefront of their consciousness, especially for those who are born and brought up in an urban environment. For urban population, science, technology and the parallel man-made constructs, have aggressively occupied all aspects of consumer lives. What directs, and rules day to day consumption in urban spaces is the dependence of consumers on the markets.

The need for environmental conservation is seen as a necessary defence against deteriorating quality of life world-wide. Most consumers are victims of contamination in food and water supply, which are pesticide-ridden. They also have to suffer the choking exhaust fumes emitting from vehicles.

Valuable resources and man-days are lost due to living conditions in a polluted environment. Consumers need to understand that only a safe environment can safeguard their consumer rights. If consumers were to take a close look at their immediate surroundings and consumption patterns, they would find that they, themselves, are responsible for causing environmental pollution to a large extent. For instance, use of the hundred cleaning aids and a lot of non-biodegradable packaging is responsible for environmental problems like water pollution, soil pollution and waste disposal.

On the other hand, rural consumers are invariably closer to their environment than urban consumers are. Rural life revolves around natural resources. For them, dependence on the environment ensures that they have a stake in its preservation, whether it is for building their houses, obtaining fodder for their cattle, or their other daily consumption needs.

### International Standards Safeguarding Right to Health and Safe Environment

Legal documents, both international and national, endorse principles for protecting the environment. Principle 1 of the Stockholm Declaration, adopted during the 1972 United Nations Conference on the Human Environment states that humanity bears a solemn responsibility

to protect and improve the environment for present and future generations.<sup>1</sup> 20 years later, the Rio Declaration reinforced this concept of owing a duty to all people, both today and in future, saying, “The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”<sup>2</sup>

These declarations and conventions exemplify how international law has embraced the principle of protecting the environment. Domestic law from a variety of countries also enshrines the need to protect environment. Some nations have already included protection for environment in their constitutions.

Consumers International (a nodal agency of consumer organisations from all over the world) has made certain guidelines for ensuring consumers’ right to safe environment. Consumers should be protected from environmental pollution by:

- Promoting the use of environmentally sustainable products.
- Encouraging recycling.
- Environmentally dangerous products to carry appropriate warnings and instructions for safe use and disposal.

Promote the use of non-toxic products by:

- Raising consumer awareness of alternatives to toxic products.
- Establishing procedures to ensure that products banned overseas do not enter national markets.
- Ensure that the social impacts of pollution are minimised.
- Promote ethical, socially and environmentally responsible practices by producers and suppliers of goods and services.

## **Framework of UN Guidelines: Indian Consumer**

Consumers reign over the economy as sovereign rulers, as the sole purpose of production is consumption, and the rationale of economic planning is to allocate resources to fulfil consumer needs. This leads directly to the idea of consumer sovereignty – Consumer is the King! There is logical, moral and political force in the proposition that the right person to make decisions about the allocation of resources to one’s respective needs is the consumer.

However, according to the economist, John Kenneth Galbraith – “It is not the consumer who is the king, but the large corporation is the king in the economy”. Whatever happens is not because the consumer wants it that way, but simply since powerful large corporations prefer it that way. It is unfortunate, that the reality in India and in most developing countries, that marketplace distortions exist and consumers are taken for granted”.

Taking into count the interests and needs of customers in all countries, particularly in developing countries, realising that consumers often face imbalances in economic terms, educational levels and bargaining power, and bearing in mind that consumers should have the right to access non-hazardous products, as well as the right to promote equitable and sustainable economic and social development and environmental protection; the United Nations General Assembly adopted Guidelines for Consumer Protection on April 09, 1985 (the General Assembly Resolution 39/248). India is a signatory to the Guidelines. On the consumer’s right to healthy environment, the Guidelines limit their recommendations to environmental issues related to the use/misuse of pesticides and chemicals. However, India has a comprehensive legislation enshrined in its Environment Protection Act, 1986 and specific laws covering other aspects like air and water pollution etc.

## **Right to Healthy Environment: Legislative Framework in India**

The underlying principle of the right to healthy environment is the optimum production and utilisation of goods and services in ecologically sound manner and how consumers can have access to the right to healthy environment through redress and information. However, the legal framework of this right is quite complicated, therefore the issue has to be approached both from qualitative and quantitative stand point.

Article 21 of the constitution requires the state, inter alia (among other things), to protect life, which is constructed as including the right to a healthy and safe environment i.e. the government should adopt measures relating to use, production and storage of pesticides and chemicals; secondly the government should ensure the inclusion of health and environmental information in labelling of pesticides and chemicals. The guidelines do not specifically talk about sustainable production and consumption.

The guidelines are under review now. A separate section on promotion of sustainable consumption is added into it. Sustainable consumption as defined in the guidelines states – ‘meeting the needs of the present and future generations for goods and services in a way which is economically, socially and environmentally sustainable.’

Moreover, the Directive Principles of State Policy direct the state to attempt to protect and improve the environment, forests and wild life. Also the constitution, under article 51 A(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 eco labelling etc.

Several acts relevant to environmental protection have been enacted so far. These 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
- The Delhi Prohibition of Smoking and Non-smokers Health Protection Act, 1996
- The National Environmental Appellate Authority Act, 1997
- Protection of Plant Varieties and Farmer Rights Act, 2001
- The Biological Diversity Act, 2002

## **Right to Healthy Environment: The Indian Scenario**

In India, there is a comprehensive law with respect to the healthy environment – The Environmental Protection Act, 1986. The Act provides the guidelines for the management of hazardous wastes etc. for example: safety report, safety audit etc. However, when it comes to implementation, the effectiveness of this law gets diluted.

The reasons for this dilution are:

- The multiplicity of laws, which in turn leads to multiplicity of administrative mechanisms and hence there is complexity in implications.
- Furthermore the lack of implementation is highlighted due to the confusion of interpretation in legislation (judiciary).
- The third important reason is the lack of consumer awareness regarding the hazardous nature of pesticides and chemicals.
- Ineffective training or access to right to consumer education on the part of the people – responsible for ensuring healthy environment.

## The Way Out

Consumer protection in India has a dual aspect; firstly it has to ensure the availability and access to the basic needs of life on one hand. Secondly, those with the purchasing power need to be protected against violation of the rest of their consumer rights because the market exploits their casual attitude towards their purchase decisions for example: their right to information and right to safety. Most consumers do not read labels carefully to get information about the product at the time of purchase. Their decisions are mostly driven by convenience and dependence on advertisements.

The objectives are perhaps achievable, if the following measures are adopted:

- Strengthen legislation relating to regulation and control of pesticides and chemicals including preventative and compensatory provisions.
- Mandatory labelling and education programmes obliging manufacturers to notify hazards to government and users.
- Sensitisation of manufacturers and users of pesticides and chemicals.
- International co-operation in regulation of trade in banned / severely restricted pesticides and chemicals.

## Sustainable Consumption: Challenges and Opportunities

Changes in economic conditions as populations urbanise, and as their rising income levels result in a marked shift in the Indian middle class consumption behaviour.

Sustainable consumption and production is an important facet of sustainable development, which depends on achieving long-term economic growth consistent with environmental and social needs, as well as for ensuring the consumers' right to a safe and healthy environment.

### What is Sustainable Consumption?

Sustainability is defined as “meeting the need of present without compromising the need of future”. Sustainable consumption includes meeting the needs of present and future generations for goods and services in ways that are economically, socially and environmentally sustainable (United Nations, 1995).

Many definitions of sustainability exist. Elkington (1998) defined triple bottom line of sustainability as: economical, social and environmental. In the earth summit at Rio de Janeiro in 1992, 143 nations of the world signed the ‘Earth Summit Treaty’ in order to provide recognition to sustainable development and consumption. Rio (1992) Summit, Kyoto (2001) Summit, and Copenhagen (2009) Summit have continued the dialogue, leading to international agreements and national laws for the sustainability. Research in the area of sustainability has become an ongoing process.

Mohd Nishat Faisal, (2010), proposed practices like environment friendly packaging, (return of end-of-life and used products to the producer), as well as the eco-friendly handling of these returns by the way of recycling, re-manufacturing and adequate waste disposal which have all assumed importance. Further, issues like product design, manufacturing by-products produced during use, product life extension, product end-of-life and resulting recovery processes may not form the core activities of the supply chain management. These still have a considerable impact on overall sustainability of a supply chain. All these issues need to be taken into account for building an integrated approach.

## **Linkages between Sustainable Consumption and Production**

In this study, the word sustainable refers to both environmental (pollution, waste, resource use) and social (health, welfare) characteristics of products. It focuses on consumption by households and government. It discusses government's tools and instruments (such as standards, taxes, subsidies, communication campaigns, education) that have been put in place to encourage sustainable consumption.

It is common to think of production and consumption as discrete stages in a product's life cycle chain, with production (an industrial activity) preceding consumption (a domestic activity). However, production and consumption are inextricably interwoven. All production consumes resources and energy to produce something needed or to be consumed. Consumption requires consumers to not only demand ecologically safe products but also handle and dispose products in a responsible manner.

In order to provide recognition to sustainable consumption and development, Rio (1992) summit, Kyoto (2001) summit and Copenhagen (2009) summit have continued the dialogue leading to international agreements and national laws for the sustainability. United Nations has also framed Global Compact (UNGC) Programme based on the world's largest corporate citizenship initiative aiming for more sustainable and inclusive world economy. It was supported by over 4000 participants in over 100 countries. It includes many of the world's most famous companies such as Coca Cola, Levis' Strauss, Nestle, Microsoft and many more. Companies from all over the world report their progress on implementing the ten Global Compact principles. This concept is increasing in India too as many Indian companies like Tata Motors, ITC and ONGC are publishing sustainability reports.<sup>3</sup>

Promoting sustainable consumption is equally important to limit negative environment and social externalities and to create and provide a market for sustainable products. Most government policies focus on stemming the environmental impacts of unsustainable industrial production practices, primarily through regulations and taxes.

The trend towards considering the social dimensions of sustainable consumption has led to more attention on how products are produced while using environment as a resource. Today, consumers are increasingly concerned not only with polluting or health effects associated with consumption, but also the impacts that consumption may have on the factors of production including workers and resources. A 'life cycle' or 'cradle to grave' or 'farm to fork' approach is now inbuilt into production and consumption. As a result, sustainable consumption policies and initiatives are broadening to take into account the effects of manufacturing processes and the provision of goods and services as well as consumption realities on all stakeholders.

Exponential growth of industries and globalisation has led to the growth of multinationals, as their production processes are profit-driven and exploitative of environmental resources. Conservation of environmental resources is becoming important for consumers as well as corporates across the world. Keeping this in view, responsible behaviour is expected from all stakeholders to protect the environment.

## **Challenges of Implementing Sustainable Consumption in India**

In India, there has been a significant growth in consumer spending in recent years. Reports indicate that India is one of the fastest growing consumer markets in the world and the consumer confidence in Indian markets is the highest among the world markets. This growth has been fuelled by multiple factors such as rapid growth in Gross Domestic Product (GDP) and growth

conducive change in demographics like – higher number of people under 30 years of age and a rising middle class, changing consumption habits of people, increasing urbanisation as well as higher purchasing power in urban and rural areas, due to planned expenditure in developmental activities.

This is, however, yet to translate into a substantial market for green goods, which even now remain at a significantly low level. There are multiple challenges in the path of sustainable consumption. These could be broadly categorised into – demographic, economic, socio-cultural and political factors (Hoffman, 2005). These factors are discussed next.

### *Demographic Factors*

The global economy is exceeding the sustainable carrying capacity of the planet. This ‘ecological overshoot’ is being driven by the escalation and expansion of market dependant urban consumer lifestyles, which are highly resource and energy intensive. It is now commonplace to acknowledge that humankind would need more than five planets the size of our earth, if western-style lifestyle is universalised.<sup>4</sup> With the global population expected to reach 9 billion by mid century, it is increasingly clear that these high consumption lifestyles are unsustainable and certainly not universalisable.

In the 20<sup>th</sup> century, population of India increased 5 times, as compared to 3 times for whole world population. India needs unlimited resources to fulfil the demands of its huge population. Conservation initiatives adopted by the government do not match the need of increasing population which is migrating to urban areas at an ever accelerating speed. Urbanisation or the physical growth of urban areas is a result of rural migration or suburban concentration into cities, particularly the very largest ones. According to a United Nations estimate, half of the world’s population would live in urban areas at the end of 2008.

Post Independence India witnessed a surge in urbanisation due to adoption of mixed system of economy by the country. This also gave rise to the development of private sector. Population residing in urban areas in India, according to 1901 census, was 11.4 percent. This count increased to 28.53 percent according to 2001 census, and crossed 30 percent as per 2011 census, standing at 31.16 percent. According to a survey by UN State of the World Population report in 2007, about 40.76 percent of country’s population is expected to reside in urban areas by 2030.

### *Economic Factors*

Production and consumption of environment friendly goods in India is constrained due to various factors, which impede sustainability.

Production of green goods requires (a) raw materials which are organic, locally produced or environment friendly; (b) green energy-based technology; and (c) waste treatment plants. Even though there are indications that there are impressive changes taking place, the outlined factors are yet to be embedded fully with in the production processes in India.

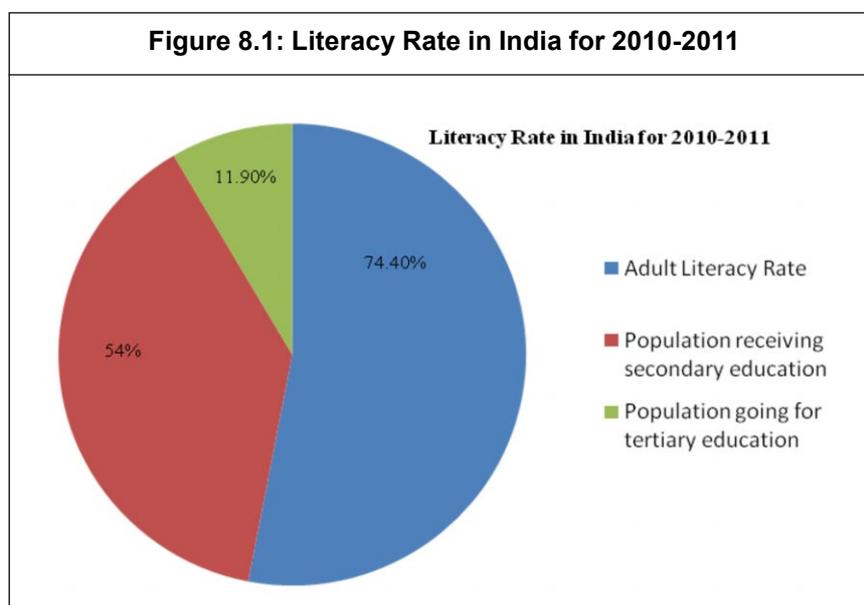
There remain two main challenges: firstly, the problem of availability and acquisition of green/organic raw material and technology. This is a critical challenge for the producers in developing countries like India given the resource constraint, restricting the level of research and development (R&D) and issues, arising from transfer of technology from other nations.

Second and more important challenge is the high cost of production of green goods since the inputs (raw material and technology) invariably cost more than the ones used for non-green variants. These cost differentials between green and non-green goods are known as Environmental

Premium. Higher the cost, greater will be the premium involved and higher will be the producer's risk. The consumers also face certain constraints, which are decisive in their choice of green goods. It is to be noted that these obstacles are interlinked. A major challenge arises from the environmental premium (higher price of green goods). Given the income constraint, consumers prefer to purchase goods which give them higher utility at the lowest price. Evaluation of utility from physical consumption of environmental goods at present is at a disadvantage to satisfy the condition, since the price is higher than non-green variant, which provide equivalent utility.

### *Socio-cultural Factors*

Consumption behaviour is based on socio-cultural factors like reference group, social status, religion, beliefs, education, laws and infrastructure, among others. Combined effects of these factors pose limitations to sustainable consumption in India. Education has significant influence on the consumption behaviour of individuals and households. Literate and educated consumers understand the linkages between human consumption and environment better. With higher level of education, it is easier to propagate sustainable consumption through development of an understanding of the environmental impacts of current pattern of consumption.



In case of education, it is observed that though the adult literacy rate in India for 2010-2011 is 74.4 percent, but statistics show lower intensity with only about 54.0 percent of the population receiving secondary education and a mere 11.9 percent going for tertiary education.<sup>5</sup> Low literacy rate in India has become a major factor inhibiting sustainable consumption in the country.

However, when talking about educating the Indian consumer in sustainable consumption and production, it is good to recall the advantage that consumers in India (rural/illiterate etc.) have due to their access to their traditional knowledge formats, both in rural and urban environments.

The Indian consumers' present lifestyle is a unique mixture of tradition and modernity, where boundaries between education and literacy blur. Certain sections of Indian consumers might be considered 'illiterate', but none of them can be called 'uneducated'. The Indian traditional knowledge base and freely circulating good and sustainable practices in evidence amongst local and indigenous populations have helped retain the greenest consumer position for Indians, in international surveys.

Ways and means must be found to circulate and perpetuate those time-tested practices, honed in the lab of everyday life, across diverse natural environments by the people themselves. As migrations intensify and people are forced to move in search of livelihoods, they are disconnected from their local sustainable strategies. Now a kind of churning of these traditional regional practices is happening in urban areas, where regional populations live in close proximity with each other and continue to exchange, share and circulate their knowledge base with their urban neighbours.

India has a long tradition of prudent use and wise conservation of all resources that are useful to people. Forests have been the lifelines for forest-dwelling communities since ancient times. One method for conservation of this green resource was the creation of sacred groves, usually dedicated to a local deity. A traditional means of biodiversity conservation, these groves can be considered the ancient equivalent of natural sanctuaries where all forms of living creatures are given protection by a god. No one is permitted to cut any tree or plant, kill animals and birds, or harm any form of life in this area. Ancient Indian texts have many references to sacred groves, for example, Kalidaasa's *Vikramorvashiyam*.

Today, there are only about 1000 square kilometres of undisturbed sacred groves, scattered in patches all over the country. Only the groves in the remote and inaccessible areas remain untouched. While religious taboo protected the groves near towns earlier, today they are protected with the means of barbed wire fencing or hedges.

The decline of sacred groves can be attributed to the change in social values and religious beliefs as a result of modernisation and urbanisation. The expansion of the market economy, which places heavy demand on resources such as timber, is another major cause.

Sacred groves vary in size from a few trees to dense forests covering vast tracts of land. These groves are important today as they are banks of genetic and plant diversity that have to be preserved and sustained. These areas often contain species that have disappeared from the regions outside the grove. The extent groves are proof that the forests exist not only because there are regulations but also because there are traditions.

Another important aspect is the legal framework for promotion of sustainable consumption. India, like most other countries, does not have the law to address sustainability on the demand side. However, there are only few, mostly voluntary regulations which regulate the production processes and supply chains of goods to ensure least possible harm to the environment. Along with this, the infrastructure required to ensure access of consumers to goods promoting sustainable consumption are lacking.

### ***Political Factors***

Political factors are one of the most important determinants of economic and social policies of the government, which in turn shape consumption and production patterns in the country (*Spaargaren, 2003*). Usually in a democratic country like India with a significant segment of the population below the poverty line, political decisions are based on ground level realities, which often work against the sustainability approach. Since the launch of economic reforms programmes in 1990, Indian approach has been to give priority to economic growth. However, in the recent periods, things have started changing and increased importance is being given to ingrain sustainability in the growth (consumption and production) processes.

International political forces play an important role in the promotion of sustainability, since international negotiations and protocols also regulate national government's efforts for

sustainability. However, nations often seek to protect the growth agenda of their own country rather than maintain or pursue a global and holistic approach at international negotiations. As a result, promotion of sustainability may not get the expected positive response due to the attempts to protect domestic interests.

India could reinforce and support the advantage it has in advance, the existing and prevalent sustainable regional strategies of its different population segments. These strategies are localised in their sustainable resource use, and widely practiced. Regional food traditions, Textile (weaving) traditions, handicrafts, which are need based as well as employment generating, and farming and cattle raising practices, are all part of our tradition. Instead of aggressively promoting imported lifestyles and products into rural hinterlands, India needs to support these strategies and take initiatives to recognise their relevance to the promotion of sustainability.

Urban consumers need to be sensitised to acknowledge the advantage in limiting their waste profiles so that resources at the rural end can be conserved to meet the needs of rural consumers. Forests and water bodies are what sustain rural life-styles but these are exploited extensively to support unsustainable urban life-styles. Policies and strategies seeking to balance both are required.

### **Opportunities for Sustainable Consumption**

Opportunities for sustainable consumption exist within various agencies and the tools available to them. For example, the role of government and NGOs in sustainable consumption is important to promote it through environmental education and public awareness campaigns sponsored by the Centre and state governments and advocacy groups (*Marten, et.al., 2005*). In several areas, desirable limits and standards for consumption need to be established and applied through appropriate mechanisms including education, incentives and legislation. Development decisions regarding technology and infrastructure are a major determinant of consumption patterns. In India we have the Bureau of Energy Efficiency, which was set up in March 2002 under the provisions of Energy Conservation Act of 2001 to provide a legal framework for the government's energy efficiency initiatives in the country. At present energy consumption in residential buildings is 116 billion units *vis-à-vis* in commercial buildings, it is 33 billion units.

#### ***Technology***

In modern societies technology is present everywhere. Technology includes skills, processes, technical methods, tools and raw-materials and has both positive and negative effects. Most technologies were designed first for economic advancement, without considering ecology or the environment. In future, the ecology and the post purchase use and disposal of products would become an important tool in the design of new technologies like low energy houses and energy efficient fuel efficient cars, etc. The designing of products and their processing can be done by improved technology for making them environment friendly.

#### ***Changing Mindset***

Sustainable consumption asks us to consider issues that go beyond the individual when shopping. These include not only the ecological impacts of what we buy but also the equity, human rights and political dimensions of sustainability in the production and consumption processes (*Rifkin, 2002*). These aspects of sustainable consumption provide guidelines on how to reduce the social and ecological impacts of what we consume.

For example, e-shopping sites in India such as [www.ebay.com](http://www.ebay.com); [www.naaptol.com](http://www.naaptol.com); [www.window2india.com](http://www.window2india.com), provide shopping products at different prices and quality as well as list criteria for consideration while purchasing items of everyday use such as chocolates, sports shoes, laundry detergents, soft drinks, paper rolls, clothing, retail and grocery items and so on.

Guidelines such as these are not designed to make us feel guilty, but to encourage us to take decisions like: Do I really need this item? And, when we decide to buy something, we think critically about each stage in the life-cycle of a product i.e. production, retailing, use and disposal.

## **Conclusion**

Today consumer is aware of the problem but does not know what actions an individual can take towards sustainable consumption. The question is: what concrete steps can be taken by Government, the corporate sector and consumers?

By working together with civil society organisations, the government, corporate sector and consumers can be persuaded that they can have a positive inclusion in sustainable development and take steps to mitigate the impact of climate change on consumer lives globally.

Today, consumer lifestyles appear to be the most powerful factor that has shaped and is continuing to shape unsustainable consumption. Therefore, any effort to address the issue calls for an improvement or transformation in the existing consumption pattern. Consumer lifestyle can be improved by reduction in overall consumption and waste generation; and secondly, consumption of goods which have lower environmental impact .i.e. green goods. Rising purchasing power and multiplying human population create practical difficulty for the first method (Technology) to follow. The second method (Changing mindset) is thus, more feasible and might have a higher probability of success.

## **Environment and Indian Middle Class**

India is one of the world's largest economies, Indian lifestyle have undergone a drastic change from simple and frugal living in the four decades of post independence years to a high consumption lifestyle, presently comparable to rich countries like US and European Union.

According to research released by Mckinsey Global Institute:

- India is truly shining. In the last 20 years, extreme rural poverty has declined from 94 percent to 61 percent.
- 46 percent households' income exceeding ₹90,000 a year creating a huge middle class that is concentrated in Indian cities.
- In year 2005, private spending reached about ₹17 trillion, accounting for more than 60 percent of India's GDP.
- Earnings in India are supposed to triple over the next 20 years and India's wealthiest citizens will be approx. 24 million.

### **India's Contribution in Environmental Damage**

Taking a fresh look at the newfound economic freedom, (a major cause of environmental destruction in India and elsewhere), has now become mandatory. In year 2000, India was responsible for 1.8 billion tonnes of carbon-dioxide, which was 5.6 percent of the world's total emission. Energy consumption of 1.22 billion is expected to quadruple over the next 25 years which will inevitably increase India's emission of greenhouse gases.

India stands at number four as a world-class polluter, having recently overtaken Japan, hence is contributing to the global warming. The latest news about global warming, reveal that the continent of Antarctica is warming up like the rest of the world. A report given by BBC news has concluded that the eastern region of the continent, which is larger and colder than the western portion, is warming at 1.0C per decade – faster than the global average.

## *Different Types of Pollutions and Potential Remedies Pertaining to India's Contribution to Environmental Damage*

(a) **Air Pollution:** India has the worst air pollution in the entire world, beating China, Pakistan, Nepal and Bangladesh, according to a study released during this year's World Economic Forum in Davos. Of 132 countries whose environments were surveyed, India ranks last in 'Air quality and its effects on human health'. The annual study, the Environmental Performance Index, is conducted and written by environmental research centres at Yale and Columbia universities with assistance from dozens of outside scientists. The study uses satellite data to measure air pollution concentrations.

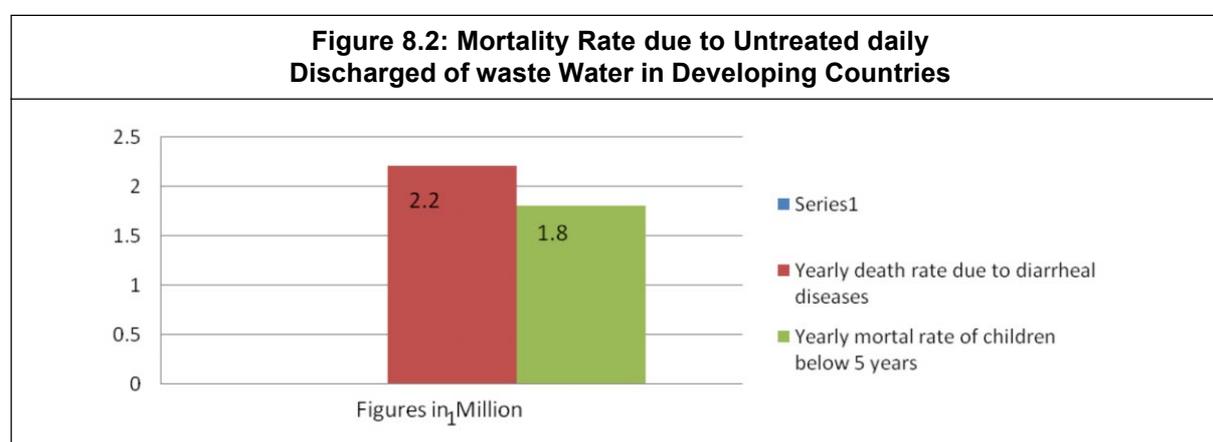
The four reasons of air pollution are - emissions from vehicles, thermal power plants, industries and refineries. The problem of indoor air pollution in rural areas and urban slums has increased. Middle class urban homes have shown an increasing dependence on electronic gadgets, thus making the indoor and outdoor environment highly polluted.

(b) **Coal Pollution:** India's environmental problems are exacerbated by its heavy reliance on coal for power generation. "More than 80 percent of energy is produced from coal, a fuel that emits a high amount of carbon and greenhouse gases." Coal pollution kills more than 300,000 people every year. Andhra Pradesh, the coastal state of eastern India is experiencing a coal-plant construction boom, including the 4,000-MW Krishnapatnam Ultra Mega Power Project, one of nine such massive projects in planning or under construction across the country.

On April 12, 2011 the Ministry of Environment and Forests (MoEF) has tightened pollution monitoring norms for power projects with a generation capacity of 500 MW and above, integrated steel plants with a capacity of 1 million tonnes per annum and cement plants with a capacity of 3 million tonnes per annum.

(c) **River Water Pollution:** Contaminated and polluted water now kills more people than all forms of violence including wars, according to a United Nations report released on March 22, 2010 on World Water Day that calls for turning unsanitary wastewater into an environmentally safe economic resource.

According to the report titled "Sick Water"?, 90 percent of waste water discharged daily in developing countries is untreated, contributing to the deaths of some 2.2 million people a year from diarrheal diseases caused by unsafe drinking water and poor hygiene. At least 1.8 million children (younger than 5 years of age), die every year, from water-related diseases.

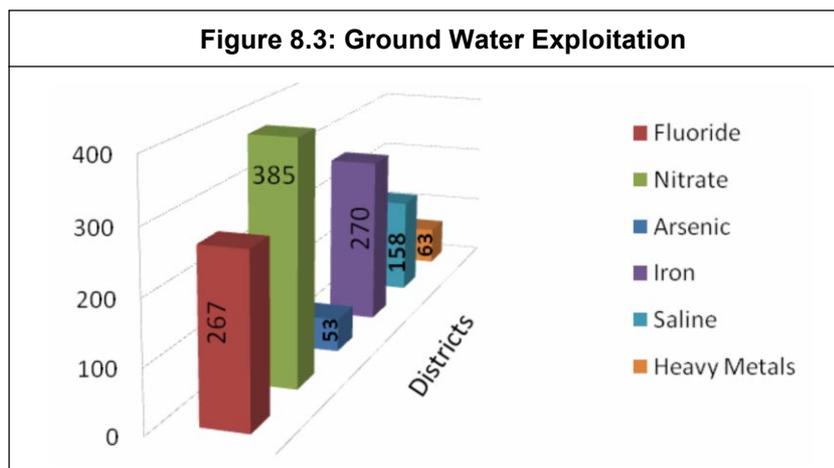


80 percent of urban waste in India ends up in the country's rivers, and unchecked urban growth across the country combined with poor governance means the problem is only getting worse. A growing number of bodies of water in India are unfit for human use. New Delhi's body of water is little more than a flowing garbage dump, with 57 percent of the city's waste finding its way to the river Yamuna, with three billion litres of waste being pumped into it each day.

### Potential Remedies

The most essential among all the natural resources on earth is water. Water conservation is the most effective and environmentally sound method to fight global warming and can reduce the scarcity of water. A step to conserve water is the step to secure the future, it aims to improve the efficiency of use the water and reduce losses and wastage. The consumer shall have complete responsibility for the installation and maintenance of water facilities beyond the point of the service connection. Few tips consumers should follow to save water are:

- Avoid leakage of water from the taps.
- Turn the taps off when not in use, especially while brushing teeth or washing clothes.
- Rainwater harvesting is a good method to conserve water.
- Check the leakage of water in the toilets and also check the hidden water leaks.
- Educate people in rural areas to save water.
- Avoid unnecessary flushing of the toilets. Dispose of the tissues, cigarettes and other waste into the bin instead of toilets.
- Water your lawn only when it is needed.
- Use the broom instead of hose to clean the sidewalks or to wash the car.
- Install small shower heads to reduce the flow of water.



**Drinking Water Issues:** out of 639 districts, 158 districts have water saline in their pockets. In 267 districts, groundwater contains excess fluoride; 385 districts have nitrates in excess; 53 contain arsenic and 63 districts contain heavy metals such as lead, chromium and cadmium. High levels of lead can lead to delayed physical, mental development in children and kidney problems or high BP in adults; chromium is a known carcinogen, nitrates cause 'blue baby disease' and respiratory, digestive problems in adults.<sup>6</sup>

According to the World Health Organisation on World Water Day 2011, each year, an estimated four billion people fall ill with diarrhoea as a result of drinking unsafe water, inadequate sanitation, and poor hygiene. Nearly two million people die from diarrhoea each year, and many of them children under the age of five, poor, and living in the developing world.

**(d) Plastic Pollution:** Plastic bags, plastic thin sheets and plastic wastes are also a major source of pollution. According to studies by the Plastic Development Council under the department of Chemicals and Petrochemicals, India will emerge as the third biggest consumer of plastics in the world by this year end. India's plastics consumption is one of the highest in the world. Yet, precious little has been done to recycle, re-use and dispose of plastic waste. Plastic bags are difficult and costly to recycle and most end up on landfill sites where they take around 300 years to photo degrade. They break down into tiny toxic particles that contaminate the soil and waterways and enter the food chain when animals accidentally ingest them.

Besides choking drains, plastics are highly toxic. When burned they release cancer-causing gases. Lying in the garbage, polythene bags also find their way in gut of cattle, asphyxiating the animals. The cheap bags contain chemicals such as cadmium- or lead- based chemicals that are harmful to health. They leach into vegetables, meat and food.

### What is the Solution?

The vast majority of plastics consumed by society are not recovered or recycled. We must demand zero tolerance for plastic pollution. Reducing our consumption of plastic waste, and choosing cost-effective alternatives will go a long way towards protecting our seas and ultimately ourselves by initiating few measures:

- Replace plastic water bottles, cups, cutting boards and food containers with glass, bamboo, cloth, wooden, ceramic and stainless steel products.
- Eat and cook with fresh foods rather than canned foods.
- Especially limit your use of plastics if you are pregnant and/or have young children who are at a greater risk since they are still developing.
- Find a food store where you can get your fresh produce and meat wrapped in paper, rather than plastic.
- Use aluminium foil to wrap food rather than plastic cling wrap.
- Bring your own bags whenever you shop, not just for the supermarket. By bringing your own bag, you alone can save between 400 and 600 plastic bags per year.
- Do not use plastic containers or bottles with the recycling numbers 3 (Polyvinyl Chloride, PVC), 6 (Polystyrene, PS), and 7 (Other), which can be found on the bottom of the containers.
- Do not microwave plastic containers.
- Do not wash plastic containers in the dishwasher. If plastics are being used, wash by hand with warm water.
- Do not use harsh chemical detergents on plastic products.
- Do not use plastics that are old, worn, and scratched.
- Do not forget that children and adults can ingest small amounts of BPA when drinking/eating from cups or containers with the chemical.

**(e) Municipal Solid Waste:** India's urban population slated to increase from the current 330 million to about 600 million by 2030, the challenge of managing municipal solid waste (MSW) in an environmentally and economically sustainable manner is bound to assume gigantic proportions. The country has over 5,000 cities and towns, which generate about 40 million tonnes of MSW per year today. Going by estimates of The Energy & Resources Institute (TERI), this could well touch 260 million tonnes per year by 2047.

Municipal solid waste is solid waste generated by households, commercial establishments and offices and does not include the industrial or agricultural waste. Municipal Solid Waste (MSW) Management is more of an administrative and institutional mechanism failure problem rather than a technological one. Until now, MSW has been considered to be almost the sole responsibility of urban governments, without the participation of citizens and other stakeholders.

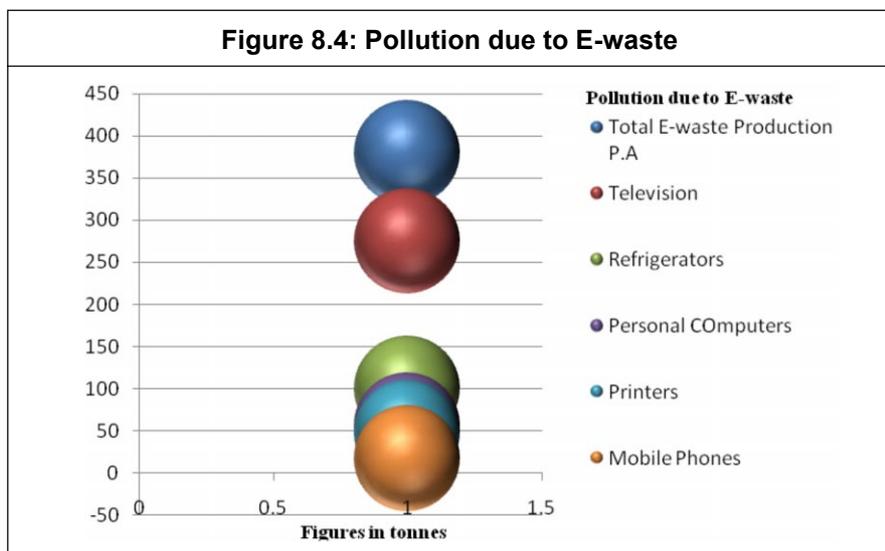
**(f) Pollution Due to Bio-Medical Waste:** Pollution due to biomedical waste is likely to spread diseases, dangerous to life and rendering atmosphere noxious to health. In early April, 2010 a machine from Delhi University containing cobalt-60, a radioactive metal used for radiotherapy in hospitals, ended up in a scrap yard in the city. The death from radiation poisoning of a scrap yard worker in Delhi has highlighted the lax enforcement of waste disposal laws in India.

India is also being used as a dumping ground for hazardous waste from foreign countries. Twenty containers with goods were detained by the officials of Special Intelligence and Investigation Branch attached to the Customs Department recently. Investigations revealed that the consignment in 11 containers was imported from Greece and nine more containers from Reunion, one of the colonies of France, by a firm in Sivakasi, Virudhu Nagar district. The goods in all, totally weighing about 470 tonnes, were declared as waste papers, municipal waste, medical waste and plastic waste. As the goods appeared to have been imported in violation of the hazardous waste (management, handling and trans-boundary movement) Rules, 2009, the officials detained the goods.<sup>7</sup>

Household waste including packs of broken toys, used diapers, empty perfume bottles, used battery cells, thermocol, used aluminium foil packing materials and coloured surgical gloves were found in the containers.

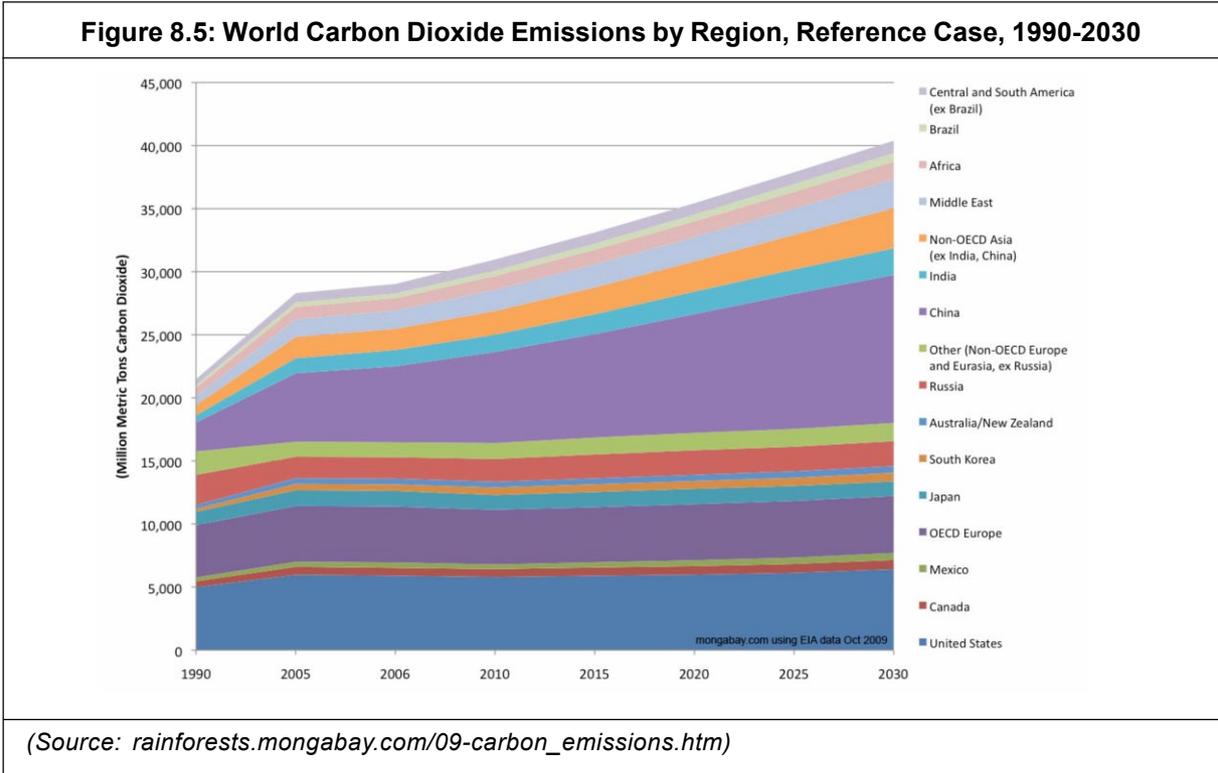
**(g) Pollution Due to E-Waste:** A UN environmental conference in Cartagena, Colombia, attended by more than 170 countries in October 2011, has agreed to accelerate a global ban on the export of hazardous waste, including old electronics, discarded computers and mobile phones, from developed to developing countries. Environmental campaigners, who have been battling to broker a deal on the dumping of toxic waste for more than 20 years, said they were “ecstatic” about this “major breakthrough”. “All forms of hazardous waste including that sent for recycling to obsolete electronic waste, will be banned from leaving wealthy countries destined for developing countries.”

India produces about 3,80,000 tonnes of e-Waste per annum, which includes only the waste generated out of television sets, mobile phones and PCs, a major chunk of which comes from organisations. E-waste produced in India includes over 100,000 tonnes from refrigerators, 275,000 tonnes from TVs, 56,300 tonnes from personal computers, 4,700 tonnes from printers and 1,700 tonnes from mobile phones. The un-organised recycling sector which fails to practice eco-friendly e-Waste recycling methods release large amount of toxic chemicals.<sup>8</sup>



**(h) Green House Gas Emissions:** India emits the third most carbon of any country in the world. At 253 million metric tons, only the US, China, Russia, and Japan surpassed its level of carbon emissions in 1998. Carbon emissions have grown nine-fold over the past forty years. In this Industrial Age, with the ever-expanding consumption of hydrocarbon fuels and the resultant increase in carbon dioxide emissions, greenhouse gas concentration have reached levels causing climate change. Going forward, carbon emissions are forecast to grow 3.2 percent per annum until 2020.<sup>9</sup>

To put this in perspective, carbon emissions levels are estimated to increase by 3.9 percent for China and by 1.3 percent for the US. India is a non-Annex I country under the United Nations Framework Convention on green house gases and climate change.



\*According to the Energy Information Administration, after China and the US, among major polluters only India is expected to have significant growth of emissions over the next 20 years. India’s greenhouse gas (GHG) emissions rose 4.2 percent to 1301.21 million tonne in 2000 compared with 1994 levels and the GHG profile for the year 2007 is estimated to be of the order of 1771.66 million tonne carbon dioxide equivalent. These are the findings of the second national communication to the United Nations Framework Convention on Climate Change (UNFCCC) prepared by the ministry of environment and forests, towards fulfilment of the reporting obligation under the convention. The first national communication was submitted to the UNFCCC Secretariat on June 22, 2004.<sup>10</sup>

The energy sector accounted for 67.4 percent of total GHG emissions, followed by agriculture at 23.3 percent, industrial processes at 6 percent and waste sector 3.4 percent. The GHG Inventory has been reported as per the stipulated guidelines using prescribed methodologies by Intergovernmental Panel on Climate Change.<sup>11</sup>

The following is a list of few steps an individual can take to reduce greenhouse gas emissions:

### **1. Reduce, Reuse, Recycle**

Buying products with minimal packaging will help to reduce waste. By recycling half of your household waste, you can save 2,400 pounds of carbon dioxide annually.

### **2. Use Less Heat and Air Conditioning**

Adding insulation to your walls and installing weather stripping or caulking around doors and windows can lower your heating costs more than 25 percent, by reducing the amount of energy you need to heat and cool your home. Turn down the heat while you are sleeping at night or away during the day, and keep temperatures moderate at all times. Install a programmable thermostat because setting it just 2 degrees lower in winter and higher in summer could save about 2,000 pounds of carbon dioxide each year.

### **3. Replace Your Light Bulbs**

Wherever practical, replace regular light bulbs with compact florescent light (CFL) bulbs. Replacing just one 60-watt incandescent light bulb with a CFL will save you US\$30 over the life of the bulb. CFLs also last 10 times longer than incandescent bulbs, use two-thirds less energy, and give off 70 percent less heat. If every family replaced one regular light bulb with a CFL, it would eliminate 90 billion pounds of greenhouse gases, the same as taking 7.5 million cars off the road.

### **4. Drive Less and Drive Smart**

Less driving means fewer emissions. Besides saving gasoline, walking and biking are great forms of exercise. When you do drive, make sure your car is running efficiently. For example, keeping your tires properly inflated can improve your gas mileage by more than 3 percent.

### **5. Buy Energy-Efficient Products**

Home appliances now come in a range of energy-efficient models, and compact florescent bulbs are designed to provide more natural-looking light while using far less energy than standard light bulbs.

### **6. Use Less Hot Water**

Set your water heater at 120 degrees to save energy, and wrap it in an insulating blanket if it is more than 15 years old. Buy low-flow showerheads to save hot water and about 350 pounds of carbon dioxide yearly. Wash your clothes in warm or cold water to reduce your use of hot water and the energy required to produce it. That change alone can save at least 500 pounds of carbon dioxide annually in most households.

### **7. Use the “Off” Switch**

Save electricity and reduce global warming by turning off lights when you leave a room, and using only as much light as you need. And remember to turn off your television, stereo and computer when you are not using them. It is also a good idea to turn off the water when you are not using it. While brushing your teeth, shampooing the dog or washing your car, turn off the water until you actually need it for rinsing.

### **8. Plant a Tree**

If you have the means to plant a tree, start digging. Trees absorb carbon dioxide and give off oxygen. A single tree will absorb approximately one ton of carbon dioxide during its lifetime.

## 9. Encourage Others to Conserve

Share information about recycling and energy conservation with your friends, neighbours and co-workers, and take opportunities to encourage public officials to establish programmes and policies that are good for the environment.<sup>12</sup>

### Environmental Issues and Indian Middle Class

The first reason for being concerned with India's middle class in relation to environment is because, they constitute a sizeable percentage of India's population and their behaviour has a significant impact on the environment (*Gadgil and Guha, 1995; Vyas and Ratna Reddy, 1998*) and have the potential to influence manufacturers by making informed choices.

Wealthier groups, especially in urban areas make higher demands upon environmental goods and capacities through their ability to command more resources – such as per capita water and electricity, consumer products and their greater waste production including vehicle emissions and garbage (*Buch, 1993; 39, Panch, 1993*).

Second and perhaps more importantly, the middle class exert a disproportionate influence in shaping the terms of public debate on environmental issues through their strong representation in the media, politics, scientific establishments, NGOs, bureaucracy, environmental institutions and legal systems.

India has been home to a range of unique environmental movements and philosophies, from the 'Chipko' 'Tree Hugging' in Himachal Pradesh (*Guha, 1989*) to struggle against displacement and environmental damage caused by large dams such as led by the 'Narmada Bachao Andolan'. These movements have been characterised as representing an 'environmentalism of the poor', because unlike most environmental movements in the west, they have centred on issues of equity, social justice as well as sustainability. In contrast to the 'environmentalism of the rich' in the North whose concern lie with the preservation of pristine nature and wildlife, India's movements situate human society within nature and locate environmental destruction in capitalist industrialisation and contemporary modes of living.

Although middle class activists have been important participants in these movements, (which have been located primarily in rural areas and among the 'adivasis' - *Baviskar, 1995*), and most of India's theories of environmental sustainability are also drawn from the middle class, awareness of these modern critiques of development have not permeated the middle class as a whole.

The "old" middle class (different from the masses of the urban and rural poor), was not wealthy and in the context of India's 'socialist' path of development had relatively low levels of consumption.

With the introduction of economic liberalisation programmes from the late 1980s onwards, through which India became more integrated into the global economy, the markets began to be flooded with new media images and foreign consumer goods, and the consumption based middle class lifestyle being promoted through advertising and media (*Deshpande, 2003; Fernandes, 2006; Mankekar, 1999*).

With rising incomes, aspirations and purchasing power, many in the middle class could afford to pursue this new lifestyle, with consumption increasingly becoming a primary signifier of "middle-class status and identity". The increasing dominance of the 'ideology of globalising consumerism'

significantly transformed the culture of the urban middle class and the political discourses about consumption, leading to a shift from a 'developmental to consumerist vision of the nation'. (Mazzarella, 2003: 71).

### **How the 'New Middle Class' has Reshaped Consumption Practices?**

The adoption of globalised consumption habits appears to be typical of the newly rich and transnationalising middle classes, especially in Asia (Robinson & Goodman, 1996), and this has been a very visible fact in urban India over the last two decades. This can be attributed to the expansion in professional and highly paid employment, the growth of business opportunities, rising incomes and the easier availability of the wide range of consumer goods.

In cities such as Gurgaon, Noida, Bangalore and many others, the boom in urban consumption is quite visible in the mushrooming of opulent apartment complexes and upscale shopping malls, hotels and restaurants. The exponential multiplications of motor vehicles clogging the roads, the growth in foreign travel and other leisure activities have added to the problem. Consumption has become a sign of modernity and progress and as a source of self-definition and identity for the middle class appears to be highly significant. But the new consumerism cannot be simply absorbed and adopted without a critique. There is a need to examine empirical evidence on changing consumption patterns to pin down the connection between globalisation, economic growth and emergence of 'new rich class'.

With the cultural turn in the post industrial economy, the growing need for an identity, especially through consumption has become central to occupational-patterns, and workers have been reconstituted as consuming rather than a producing entity.

This process can be observed among the workers in India's new high-tech, offshore industries, and especially software industries and business process outsourcing (BPOs). The IT sector encompasses a range of high-end jobs as compared to others in equivalent occupations of similar age and educational background. The substantial purchasing power of IT professionals allows them to engage in high-levels of consumption, moreover they achieve this economic status at a very young age. Another important feature of software and IT professionals is their exposure to global lifestyles through frequent foreign assignments. Their experiences of other countries and cultures also shape their subjective choices and orientation to consumption.

The rise of the middle class has also seen the emergence of new familial patterns and realities, with working women now dominating the urban scenario. This has put a premium on time and the markets have accordingly risen to provide for this paucity with 'ready to use' and easy to dispose goods. This has produced technology/gadget dependent families with nutritional health issues and uncontrolled waste generation due to an increasing use of packaged commodities

Middle class children and teens have also emerged as separate market segments in the consumption spiral with manufacturers and markets competing to provide for their real or 'created' needs with 'more and more' consumption choices.

With additional purchasing power for every segment of urban population, increase in consumption and its harmful impact on the environment is now well recorded.

## Consumer Responsibilities

COPRA came into existence in 1986, and was amended in 2002. It provides redress to consumers when goods purchased are defective or services provided, are in some way deficient. Consumer grievances are expected to be based on ethics and rationale. There are no definitive set of consumer responsibilities except that a consumer must exercise restraint in consumption to consume responsibly.

For example, conservation of the environment cannot be forced upon consumers but a consumer must make a conscious effort to reduce consumption, choose environment-friendly alternatives and conserve energy. Consumer responsibility needs to be shouldered by different consumer segments. Every segment has its own special consumer profile and consumption patterns. These patterns define the kind of consumer responsibility that a segment must discharge.

Consumers need to tread cautiously in the market place, and while buying a product, certain set of questions ought to emerge in the buyer's mind:

- Do I really need this product?
- For how long am I likely to use it?
- What are the health fallouts of the purchased product on the self and on the environment?
- If it is a food product, what, if any, are its hazards and will the product have any health benefits?
- What about the disposal of the residual left overs and packaging.

### Consumer Responsibility towards Safe Waste Disposal

Most often we consume without sparing any thought for what's going to be left behind as waste. An increasing percentage of waste generated in urban areas today consists of non-biodegradable waste. Urban consumers are making use of plastic, paper and cardboard packaging, disposables batteries, plastic throw-away pens, use and throw nappies, empty cans etc., which are becoming a common feature of an urban dustbin. India's urban population is around 300 million.

By 2011, the total quantity of solid waste generated in urban areas is expected to cross 56 million tonnes, creating a waste management challenge for urban India. Consumers need to become accountable for their consumption patterns and their serious environmental and economic implications. In all such consumption case, consumer's responsibility evolves around the 4 R(s) of consumption (Reduce, Recycle, Refuse and Reuse) are not just a consumer's right but also his responsibility.

### Consumer Responsibility to Endorse Safer Products, i.e. Eco-labelling

Eco-friendliness is an important criterion in judging a product's feasibility. It is a way of assessing how much potential for environmental damage does a product has during its life-cycle. 'Eco-mark' is one way of knowing which products conform to environmental standards and are more environment-friendly than others. Eco-labelling is a methodology practiced by many countries in the world including India. The Indian government has formulated a scheme whereby some categories of products are awarded the 'Eco-mark' if they conform to certain standards set by the Ministry of Environment & Forests. Unfortunately, in India, the scheme has not taken off due to consumer apathy and lack of response. The market has manipulated this situation to make eco-labelling a voluntary scheme, which will allow manufacturers to disclose and cover information at will.

## **Consumer Bonding**

The consumer movement needs active participation of consumers together with the government, to build pressure on the market to deliver better quality, environmentally safe products, and to support consumer rights campaigns. Empowerment of consumers by NGOs and public campaigns is a two-way process and without continuing consumer support, no campaign can flourish. The emerging consumer 'lobbies' can become powerful players and play a game changing role in consumption choices.

By 'rejecting', 'returning' and saying 'no' to unacceptable goods and commodities, consumers can exert significant pressure to mould and change manufacturer and market behaviour. Policies like 'Recall' of products, if found unsafe or hazardous, also help. Accountability in markets can only emerge if consumers take advantage of their right to consumer education. They can do this by using social networking to communicate their decisions for rejection, return and recall of any product with other consumers.

## **Indian Cultural Beliefs and Environment Conservation through Traditional Knowledge**

Nature is a vibrant, giving and resilient entity. India, takes pride in its strong cultural heritage built upon and interwoven with its diverse geographical assets. The concern for environment is inherent in the Indian way of life since ages. Our consumers protect and nurture nature. If we take a look at the Indian way of life, we worship the sun, wind, land, trees, plants, and water which are the very base of human survival. Likewise, respect and conservation of wildlife is part of our cultural ethos from time immemorial. Further, ancient texts written in Sanskrit, Pali or other languages can provide significant details regarding such traditional beliefs. For instance, our scriptures contain some direct instructions dealing with biodiversity conservation.

An insight into Indian philosophy with regard to its sensitivity and richness on issues concerning the environment is well known but now being swept aside in the rising tide of urban consumers. Since ancient times, Indian philosophy has argued for environment oriented living. It emphasises that humans live a participatory life with the environment – they are created by the five elements of environment, i.e. fire, air, earth, water and sky and finally dissolve in those five elements.

Environment is not conceived as a physical lifeless entity, rather it is a living mechanism where humans are one part of the web of life, and it has been argued by many Indian philosophers that man being an intelligent creature should have the protection of environment as one of his fundamental duties. The fragility of the environment has also been carefully stressed in such discourses.

## **Policy Implications**

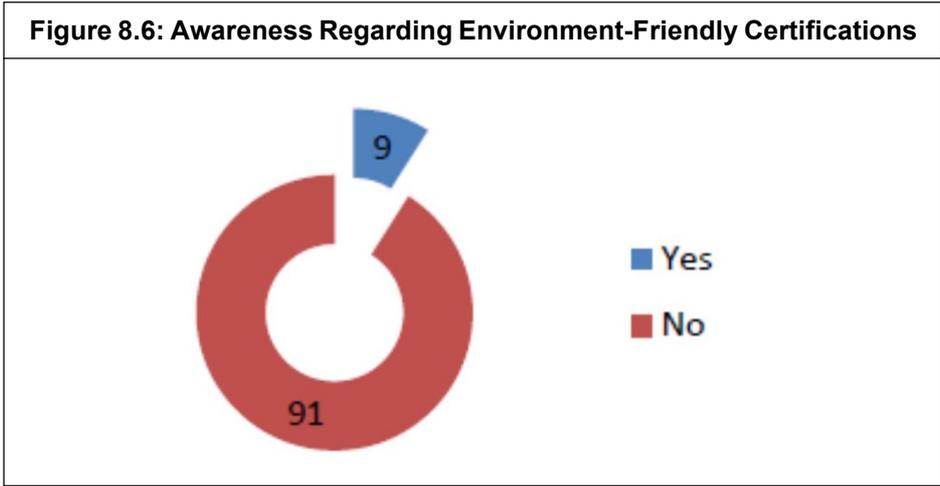
The government could take steps to preserve, protect, and promote the traditional cultures and knowledge of the indigenous people, which the related departments could coordinate to avoid overlapping as well as for smooth implementation of a particular policy. There is further need to involve related non-government organisations as at times it is easy for NGOs to interact with tribal population. Another important aspect is to sensitise and educate concerned officials at the state and local levels to understand and respect the culture. Modern science can give a broader perspective to local sustainability whereas traditional knowledge can provide in depth experience in the local context. It may be crucial that in the designated areas, customary landowners are prohibited from excessive harvesting of biological resources to protect biological diversity; however their rights to land and resources should be formally approved.

To promote alternative means of livelihood products and services, including forests and agricultural products, herbal/medicinal plants; cultural heritage or traditional health-based tourism, ecotourism, scientific tourism and handicrafts based on traditional knowledge and skills should be encouraged. Effort should be to involve indigenous people in every stage of policy and planning related to sustainable development. Finally, young people should be encouraged to learn more about the linkages between environment and their cultural heritage, inculcate tolerance and respect for other cultures and traditions.

Today, we are faced with the challenge of not only industrialisation, liberalisation and urbanisation but also to make sure that fresh air and clean water are available to our people. This is possible only through active participation both by the government and the people in resource conservation and management. This requires political will, education, and a change in the mindset of the people at large. It is good to know that our efforts at preservation of natural resources have been recognised the world over with the latest survey by National Geographic magazine listing Indians as the most environment-friendly people. But this puts an additional responsibility on Indians, that is, not only to protect, preserve and promote Indian cultural heritage and traditional knowledge, but also to lead the world in environment conservation and sustainable development through the ages.

**Survey Results<sup>13</sup>**

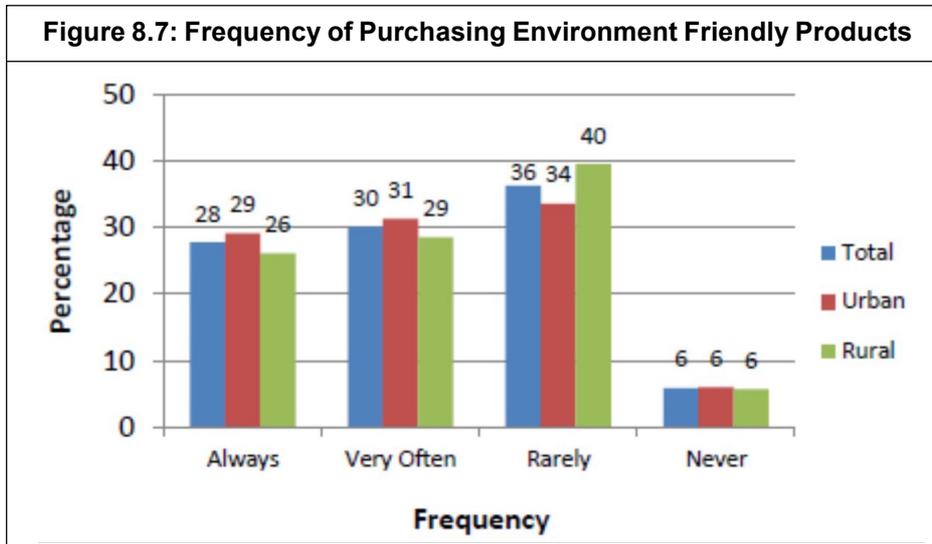
Only 13 percent respondents are aware about certifications and initiatives viz. Energy Star Rating, Bharat/Euro Emission for Automobiles, Organic Food & Natural Textiles and Recyclable Plastic etc. Awareness level is more among urban households and APL households. Awareness about such certifications is largely among residents of southern (18 percent) and northern (12 percent) region, while eastern region has lowest level of awareness (2.5 percent).



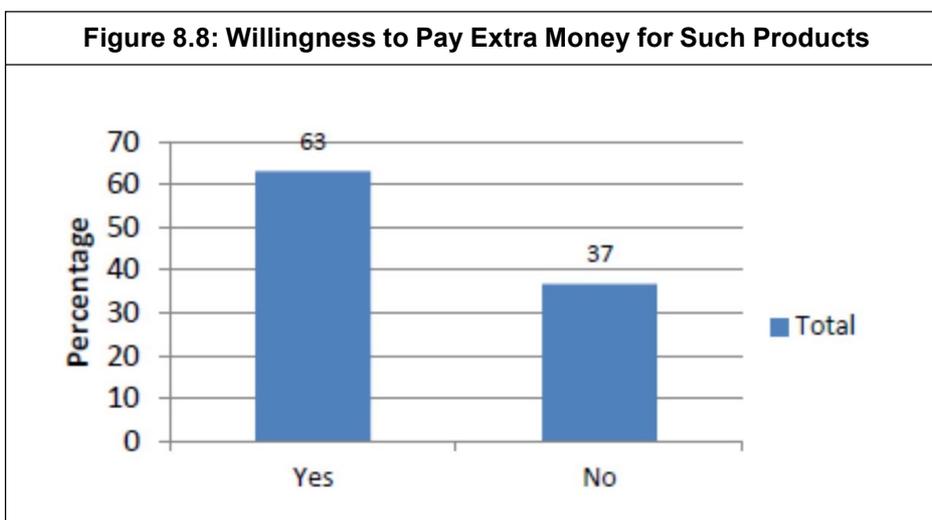
In order to promote environment friendly commodities, more intense awareness generation and information dissemination activities are needed.

About 63 percent respondents are aware about incentives from government to promote environment friendly products.

About 28 percent respondents who know about such products always tend to buy such products, while 36 percent buy such products very rarely. On the other hand, 6 percent people never purchase such products. This phenomenon is common across all categories of respondents.

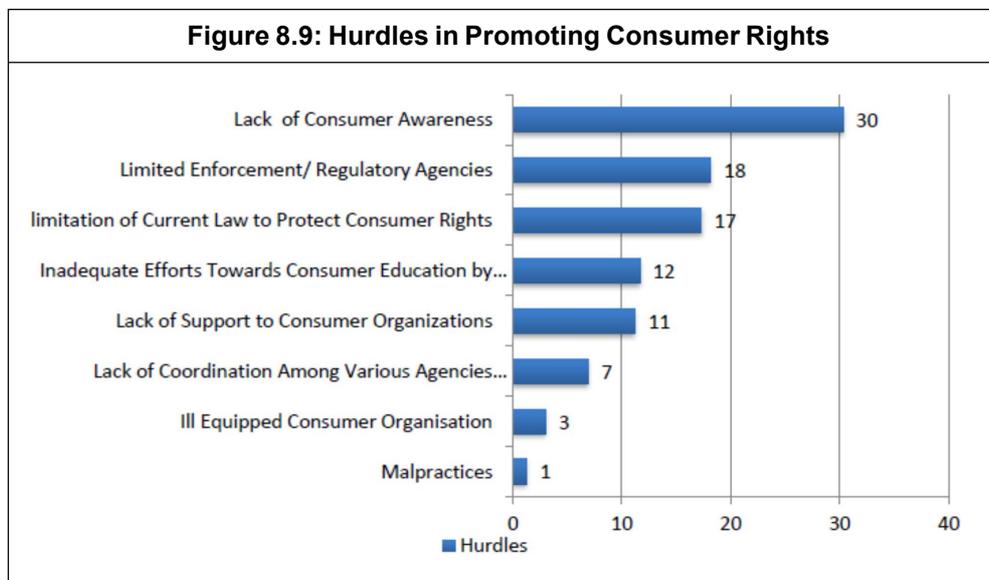


About 65 percent respondents who purchase such products find them competitively price as compared to other similar products available in the market. More than 60 percent respondents who purchase such products believe that these products are easily available in the market and easy to maintain as compared to other similar products available in the market.



About 63 percent respondents those who know about such products are willing to pay some extra money to buy such products. The trend is common across all categories of respondents. However, there is a significant regional variation. No BPL families in Haryana are willing to pay extra for such products, while not a single respondent in Uttarakhand and Chhattisgarh are willing to pay extra money for such products.

According to the responses received, about 30 percent respondents have reported lack of consumer awareness as one of the most important hurdles in promoting consumer rights in India. The limited enforcement of regulatory agencies (18 percent) & limitation of current law, rules & regulations to protect consumer (17 percent) are the other two important challenges. Other challenges include inadequate efforts towards consumer education by the government agencies and lack of support to consumer organisations (NGOs) for carrying out consumer protection and education activities.



The survey highlights some challenges and hurdles faced by organisations:

1. Involvement of advocates in consumer courts has generated some public debate. According to the law, their involvement is not required as it increases time and cost factors for the consumers.
2. Limits their outreach for local population.
3. Lack of timely redress is a major factor that stops people from approaching consumer courts. Although the law requires the cases to wind up within 90 days, they remain pending for several years.
4. There exists a lack of coordination among various agencies responsible for consumer protection which leads to consumers being left unprotected most of the times.
5. Ill-equipped consumer organisations are not able to discharge their duties due to lack of financial and human resources. This applies to most NGOs across the country as they all suffer from resource crunch.

## Recommendations for Promoting Sustainable Consumption

Consumer policy has to strive to address the interest of both sections of people ‘who have’ and the people ‘who don’t have’. This calls for a well-defined economic system and policy initiatives bridging the gap between the fulfilments of basic needs with overall consumer satisfaction.

Thus, when it comes to improvement of the system, one way out is the enactment of sub-ordinate legislation under the broad purview of the Environmental Protection Act (EPA), 1986. Another effective way out is the training of officials dealing with environmental laws. Furthermore, there is a need to create a decentralised institutional framework for diffusion of information to the consumer at large.

Transformation of unsustainable lifestyles holds the key to bringing in an era of sustainable consumption and production. No sudden change can however be expected in how people perceive their consumption needs and habits. Years of consistent work and focused initiatives at various levels are required for bringing in the required transformation.

All stakeholders, i.e. consumers, producers, governments, researchers, media and others must play their role continuously and efficiently. While some of these stakeholders (government, CSOs, etc.) might have facilitating roles, others such as producers and consumers have multi-dimensional

roles in ushering in the new era. This will require strengthening of the existing initiatives made by the stakeholders while at the same time raising consumer awareness to generate willingness to purchase green goods.

To expedite the transformation, producers must introduce features such as lifestyles, price competitiveness, easy accessibility, and health benefits in their products. At the government level, the inter-linkages between clean energy and production of green goods should be highlighted to promote utilisation as the benefits of investment in the former reduce the cost in the latter also. This could lead to multiple effects of investments.

To make the sustainability approach successful, India needs to follow the approach of incentivising producers of green goods through preferential allocation of resources (land and raw material), facilitating development of infrastructure and making the supply chains of resources and technology more efficient and effective. These steps might lead to creation of social and economic overheads and direct government resources towards sustainable development. The challenge however, would be to ensure that initiatives to bring in this transformation do not compromise and endanger the lives and livelihood of the present generation while promoting sustainability.

Sustainable consumption is close to the Indian minds and hearts, but the more aggressive consumerist models from the West and the North have already subsumed the central value systems of the simple Indian lifestyle.

The search for an “Indian Framework on Sustainable Consumption” becomes critically important in this regard. Sustainable consumption can only be achieved if India can provide its people an environment to pursue paths of sustainability while competing and surviving in the aggressively predatory global market environment.

Indian scholars from government, academia, civil society, business and all stakeholders and individuals have a tremendous responsibility towards creating a bench mark of well being and happiness for consumers.

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## Endnotes

- 1 Stockholm Declaration on the Human Environment of the United Nations Conference on Human Environment, Jun. 16, 1972, 11 I.L.M. 1416, princ. 1.
- 2 Rio Declaration on Environment and Development, U.N. ESCOR, princ. 3, U.N. Doc. A
- 3 The Ten UN Global Compact Principles
- 4 Millennium Ecosystem Assessment, 2005
- 5 UNESCO Institute for statistics
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- 7 Times of India March 06, 2010
- 8 LokBhavan [www.lokbhavan.in/letters/975-pollution-due-to-e-waste-in-india](http://www.lokbhavan.in/letters/975-pollution-due-to-e-waste-in-india); Environmental pollution in India [www.gits4u.com/envo/envo4.htm](http://www.gits4u.com/envo/envo4.htm)
- 9 Environmental pollution of India; [watercommunity.blogspot.com/2008/.../environmental-pollution.htm](http://watercommunity.blogspot.com/2008/.../environmental-pollution.htm)
- 10 The Financial Express, June 08, 2012
- 11 IPCC; [indiaenvironmentportal.org.in/.../greenhouse-gas-emissions-42](http://indiaenvironmentportal.org.in/.../greenhouse-gas-emissions-42)
- 12 Source: East Gwillimbury [http://www.eastgwillimbury.ca/Environment/Ten\\_Ways\\_to\\_Reduce\\_Greenhouse\\_Gases.htm](http://www.eastgwillimbury.ca/Environment/Ten_Ways_to_Reduce_Greenhouse_Gases.htm)
- 13 The Information on Survey Results has been taken from the Consumer Survey conducted under ConsumersUp Project - Indian Consumer in the New Age.

## Success Stories

In the village of Mendha in Gadchiroli district of Maharashtra 1987, the villagers renewed their efforts at biodiversity conservation. It was decided that no commercial exploitation of the forests, except for Non-Timber Forest Produce, would be allowed. Further, villagers would themselves regulate the amount of resources they could extract from the forests and undertake measures to tackle soil erosion. Forests would not be set on fire. Encroachment would not be allowed. The important aspect of this community is that the villagers decide for themselves, yet they are open to information from the outside world.

The North-Eastern region of India is home to diverse tribal and other ethnic groups. These communities meet a substantial proportion of their resource requirements from a relatively small catchment area in which they have been living for a long time. They live in complete harmony with nature. For example, the Meetei communities in the States of Manipur and Assam. Sacred groves, or Umang Lais, as they are called in the Meetei language, form an integral part of the Manipuri tradition of nature worship. Several species of plants are protected in these groves, which also offer protection to birds and animals. These include teak, several fruit trees like lemon, plants of medicinal value such as ginger, eucalyptus and bamboo. Fishes, waterfowl and other aquatic animals like snails and insects are very common items in the diet of the Meetei. However, many of these animals are not eaten during certain periods, probably with the motive of sustainable harvesting and conservation. Thus in this case, certain religious beliefs and practices help in the conservation of nature and its biodiversity.

*Source: Chhibber Bharti (2008), 'Indian Cultural Heritage and Environmental Conservation through Traditional Knowledge', Mainstream, Volume XLVI, No 25.*



# 9

## Synthesis Chapter

– Vivek Bhandari

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In 2012, it would be obvious to say that the condition of the Indian consumer has to be understood in terms of shift in the Indian political economy that dates back to the early 1990s. Regardless of whether one takes a long, medium, or short-term view, there is an inevitability about describing developments since 1991, when Indian economy opened-up in an unprecedented manner, as a singular narrative of economic growth and expansion. While this is a fair characterisation at one level, the past 21 years have also witnessed tectonic structural shifts in Indian political and cultural landscape that complicate this narrative.

In this period the country's civic culture has witnessed new alignments, and been the cause of potentially transformative legislations that few would have foreseen in previous decades. Many of these developments have been the result of fundamental structural shifts in the relationship between the state, the market, civil society, and citizens. A glance backwards reveals that the consumer rights movement has to be seen as an integral part of this churning.

The figure of the “consumer,” who has emerged as a forceful presence in the country's meteoric growth narrative, poses something of a conundrum in the prevailing political and economic dispensation. This is in no small measure because the shadow of “globalisation,” that amoeba word of our times, has cast its shadow on so much that we think and do. And the consumer is often presented as the starkest embodiment of “consumer culture.”

At the risk of overstatement, one could therefore argue that today's Indian consumer, like a growing number of people around the world, is more mobile, alert, aware, and engaged than at any time in history. Her aspirations are always evolving, frequently short-lived and capricious, often fickle – but almost always based on a confident assertion of self-interest and a sense of entitlement. One may quibble about how aware of issues of consumer rights the Indian consumer really is (as many of this report's chapters demonstrate), but there is little to doubt her engagement with the winds of change swirling all around her.

And a critical part of the puzzle of consumer rights in India is indeed the “non-consumer,” who, despite the economic gains of the past few decades, has failed to register her presence in the mainstream except at the ballot box or the picket lines in India's ubiquitous *dharnas* and *andolans*. (As a side question, and by no means an insignificant one, to what degree has the “non-consumer” truly been given the rights of citizenship? Are all “citizens” equal?)

Assuming that Indian democracy privileges the power of the “people” – as the Constitution's “Preamble” states so eloquently – the discourse of consumer rights must find a way to engage with those segments of the population who, quite simply, do not “consume” in the ways that “free markets” assume they do. Previous chapters of this report rightly accord centrality to

citizens’ basic rights” in India because they recognise that the modern State is still struggling to adequately perform its welfare functions.

India’s history does not negate neo-liberalism per se, but asks difficult questions of it; questions that seek new and increased levels of accountability from those institutions that have roots in the colonial past, and were therefore configured to respond to a different kind of State. For these reasons, the neo-liberal paradigm which privileges economic freedoms of a kind that one rarely dreamt of for most of the 20<sup>th</sup> century has, in the 21<sup>st</sup>, emerged as a deeply contested space in debates about political economy in general, and more specifically, the rights, benefits, democratic spaces, and entitlements enjoyed by citizens today.

Free markets appear to be here to stay, but following the financial meltdown of 2008, only the most fervent neo-liberal ideologue would fail to question that they need to be managed and tamed to serve the greater common good. The age-old ideological debate between left and right, for better or worse, continues to rage on unabated, now riding the channels of communication that have opened up due to the television, internet, and telecom revolutions.

Clearly, today’s Indian consumers and non-consumers, unlike their twentieth century counterparts straddle many of the faultlines that are slicing and dicing the landscape along lines of ideology, class, and ethnic identity. The press, academics, and policy boardrooms are abuzz with discussions about the growing tensions among rich and poor, majorities and minorities, *adivasis* and urbanites, Scheduled and non-scheduled populations—and the list goes on. Many have argued that the presence of left-wing extremism in a sizable chunk of India’s central Indian tribal heartland is symptomatic of many of the ills that pervade India’s growth story; and the discomfiture that many Indians feel about the rise of corruption only adds to the sense of confusion about the direction in which they are headed.

Among the many dualisms that characterise India today, perhaps the most significant fault line may be the “rural-urban divide.” This is not because other dichotomies are less important, but because the rural-urban relationship subsumes within it most of the other points of tension that are animating the political and economic landscape of the country. This relationship, which could just as easily be called the “rural-urban continuum,” provides an interesting starting point for our discussion of the state of the Indian consumer.

This chapter will attempt build upon the rich findings of this report by locating them within the larger context of changes over recent decades. (The key findings of each chapter are woven into the main narrative of this chapter; and can also be accessed in the Executive Summary of the Report.) Recognising that the canvas of issues that the chapters cover is vast, this chapter shall unfold in the following manner:

- It will first outline some conceptual issues pertinent to the contemporary discourse of consumer rights.
- Recognising the strong civil society roots of consumer rights’ movement, the chapter shall then overview the ways in which India’s civil society mobilisations have evolved over time, and where they find themselves today. This will set the stage for an assessment of India’s larger political economy context, especially as it has evolved since the adoption of neo-liberal economic reforms in the early 1990s.
- Based on this overview, attention will be paid to the changing relationship between rural and urban India, one that lies at the heart of virtually all debates about consumer rights, specifically as these have been described in the expanded UN Guidelines on Consumer Protection (1999), which correspond to eight consumer rights, which are: Basic needs, Safety, Choice, Information, Consumer Education, Redressal, Presentation, Healthy Environment. Instead of focusing on

each one of these rights, since this has already been done in previous chapters, we will analyse the degree to which these rights are being addressed through some of the key legislations pertinent to our discussion.

- The chapter will conclude by discussing some of the supply side factors impacting Indian citizens in accessing their consumer rights, and the role that the Indian consumer movement (in the overall context of state-civil society relations in India) can play in creating an enabling environment for Indian citizens to access their consumer rights. Keeping in view the many challenges that face the consumer rights movement in the coming years, the last section will be devoted to examining the growing relevance of local bodies and the overall decentralisation of governance systems.

## First Principles

The Expanded “UN Guidelines on Consumer Protection” (henceforth UNGCP) is a fascinating document. It is one of the most comprehensive statements of consumer rights, and outlines the modalities of working towards the kinds of goals that the founders of the consumer movement might have envisaged. The objectives, general principles, and guidelines contained in the document presents a distillation of ideas that animated not only the leading minds advocating consumer rights, but for all intents and purposes, those engaging with questions about the changing character of nation-states in the post-World War II period when modern liberal democracies and postcolonial democracies were attempting to come of age as exemplars of the “social contract” on a global scale.

A quick survey of the prevailing discourse on consumer rights (which treats the UNGCP as its frame of reference) raises some interesting questions, especially for those living in India: Has civil society engagement with consumer rights basically expanded over the years to serve as an assessment of the overall performance of the Indian State as a governance mechanism, as an instrument of service delivery and citizenry entitlements? In practical terms, have the parameters of consumer rights (as described in many chapters of this study), which now include many of the things that the normative State in liberal democracies has traditionally sought to provide as an integral part of the “social contract,” now made an assessment of the “state of the consumer” virtually akin to an evaluation of the relationship between the state and the citizen?

In the view of this author, the answers to both questions are in the affirmative. In much of the emerging literature on consumer rights, which rightly covers a large canvas even as today’s inter- and intra-national political economies experience a great churn following the financial mess of 2008, it appears that the terms “consumer” and “citizen” are being used in an overlapping, almost synonymous fashion. This was not always the case, as an assessment of the early history of the consumer movement makes admirably clear.

Most early consumer rights mobilisations were local, or at best, national-level engagements. While consumer rights became an issue as early as in the 19<sup>th</sup> century in the US, the first ever, international conference of leaders from consumer organisations took place in The Hague in March 1960 when five of the 17 international organisations present signed papers to create the International Organisation of Consumers Unions (IOCU which, in 1995 became Consumer’s International). Many of the early leaders of the movement included men like Ralph Nader, who went on to contest the year 2000 American election. These early beginnings led to the forging of a number of enduring institutional alliances with a network of global organisations such as the UN and the WTO, as well as the emergence of vibrant national consumer advocacy groups of all shapes and sizes. What this growth of networks did, as with any large citizen’s movement, was to expand the range and depth of the issues that these groups were seeking to engage with.

*One big reason for this was that the category of “consumer” has the capacity to inhabit a multiplicity of domains, both within the free market, and the functions of the State. Put differently: The expansion of the discourse of consumer rights has, somewhat like a sponge, succeeded in incorporating a staggeringly diverse range of rights and entitlements that citizens — as consumers — fight for in their attempt to realise the fullest potential of the “social contract” as understood by Thomas Hobbes, John Locke, and other Enlightenment thinkers of seventeenth century Europe.*

Obviously, too much of an overlap of the two categories runs the risk of making one of them redundant, a risk far greater for the category of “consumer” than for its older, more entrenched cousin. But this is unlikely to happen, not least because the consumer rights movement is robust around the world, and enjoys a harmonious relationship with policy makers, planners, as well as the private sector. Closer to home, the consumer rights movement continues to perform a vital civil society function in India today. As the country continues on its path to liberation at the pace that a vibrant democracy like India’s will permit, the consumer rights movement will perform a vital role.

When read from this vantage point, the UNGCP, contains a fascinating blueprint for the consumer rights of citizens everywhere, and provides a valuable framework within which citizens, markets, civil society groups, and States may function in their search for a harmonious relationship. The critical question, of course, is how far we understand this four-way relationship, and where it is headed.

## **Civic Engagement and Consumer Rights in India**

As stated above, the fight for consumer rights in India, as elsewhere, must be viewed fundamentally as a civil society mobilisation. This is consistent not just with the organisational forms and strategies employed by the activists of this movement, but also as an extension of our argument in the previous section about the conceptual overlap between the categories of “consumer” and “citizen.” What, exactly, has been the evolving relationship between civil society, the State, the market, and citizens in India, and how is it configured today? A brief historical overview provides some clear answers about the location of the movement for consumer rights within the larger evolution of civil society in India.

When Pandit Nehru ceremoniously declared in 1963 that dams were the “temples of modern India,” he articulated a vision that sought to reconcile three seemingly un-commensurable challenges confronting India after the departure of the British. First, he worked towards the consolidation of a government that would prioritise rapid economic growth to address as efficiently as possible, the welfare needs of India’s enormous population. The emphasis on planned economic growth—under the keen eye of Prof. Prasanta Chandra Mahalanobis—was put in the service of a second ideal: the need for modern infrastructure, which would provide the material framework within which India’s masses would conduct their lives as citizens of a socialist republic. These two ideals were, for Pandit Nehru, central to the realisation of a third: the idea of liberal democracy.

In the period of Pandit Nehru’s Prime Minister-ship, the state — influenced in part by the USSR’s model — was accorded an extraordinary amount of authority in shaping the lives of India’s citizenry. Whether one speaks of massive public sector enterprises (which, at least ostensibly, were created to redistribute public goods), or the elaborate re-ordering of India’s internal boundaries along linguistic lines following the political mobilisations of the early 1950s, Nehruvian socialism sought to create the democratic and institutional apparatus necessary to channel the vigorous energies of India’s millions in a particularly modernist, liberal democratic direction.

What did all this mean for civil society? Even if we acknowledge the complex political negotiations that sustained the Nehruvian planned economy, it could be argued that civil society, at this early stage, was a primarily localised or regional affair, directed by the energies of local groups and charismatic leaders. This is not to contest that India has a long history of organisational activism and what Arjun Appadurai recently described as “deep democracy.”<sup>1</sup>

The fact remains however, that few in the 1940s and 1950s would have imagined that social movements and NGOs, rather than the power of the ballot and the engines of development planning would play a critical role in representing the diversity that was such a conspicuous fact of Indian life. (There were, of course, some notable exceptions like Sant Vinoba Bhave’s Sarvodaya Movement, but these were few and far between). In this sense, civil society from the 1950s to the late-1970s had a relatively unstable quality, and was grounded, rooted in the here-and-now, in the lives of those being directly affected. While this had the effect of lending a sense of urgency to the political issues being addressed, these movements had little direct impact on the Central government or the centrally planned economy in any major fashion.

In all of this, there was little that signaled an appreciation that the Indian, as a “consumer,” had rights or entitlements as a matter of principle. To the extent that issues for civic engagement came up, such as Harijan rights, women’s issues, or environmental concerns, they were dealt with locally, or managed by the state on its own term (as is evident from the government’s adoption of the practice of reservations). This, I should mention, is in stark contrast to the impact of social engineering projects undertaken by the central planners, whose efforts at creating educational and healthcare related-infrastructure — to name two areas — had far-reaching effects on India’s population. There were many others, but most areas of governmental policy received their directives from the centre, not the activities of CSOs at the local level.

By the time Indira Gandhi became a major figure of the Indian political scene, a whole generation of Indians had been marked by their contact with the state in some form or the other. New forms of social stratification were influencing the aspirational and class awareness of Indian citizens. Whether through schools or hospitals, government subsidies or ration-cards, engineering colleges or electioneering, local communities in cities, towns, and villages had acquired an appreciation of the power of the developmental state, and also what they wanted from it. While many benefited from the prosperity and stability provided by the Nehruvian model, others articulated a sense of political disenchantment at the inability of the state to alleviate the problems confronting them, and their constituencies. Some of this put a severe strain on India’s federal structure, as Indira Gandhi’s decision to declare Emergency makes amply clear.

Overall, the transformations of the 1970s and 80s were not just a sign that the “Congress-System”<sup>2</sup> was in its twilight years; the restlessness was also a product of the growing political confidence of many social groups that had been denied a political voice in independent India, and who now viewed themselves as “vote banks,” capable of swaying the political fortunes of the country in their favour. This restlessness was also accompanied, from the early-80s, by the weakening fiscal position of India’s Central and state governments.

For better or worse, this political churning came at a time when India’s socialist planned economy was having to compete with alternative economic visions in the minds of India’s increasingly vocal middle class, members of which began to feel disenchanting with India’s closed economy. As the effects of globalisation began to seep into the nooks and crannies of urban life in India through advertising, consumerism, and the growing reach of cable TV.

In the late-1980s this led to the articulation of strident demands for the liberalisation of India's economy from the protectionism inherent in the developmental state. Some of this pressure came from abroad. The adoption of policies euphemistically described as "structural adjustment" in the 1990s came at a time when, in global affairs, the disintegration of the USSR and the fall of the Berlin Wall went hand-in-hand with the rapid expansion of the Internet. To be clear, these changes are mentioned in passing, simply to punctuate some the dominant forces at work in the phenomenon many describe as "globalisation." For nation-states mapping the world, this is a time of enormous potential, but also a great deal of uncertainty.

By all accounts, these changes had major implications for CSOs and social movements, many of which were propelled by an energised middle class. Over the 1970s and 80s in India, civil society emerged as an active player of political engagement at the national level. Measuring the precise growth of movement-based organisations is difficult. But most assessments of the women's and environmental movements or the NGO sector point to the 1970s and 1980s as a period of significant growth.

Overall then, the period from the late 1970s to the 1980s was a period of "phenomenal growth" for the NGO world. Perhaps the clearest evidence of the growing strength of NGOs in the early-80s was the concern about these developments in government circles! As the NGO sector expanded and became financially stronger, the government sought to establish a more regularised relationship with it that would enable the government to more closely monitor the activities of NGOs more rigorously. In the early 1980s, with the return of the Indira Gandhi government, NGO activism began to be more closely scrutinised and controlled.

In 1981, the government established the Kudal Commission to investigate alleged corruption among NGOs partly with the intention of clamping down on several NGOs, including the Gandhi Peace Foundation and AVARD, which had been critical of the Indira Gandhi government. After Indira Gandhi's assassination, during Rajiv Gandhi's term in office, the seventh Five-Year Plan (1985-1990) stipulated for the first time that the civil society sector was a crucial part of the development process and allocated five times the amount of any earlier plan for NGO work.

From the detailed overview above, it follows that unlike the civil society organisations active from the 1950s to the 1970s, which had a largely local character, in the sense that they had little direct impact on India's economy and polity at the macro-level, NGOs that have emerged since the 1980s have a very different relationship with the state, on the one hand, and the economy, on the other.

As things stand, some CSOs have managed to establish close linkages with not just the Government of India, which now actively encourages the activities of numerous civil society groups (working on issues of gender, environmental concerns, etc.), but also international non-profit organisations and advocacy groups. International aid agencies, many of which are associated with the governments of other countries, are now indirect participants in the civic life of India. These developments have occurred at the same time that civil society began interacting more and more with key actors of India's liberalising economy.

India's consumer rights movement was shaped by these transitions in fundamental ways. The effect of the UN Guidelines on Consumer Protection (1985) on the formulation of the Indian COPRA (1986) needs to be viewed as the result of the mobilisations that grew out of an engaged civil society that was repositioning itself as an active agent of change at the national level in India.

Mainstream funding agencies, Indian and international, as well as NGOs today have, since the 1980s, closer ties than ever before, with major players of India's increasingly powerful private sector. Whether these connections take the form of foundation funding from Indian corporations such as the Tatas, Birlas, Unilever, and Reliance, or the support from international aid agencies such as Department for International Development (DFID), Swedish International Development Agency (SIDA), Norwegian Agency for Development Cooperation (NORAD), or foundations like Ford and Rockefeller — CSOs are today forging new linkages with private capital in ways that were largely unimaginable three decades ago.

Overall, the organisational sophistication of some civil society mobilisations has had dramatic results. To cite a few examples from the consumer rights movement: Consumer Guidance Society of India was formed in the 1960s in Bombay after a group of housewives decided to protest against price rise in essential commodities. In the 1970s, the Consumer Education and Research Centre was established in Ahmedabad by a business executive, which engaged in litigatory activities, while the *Mumbai GrahakPanchayat* was established as a consumer cooperative movement. 1980s witnessed a higher growth of consumer organisations in the whole country.

Consumer Unity & Trust Society began in 1983, and is now known globally as CUTS International. Partly as a result of these mobilisations, the Consumer Protection Act, 1986 spurred a big movement around the country as it empowered voluntary organisations to take up consumer complaints. At one point about 3,000 such groups were formed, but many of them could not survive because of a lack of funding, and because they were usually led by one person who failed to build a team.

Beyond the consumer rights movement, many other civil society movements with strong community support flourished and gained the ear of policy makers. After the Gujarat earthquake of 2001, and more routinely, the monsoon deluges that hit Mumbai last year, CSOs were among the most vocal, and effective, at getting the state and central governments to provide rehabilitation services.

Another example is the “Right to Information” campaign associated with Aruna Roy, which started locally in Rajasthan and burgeoned into a national movement that succeeded in bringing about a constitutional legislation that has become the basis for a governmental policy that is in the process of being implemented. The campaigns that led to the “Right to Education” were similar in character, and today the campaigns against corruption have already grabbed the national spotlight with the active support of the mainstream and local media.

Last but not the least, the unfolding narrative on the issues of land and forest rights, punctuated by the draft bill to be presented to the Parliament, is likely to have far-reaching ramifications for the ways in which the State, private sector, and civil society groups relate to each other.

To summarise then: Whereas the character of civil society organisations in the early decades of independent India was primarily local, anchored, and rooted, the period from the 1980s has been characterised by close linkages of an organisational nature between civil society and both the state, and the private sector. This has had the effect of bringing civil society organisations into the mainstream, in debates that directly impact the economic and political character of India at the macro level. Increasingly, as ideas and images traverse across national borders in digital form, the impetus for change — for better or worse — is coming from a class of citizens getting their cues from new networks, sources of capital, and interest groups. The consumer rights movement has benefitted from these developments.

In summing up this section, three points, all pertinent to the ways in which we seek to locate the changing character of the consumer rights movement (understood as a civil rights movement) within the larger swirl of the history that it is a part of:

- 1) Unlike in the period of the Nehruvian developmental state, in the last few decades, the distinctions between the state, economy, and civil society are murkier, less discernible. This has far-reaching ramifications for how proponents of consumer rights address questions of accountability. Quite simply, whose accountability are we talking about?
- 2) In the early period, there were essentially three main actors shaping India's developmental story: the state, market forces, and the sphere of civil society. Today, these have been joined, for better or worse, by a fourth: globalisation, with all of its attendant energies and forces. It is hard to generalise about the overall impact of globalisation, but as a general matter, to quote from a report put out by a prominent NGO: "The effects of globalisation and economic reforms on poor women are highly differentiated and nuanced, so a blanket analysis or stance is not justified."
- 3) As we look ahead into the future, *it is difficult to discern any abstract or general relationship of causality between the four; in other words, which sphere will exercise greater authority over others at any particular moment will depend largely on contingent factors, and how these propel particular groups to mobilise for change, or resist it.*

The future of consumer rights has to be understood as intertwined with the uncertainties associated with these patterns of civic engagement.

## The Political Economy Context

In an essay published some years ago, David Ludden observed: "contemporary development regimes are currently in flux. Dismantling government controls to expand the private sector has accompanied domestic and foreign demands for more public scrutiny and popular participation to make states more accountable and transparent to citizens...."<sup>3</sup>

When viewed from this standpoint, independent India's evolution has to be understood as the product of a dialogue between, on the one hand, developmental planning as it evolves within the larger context of changes in governance (even as the State privatises many of its functions at the rapid pace), and on the other, the democratic and economic aspirations of India's diverse and restless population that is the target of the government's policy initiatives.

At the heart of this engagement is the consumer rights movement, whose character has evolved even as the larger political forces have shaped the Indian State and market in unpredictable ways. In all of these analyses, showcasing the effects of these policies on the largest sections of the population, many of which remain poor, only makes sense.

Macro Indicators: Unlike China where rapid growth has been powered by manufacturing, India's impressive growth rate of six percent annually for more than 15 years – with recent rates of more than 8.5 percent has been driven largely by its service industries. The global downturn after 2008 notwithstanding, India's growth numbers, however one chooses to interpret them, have been impressive. In the three years from 2004-2005 to 2006-2007 the services sector grew at more than 10 percent per year, and by 2006-2007 it generated 61.8 percent of real gross domestic product (Reserve Bank of India, 2007). Let us briefly recap the history of this kind of development.

The Structural Adjustment Package embraced by India in the 1990s included devaluation, fiscal correction, trade liberalisation, financial sector 'reforms', deregulation, and privatisation. Almost

simultaneously came the new multilateral trade regime through the World Trade Organisation, which came into force in 1995 as a successor to the General Agreement on Tariffs and Trade (GATT). The WTO also meant the multi-lateralisation of sovereignty as many rules and regulations governing public policies were to be realigned on the basis of commitments, rather than through domestic legislative initiatives.

Against the previous consensus that the state should play a proactive role in developmental processes targeting the needs of the rural and urban poor, as well as in the implementation of constitutional mandates to secure equality and social justice, structural adjustment and its attendant changes brought a rolling back of the welfare state and its ûnal yielding, as one author puts it, ‘to the market, national and global’ (Sankaran, 2001: 10).

As the ‘reforms’ accelerated, growing foreign direct investment (FDI) and easy credit fuelled the rise in middle class employment, and more pertinently from our standpoint, the consumer revolution in urban areas. Although foreign trade and investment ûgures are still dwarfed by China’s, where FDI was nearly US\$70bn in 2006, FDI in India reached US\$19.5bn in 2007. Unfortunately, while the reforms introduced some positive changes, they are also trigger growing inequality and poverty, increasing malnutrition, hunger, and starvation, primary education collapse, agrarian crisis, and the growth of popular protest.

As we locate these evolutionary processes associated with India’s experiments with market reform over the past two decades, we should take note of the following facts, which are intimately linked to UN Guidelines on Right to Basic Needs:

- The HDI (human development index) for India is 0.612, which gives the country a rank of 134<sup>th</sup> out of 177 countries.
- The HPI-1 (human poverty index) value for India is 31.3, which gives the country a rank of 62nd out of 108 countries.
- Among Indian states, Kerala (0.638) topped the ranking in terms of the Human Development Index (HDI), to be followed by Punjab (0.537), Tamil Nadu (0.531), Maharashtra (0.523) and Haryana (0.509), during 2001.
- The worst performer in terms of HDI was Bihar (0.367) to be followed by Assam (0.386), Uttar Pradesh (0.388) and Madhya Pradesh (0.394).
- Four States account for nearly 58 percent of India’s poor population in 2004–05: Uttar Pradesh (19.6 percent), Bihar (12.23 percent), Madhya Pradesh (8.3 percent) and Maharashtra (10.5 percent).
- Among social groups, SCs (scheduled castes), STs (scheduled tribes), and backward castes accounted for 80 percent of the rural poor in 2004-05.
- Agricultural labour households accounted for 41 percent of rural poor in 1993-94 as well as in 2004-05.
- At the end of 2006, expert estimates placed the national malnutrition rate at 42 percent of Indian children, while 80 percent of children suffered from anemia and almost half under the age of ûve (48 percent) were stunted, that is too short for their age (a chronic sign of malnutrition). NSS data reveals that the percentage of undernourished rural households rose from 48 percent at the time of NSS Round 48 (1988-89) to 67 percent at Round 57 (2001-02). The situation has worsened since 2002, as population growth has overwhelmed declining rates of growth in food production (Bhaduri, 2008: 3; Ray 2008).
- In 1993-94 the average consumption of cereals per person per month in the countryside stood at 13.4 kg; it had declined by nearly 10 percent by 2004-05, to 12.12 kg; and in 2005-06 declined further still, to 11.9 kg (NSSO, 2007: 13; 2008b: 4).
- Dr. NC Saxena, a retired civil servant who is currently a member of the National Advisory Council, has expressed the view that half of the country’s population of 1.15 billion is below

the poverty line, which he defines as a monthly per capita income of ₹700 in rural areas and ₹1,000 in urban areas.

- While a Planning Commission estimate puts the number of below poverty line (BPL) families at 62.5 million, state governments estimate that this number is closer to 107 million.

**Hunger and Malnutrition:** On matters of hunger and malnourishment, things have continued to remain worrying. The United Nation's Millennium Development Goals Report<sup>4</sup> of the UN Secretary-General, 2012, which assesses the regional progress on eight MDGs the world promised to meet, was a sobering reminder the distance that India still has to cover.

- The increase in the number of the undernourished in India can be traced to a slowing in the growth (even a slight decline) in per capita dietary energy supply for human consumption since 1995-97. On the demand side, life expectancy in India has increased from 59 to 63 years since 1990-92. This has had an important impact on the overall change in population structure, with the result that in 2003-05 the growth in minimum dietary energy requirements had outpaced that of dietary energy supply
- The combination of the declining per capita growth rate in total dietary energy supply and higher per capita dietary energy requirements resulted in an estimated 24 million more undernourished people in India in 2003-05 compared with the base period. The increased food needs of the aging population amount to about 6.5 million tons per year in cereal equivalent. According to the FAO,<sup>5</sup> on the issue of global hunger the picture indeed looks grim: On the composite index of food insecurity<sup>6</sup> of rural India, states like Jharkhand and Chhattisgarh are found in the 'very high' level of food insecurity, followed by Madhya Pradesh, Bihar and Gujarat.
- The better performers include Himachal Pradesh, Kerala, Punjab and Jammu and Kashmir, all of which report an Index value below 0.5.
- The proportion of population consuming less than 1890 kcal/cu/diem has in fact increased in the states of Orissa, Madhya Pradesh, Karnataka, West Bengal, and Rajasthan and marginally for Punjab.
- Almost 2/3rd of rural households in Jharkhand did not have access to safe drinking water in 2001.
- More than 90 percent of rural households in Chhattisgarh, Jharkhand, Orissa and Madhya Pradesh did not have access to toilets within their premises.

**The State of Indian Labour, and Larger Issues of Poverty:** On issues of labour and unemployment, it is notable that growth in India has been largely stagnant, with the increase of regular employment barely exceeding one percent. Those employed in the so-called new economy of information technology and business-processing industries account for only 1.3 million out of a working population of 400 million. Only 35 million Indians, or less than 7 percent of the workforce, are employed in the formal economy, and 21 million of those work for the government. This means that much of the growth, some 5-6 percent of GDP according to Bhaduri,<sup>7</sup> is the result not of expanding employment, but of rising productivity of labor and/or greater output per worker. Sub-contracting and the casualisation of labor have been two of the most common platforms. Self-employed workers, who total 260 million, have expanded fastest and provided an invisible source of growth. In a desperate attempt to survive, ruthless self-exploitation through long hours of work at little and actually declining compensation by many of these workers has contributed simultaneously to rising output, corporate profits, and human misery.

And what, actually, is the size of India's middle class? The media frequently uses a figure of 200-250 million for India's middle class, but it is difficult to imagine the basis for this. The international consulting firm McKinsey recently used a figure of 50 million for India's middle class, or less

<b>Table 9.1: Distribution of Rural and Urban Population by Monthly Per Capita Expenditure (MPCE, in Rupees) during 2004-05</b>			
<b>Rural Population (72.2 %)</b>		<b>Urban Population (27.8%)</b>	
<b>MPCE Class (₹)</b>	<b>Population (%)</b>	<b>MPCE Class (₹)</b>	<b>Population (%)</b>
<235	3.4	<335	4.4
235-270	3.8	335-395	4.5
270-320	8.8	395-485	9.5
320-365	10.5	485-580	11.4
365-410	10.6	580-675	11.1
410-455	10.0	675-790	10.0
455-510	10.8	790-930	10.1
510-580	11.3	930-1100	9.1
580-690	11.6	1100-1380	9.7
690-890	10.1	1380-1880	9.7
890-1155	5.2	1880-2540	5.6
1155 & over	4.0	2540 & over	4.9
<i>MPCE: Monthly per capita expenditure</i>			
<i>Source: National Sample Survey, 2004-05, Report no. 515. Aspects of India's Economy.</i>			

than 5 per cent of the population.<sup>8</sup> According to the NSS 2004-05, about 89 percent of the population spent less than ₹37 per day (which was US\$0.83 at the then exchange rate).

The Indian State recognises the challenge that such patterns pose, and over the past few decades has embarked on an ambitious strategy of socially empowering legislation that has resulted in major centrally sponsored schemes. The initiatives range from MGNREGA, Jawaharlal Nehru National Urban Renewal Mission (JNNURM), National Rural Health Mission (NRHM), and Sarva Shiksha Abhiyan (SSA), to looking at outcome budgets and gender budgeting. The spending on the social sectors has gone up exponentially by fifteen times in the last six years — and the figures in Table 9.1 have to be understood partly in terms of the capital flows from the State that have entered the system.

Indeed, the result of these governmental interventions has been captured in the recent figures circulated by CRISIL (as mentioned below). These new numbers highlight the changing character of rural and urban life, and by implication the relationship of rural consumers to urban life and vice versa.

**Agrarian Distress:** Precipitated by the state's turn to neo-liberalism in the early 1990s, the crisis of rural India has been manifested most glaringly by the growing incidences of starvation deaths and peasant and farmer suicides. By 2005, although the largest number of starvation deaths was still routinely reported from the least developed states of the country, death by starvation had also become common in such diverse locales as Maharashtra, Rajasthan, West Bengal, and Madhya Pradesh, while almost every state had its own pockets of the tragedy.

Paralleling these, in the decade between 1993 and 2003, according to a number of estimates, as many as 100,000 Indian peasants and farmers took their own lives – often by consuming the

same pesticides they used on their fields [Newman, 2006: 1]. In the ten-year period between 1997 and 2006 as many as 166,304 farmers committed suicide in India. If we consider the 12 year period from 1995 to 2006 the figure is close to 2,00,000: the exact figure (190,753) would be an underestimation since a couple of major states like Tamil Nadu and Rajasthan and a number of smaller states like Puducherry did not report any farmers' suicides for one or the other – or both - of these two years.

India's much-maligned agricultural subsidy per farmer is not even one hundredth of corresponding subsidies given to the Organisation for Economic Cooperation and Development (OECD) farmers. (India's per farmer subsidy is US\$66 as against US\$26000 in Japan, US\$21000 in the US and US\$11000 in the OECD countries). If the increase of poverty, hunger, malnutrition and death provide one barometer of an accelerating agrarian crisis, the statistical record of agricultural performance also chronicles the story of rural deterioration.

There has even been a decline in net irrigated area, which stood at 57.1 million hectares in 1999-2000 but only 55.1 million hectares in 2003-04. Since the growth rate of agriculture is lower than the growth rates of both the workforce in agriculture and the rural population, and with only limited employment outside of agriculture, the clear implication, as the Report of Agriculture puts it, is that 'per capita income in agriculture is declining' (Planning Commission, 2007: 18). At the same time, the number of landholdings has steadily risen. As a result of both population growth and downward economic pressure, the average size of holding has halved since the 1960s, falling from 2.63 hectares in 1961-62 to 1.31 in 1991-92 (Research Unit in Political Economy, 2008). By 2007, more than 80 percent of holdings were less than two hectares, while more than 60 percent of the peasantry had holdings of less than one hectare (Planning Commission, 2007: 20).

Indeed, as AmitBhaduri has argued, the 60 percent increase in the combined wealth of Indian billionaires, which rose from US\$106 to US\$170bn in the single year 2006-07, would not have been possible except through the transfer of seized land to private corporations in the guise of 'public purpose', for mining, industries, and 'Special Economic Zones.'<sup>9</sup>

Thus, agrarian crisis, malnutrition, hunger and joblessness are a hallmark of the new rural landscape that has emerged within the context of the large parts of the country. The Indian State recognises the challenge that such issues pose and has embarked on an ambitious strategy of socially empowered legislation that has resulted into major initiatives. The initiatives range from MGNREGA, NRHM, SSA to looking at outcome budgets and gender budgeting. The spending on the social sectors has gone up exponentially by fifteen times in the last six years.

**Environmental Issues and Concerns:**<sup>10</sup> In India, an estimated 146.82 million suffers from various forms of land degradation due to water and wind erosion and other complex problems like alkalinity/salinity and soil acidity due to water logging. The varying degrees and types of degradation stem mainly from unstable use and inappropriate land management practices. Loss of vegetation occurs as a result of deforestation, cutting beyond the silviculturally permissible limits, unsustainable fuel-wood and fodder extraction, shifting cultivation, encroachment into forest lands, forest fires and over-grazing, all of which subject the land to degradational forces.

Other important factors responsible for large-scale degradation are the extension of cultivation to lands of low potential or high natural hazards, non-adoption of adequate soil conservation measures, improper crop rotation, indiscriminate use of agro-chemicals such as fertilisers and pesticides, improper planning and management of irrigation systems and extraction of groundwater in excess of the recharge capacity.

In 1995, the Central Pollution Control Board identified severely polluted stretches on 18 major rivers in India (World Bank 1999). Not surprisingly, the majority of these stretches were found in and around large urban areas. Water pollution is a serious problem in India as almost 70 percent of its surface water resources and a growing percentage of its groundwater reserves are contaminated by biological, toxic, organic and inorganic pollutants. High levels of fertiliser use has been associated with increased incidence of eutrophication in rivers and lakes in several of India's most important water bodies, such as the Hussein Sagar in Hyderabad and Nainital in Uttar Pradesh. The environmental issues in the country are mounting on a large scale as we move ahead with the new industrial and economic policies.

Corruption<sup>11</sup> and Public Accountability: Without entering the larger debate on the reasons and degree of corruption in India, it is still worthwhile to mention that India was ranked 85<sup>th</sup> out of a 179 countries in Transparency International's Corruption Perception Index during 2008. In the latest rankings from 2011, it has slipped ten positions and is at the 95<sup>th</sup> position. ₹8,830 million, in all, was paid as bribe by below poverty line (BPL) households in 2006-07. Kerala stood out as the least corrupt state and Bihar ranked as the most corrupt state during the period from 2005 to 2007. In the case of NREGS, 25 percent of BPL households who availed the service in 2006-07 paid bribe to a local "public representative".

This round of TII-CMS India Corruption Study 2007 confirms a wide gap between perception and actual experience about corruption in public services – irrespective of recent measures to improve service delivery and curb corruption. About one-third of BPL households, across the country paid bribes in the last one year to avail one or more of the 11 public services covered in the study, which shows the poor are not spared even in the case of targeted programmes.

As regards the relative position of States on corruption in availing the 11 public services by BPL households, Assam, J & K, Bihar, Madhya Pradesh and Uttar Pradesh have an "alarming level" of corruption, while Himachal Pradesh, Uttarakhand, Delhi and Punjab have "moderate level." The important fact is that the poor deserve better attention in getting access to public services particularly some of the targeted programmes meant especially for them, than they seem to be getting now.

The Changing Consumer in the Rural-Urban Continuum: From the vantage point of this study larger, it would be appropriate to ask: How exactly have consumers in rural and urban areas been changing in recent years? Are there changes in their consumer choices, in their aspirations, and how they spend their hard-earned money? In a landmark study released a few months ago by CRISIL, Ltd., *consumption in rural India is growing at a faster pace than in cities and towns for the first time in two decades.*

The report, entitled "Sustaining the Rural Consumption Boom" attributes the growth to a rise in household incomes due to greater non-farm job opportunities and government-initiated employment generation schemes. The report describes how the consumption expenditure in rural India between 2009-10 and 2011-12 stood at ₹3,75,000 crore as against ₹2,99,400 crore by urban India (according to estimates of the NSSO). This was basically because an increasing number of rural households shifted away from agricultural employment, giving them higher purchasing power, the report said. "The Mahatma Gandhi National Rural Employment Guarantee Scheme... and other social sector schemes fuelled job creation on an unprecedented scale and provided an opportunity to rural households to supplement their traditional farm income," the report points out. Nearly 27 per cent of rural households availed employment under MGNREGS in 2009-10. Wages under MGNREGS increase with retail inflation and consequently, rural wages

have risen faster than inflation since 2007-08, pointed out CRISIL's chief economist DK Joshi to the *Financial Express* (August 30, 2012).

Quoting more data from the National Sample Survey Organisation, the CRISIL report also says that between 2004-05 and 2009-10, rural construction jobs rose 88 percent, while the number of people employed in agriculture fell from 249 million to 229 million. "In addition, migrants from villages to urban areas, who benefited from job opportunities in infrastructure and construction projects, increased remittances to their families in rural India, which boosted consumption," the report says.

Describing a shift in spending patterns in rural areas, CRISIL's report also flags a cultural shift, with consumers moving beyond necessities such as toothpaste and soap to so-called discretionary products such as televisions and mobile phones (although some would argue that the last are necessities, too). A story in the daily *Mint* analysing the report pointed out that one in every two rural households now has a mobile phone. Even in India's poorest states such as Bihar and Orissa, one in three rural households has a mobile phone (*Mint*, August 29, 2012). Nearly 42 percent of rural households owned a television in 2009-10, up from 26 percent five years earlier. Similarly, 14 percent of rural households have a scooter or motorbike in 2009-10, twice that in 2004-05, the CRISIL report says.

The *Mint* story went on to observe that even when it comes to packaged consumer goods, middle India, or towns with a population of 100,000 to one million people, led growth in terms of value between 2009 and 2011. This was based on a recent report by Nielsen, a market research firm, titled *Emerging Consumer Demand: Rise of the Small Town Indian* released in August, 2012.

It is also noteworthy that in its annual report, released in August 2012, the Reserve Bank of India (RBI) points out that consumer prices in rural areas rose 9.6 percent between May 2010 and May 2011. However, in the same period rural wages increased 21.1 percent. In the next 12 months, between May 2011 and May 2012, consumer prices rose by 8.1 percent, while rural wages jumped by 18.7 percent. This extra cash in the hands of the rural population has fuelled demand for several products.

The Way Forward?: Clearly, while the macroeconomic indicators of India's growth story are impressive, at the operational and micro level a great deal remains to be done. The trajectory of growth still wishes agriculture away, and chooses not to look at sustainable and durable rural industrialisation as a long-term desirable process. This is resulting in the pauperisation of labour and land, and at a more fundamental level, creating new forms of class polarisation within rural and urban communities; as well as exacerbating class differences at the macro level. Furthermore, the services, infrastructure, and systems available to consumers across the country continue to be a cause for concern, as many chapters of this report demonstrate.

Despite this, India has witnessed in the recent past the tremendous growth and spread of community and people-based organisations all over the country. A quick perusal of the developmental landscape reveals a plethora of experiments in livelihoods, local self-governance, and people's movements and *andolan* dotting the Indian landscape, many of which are local, but others with strong linkages with national and multi-national funding organisations. Today, there are over 5 million SHGs; more than 1000 SHG federations and self-help promoting institutions; and over 2.3 lakh *panchayat raj institutions* (PRIs) at different tiers with significant representation from SC/STs and women, not to mention the thousands of watershed associations, water users' association, joint forest management committees and self-reliant co-operatives.

In all of these, new institutional designs (such as the “producer company,” which grew out the cooperative movement) are contributing to the creative energies of civil society and entrepreneurial groups; and processes of decentralisation are playing an important role in the redressal of consumer rights and addressing the basic needs of citizens.

## **The Prime Mover Behind the Consumer Rights Movement: A Thesis and its Anti-Thesis**

There has been a spate of legislations over the past few decades that are deeply pertinent to the issues that consumers face today. While not necessarily directly connected to the frameworks contained in the UNGCP, or indeed, the Indian COPRA — they cover the same set of issues, and some many cases, take an even more radical view of citizen’s rights. These legislations should be viewed as the State’s response to the kinds of pressures experienced by the government from the 1980s onwards, a period that presaged the structural adjustments that followed in the 1990s.

Indeed, many of the most successful civil society movements of this period had the effect of doing two things simultaneously: firstly, eliciting a constructive legislative response from the government; and secondly, energising the citizens to create civil society institutional mechanisms to ensure that the State remains committed to the full implementation of the new legislations.

When viewed this way, the Consumer Protection Act of 1985 was but the first of many legislations that were, in a sense, a response to “demand side” pressures put on the State by citizens. Simultaneously six other consumer related laws were amended to empower consumers and their organisations to pursue complaints, which were hitherto in the exclusive domain of the administrative machinery: Agmark Act; Weights & Measures Act; Prevention of Food Adulteration Act; Monopolies & Restrictive Trade Practices Act; Bureau of Indian Standards Act and Essential Commodities Act. Some of the key legislations that affect the most marginalised sections of India’s population, which were put into place from the early 1990s as the result of demand-side pressures, include:

- The enactment of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments in 1993 had the effect of making the *panchayats* and municipalities key institutions of local self-government for rural and urban areas respectively
- The *Panchayats* (Extension to Scheduled Areas) Act, 1996 (PESA) recognised the basic rights of tribal communities over their lands and resources
- The Right to Information Act, 2005
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA) 2006
- The Right of Children to Free and Compulsory Education Act, 2010

It is noteworthy that at the heart of many of these legislations is an affirmation of the core principle of decentralisation, and an acknowledgement of the importance of local self-government in facilitating “bottom-up planning.” They represent a paradigmatic shift in the State’s relationship with citizens, i.e. a move away from the Nehruvian framework in which power lay at the feet of the national Planning Commission at the national, central level.

What triggered all of these legislations (and indeed, many more that have a bearing on the consumer rights movement)? Two theses, from within the fight for consumer rights, are as follows:

- One thesis states that given the decentralised nature of the consumer disputes redressal system in India, and the incremental progress that the Indian consumer movement has made over the last quarter of a century or so, Indian consumers should be viewed as citizens responding to

changes introduced from the supply side; with an assumption that “supply creates its own demand”.

- The corresponding anti-thesis states that Indian consumers should be viewed as agents of change, who exercise their citizens’ “civic” right to demand their rights. In other words, the growth and expansion of the consumer rights movement may be understood as the result of demand-side pressures that have, over the years, created a stable and vibrant consumer rights discourse.

From the patterns discussed earlier in this essay, it is probably fair to argue that both the theses outlined above contain elements of the truth for different periods of time after India’s independence. On balance, however, *the latter thesis seems more valid for developments over the past two decades, i.e. from the early 1990s onwards*. All of the chapters above show that the kinds of legislations that have been passed in this period are clearly the result of civil society pressures mounted on the State from a vibrant, increasingly self-aware and confident citizenry, aided by enlightened sections of the polity and bureaucracy. This has put the country’s democratic institutions under pressure, but this is not necessarily a bad thing, merely a correction, since in the period before the 1980s, the pendulum was undoubtedly on the other side.

From all of this, the moot question remains: Are Indian citizens materially and tangibly accessing their rights as consumers? As other chapters show, in many areas there are inefficiencies and implementation gaps. Given the institutional challenges of governance in India, the COPRA continues to be faced with implementation problems. To be fair however, these problems appear to be no worse *vis-à-vis* the COPRA as with the kinds of legislations listed above. (Indeed, the failure of the State to implement legislations like PESA and FRA is often considered a reason for the rise of left-wing extremism in many parts of central India).<sup>12</sup>

Most of the findings contained in the other chapters highlight the gaps in the implementation of the rights enshrined into law; and the issue of deficits in governance reappears at all levels of analysis. This further reinforces the argument that most legislations are today the result of “demand-side” pressures. The past two decades have witnessed the passage of so many “rights-based” legislations; but major deficits remain in their delivery and governance.

## **Conclusion: On the Decentralisation of Consumer Rights**

Fundamentally, the ability of any governmental organisation to deliver quality service to the citizen depends on the quality, patience, and listening capacity of its governance systems. Put differently, the quality of governance is a critical determinant of the degree to which government is able to enforce many of its legislations in ways that meet the expectations of the country’s citizenry. How well the Government of India has implemented potentially transformative legislations like the COPRA, the 73<sup>rd</sup> and 74<sup>th</sup> Amendments, the *Panchayats* (Extension to Scheduled Areas) Act, the Right to Education, the Forest Rights Act, etc., is a subject of critical citizen scrutiny because they lie at the heart of many of the most progressive “rights” covered in this report. This is because how far these legislations are being implemented determines, in fundamental ways, the degree to which the consumer rights of the most disenfranchised consumers of India are being protected in both urban and rural areas.

A perusal of independent assessments commissioned by numerous government ministries (including the “State of the India Consumer,” prepared by CUTS in 2001) reveals that opinion is divided on the degree to which India’s governance has succeeded in meeting its commitments to consumers across the country. For all that the Central and State administrative services have done for India, it is a matter of record that the civil services have often been at the receiving end

of pronouncements about the need for “civil service reform.”<sup>13</sup>In this regard, the active empowerment of the “third tier” of governance, i.e. the municipalities and *panchayats*, is often viewed as a potential solution, with pan-Indian implications.

With the passage of the 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the Constitution in 1993, a larger historical evolution that began in colonial times reached a watershed; and the subsequent creation of the Ministry of *Panchayati Raj* in 2004 was a step in the right direction. It is a different matter that these initiatives unfortunately continue to face resistance from state governments that are wary of transferring of their powers to local bodies; district planning committees have had very limited success. However, the formal political acceptance of the importance of decentralised planning and institutions of local self-governance in the early-1990s — the same period in which India’s embraced economic reforms — is a notable shift in India’s democratic evolution.

While a detailed exposition is beyond the scope of this essay, even a tentative attempt to locate the importance of “local bodies” (such as *panchayats* and municipalities) within the larger history of India’s developmental history must begin with a theoretical assessment of the ways by which institutions of governance are linked to the changing relationship between the state, civil society, and discourses of citizenship. The current appreciation of the importance of “bottom-up planning” in facilitating such processes marks a significant conceptual shift in the way that the relationship between the state and citizen is being imagined. In this regard, the idea of civil society, that space where citizens act in concert (formally or informally) to exercise critical surveillance over the state to keep it accountable, becomes important. *Panchayati Raj and empowered municipalities represent an important step in bringing the citizenry, civil society and the state’s developmental objectives into greater harmony.* This has significant implications for how we imagine the changing contours of our liberal democratic political order, and more narrowly, the place of consumer rights in India’s polity.

First, the theoretical literature on the relationship between the modern State and civil society: Most discussions of civil society derive sustenance from differing interpretations of statehood and citizenship, concepts that have long and distinguished lineages. Although we do not have the space to delve into these in detail, the growing influence of insights from Michel Foucault, and scholars of postcolonial theory and Subaltern Studies needs to be acknowledged. Much of this scholarship presents compelling critiques of the ways by the “state” has been imagined, and the kinds of gaps and political confusions this has produced in institutions of governance.

In a seminal essay challenging Hegel’s claim that “the state is not mere mechanical scaffolding” but a vital force for realising the ethics of freedom,<sup>14</sup>Timothy Mitchell argues that “the edges of the state are uncertain; societal elements seem to penetrate it on all sides, and the resulting boundary between state and society is difficult to determine.”<sup>15</sup> For Mitchell, the state is important because “of its political strength as a mythic or ideological construct.”<sup>16</sup>

As Fuller points out, Mitchell’s approach crucially depends on the argument that although there is no clear boundary separating the state from society, an apparent boundary between them is produced by the modern nation-state, so that “the distinction between state and society...[is] the defining characteristic of the modern political order.”<sup>17</sup> This false boundary, a modernist conceit, creates major problems, which Mitchell works around quite effectively. For Mitchell, the state is not to be analysed as a structure, but “as a structural effect,” that is, as the effect of practices that make state structures appear to exist. Significant among these practices are Foucauldian disciplines helping to produce the armies, schools, bureaucracies, and other distinctly modern institutions.<sup>18</sup>

These “structured effects” of modern technologies of power – which in our discussion are really those that the consumer rights discourse seeks to keep accountable so that the basic needs of citizens can be met – sometimes tend to privilege static notions of citizenship that are at odds with the historical movement of peoples and ideas. This is especially true in our age of global inter-connectedness; and rapid intra-country migrations.

In such political systems, the state is not always able to “hear” the political voices of the mobile or the marginalised, because the institutions of governance are top-heavy, frequently inertia-ridden. (The problem is particularly acute in countries whose statist apparatus has colonial roots, as is the case with India).

Building upon his argument that nationalism in colonial societies was “a derivative discourse” that normalised the hegemony of bourgeois groups, Partha Chatterjee has repeatedly emphasised that in countries like India, civil society – those institutions of modern associational life that are based on equality, autonomy, freedom of entry and exit, and other such principles – is accessible only to a small section of the population whose rights are protected by the legal-bureaucratic apparatus of the state.<sup>19</sup>

This has not changed too much with India’s passage from colonial rule to postcolonial nationhood because, in the latter, the discourses and practices of civil society still emanate from a small group of “citizens.” These groups were the nationalist elites in the era of colonial modernity, and have remained dominant in the postcolonial period. The rise and institutionalisation of the consumer rights discourse may indicate that this just might be changing, as visible in the proliferation of NGOs, citizen’s groups, etc, in recent times. Having said this, a large segment of Indian society still remains outside the bounds of civil society, but within the realm of what Chatterjee describes as “political society.”

This is where the importance of decentralisation and local bodies like municipalities and *panchayats* in the redressal of consumer rights cannot be emphasised enough. The revolutionary promise of *Panchayati Raj* reform lies in the fact that it invites the majority of the population to engage with the State in a direct, grounded, and sustained manner. In a sense, the reforms enshrined in the 73<sup>rd</sup> and 74<sup>th</sup> Amendments are built on the belief that state and citizenry enjoy a meaningful relationship built on the “social contract,” so that the state may perform its welfare, developmental functions in response to the voices of the people as they emanate from a truly participative process. At the local level, the protection of rights (consumer and others) acquires the kind of urgency that is necessary to satisfy the growing demands of India’s citizens.

In all of these developments over the past few decades, the consumer rights movement has played vital role in working towards the creation of viable institutions for civic-minded members of India’s population to inhabit. These spaces are potentially sites of empowerment for the disenfranchised; the old exclusionary mechanisms that kept women, lower caste groups, etc out, are less effective today than they were in the past. At their best, these mobilisations can exercise constructive surveillance over the state to keep it accountable. One may cautiously speculate that CSOs and movements, with their current linkages with the state and economy, have the potential to channel the energies of people towards building sustainable institutions that directly address the political and economic demands of Indians from all walks of life, whose basic needs and rights to redressal are of paramount importance in a democratic polity.

It is precisely through the range and dense welter of such mobilisations that democratic institutions (such as the courts and the bureaucracy) have been able to fine-tune their responses to the fluidity and diversity of India. This fine-tuning is obviously an ongoing process, but within it,

India's diversity and shifting conditions are likely to find their most articulate voice through civil society mobilisations, especially those that are grounded and local. This will neither be easy, nor straightforward. Even if those associated with civil society are able to bring about legislative reform, the devil, as they say, is in the details of service delivery and governance. Institutional norms on their own are no good without professional accountability. In this regard, the decentralisation of institutional mechanisms, as already mandated in the Indian Constitution may be a step in the right direction.

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## Endnotes

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- 6 The indicators used for computing the index of food insecurity in rural India are: a) Percentage of population consuming less than 1,890 Kcal /cu/diem; b) Percentage of households not having access to safe drinking water; c) Percentage of households not having access to toilets within the premises; d) Percentage of ever-married women age 15 – 49 years who are anemic; e) Percentage of women (15 – 49 yrs) with CED; f) Percentage of children in the age group 6 – 35 months who are anemic; and, g) Percentage of children in the age group 6 – 35 months who are stunted.
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- 17 *Ibid.*, 95.
- 18 C.J. Fuller and John Harriss, "For an Anthropology of the Modern Indian State," in *The Everyday State and Society in India*, ed., C.J. Fuller and Veronique Benei (New Delhi: Social Science Press, 2000), 3-4.
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# 10

## Consumer Awareness Index

Consumer awareness index is a composite measure of awareness among 11,500 individual consumer surveyed across 19 Indian states namely Haryana, Jharkhand, Tripura, Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, Madhya Pradesh, Chhattisgarh, Goa, Maharashtra, Gujarat, Odisha, Punjab, Rajasthan, Uttar Pradesh, Bihar, Uttarakhand and West Bengal and 3 Union Territories of India viz. Chandigarh, Delhi and Puducherry.

15 questions indicating consumer awareness on different aspects were selected amongst the survey questions. These indicators were clubbed under 4 broad categories presented in Table 1 below. All the 15 indicator were given equal weight ranging from 0 to 1, 0 indicates minimum value and 1 indicates the maximum value.

**Table 1: Consumer awareness indicator and categories**

Categories	Indicators
<b>Awareness regarding acts, policies, regulations and govt. initiatives</b>	Aware about proposed Food Security Act
	Aware of Nirmal Gram Yojana/ ILCS/ NUSP
	Aware of Consumer Rights
	Aware of “Jago Grahak Jago” campaign
<b>Awareness about consumer representation</b>	Aware of public hearing/forums organized seek consumer representation to develop regulations
<b>Awareness about environment friendly products</b>	Aware of certifications and initiatives as Energy Star, Bharat/Euro emission norms for Automobiles etc
<b>Awareness about regulatory authorities</b>	Aware about initiative for regulating the real estate/housing market
	Know about Electricity Regulatory Commission (ERC)
	Know about Telecom Regulatory Authority of India (TRAI)
	Know about Food Safety & Standards Authority of India (FSSAI)
	Know about Stock Exchange Board of India (SEBI)
	Know about Insurance Regulatory and Development Authority (IRDA)
	Know about Reserve Bank of India (RBI)
	Know about Pension Fund Regulatory & Development Authority (PFRDA)
Know about Forward Market Commission (FMC)	

The scores for the index have been calculated based on the decimal equivalent of percentage of a particular indicator. Finally the scores under the 4 pre specified categories were added to form the final composite index. The summary index presents total score of each category out of the number of indicators in each category and total score of each state out of 15. Category wise index are presented in the following pages.

<b>Table 2: Summary Index and Ranking of States</b>						
<b>Indicator</b>	<b>Awareness About Acts, Policies, Regulations and Gov. Initiatives</b>	<b>Awareness about Consumer Representation</b>	<b>Awareness about Environment Friendly Products</b>	<b>Awareness About Regulatory Authority</b>	<b>Total Score</b>	<b>Rank</b>
<b>States</b>	<b>Index score out of 4</b>	<b>Index score out of 1</b>	<b>Index score out of 1</b>	<b>Index score out of 9</b>	<b>out of 15</b>	
<b>Andhra Pradesh</b>	0.63	0.12	0.07	1.06	1.89	21
<b>Bihar</b>	0.85	0.03	0.03	0.65	1.56	22
<b>Chandigarh</b>	2.39	0.12	0.14	4.64	7.29	1
<b>Chhattisgarh</b>	1.33	0.28	0.02	0.93	2.55	16
<b>Delhi</b>	1.61	0.12	0.12	2.13	3.97	9
<b>Goa</b>	1.58	0.46	0.14	2.55	4.74	7
<b>Gujarat</b>	2.11	0.54	0.23	3.41	6.29	3
<b>Haryana</b>	1.72	0.23	0.13	2.11	4.19	8
<b>Jharkhand</b>	1.71	0.11	0.02	1.99	3.84	11
<b>Karnataka</b>	1.93	0.34	0.39	2.79	5.45	5
<b>Kerala</b>	1.68	0.44	0.16	3.93	6.21	4
<b>Madhya Pradesh</b>	1.55	0.11	0.04	1.73	3.44	14
<b>Maharashtra</b>	1.44	0.63	0.01	3.15	5.23	6
<b>Odisha</b>	0.95	0.11	0.03	1.16	2.25	19
<b>Puducherry</b>	0.88	0.02	0.35	2.55	3.81	12
<b>Punjab</b>	2.13	0.34	0.17	4.20	6.85	2
<b>Rajasthan</b>	0.94	0.13	0.04	1.16	2.26	18
<b>Tamil Nadu</b>	0.60	0.14	0.10	1.48	2.32	17
<b>Tripura</b>	1.81	0.06	0.11	1.95	3.93	10
<b>Uttar Pradesh</b>	1.23	0.16	0.08	2.02	3.48	13
<b>Uttarakhand</b>	1.39	0.00	0.01	0.67	2.06	20
<b>West Bengal</b>	1.67	0.23	0.02	1.11	3.03	15

**Table 3: Index on awareness regarding acts, policies, regulations and Government Initiatives**

Indicator	Aware about proposed Food Security Act	Aware about proposed Food Security Act	Aware of Nirmal Gram Yojana/ILCS/NUSP	Aware of Nirmal Gram Yojana/ILCS/NUSP	Aware of consumer rights	Aware of consumer rights	Aware of "Jago Grahak Jago" Campaign	Aware of "Jago Grahak Jago" Campaign	Score out of 4
Source	%	Index Score	%	Index Score	%	Index Score	%	Index Score	
Andhra Pradesh	15	0.15	21	0.21	14	0.14	12	0.12	0.63
Bihar	4	0.04	26	0.26	23	0.23	32	0.32	0.85
Chandigarh	56	0.56	17	0.17	67	0.67	99	0.99	2.39
Chhattisgarh	11	0.11	16	0.16	41	0.41	66	0.66	1.33
Delhi	15	0.15	40	0.40	30	0.30	76	0.76	1.61
Goa	18	0.18	51	0.51	52	0.52	37	0.37	1.58
Gujarat	39	0.39	37	0.37	68	0.68	67	0.67	2.11
Haryana	18	0.18	31	0.31	42	0.42	81	0.81	1.72
Jharkhand	8	0.08	13	0.13	69	0.69	81	0.81	1.71
Karnataka	25	0.25	47	0.47	62	0.62	59	0.59	1.93
Kerala	10	0.10	45	0.45	82	0.82	31	0.31	1.68
Madhya Pradesh	12	0.12	45	0.45	32	0.32	66	0.66	1.55
Maharashtra	8	0.08	32	0.32	68	0.68	36	0.36	1.44
Odisha	12	0.12	23	0.23	25	0.25	36	0.36	0.95
Puducherry	23	0.23	4	0.04	28	0.28	34	0.34	0.88
Punjab	29	0.29	51	0.51	49	0.49	84	0.84	2.13
Rajasthan	6	0.06	12	0.12	16	0.16	60	0.60	0.94
Tamil Nadu	15	0.15	14	0.14	23	0.23	8	0.08	0.60
Tripura	32	0.32	36	0.36	48	0.48	65	0.65	1.81
Uttar Pradesh	12	0.12	12	0.12	37	0.37	62	0.62	1.23
Uttarakhand	3	0.03	57	0.57	7	0.07	72	0.72	1.39
West Bengal	13	0.13	31	0.31	51	0.51	70	0.70	1.67

<b>Table 4: Index on awareness about consumer representation</b>			
<b>Indicator</b>	Awareness about public hearing/forums organized to seek consumer representation to develop policies, regulations etc	Awareness about public hearing/forums organized to seek consumer representation to develop policies, regulations etc	<b>Score out of 1</b>
<b>Source</b>	%	Index Score	
<b>Andhra Pradesh</b>	12	0.12	0.12
<b>Bihar</b>	3	0.03	0.03
<b>Chandigarh</b>	12	0.12	0.12
<b>Chhattisgarh</b>	28	0.28	0.28
<b>Delhi</b>	12	0.12	0.12
<b>Goa</b>	46	0.46	0.46
<b>Gujarat</b>	54	0.54	0.54
<b>Haryana</b>	23	0.23	0.23
<b>Jharkhand</b>	11	0.11	0.11
<b>Karnataka</b>	34	0.34	0.34
<b>Kerala</b>	44	0.44	0.44
<b>Madhya Pradesh</b>	11	0.11	0.11
<b>Maharashtra</b>	63	0.63	0.63
<b>Odisha</b>	11	0.11	0.11
<b>Puducherry</b>	2	0.02	0.02
<b>Punjab</b>	34	0.34	0.34
<b>Rajasthan</b>	13	0.13	0.13
<b>Tamil Nadu</b>	14	0.14	0.14
<b>Tripura</b>	6	0.06	0.06
<b>Uttar Pradesh</b>	16	0.16	0.16
<b>Uttarakhand</b>	0	0.00	0.00
<b>West Bengal</b>	23	0.23	0.23

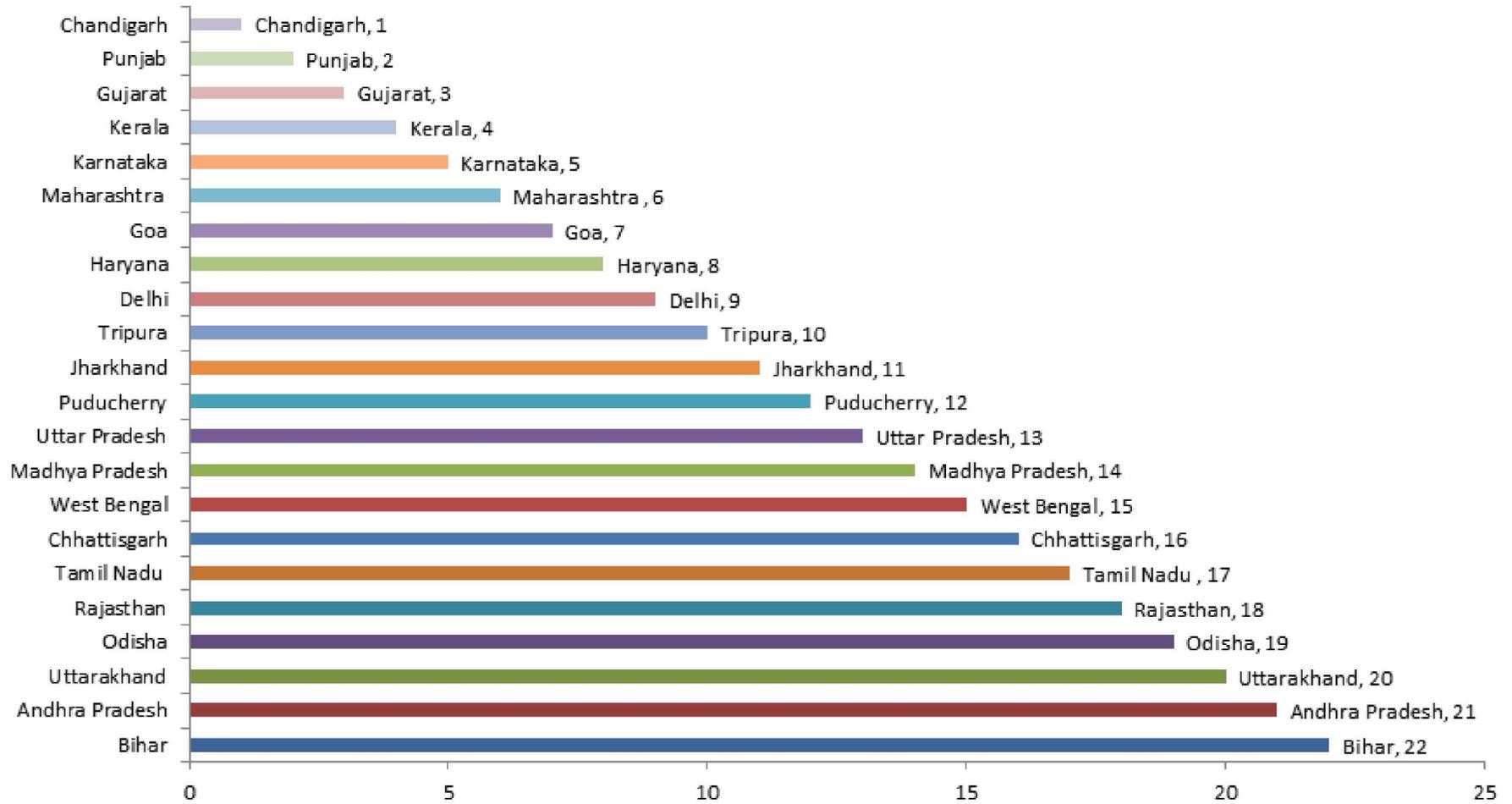
**Table 5: Index on awareness about environment friendly products**

Indicator	Aware of certifications and initiatives as Energy Star, Bharat/ Euro emission norms for Automobiles etc	Aware of certifications and initiatives as Energy Star, Bharat/Euro emission norms for Automobiles etc	Score out of 1
Source	%	Index Score	
Andhra Pradesh	7	0.07	0.07
Bihar	3	0.03	0.03
Chandigarh	14	0.14	0.14
Chhattisgarh	2	0.02	0.02
Delhi	12	0.12	0.12
Goa	14	0.14	0.14
Gujarat	23	0.23	0.23
Haryana	13	0.13	0.13
Jharkhand	2	0.02	0.02
Karnataka	39	0.39	0.39
Kerala	16	0.16	0.16
Madhya Pradesh	4	0.04	0.04
Maharashtra	1	0.01	0.01
Odisha	3	0.03	0.03
Puducherry	35	0.35	0.35
Punjab	17	0.17	0.17
Rajasthan	4	0.04	0.04
Tamil Nadu	10	0.10	0.10
Tripura	11	0.11	0.11
Uttar Pradesh	8	0.08	0.08
Uttarakhand	1	0.01	0.01
West Bengal	2	0.02	0.02

Table 6: Index on Awareness about Regulatory Authority

Indicator	Aware about initiative for regulating the real estate/housing market		Know about ERC		Know about TRAI		Know about FSSAI		Know about SEBI		Know about IRDA		Know about RBI		Know about PFRDA		Know about FMC		Score out of 9
	Source	%	Index Score	%	Index Score	%	Index Score	%	Index Score	%	Index Score	%	Index Score	%	Index Score	%	Index Score	%	
Andhra Pradesh	10	0.10	12	0.12	8	0.08	10	0.10	10	0.10	12	0.12	28	0.28	9	0.09	7	0.07	1.06
Bihar	6	0.06	5	0.05	9	0.09	3	0.03	5	0.05	7	0.07	16	0.16	13	0.13	1	0.01	0.65
Chandigarh	25	0.25	53	0.53	73	0.73	52	0.52	44	0.44	66	0.66	84	0.84	64	0.64	4	0.04	4.64
Chhattisgarh	2	0.02	39	0.39	9	0.09	1	0.01	9	0.09	7	0.07	18	0.18	8	0.08	0	0.00	0.93
Delhi	13	0.13	13	0.13	23	0.23	19	0.19	21	0.21	31	0.31	48	0.48	39	0.39	5	0.05	2.13
Goa	6	0.06	46	0.46	29	0.29	23	0.23	29	0.29	36	0.36	45	0.45	28	0.28	13	0.13	2.55
Gujarat	34	0.34	48	0.48	65	0.65	30	0.30	24	0.24	31	0.31	58	0.58	27	0.27	24	0.24	3.41
Haryana	14	0.14	18	0.18	32	0.32	22	0.22	22	0.22	33	0.33	50	0.50	16	0.16	5	0.05	2.11
Jharkhand	11	0.11	20	0.20	30	0.30	23	0.23	21	0.21	31	0.31	41	0.41	20	0.20	2	0.02	1.99
Karnataka	15	0.15	31	0.31	36	0.36	28	0.28	29	0.29	34	0.34	47	0.47	43	0.43	17	0.17	2.79
Kerala	15	0.15	41	0.41	48	0.48	52	0.52	57	0.57	47	0.47	65	0.65	46	0.46	21	0.21	3.93
Madhya Pradesh	10	0.10	23	0.23	29	0.29	9	0.09	7	0.07	23	0.23	44	0.44	24	0.24	4	0.04	1.73
Maharashtra	4	0.04	62	0.62	45	0.45	24	0.24	43	0.43	28	0.28	57	0.57	25	0.25	24	0.24	3.15
Odisha	2	0.02	19	0.19	9	0.09	6	0.06	10	0.10	12	0.12	45	0.45	9	0.09	2	0.02	1.16
Puducherry	20	0.20	6	0.06	18	0.18	42	0.42	9	0.09	45	0.45	60	0.60	49	0.49	6	0.06	2.55
Punjab	25	0.25	43	0.43	63	0.63	51	0.51	32	0.32	63	0.63	69	0.69	59	0.59	14	0.14	4.20
Rajasthan	10	0.10	8	0.08	16	0.16	9	0.09	5	0.05	17	0.17	31	0.31	19	0.19	2	0.02	1.16
Tamil Nadu	6	0.06	47	0.47	13	0.13	16	0.16	15	0.15	18	0.18	16	0.16	12	0.12	5	0.05	1.48
Tripura	15	0.15	33	0.33	13	0.13	21	0.21	13	0.13	20	0.20	54	0.54	19	0.19	7	0.07	1.95
Uttar Pradesh	7	0.07	14	0.14	36	0.36	13	0.13	8	0.08	34	0.34	46	0.46	41	0.41	2	0.02	2.02
Uttarakhand	3	0.03	1	0.01	10	0.10	1	0.01	9	0.09	5	0.05	36	0.36	2	0.02	0	0.00	0.67
West Bengal	11	0.11	28	0.28	12	0.12	6	0.06	9	0.09	11	0.11	24	0.24	10	0.10	2	0.02	1.11

Ranking of target States/UTs in term of overall consumer awareness





# Annexure

## Key Findings of Consumer Survey

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### Introduction

For the research to be scientific, unbiased and professional, CUTS engaged a professional agency for the task – Insight Development Consulting Group (IDCG) after competitive bidding process

#### Purpose of the Survey

The purpose of the “State of the Indian Consumer” study is to assess the level of knowledge and awareness of consumers regarding their following rights, mentioned in UN Guidelines on Consumer Protection.

- Right to satisfaction of basic needs
- Right to safety
- Right to be informed
- Right to choose
- Right to seek redressal
- Right to consumer education
- Right to be heard/consumer representation
- Right to healthy environment

The objective of the study is to assess the level of knowledge and awareness of consumers regarding their rights. Towards this end a consumer survey will be conducted in 19 states and 3 union territories of India, i.e. Haryana, Jharkhand, Tripura, Karnataka, Kerala, Tamil Nadu, Andhra Pradesh, Madhya Pradesh, Chhattisgarh, Goa, Maharashtra, Gujarat, Odisha, Punjab, Rajasthan, Uttar Pradesh, Bihar, Uttarakhand and West Bengal. 3 Union Territories: Chandigarh, Delhi and Puducherry.

### Approach and Methodology

#### Approach

IDCG was responsible for development research tools, data collection and analysis in consultation with CUTS project team. The approach while designing and executing the assignment was as under:

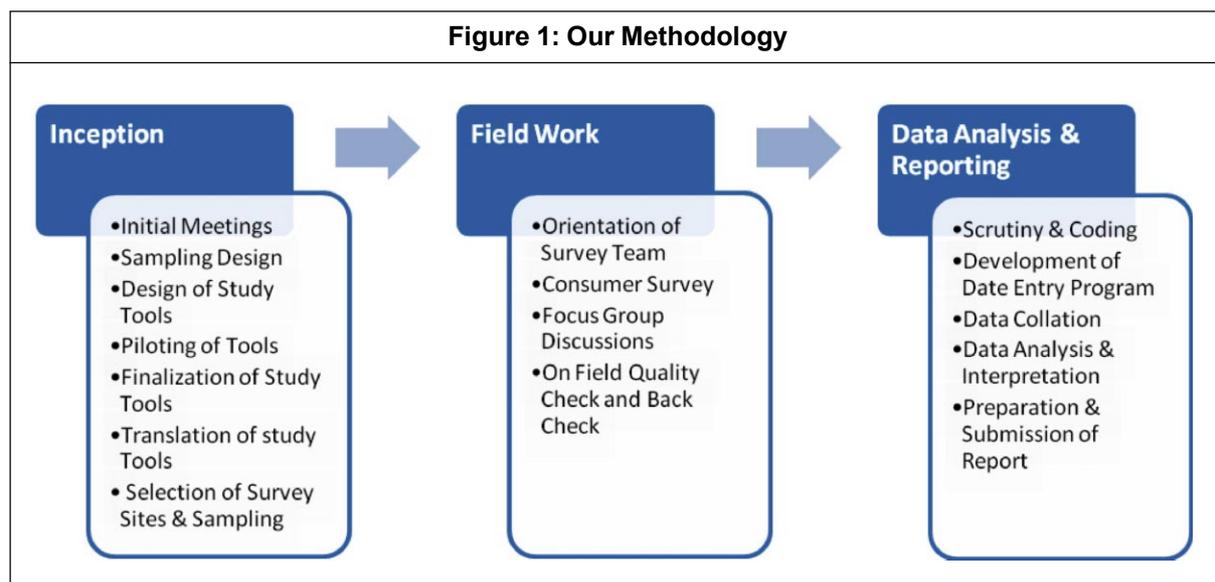
- **A rapid 360° review:** Conductive a rapid 360° review of the various ConsumersUp project components. This involved review of all relevant documents, acts, rules and discussions with CUTS team.
- **Scientific sampling:** The total samples for the research was divided among the selected states & UTs in proportion to their percentage of the total population of India. The study was conducted in a manner that ensures rational representation of state population and respondents were drawn in a way that covers different categories of consumers.
- **Interactive but probing discussions:** The study was conducted through interactive but probing discussions. Towards this end, well-structured instruments were developed for both quantitative

and qualitative survey i:e separate instruments were developed for quantitative consumer survey and qualitative focus group discussions with members of consumer courts, departmental officials etc in consultation with CUTS team.

- **Consultative:** IDCG’s approach towards executing this assignment was consultative. IDCG team worked in close coordination with CUTS team at all states of the assignment.

## Methodology

The assignment was executed in 3 modules presented in Figure 1.



## Sampling Design

The sample for consumer survey has been drawn following a Stratified Multi-Stage Sampling Approach so that it is representative of the state’s population. Various factors have been taken into account in stratifying the sample. These include:

- Geographical spread
- Population
- Relative literacy rates of districts
- Rural and urban divide
- Categories of consumers in term of gender, education and financial status

As per the provisional figures of census 2011, total population in 19 states and 3 union territories of India selected for the national consumer survey is about 1147.84 million. Although a statistically significant sample size would involve a larger sample, for the purpose of this study the sample size is restricted to ~10,500 consumers (stratified as per above mentioned criteria). This has been done to ensure that the survey can be administered with great care and accuracy for the chosen sample. At the same time, the practice of stratification and the uniformity within each stratum ensures that the sample of 10,500 would be quite representative of the population.

## Determination of Sample Districts for Survey

Smaller states and UTs of Chandigarh, Puducherry and Goa have been clubbed with larger neighbouring states to enable a higher coverage of respondents than would be normally afforded through a population proportionate distribution. This has be done to ensure that at least 1 district of the clubbed smaller state/territory is part of the selection of districts. Also, in Tripura where the number of respondents was under 50 in case of a population based distribution, it is proposed

<b>Sr. No.</b>	<b>Name of State/ UT</b>	<b>No. of Districts</b>	<b>Total Population As per census 2011</b>	<b>(%) of Total Population</b>
1	Andhra Pradesh	23	8,46,65,533	7.38
2	Bihar	38	10,38,04,637	9.04
3	Chandigarh	1	10,54,686	0.09
4	Chhattisgarh	18	2,55,40,196	2.23
5	Delhi	9	1,67,53,235	1.46
6	Goa	2	14,57,723	0.13
7	Gujarat	26	6,03,83,628	5.26
8	Haryana	21	2,53,53,081	2.21
9	Jharkhand	24	3,29,66,238	2.87
10	Karnataka	30	6,11,30,704	5.33
11	Kerala	14	3,33,87,677	2.91
12	Madhya Pradesh	50	7,25,97,565	6.32
13	Maharashtra	35	11,23,72,972	9.79
14	Odisha	30	4,19,47,358	3.65
15	Puducherry	4	12,44,464	0.11
16	Punjab	20	2,77,04,236	2.41
17	Rajasthan	33	6,86,21,012	5.98
18	Tamil Nadu	32	7,21,38,958	6.28
19	Tripura	4	36,71,032	0.32
20	Uttar Pradesh	71	19,95,81,477	17.39
21	Uttarakhand	13	1,01,16,752	0.88
22	West Bengal	19	9,13,47,736	7.96

to survey at least 100 respondents. For the purpose of sampling all state have been classified in 3 categories according to Census 2011, viz.,

The distribution of the sample respondents in each state is as under.

Thus, the targeted coverage under quantitative survey was a total of 11,616 sample consumers across 88 districts. The following steps were involved in stratification of the sample:

***Sampling Stage 1: Selection of States/Union Territories (UTs) & Districts***

In each state the capital district has been selected and the remaining districts have been selected through a composite index of population and literacy rate. For the purpose of making a composite

<b>Category</b>	<b>Population as % of Census 2011</b>	<b>No of Survey Districts</b>	<b>Names of States and UT</b>
<b>A</b>	0-2%	<b>2</b>	Tripura, Delhi and Uttarakhand
<b>B</b>	2-6%	<b>4</b>	Chhattisgarh, Gujarat, Haryana, Jharkhand, Karnataka, Kerala, Odisha, Punjab & Chandigarh and Rajasthan
<b>C</b>	6% and above	<b>6</b>	Andhra Pradesh, Bihar, Madhya Pradesh, Maharashtra & Goa, Tamil Nadu & Puducherry, Uttar Pradesh and West Bengal.

Sr. No.	Name of State/ UT	No. of District	Total Population as per Census 2011	% of Total Population	Sample Respondents	No of Survey Districts
1	Andhra Pradesh	23	8,46,65,533	7.38	852	6
2	Bihar	38	10,38,04,637	9.04	1,045	6
3	Chhattisgarh	18	2,55,40,196	2.23	257	4
4	Delhi	9	1,67,53,235	1.46	169	2
5	Gujarat	26	6,03,83,628	5.26	608	6
6	Haryana	21	2,53,53,081	2.21	255	4
7	Jharkhand	24	3,29,66,238	2.87	332	4
8	Karnataka	30	6,11,30,704	5.33	615	6
9	Kerala	14	3,33,87,677	2.91	336	4
10	Madhya Pradesh	50	7,25,97,565	6.32	731	6
11	Maharashtra & Goa	37	11,38,30,695	9.92	1,146	6
12	Odisha	30	4,19,47,358	3.65	422	4
13	Punjab & Chandigarh	21	2,87,58,922	2.5	290	4
14	Rajasthan	33	6,86,21,012	5.98	690	4
15	Tamil Nadu & Puducherry	36	7,33,83,422	6.39	739	6
16	Tripura	4	36,71,032	0.32	100	2
17	Uttar Pradesh	71	19,95,81,477	17.39	2,008	6
18	Uttarakhand	13	1,01,16,752	0.88	102	2
19	West Bengal	19	9,13,47,736	7.96	919	6
	<b>Total</b>	<b>517</b>	<b>1,14,78,40,900</b>		<b>11,616</b>	<b>88</b>

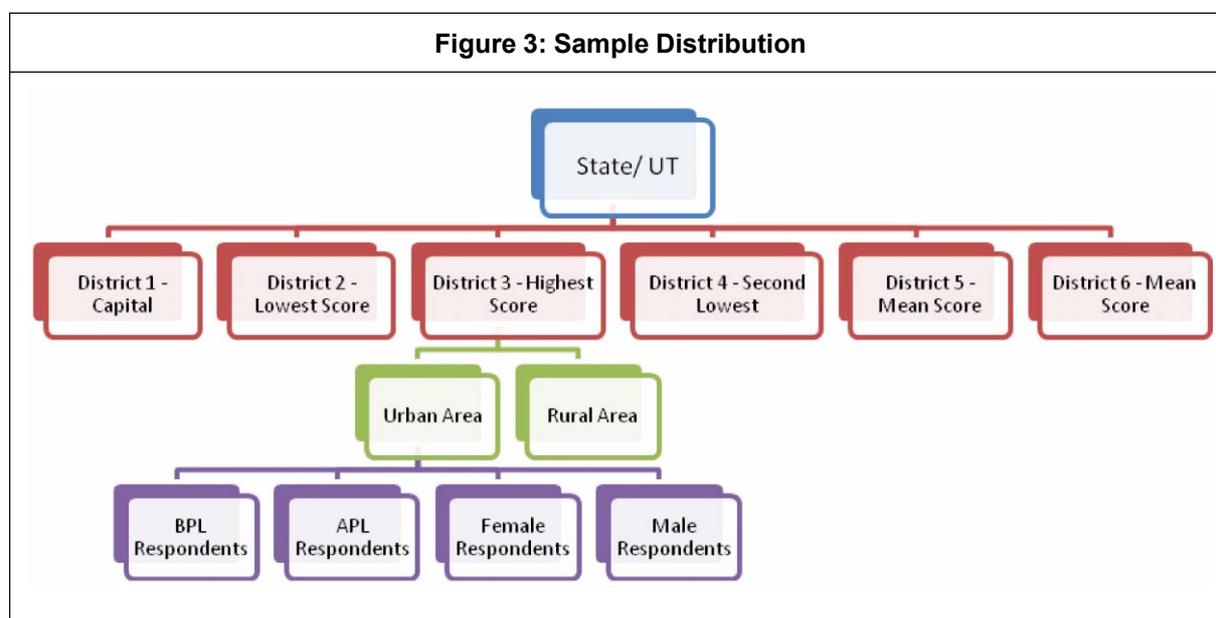
index, each district of the selected state/ UT was assigned a score (on a scale of 0-10) according to the following criteria: (i) Literacy Rate (percent); (ii) Total Population of the district.

With the above classification in place, a Composite Index was developed assigning 50 percent weightage to the literacy rate scores and 50 percent weightage to the scores based on the population of each district. Thus, districts with highest, lowest and mean score on the composite index were selected for the purposes of the survey.

Category	Population as % of Census 2011	No of Survey Districts	District Selection Criteria
<b>A</b>	0-2%	2	(i) District – Capital (ii) District – Lowest Score on Composite Index
<b>B</b>	2-6%	4	(i) District – Capital (ii) District – Lowest Score on Composite Index (iii) District – Mean Score on Composite Index (iv) District – Highest Score on Composite Index
<b>C</b>	6% and above	6	(i) District – Capital (ii) District – Lowest Score on Composite Index (iii) District – Highest Score on Composite Index (iv) District – Second Lowest Score on Composite Index (v) District – Mean Score on Composite Index (vi) District – Mean Score on Composite Index

Based on the composite score and selection criteria, the sample districts selected for survey are represented in Figure 2:





In the selected districts, survey was conducted in the district headquarters and surrounding rural locations depending on the total rural population to be covered under the survey. This was done in order ensures representation of Urban & Rural areas in the target State/ UT.

### Design of Survey Tools

Prior to development of study tools a research framework was developed in consultation with members of CUTS team those who are involved in implementation of the project. Based on the research framework, separate set of survey tools were developed for quantitative and qualitative survey.

The survey tools were pilot tested at two urban locations in Delhi and two rural locations in Haryana. After receiving final approval from CUTS team the survey tools were translated into different regional languages.

### Qualitative Survey

Apart from the quantitative survey of consumers, about 385 qualitative samples have been collected with an objective to understand the state of Indian consumers from the perspective of public and private sector organisations, departments and individuals working closely with consumers with an objective to develop policy lessons & recommendations on the way forward. The qualitative survey respondents comprising of the following:

- Presidents and members of State Consumer Dispute Redressal Commissions
- Presidents and members of District Consumer Dispute Redressal Forums
- Departments of Food, Civil Supply & Consumer Affairs
- Key functionaries of consumer organisations
- Reserve Bank of India
- Bureau of Indian Standards
- Legal Metrology Department
- Telecom Regulatory Authority of India
- Central & State Electricity Regulatory Commission
- Urban Development Authority
- Members of Central Consumer Protection Council

- District Supply Officers
- Sectoral regulator/ombudsman (electricity, banking, insurance etc)
- Faculty Member of Educational Institutions
- Individual activist working in the area of consumer protection/ consumer awareness etc.

Significant efforts were made to meet government officials; however participation from them was limited. Table 5 presents status of coverage under qualitative survey.

<b>Sr. No.</b>	<b>Name of Institution/Organisation</b>	<b>Number of Qualitative Sample Collected</b>
1.	District Consumer Disputes Redressal Forums	143
2.	State Consumer Disputes Redressal Commission	41
3.	Consumer Organisation Representatives	146
4.	Government Departments & Regulatory Bodies	55
	<b>TOTAL</b>	<b>385</b>

### **Course Corrections**

During the course of survey the following modifications were made due to security issues and other reasons beyond our control.

- Replaced Bijapur District in Chhattisgarh with Sarguja due to security concerns related high Naxal activities in the selected districts
- Replaced Malkangiri District in Odisha with Deogarh due to security concerns related high Naxal activities in the selected districts
- Replaced Gadchiroli District in Maharashtra with Bhandara due to security concerns related to high Naxal activities in the selected districts
- In districts like Mumbai, New Delhi and Kolkata very few/ no rural respondents have been covered as rural population is almost negligible in these districts. This was addressed by covering slightly high rural population in other districts of the state.
- Less number of BPL respondents has been covered in some districts of Kerala. This was addressed by covering slightly more number of BPL respondents in other districts of the state.
- Only 65 urban respondents covered in Puducherry, as the survey work was stopped by local police due to unavailability of proper authorisation to conduct survey in Puducherry.

Thus the actual coverage under the survey is 11,499 respondents across 88 districts.

### **Period of Data Collection**

Quantitative data collection under the project started on 23<sup>rd</sup> Mar 2012 and continued till 16<sup>th</sup> May 2012. The survey work was started from Delhi and concluded in Maharashtra covering 11,499 respondents. While the qualitative data collection started from 26<sup>th</sup> Mar 2012 and continued till 22<sup>nd</sup> June 2012 covering 385 respondents.

## Summary of Key Findings

### Right to Satisfaction of Basic Needs

- A fair price shop (FPS) of the public distribution system (PDS) is preferred source for food grains of 14 percent of respondents while 52 percent access a privately owned retail shop. Others use a mix of both options.
  - o Of those using the PDS-FPS, almost 73 percent are BPL families. Just 26 percent of the respondents accessing PDS-FPS have never received their entire entitlement while 11 percent have not received it at the prescribed price. 5 percent and 10 percent of such respondents respectively were unaware about their entitlements and the prescribed price.
    - About 18 percent respondents often make complaints regarding irregularities in PDS/FPS operations. Also, about 19 percent respondents do not have knowledge regarding the process of registering complaint.
- Only 14 percent consumers are aware about the proposed food security act
- About 70 percent sample respondents covered under the survey own a self financed house on privately owned land, while 15 percent have received land from public housing scheme for construction of house and another 5 percent have received full or partial financial assistance from government for construction of house
  - o Only 12 percent of those who own a self financed house on privately owned land have tried to access public housing finance or bank finance scheme. About 74 percent of such respondents believe that finance is not easily accessible to everyone
- Close to 54 percent of respondents meet their drinking water demand through public supply. However, the public supply is more common in urban areas (70 percent)
  - o About 74 percent of respondents receive adequate quantity of drinking water from these sources. However, only 69 percent respondents believe that the water from these sources is potable and safe for drinking. Only 22 percent respondents consider their primary source of drinking water expensive.
- Just 26 percent of Respondents do not have access to a toilet. In rural areas, 33 percent of Respondents lack the access to a toilet.
  - o About 13 percent of the urban respondents use community toilets thus enabling access to toilet for 90 percent of urban respondents
  - o Only 16 percent of those who have toilet at home have reported receiving government support for construction of toilet at home. About 24 percent respondents are aware about government schemes such as Nirmal Gram Yojana/Integrated Low Cost Sanitation Scheme/National Urban Sanitation Programme aimed at providing affordable and hygienic sanitation facility.
- About 79 percent of Respondents of respondents covered under the survey have electricity connections
  - o About 23 percent of rural and 48 percent of urban consumers receive more than 20 hours of electricity supply on a normal day
  - o Only 62 percent consumers consider electricity to be affordable
  - o Only 33 percent of the respondents are aware about electricity regulator
- 46 percent of the respondents use wood as the fuel for cooking while only 2 percent use kerosene. About 37 percent use LPG.
  - o About 56 percent of those who use LPG or kerosene as their primary source of energy for cooking have reported incidence of obtaining LPG/kerosene from black market while 20 percent of them always obtain LPG or Kerosene from black market.
  - o Only 54 percent respondents consider their primary source of energy for cooking affordable
- 64 percent of the respondents send their children to study in government schools.
  - o Almost 80 percent and 70 percent respondents believe that access to education has increased due to Right to Education (RTE) and Mid Day Meal Scheme respectively

- The most common mode of transport used by majority of respondents is Bus/ Jeep (57 percent).
  - About 78 percent respondents believe that their common mode of transport is easily available and accessible. However only 54 percent consider them to be affordable.
- Only 26 percent of respondents have received institutional healthcare facility in last 6 months; 66 percent of these from government hospitals.
  - About 26 percent respondents have travelled more than 5 km to access institutional health care facility.
  - Close to 50 percent respondents have rated healthcare facility as “fair”, neither good nor bad.
  - Only 44 percent respondents consider cost of obtaining healthcare services affordable.
  - According to 59 percent respondents doctors do not generally prescribe generic or competitively priced drugs/medicines
- 90 percent of the respondents have access to a telephone.
- Only 22 percent respondents are satisfied with Government’s effort to ensure ensure adequacy, accessibility and affordability of basic needs.
- About 53 percent respondents strongly believe that right to basic needs should be enacted to cover products and services such as Food, Housing, Health, Water, Education, Sanitation, Energy, Transport and Communication.

### **Right to Safety**

- About 22 percent respondents have reported to always assess products or services from its potential to cause threat/ hazard
- 40 percent of respondents do not refer to any safety or quality certifications such as ISI, ISO, Agmark, Codex etc before making a purchase.
  - ISI is the most known certification referred by 44 percent respondent while making a purchase
- Only 2.5 percent respondents were able to correctly name at least one products other than cigarettes, pan masala, liquor, food material and medicines that should carry mandatory warnings/ safety provisions or certifications
- About 83 percent respondents believe that certification and warnings are an important means to ensure right to safety.

### **Right to be Informed**

- About 63 percent respondents always check weight / quantity of product before purchasing, while 32 percent respondents always check price of the product before making a purchase.
- Only 20 percent respondents are aware of or have heard about Consumer Protection Act 1986 while only 14 percent have knowledge about the Weights and Measures Act 1976.
- Reserve Bank of India (RBI) is the most common name recognised by 40 percent respondents followed by Telecom Regulatory Authority of India (TRAI) (27 percent) and Electricity Regulatory Commission (ERC) (26 percent).

### **Right to Choose**

- Only 1.6 percent respondents were able to correctly name at least one product/service which has only one or two producers/providers
- Only 3.4 percent respondents were able to name at least one product/service other than telecom which should be provided with portability
- Only 2.1 percent respondents were able to name at least one sector where free & fair competition will increase benefits to consumer
- Cost of alternative product/service (16 percent) and transaction fee (14 percent) are the two main barriers in choosing alternative product/ services.

## Right to Seek Redressal

- Over 61 percent of consumers normally voice their complaints to seller (the last person in the supply chain who directly interacts with the user).
  - o 93 percent respondents have never actually made a formal complaint, while 3 percent respondents have registered their grievance with the company/ producer. Only 0.3 percent respondents have approached consumer forums for grievance redressal, while 0.1 percent people have approached sector ombudsman for redressal.
  - o 78 percent respondents have rated the grievance redressal process as “difficult”
  - o 75 percent of cases were not properly redressed while 18 percent of such unresolved cases were taken to a higher authority for redressal.
  - o Over 67 percent of the cases were not redressed within stipulated time frame of 90 days or 150 days whichever is applicable.
    - Three major reasons for delay in redressal is adjournment sought by advocates/ parties (19 percent), followed by reasons such as lack of adequate administrative/support staff (18 percent) and educational status of complainant (11 percent).
  - o About 22 percent respondents reported that the direct cost of seeking redressal was high.
- 55 percent respondents do not know about internal redressal mechanism of a company
  - o Only 7 percent respondents believe that the internal redressal mechanism is not transparent and accountable
- About 53 percent respondents do not know about the external redressal mechanism
  - o Only 28 percent of those who know about external redressal mechanism believe that it is easily accessible by a common man while 37 percent of these believe that the external redressal mechanism is independent and accountable.
- Only 12 percent consumers believe that the present grievance redressal mechanism is empowered to compensate aggrieved consume
- About 34 percent of forum members believe that effective consumer education with respect to consumer rights should be helpful. On the other hand 24 percent members believe that providing free technical/ legal assistance to complainant will make the process more convenient for consumers.
- About 82 percent SCDRC & DCDRF members believe that the present grievance redressal mechanism is empowered to sufficiently compensate aggrieved consumers

## Right to Consumer Education

- 42 percent respondents have heard about consumer rights
  - o Almost 50 percent of respondents are not aware of “Jago Grahak Jago Campaign”.
  - o 63 percent of respondents reported TV as most effective means of communication for consumer education.
- Three major activities of consumer organisations are
  - o Awareness generation through seminar, workshop, books, publications, media, newspaper, street play, FGD, public meetings and camps among different section of the society.
  - o Community engagement/ community development programme
  - o Consumer counselling- door to door counselling and individual counselling sessions for aggrieved consumers.
- 27 percent of consumer organisations have reported lack of consumer awareness as one of the most important hurdles in promoting consumer right
  - o Almost 53 percent of consumer organisations have reported spreading consumer awareness as a major tool for promoting consumer rights, while 8 percent respondent have highlighted the need to enhance govt. support to NGOs for promotion of consumer rights where in such organisations can play a vital role in safeguarding consumer interest by educating and counselling them.

- o Another 9 percent of the organisations have highlighted the need to include consumer education in school, college & university syllabus

### **Right to be Heard/Consumer Representation**

- Only 23 percent are aware about the process of public consultation or consumer representation
  - o 28 percent of those who are aware about public consultation or consumer representation have also participated in such events
  - o About 81 percent of those who have ever participated in such events believe that their participation resulted in taking public friendly decisions/consumer friendly regulations
  - o Lack of awareness among people (64 percent) is the most important reason for not participating in such event

### **Right to Healthy Environment**

- Only 13 percent respondents are aware about certifications and initiatives viz. Energy Star Rating, Bharat/Euro Emission for Automobiles, Organic Food & Natural Textiles and Recyclable Plastic etc
  - o About 63 percent respondents are aware about incentives from government to promote environment friendly products
  - o About 28 percent respondents those who know about such products always tend to buy such products
  - o About 65 percent respondents those who purchase such products find them competitively price as compared to other similar products available in the market
  - o About 63 percent respondents those who know about such products are willing to pay some extra money to buy such products

## **Key Findings**

The following section presents key findings of the consumer survey. This section presents an overview of demographic profile of respondents covered under the survey. This section also exhibit knowledge, awareness, practice, experience and perception of Indian consumer with respect to their rights as a consumer.

In order to present regional variation in knowledge, awareness, practice, experience and perception of Indian consumer all 19 states and 3 union territories covered under the consumer survey.

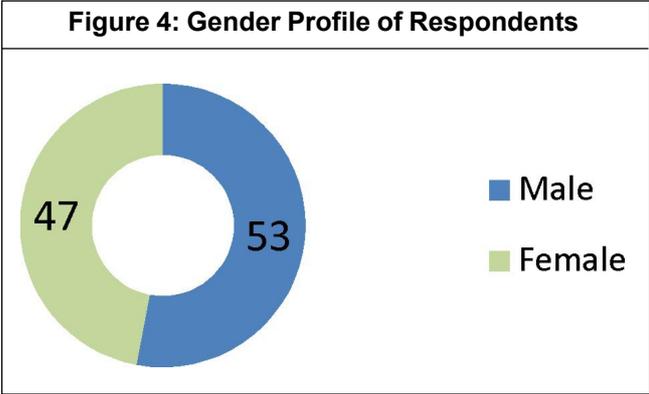
This section also presents the status of key indicators in four project states viz. Haryana, Karnataka, Jharkhand and Tripura with respect to the knowledge, awareness, practice, experience and perception of Indian consumer.

## **Demographic Profile of Respondents**

### ***Gender Profile***

Be it rural India or the urban world, women are in the process of becoming key decision makers in buying what's on offer. The trend is not limited to smaller consumer products alone. It is equally true for big-ticket items like consumer durables. This fact is true for global markets also; women control 65 percent of global spending. The woman's influence on the buying pattern has grown significantly in the last few years as literacy levels are on the rise. The increased penetration of satellite and cable television has made women more aware of what is on offer in the market place.

Looking at the significance of women consumers a little less than fifty percent (47 percent) female consumers were covered under the survey. Almost equal proportion of female consumers was covered from both urban and rural areas.



**Education Profile**

About 32 percent respondents covered under the survey have received no formal schooling; however 20 percent of them can read and count. About 9 percent consumers have completed graduation, while 21 percent of them have completed their post graduation as well.

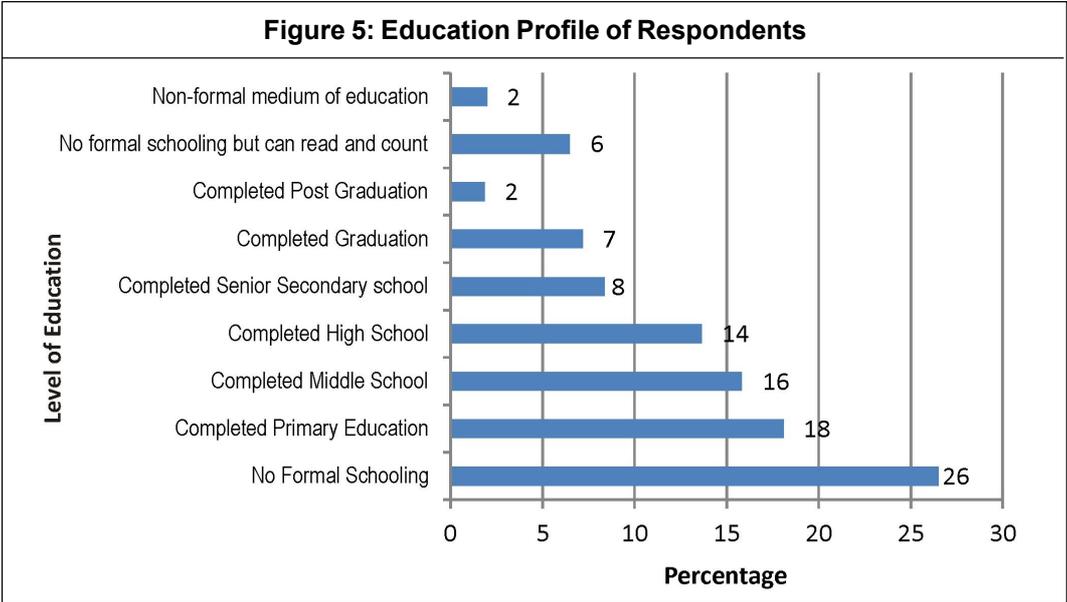
Among educated consumers maximum number of respondents has completed primary education (18 percent), while 16 percent have completed education upto middle school. Over all literacy rate in India is about 75.06 percent as per 2011 census.

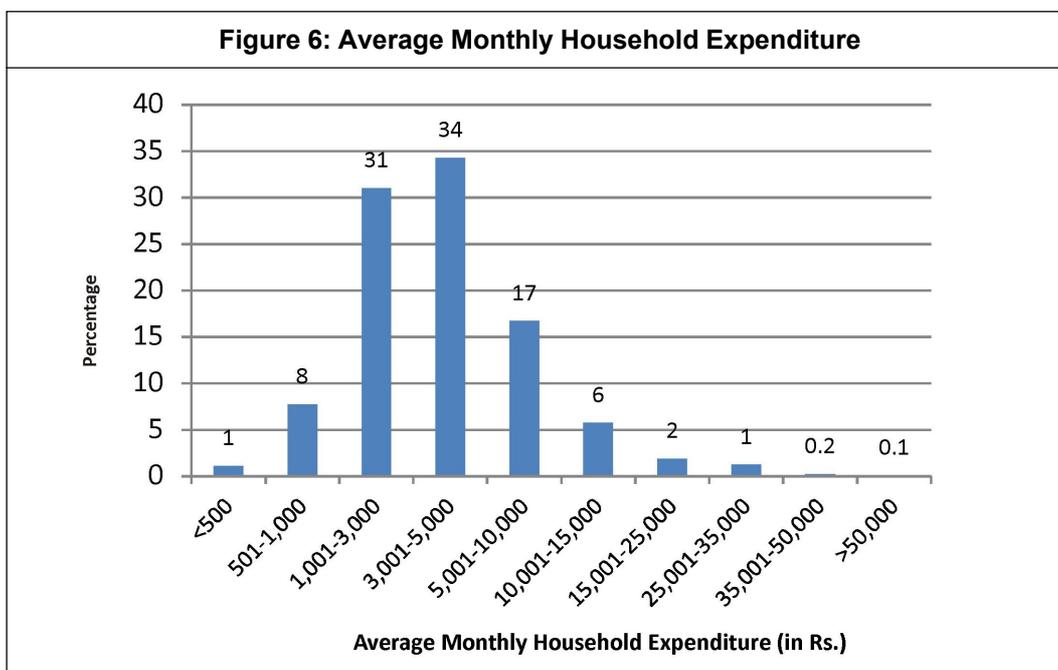
**Expenditure Profile**

About 34 percent consumers covered under the survey have an average monthly household expenditure of ‘3,001 to ‘5,000. Little less than 10 percent consumers have reported spending more than ‘10,000 per month on household requirements.

The actual household income of these consumers could be close to 35 percent - 50 percent more than their average monthly household expenditure. According to a joint study by the Associated Chambers of Commerce and Industry of India (Assocham) and PricewaterhouseCoopers (PwC) the saving rate of Indian household is 33.4 percent.

About 29 percent consumers covered under the survey belong to households Below Poverty Line (BPL), while the remaining 71 percent are above poverty line. Majority of BPL consumers are residents of rural area or urban slums. About 35 percent BPL consumers belong to rural area; while in urban area the proportion of BPL consumers is as less as 18 percent.





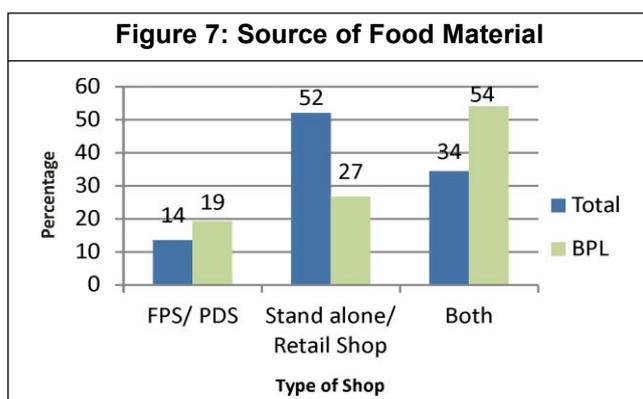
### Right to Satisfaction of Basic Needs

The right to satisfaction of basic needs is to have access to basic, essential goods and services adequate food, clothing, shelter, health care, education, public utilities, water and sanitation. In India, the conventional thought with respect to basic needs was limited to three items – food, clothing and shelter. Over the time, several other essential items have been included in the basket of basic needs viz. drinking water, sanitation, education and healthcare. However, few more items like energy – for lighting the home and cooking food, transportation and communication should be added to complete the basket of basic needs. All the above listed items have been considered as basic needs for the purpose of the study.

### Food

With respect to food, the broad objective of the right is to ensure food security. Several welfare schemes and programmes are being implemented by Government to ensure food security for the poor. Public Distribution System (PDS) or Fair Price Shops (FPS) is one of the most important initiatives towards this end.

Close to 50 percent respondents covered under the survey have reported accessing PDS/FPS for purchasing food material. About 71 percent of them also access stand alone / retail shops to meet domestic food demand. Dependence on PDS/ FPS is significantly high among BPL households; about 73 percent BPL household's access PDS/ FPS as compared to 38 percent APL households.



About 44 percent respondents have reported to receive appropriate quantity of food grains from PDS/FPS on a regular basis, while 26 percent have never received or rarely received appropriate

quantity of food grains from PDS/FPS. About 5 percent of those who access PDS/FPS are not aware about their entitlement and 85 percent of such respondents are from rural areas.

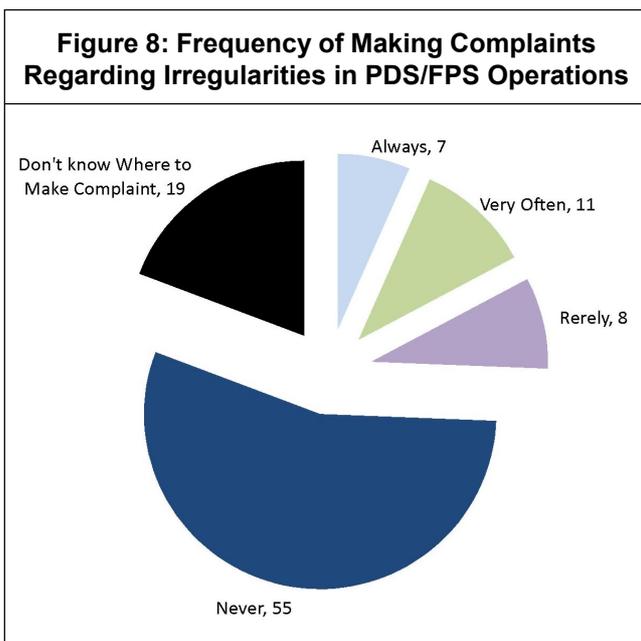
About 42 percent respondents always receive foods grains on govt. prescribed price from PDS/FPS, while 11 percent have never received food grains on government prescribed price. On the other hand close to 10 percent respondents are not aware about govt. prescribed rates and 81 percent of such respondents are from rural areas.

**Frequency of Making Complaints**

Despite the fact that close to 45 percent respondents do not receive appropriate quantity of food material at government prescribed rate 74 percent respondents have never made a complaint regarding irregularities in PDS/FPS operations.

About 18 percent respondents pretty often make complaints regarding irregularities in PDS/FPS operations. Majority of respondents those who make complaints are from urban areas and belong to APL households. Similarly respondents from South region are active in making complaints as compared to other regions.

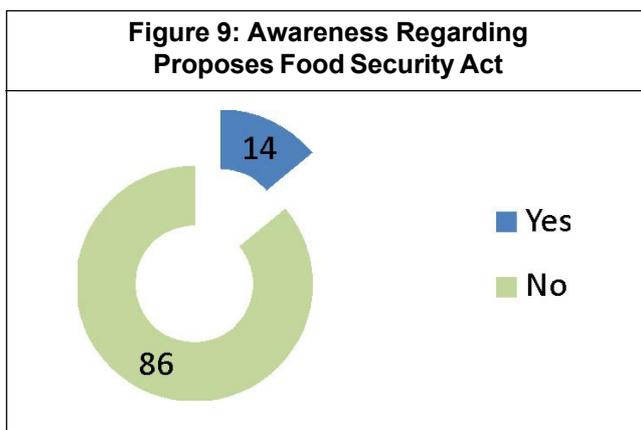
About 19 percent respondents do not have knowledge regarding the process of registering complaint. Majority of such respondents belong to northern (28 percent) and eastern region (26 percent).



**Awareness Regarding Proposed Food Security Act**

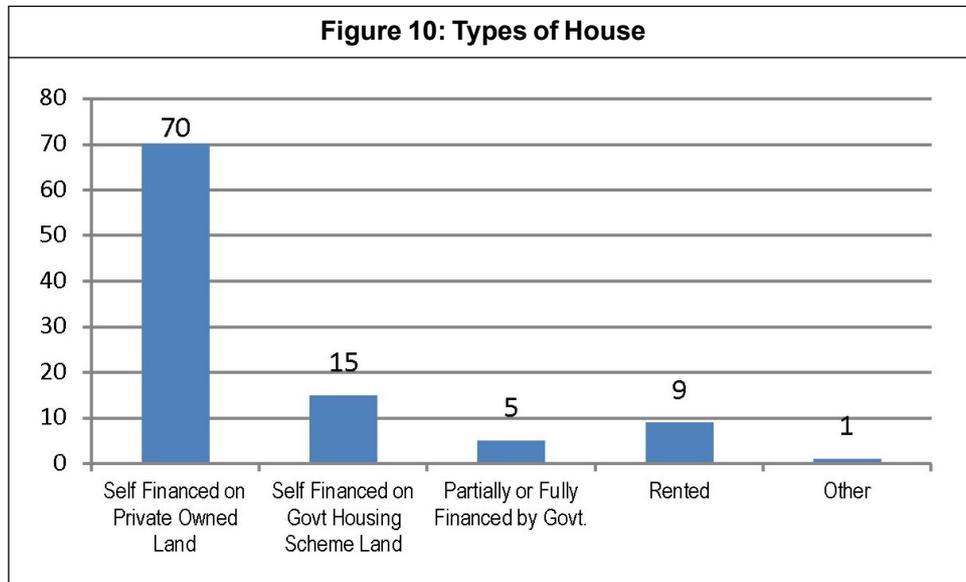
About 14 percent consumers are aware about the proposed food security act. The awareness is largely limited to recognition of the term “Food Security Act”. Awareness level is highest in northern region (22 percent) and lowest in eastern region (10 percent).

About 62 percent of those who know about proposed food security act also believe that the act will enable the consumer to easily access adequate quantity food grains at affordable price.



**Housing**

About 70 percent sample respondents covered under the survey own a self financed house on privately owned land, while 15 percent have received land from govt. housing scheme for construction of house and another 5 percent have received full or partial financial assistance from government for construction of house. Northern region (12 percent) has the highest proportion of such respondents those who have received full or partial government finance.



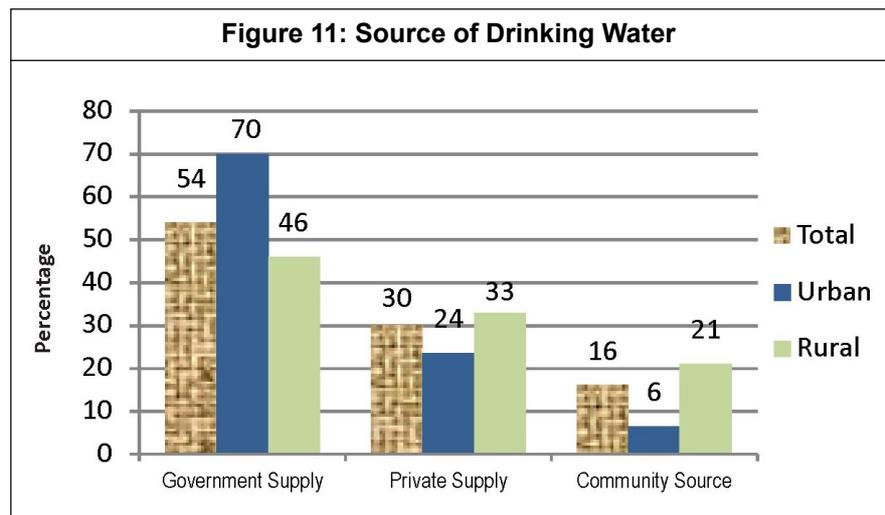
Other category largely includes respondents residing in Govt. quarters and homeless. Majority of those who have received full or partial financial assistance from government belong to BPL category (8.5 percent). Rented accommodations are more common in urban area (16 percent) as compared to rural area (6 percent).

Only 12 percent of those who own a self financed house on privately owned land have tried to access govt. housing finance or bank finance scheme. About 74 percent of such respondents believe that finance is not easily accessible to everyone and only 34 percent consider terms of bank or government finance for housing affordable. Majority of such people belong APL households in urban area.

### *Drinking Water & Sanitation*

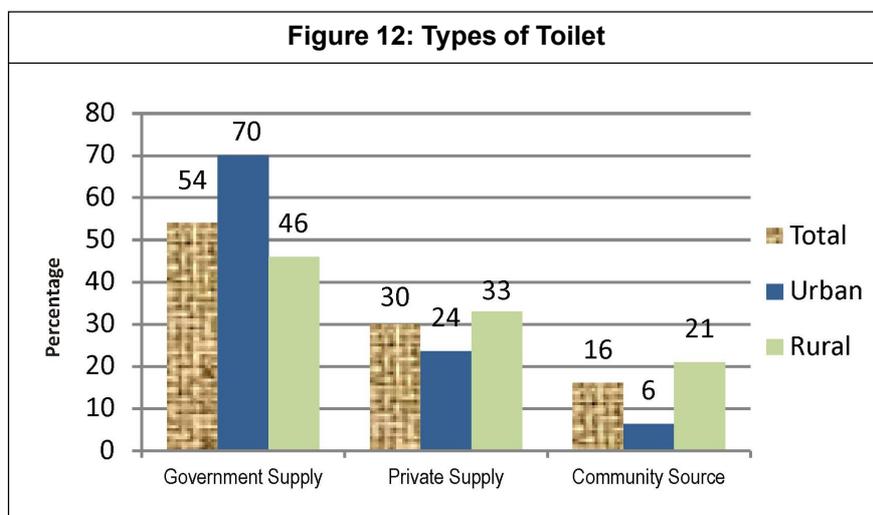
Access to safe and potable drinking water and hygienic sanitation is very important to ensure good health of an individual.

About 54 percent respondents meet their drinking water demand through government supply and 30 percent receive it from privately owned source like – bore well, well etc. The remaining 16 percent receive drinking water form community sources/ shared sources like – community had pump, well etc.



Government supply is more common in urban area as compared to the other two sources, while community sources are more in rural area.

About 74 percent respondents receive adequate quantity of drinking water from these sources. However, only 69 percent respondents believe that the water from these sources is potable and safe for drinking. About 22 percent respondents consider their primary source of drinking water expensive, while 34 percent receive it for free.



About 26 percent respondents covered under the survey do not have access to toilets; the situation is even bad in rural areas where 33 percent do not have access to toilet facility. However access to sanitation is everyone’s right irrespective of region and financial status.

Over three-fourth of urban respondents have access to a private toilet at home while 13 percent use a community toilet. About 12 percent do not have access to any toilet and majority of them are from BPL Households.

Central region (53 percent) has the highest proportion of respondents without access to toilets, whereas northern region has the highest proportion of respondents with access to toilet facility both private and community.

Only 38 percent of those who use community toilets have reported them to be clean with adequate water supply and lighting arrangements.

Only 16 percent of those who have toilet at home have reported receiving government support for construction of toilet at home. About 24 percent respondents are aware about government schemes such as *Nirmal Gram Yojana*/Integrated Low Cost Sanitation Scheme/National Urban Sanitation Programme aimed at providing affordable and hygienic sanitation facility. Out of 11,499 respondents covered under the survey only 17 percent believe that government support for home community toilet is easily accessible.

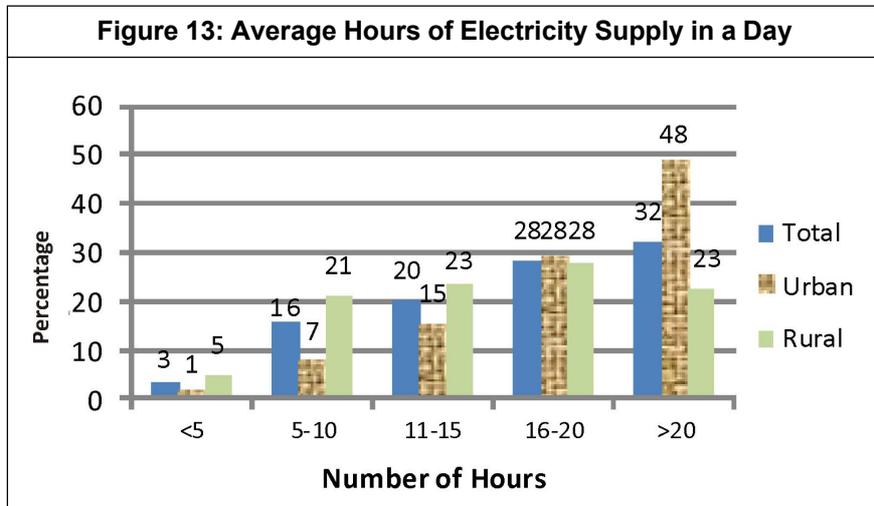
### **Energy**

#### **Electricity**

About 79 percent respondents covered under the survey have electricity connections, while among BPL households only 72 percent have electricity connection.

Despite having electricity connection, electricity supply still remains a major challenge. Only 23 percent rural area respondents receive more than 20 hours of electricity supply in a normal day. According to the survey findings, people residing in urban areas are advantaged in comparison to their rural counterpart. However access to electricity is everyone’s right.

Only 62 percent consumers consider electricity to be affordable and 68 percent of them belong to urban area.



**Awareness Regarding Electricity Regulator**

About 26 percent respondents are aware about electricity regulator and 78 percent of them belong are from APL households.

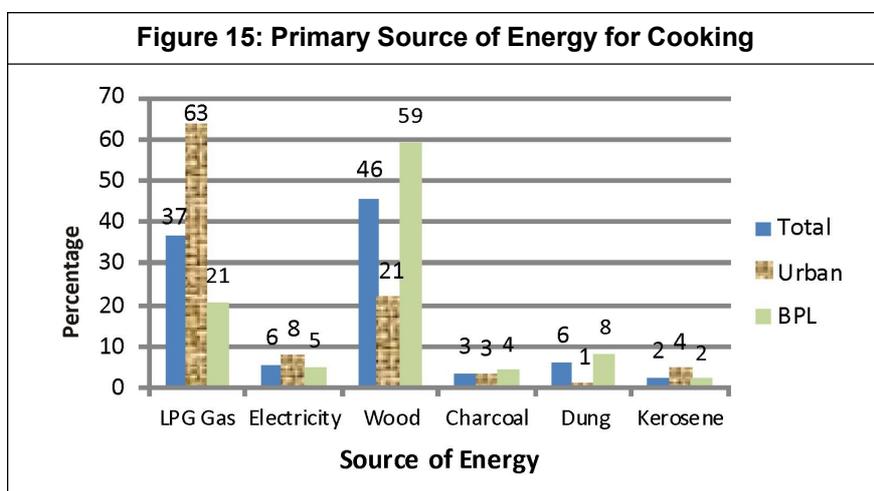
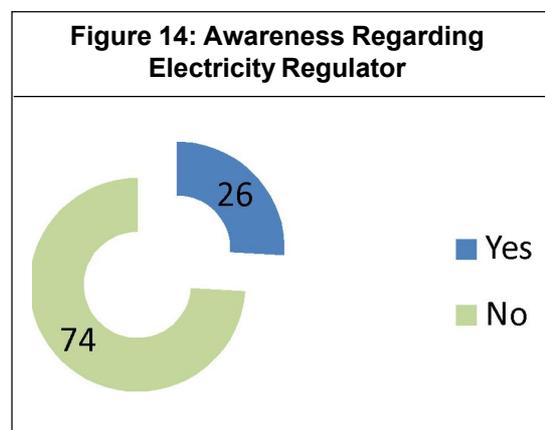
A large section of respondents those who are aware about electricity regulator believe that the electricity regulator has improved access to affordable electricity.

**Energy for Cooking**

Usage of LPG is significantly high in urban areas, while usage of wood is high among rural areas and BPL households as major source of energy for cooking.

Usage of kerosene and charcoal is very less as compare to other sources of energy.

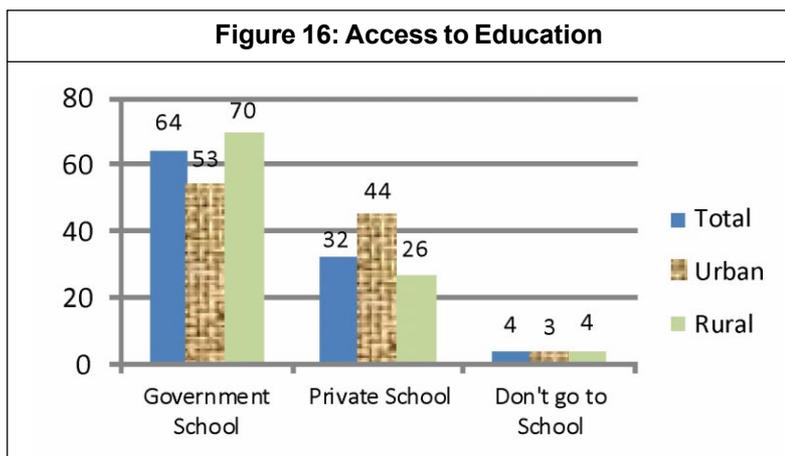
About 56 percent of those who use LPG or kerosene as their primary source of energy for cooking have reported incidence of obtaining LPG/kerosene from black market. About 20 percent of them always obtain LPG or Kerosene from black market.



Only 54 percent respondents consider their primary source of energy for cooking affordable and 70 percent such respondents belong to APL families.

### Education

About 64 percent children study in government schools and 32 percent study in private schools. Since private schools are expensive and few in numbers (especially in rural area) as compared to government schools a significant number of children (70 percent) from rural area study in government school.

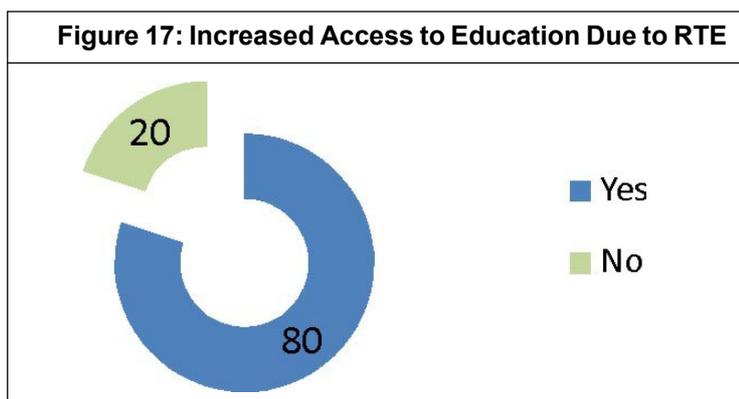


About 4 percent children do not go to school; these children were never enrolled or dropped out of school.

About 46 percent of those who do not go to school have given up education to support household income. About 73 percent of such students are from rural areas.

### Right to Education & Mid Day Meal

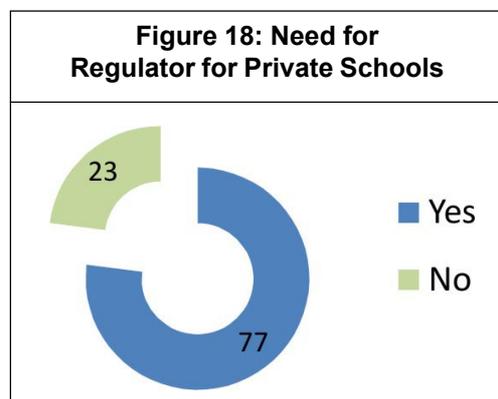
Right of Children to Free and Compulsory Education (RTE) Act 2009 marks a historic moment for the children of India. For the first time in India's history, children are guaranteed their right to quality elementary education by the state with the help of families and communities.



Almost 80 percent and 70 percent respondents believe that access to education has increased due to Right to Education (RTE) and Mid Day Meal Scheme respectively. Right to education has played a vital role in increasing the access to education while mid day meal scheme has motivated parents/ students to enrol into schools.

### Need for a Regulator in Education Sector

About 77 percent respondents have expressed their desire to have a regulator for private schools. The regulator can make education in private schools more accessible and affordable for a common man which is not the case.



### Transport

The most common mode of transport used by majority of respondents is Bus/Jeep (57 percent). About 84 percent respondents commonly use public transport like

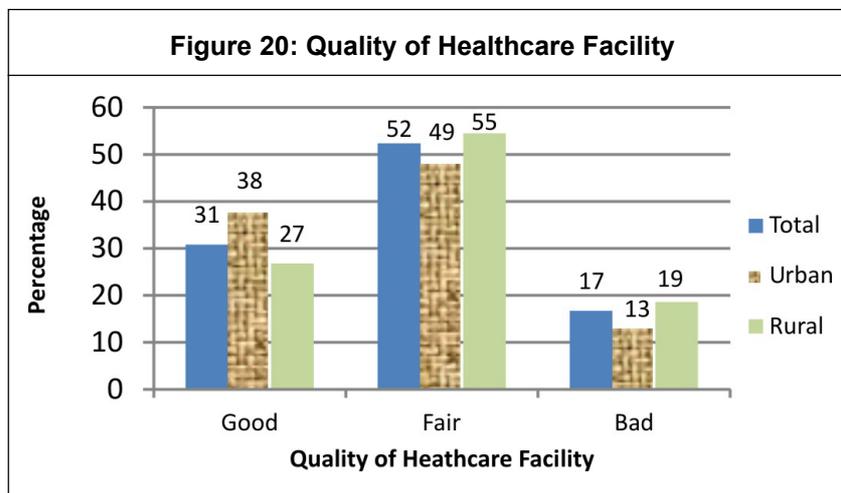
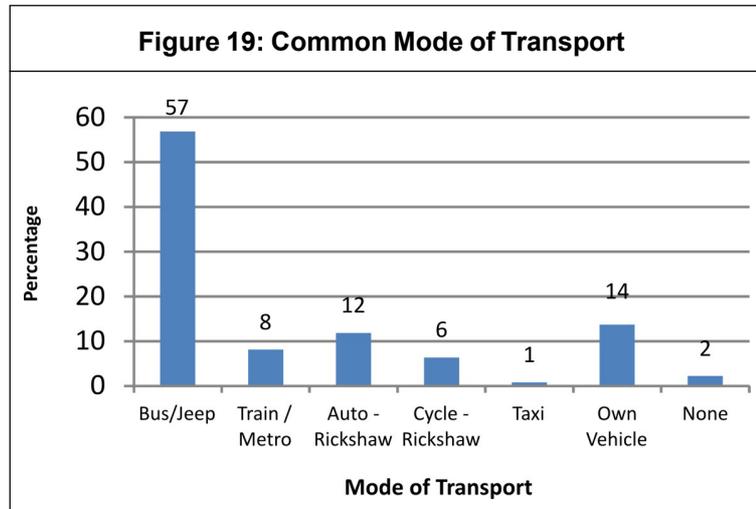
bus, jeep, train, auto rickshaw and Taxi etc. Only, 14 percent respondents use own vehicle/private mode of transport.

About 78 percent respondents believe that their common mode of transport is easily available and accessible, however only 54 percent consider them to be affordable.

**Health**

About 26 percent respondents have received institutional healthcare facility in last 6 months and majority of them (66 percent) have obtained healthcare facility from government hospitals. About 30 percent respondents have obtained healthcare facility from private hospitals.

According to the responses received about 26 percent respondents have traveled more than 5 km to access institutional health care facility.

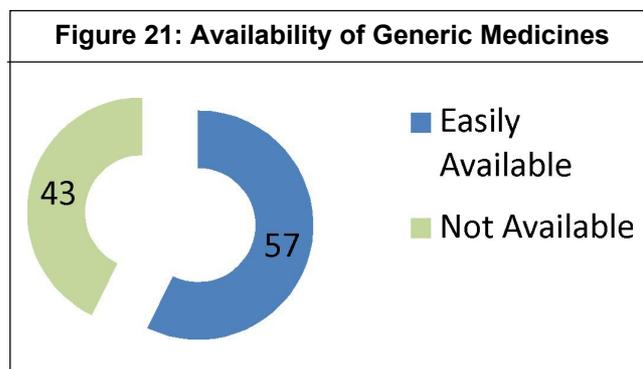


Only 31 percent respondents have rated quality of healthcare facility as “good”. Majority of them are from urban area. Close to 50 percent respondents have rated healthcare facility as “fair”, neither good nor bad.

Only 44 percent respondents consider cost of obtaining healthcare services affordable.

**Generic Medicines**

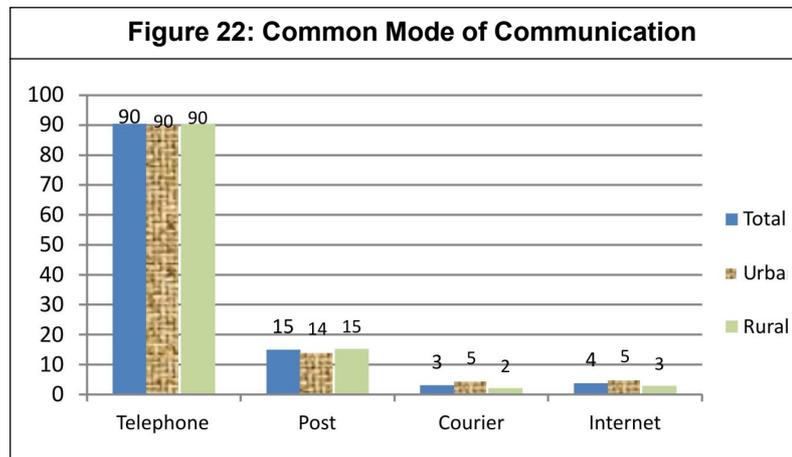
According to 59 percent respondents doctors do not generally prescribe generic or competitively priced drugs/medicines. Even if they prescribe generic or competitively priced medicines, are not easily available in the market according to 43 percent respondents. Majority of such people are from rural area and largely belong to BPL households.



### Communication

According to the responses received, telephone is the most preferred and easily available mode of communication, while mode of communications like courier and internet are limited to urban area residents only. Access of telephone and post is almost similar in rural and urban area.

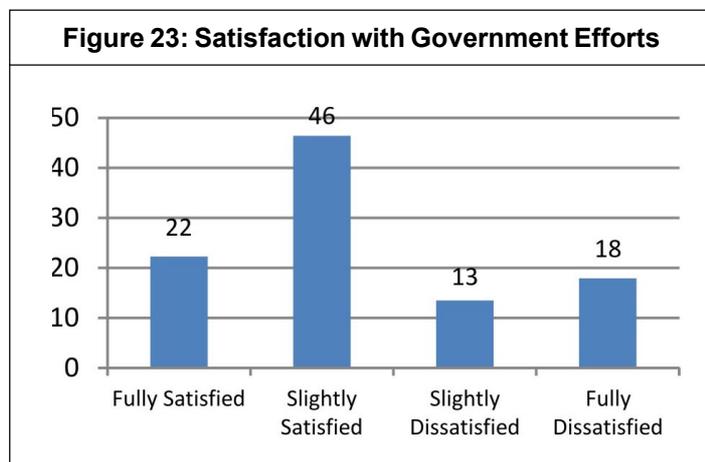
About 73 percent respondents consider their common mode of communication affordable.



### Satisfaction with Government Effort to ensure Access to Basic Need

Only 22 percent respondents are satisfied with Government's effort to ensure adequacy, accessibility and affordability of basic needs.

About 53 percent respondents strongly believe that right to basic needs should be enacted to cover products and services such as Food, Housing, Health, Water, Education, Sanitation, Energy, Transport and Communication.

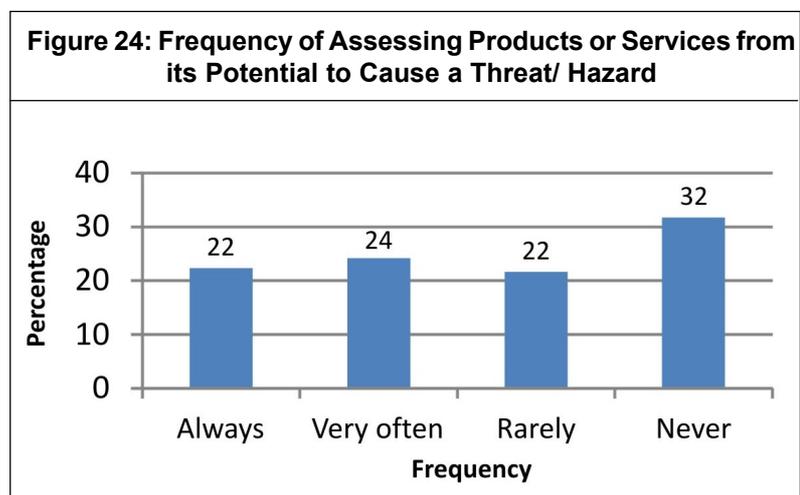


### Right to Safety

In context of consumer protection, right to safety means right to be protected against the marketing of goods and services, which are hazardous to life and property. The assertion of this right is aimed at the defense of consumers against injuries caused by products.

#### Practice

About 22 percent respondents have reported to always assess products or services from its potential to cause threat/hazard, whereas 32 percent respondents never assess products from its potential to cause threat/hazard. Proportion of such people is more in rural area as



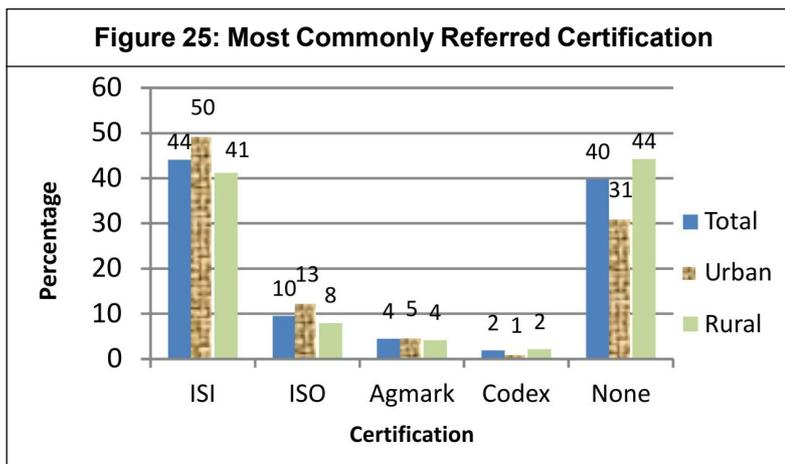
compared to urban area. This is largely due to lack of knowledge among consumers regarding safety certifications.

### Most Commonly Referred Certification

The main objective behind certification of a product is the conformance of the product to relevant standards related to quality, quantity and safety.

Due to lack of knowledge among consumers, 40 percent respondents do not refer to any safety or quality certifications such as ISI, ISO, Agmark, Codex etc before making a purchase.

Based on the survey results ISI is the most known certification referred by 44 percent respondent while making a purchase.



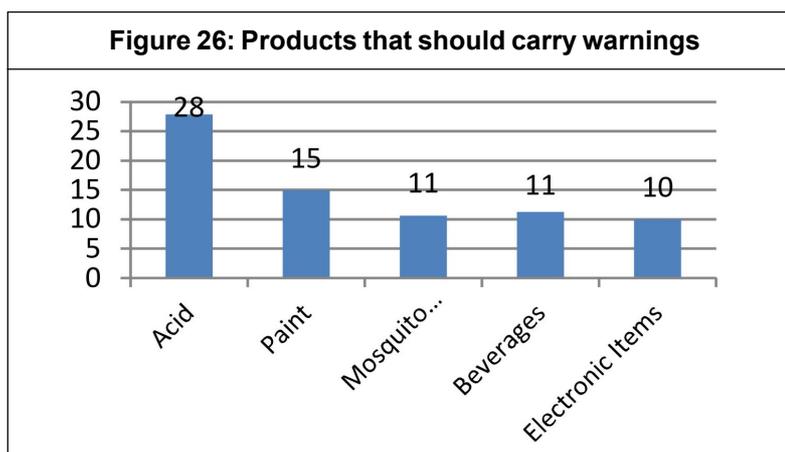
Close to 50 percent respondents in western and central region do not refer to any certification before purchasing a commodity. On the other hand, in states / UTs like Chandigarh, Karnataka, Kerala, and Goa more than 70 percent of respondent do not buy any product without referring proper certification.

### Knowledge & Perception

Only 2.5 percent respondents were able to correctly name at least one products other than cigarettes, pan masala, liquor, food material and medicines that should carry mandatory warnings/ safety provisions or certifications, while 1.8 percent we able to correctly name two products.

All put together respondent were able to name 32 different

products/category of products other than cigarettes, pan masala, liquor, food material and medicines that should carry mandatory warnings/ safety provisions or certifications. Top five responses are presented in the figure 25.



About 83 percent respondents believe that certification and warnings are an important means to ensure right to safety.

About 76 percent respondents in the northern region fully agree to the fact that certification and warnings are an important means to ensure right to safety.

## Right to be Informed

Right to be informed includes information about the quality, quantity, potency, purity, standard and price of goods to the consumer. Right to be informed protects the consumer against unfair trade practices. This right also states that businesses should always provide consumers with enough appropriate information to make intelligent and informed product choices. Product information provided by a business should always be complete and truthful.

### Practice

#### *Frequency of Checking Product/Service Information before Purchase*

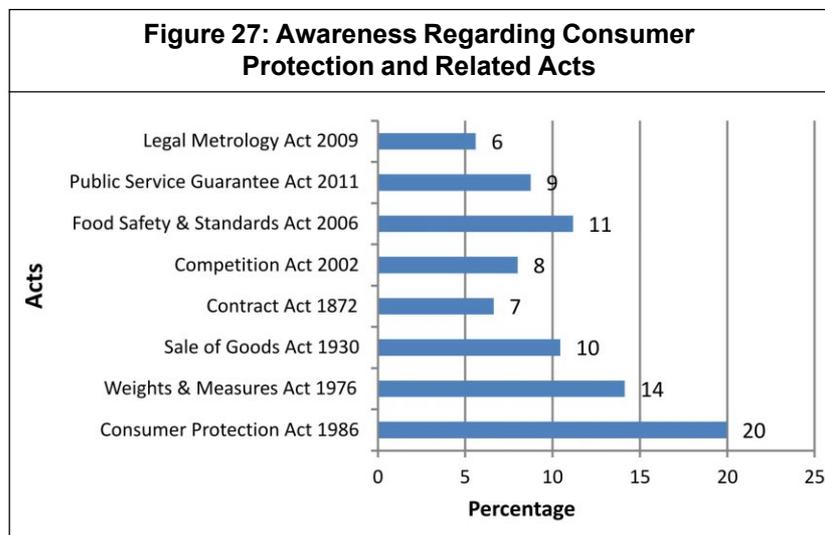
Weight or quantity, price, content/ content mark and expiry date/best before dates are the most important information checked by consumers before purchasing a product. About 63 percent respondents always check weight/quantity of product before purchasing, while 32 respondents always check price of the product before making a purchase. Other information like details of producer, terms & condition, warning, quality certification has less weightage in comparison to the afore mentioned details in making purchase related choice.

Information	Frequency (In %)			
	Always	Very Often	Rarely	Never
Weight/ Quantity	63	18	9	10
Content/ Content Mark	29	28	11	32
Producer/Provider Details	19	20	19	41
Price	32	26	13	28
Terms and Condition	18	15	18	50
Warning	17	16	16	50
Quality Certification/ Service Standards	18	16	15	50
Expiry Date/ Best Before	28	24	13	36
Grievance Redressal Mechanism	9	8	10	73

Detail regarding the grievance redressal mechanisms the least important information referred by consumers before making a purchase.

### *Knowledge and Perception Awareness Regarding Consumer Protection and Related Acts*

About 20 percent respondents are aware about Consumer Protection Act 1986 or have heard about the act. It is the only act known by maximum number of respondents followed by Weights and Measures Act 1976 and Food Safety & Standards Act 2006.



Legal Metrology Act 2009, Contract Act 2002 and Competition Act 2002 are the most uncommon acts recognised by least number of respondents.

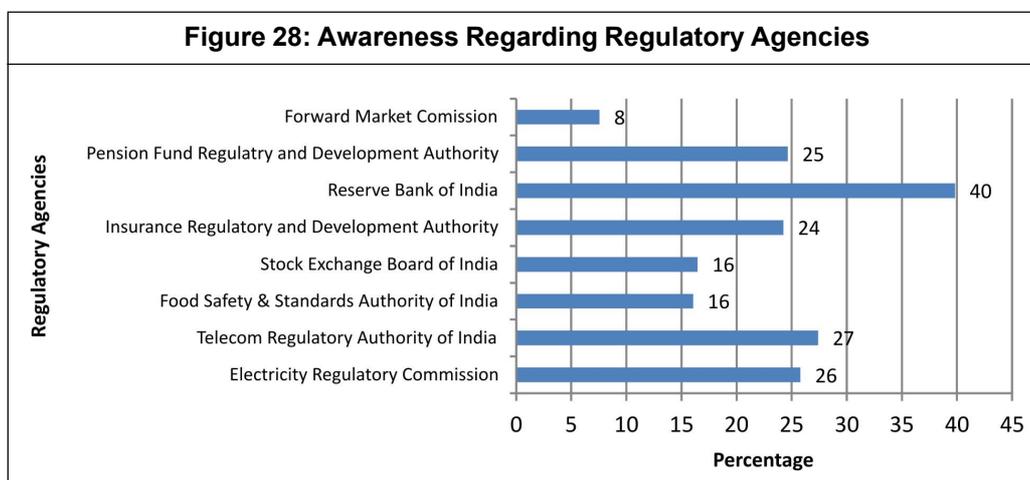
Awareness regarding consumer protection and related acts is highest in southern region as compared to the other 4 region.

About 72 percent of those who know about these Acts have reported benefiting directly or indirectly from implementation of the above mentioned acts, while the remaining 28 percent respondents do not agree to this.

#### *Awareness Regarding Regulatory Agencies*

Among the regulatory agencies, Reserve Bank of India (RBI) is the most common name recognised by 40 percent respondents followed by Telecom regulatory Authority of India (TRAI) (27 percent) and Electricity Regulatory Commission (ERC) (26 percent). Awareness regarding regulatory bodies is limited to recognition of their names and knowledge about their basic mandate or sector.

On the other hand Forward Market Commission is the least known regulatory agency among the agencies listed in Figure 28.



About 74 percent of those who know about these regulatory agencies have reported benefiting directly or indirectly from their regulations, while the remaining 26 percent respondents do not agree to this. Awareness regarding regulatory agencies is highest in Northern and Western region as compared to other three regions.

### **Right to Choose**

Right to choose implies right to be assured, wherever possible of access to variety of goods and services at competitive price or 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.

#### *Knowledge*

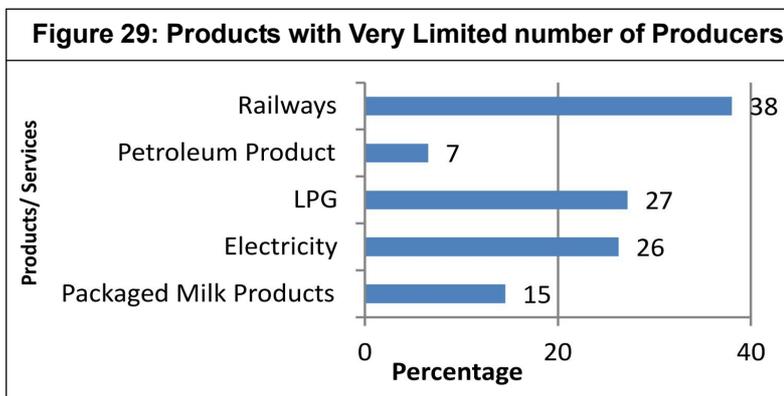
##### *Products with Very Limited Number of Producers*

Out of 11,499 respondents only 1.6 percent respondents were able to correctly name at least one product/service which has only one or two producers/providers, while 0.2 percent were able to

name at least two such products correctly.

All put together only 213 respondent were able to name 6 different products or services which has very limited (1-2) producers/providers. Top five responses are presented in the Figure 28.

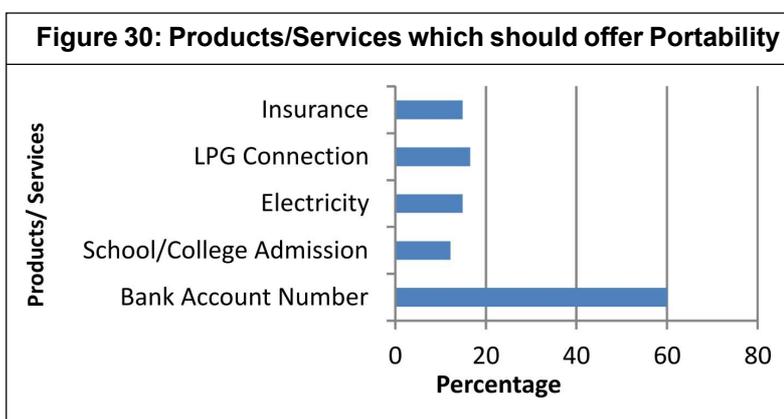
The above responses clearly indicate that overall awareness among respondents is quite low.



*Products/ Services which should offer Portability*

Out of 11,499 respondents only 3.4 percent respondents were able to name at least one product/service other than telecom which should be provided with portability, while 1.8 percent were able to name at least two such products.

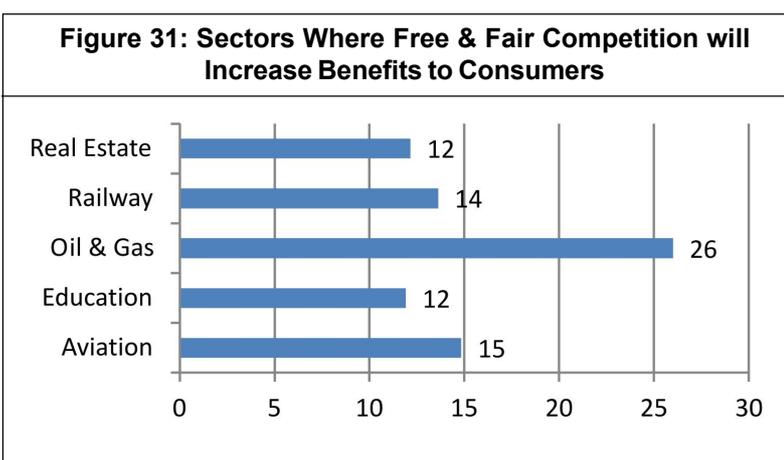
All put together only 593 respondent were able to name 16 different products or services which should be provided with portability. Top five responses are presented in the Figure 29.



*Sectors where Free and Fair Competition will Benefit Consumers*

Out of 11,499 respondents only 2.1 percent respondents were able to name at least one sector where free & fair competition will increase benefits to consumer, while 1.5 percent were able to name at least two such sectors.

All put together only 411 respondents were able to name 21 different sectors where free and fair competition will increase benefits to consumer. Top five responses are presented in Figure 30.



About 26 percent respondents have expressed their desire to have more competition in the oil and gas sector, which could bring down the growing fuel prices.

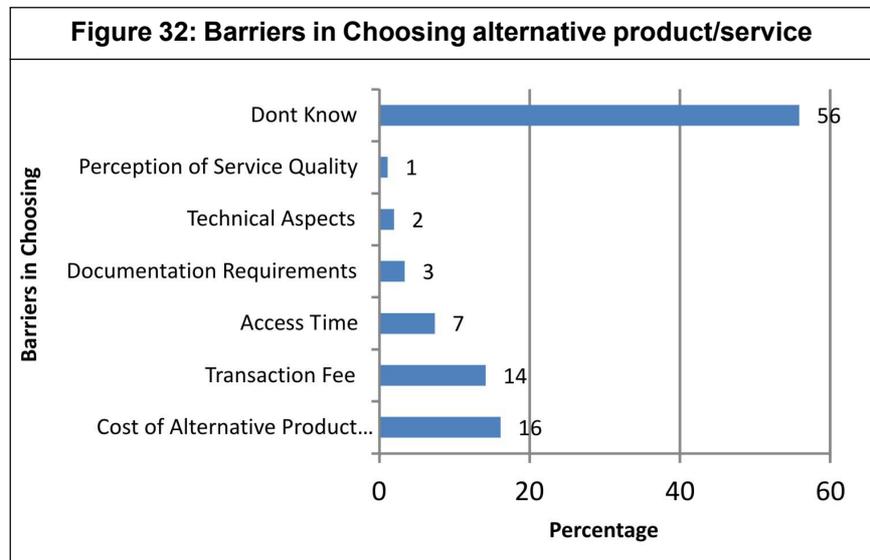
### Practice

#### Barriers in Choosing

Cost of alternative product/service (16 percent) and transaction fee (14 percent) are the two main barriers in choosing alternative product/services. More than 50 percent respondents were not able to respond to this question.

Other major barriers in choosing alternative products/ services include

Access Time (7 percent), Documentation Requirement (3 percent), Technical Aspects (2 percent) and perception of Service Quality (1 percent).



### Right to Seek Redressal

Right to seek redressal imply right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers. It also includes right to fair settlement of the genuine grievances of the consumer. Many a times their complaint may be of small value but its impact on the society as a whole may be very large. They can also take the help of consumer organisations in seeking redressal of their grievances.

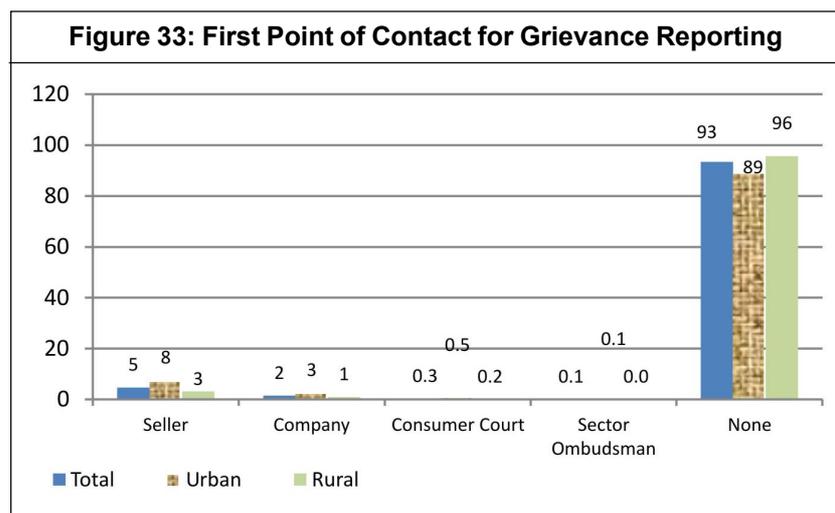
### Practice

#### Grievance Reporting

Normally consumers approach seller/servicer providing agency to register their complaints. Based on the responses received about 61 percent respondents will normally voice their complaints to seller (the last person in the supply chain who directly interacts with the user).

About 13 percent respondents from urban area have stated

to directly approach the company/producer to register their complaints, if such a situation arises.

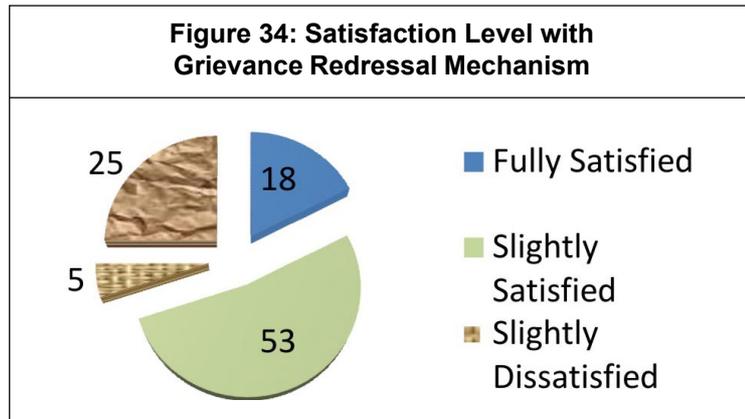


However when it comes to actual grievance reporting, 93 percent respondents have never made a complaint, while 3 percent respondents have registered their grievance with the company/producer. Only 0.3 percent respondents have approached consumer forums for grievance redressal, while 0.1 percent people have approached sector ombudsman for redressal. These figures clearly indicate limited reach to consumer courts or ombudsman among Indian consumers. The reach is further low in rural area and among BPL households.

Majority of respondents those who have made complaints in consumer court or with sector ombudsman are from southern region, especially from Andhra Pradesh and Karnataka.

**Experience**

Based on their experience close to 78 percent respondents have rated the grievance redressal process as “difficult”, while remaining 22 percent have rated it to be easy. Only 25 percent cases were completely redressed while the remaining 75 percent cases were either partially redressed or not redressed at all. Only 18 percent of such unresolved cases were taken to a higher authority for redressal.



About, 68 percent cases were not redressed within stipulated time frame of 90 days or 150 days whichever is applicable. According to 22 percent respondents the direct cost of seeking redressal was high, while 50 percent have reported it to be average or normal. Only 12 percent respondents consider it to be low.

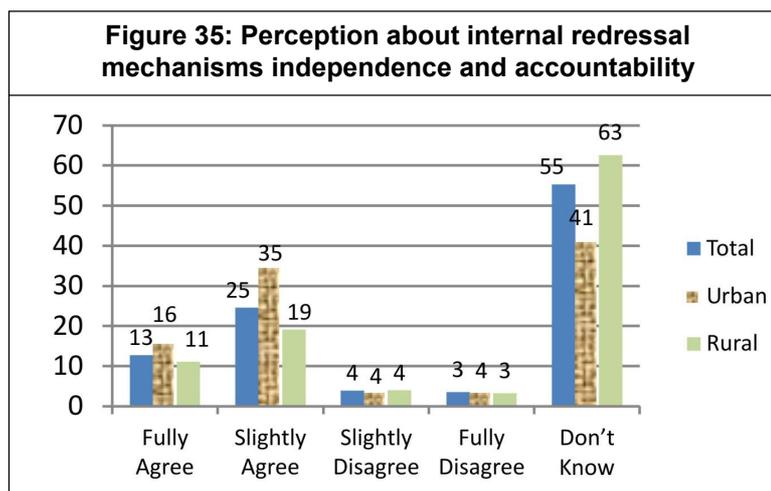
Only 30 percent respondents reported receiving adequate compensation, however 53 percent respondents are somewhat satisfied with the grievance redressal mechanism and 18 percent are fully satisfied with the existing mechanism.

Only 30 percent aggrieved consumers received support from consumer organisations in pursuing their case.

**Knowledge and Perception**

*Internal Redressal Mechanism*

Based on the responses received, about 55 percent respondents do not know about internal redressal mechanism of a company. Out of the remaining 13 percent strongly believe that the internal redressal mechanism is transparent and accountable, while the 25 percent slightly agree to that. Majority of those who agree belong to urban area.



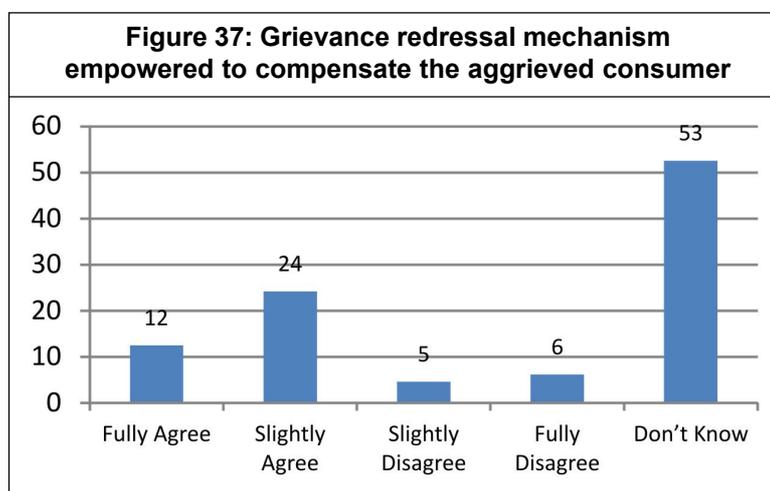
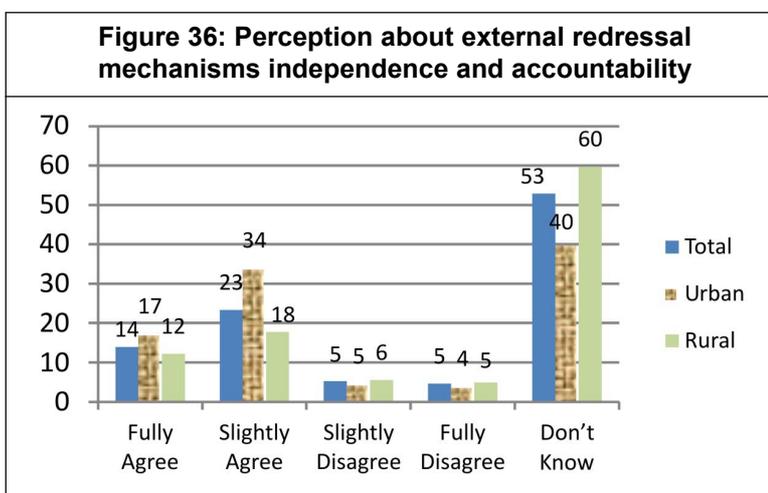
Only 7 percent respondents believe that the internal redressal mechanism is not transparent and accountable.

**External Redressal Mechanism**

Based on the responses received, about 53 percent respondents do not know about the external redressal mechanism. Out of the remaining 47 percent, about 37 percent believe that the external redressal mechanism is independent and accountable. Majority of such people are from urban area.

Only 28 percent of those who know about external redressal mechanism believe that it is easily accessible by a common man. Majority of such respondent are from southern region.

Those who think that the external redressal mechanism is not easily accessible believe that it should be decentralised. According to the responses received, consumer forums should be located/organised at village level, local area level, block level, local market etc. It may not be possible to implement such suggestions however; government should focus at organising *lok adalats* or circuit benches to address this concern to some extent.



### Grievance Redressal Mechanism

Out of 11,499 consumers surveyed, only 12 percent believe that the present grievance redressal mechanism is empowered to compensate aggrieved consumer, while 53 percent were not able to comment on this query.

Majority of those respondents who know about the current grievance redressal mechanism more or less believe that the current system is empowered to compensate consumers.

### Right to Consumer Education

Right to Consumer Education means the right to acquire knowledge and skill to be an informed consumer throughout life. Ignorance of consumers, particularly of rural consumers, is mainly responsible for their exploitation. They should know their rights and must exercise them. Only then real consumer protection can be achieved with success.

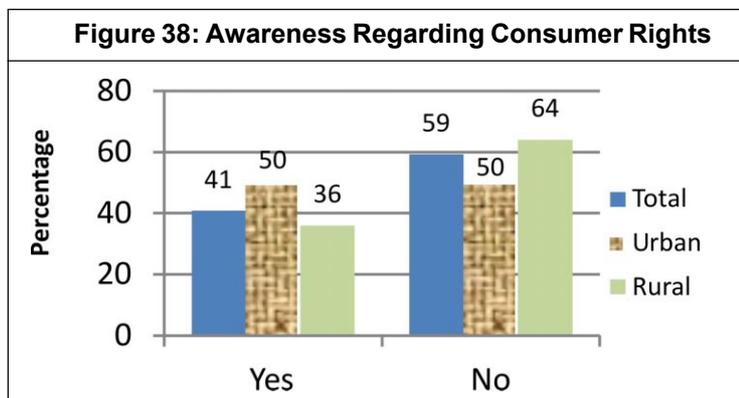
### Knowledge

#### Awareness regarding Consumer Rights

A little more than 40 percent respondents are aware about consumer rights, while the remaining 41 percent are not aware about it. However, the awareness does not really translate into complete

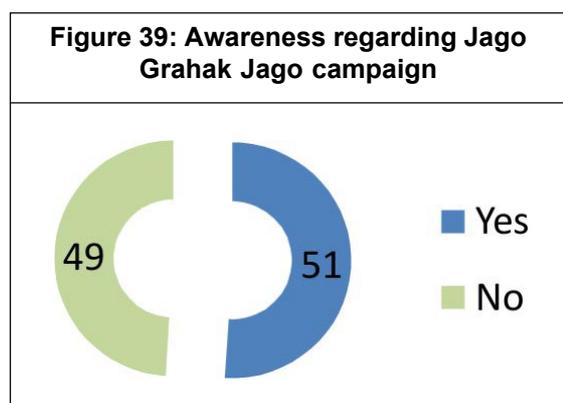
knowledge about all the rights; whereas it is limited to familiarity with the term “consumer rights”. For majority of people consumer rights is limited to checking price & weight of product, taking receipt/ bill, getting replacement of defective products etc.

Awareness regarding consumer rights is quite high in urban area respondents as compared to their rural counterparts.



Based on the responses received, 78 percent respondents learnt about consumer rights from television (TV), 10 percent learnt about it from News Papers while another 8 percent learnt about it from radio programmes. Contribution of other means of communication is very limited.

Only 51 percent respondents are aware about “Jago Grahak Jago” Campaign. About 54 percent of them belong to urban area and APL family. About 80 percent respondents learnt about the campaign from Television, 9 percent from Radio and 7 percent from news paper.



There is significant regional variation with respect to awareness regarding “Jago Grahak Jago”. Awareness regarding “Jago Grahak Jago” is more than 60 percent in all Hindi speaking states except Bihar where it is mere 31 percent. Awareness level is close to 30 percent in southern region which comprises of Kerala (31 percent), Andhra Pradesh (13 percent), Karnataka (60 percent), and Tamil Nadu & Puducherry (11 percent).

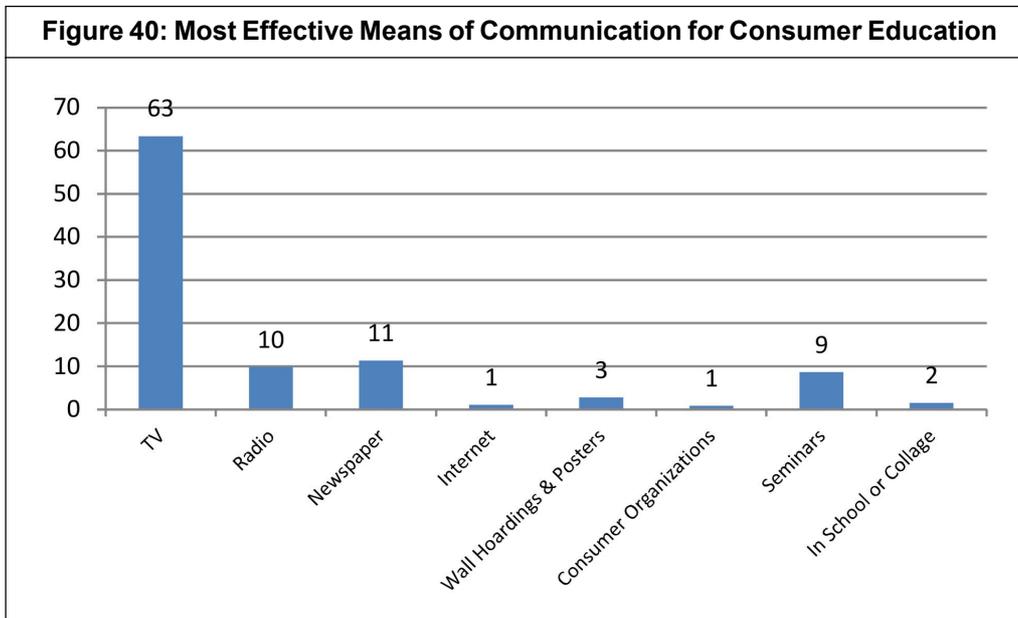
Similarly, only 62 percent respondents in southern region got to know about “Jago Grahak Jago” from television, whereas in other region more than 80 percent respondents learnt about “Jago Grahak Jago” from Television. One of the possible reasons for this could be inability of southern region residents to comprehend Hindi, as majority of such advertisements are in Hindi and telecasted on national television.

### Perception

Close to 50 percent of those who know about “Jago Grahak Jago” campaign have reported to benefit directly or indirectly from the campaign. Whatever little knowledge that they have obtained through TV, radio and newspapers has benefited them in some or the other way.

### Most Effective Means of Communication

About 63 percent respondents consider Television to be the most important means of communication for consumer education, as television has a wider reach than any other means of communication.



Other important means of communication could be newspaper (11 percent), radio (10 percent) and seminars.

Based on the responses received from consumer organisations and members of consumer courts during qualitative survey, many of them believe that consumer education should be made part of school /college curriculum. Then only it will have a wider reach and understanding. Schools and colleges can act as a very good platform to educate students regarding their rights as a consumer. Education at schools level will give students an opportunity to discuss such issues among themselves or with the teachers and gain wider and deeper knowledge about each of his/ her right.

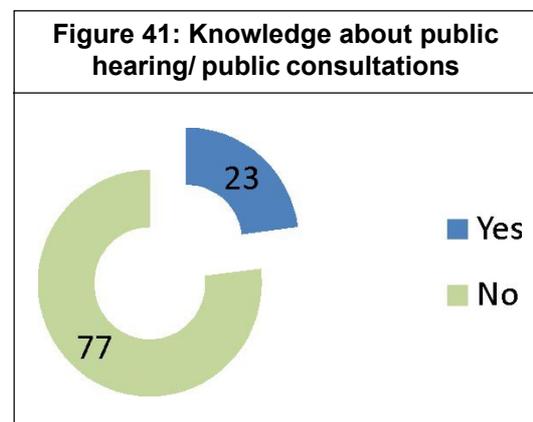
### Right to be Heard/Consumer Representation

Right to be heard /consumer representation mean 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.

Consumer can represent themselves or can form non-political and non-commercial consumer organisations which can be given representation in various committees formed by the government and other bodies in matters relating to consumers.

### Knowledge

Public consultation is a regulatory process by which people's input on matters affecting them is sought. Its main goals are in improving public involvement, transparency and efficiency in large-scale projects or laws and policies. It usually involves notification (to publicise the matter to be consulted on), consultation (a two-way flow of information and opinion exchange) as well as participation (involving interest groups in the drafting of policy, regulation or legislation).

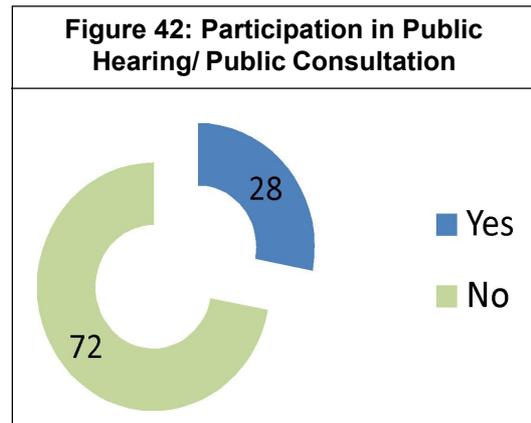


Consumer representation is very important in order to safeguard their interest. But, among Indian consumers only 23 percent are aware about the process of public consultation or consumer representation. Level of awareness is noticeably high in western and southern region as compared to other three regions and among APL families in urban areas. In rural area only 18 percent respondents are aware about such events. Which results in low participation in such public consultation or consumer representation forums, which eventually leads to drafting policy, regulation or legislation without taking consumers perspective into account.

**Practice**

*Participation in public hearing / public consultations*

About 28 percent of those who are aware about public consultation or consumer representation have also participated in such events. Similar to level of awareness, level of participation is also high in western and southern region as compared to other three regions. Here participation is not necessarily as a consumer, but as a civil society member or citizen. Thus participation in public hearing/ public consultation organised by Urban Local Body, District Collector (for various matters), and Block Office etc are also taken into consideration.

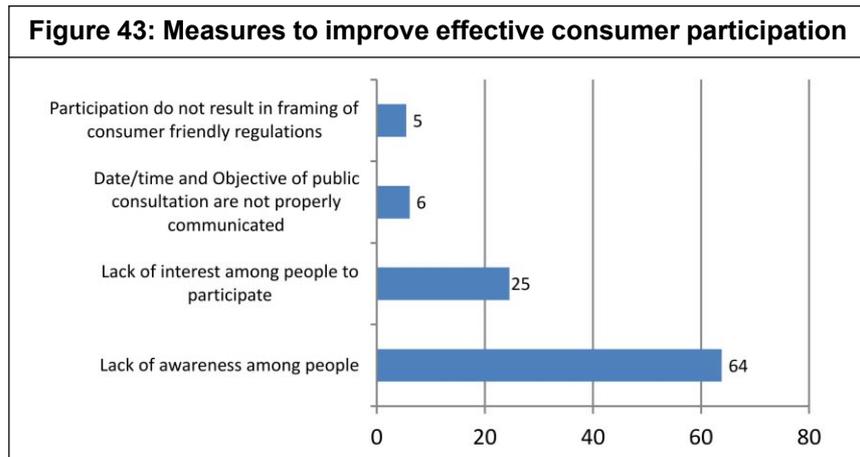


About 81 percent of those who have ever participated in such events believe that their participation resulted in taking public friendly decisions/ consumer friendly regulations.

**Perception**

*Hurdles in ensuring effective consumer representation/ participation*

There are various reasons for not participating in public hearing/ public consultation. However, based on the survey finding lack of awareness among people (64 percent) is the most important reason for not participating in such event, followed by lack of interest among people to participate (25 percent), improper/ in effective communication (6 percent) wherein date, time and objective of such events are not properly communicated to people.



Last but one of the most important reasons which raise question against the entire process of public hearing/ public consultation is that about 5 percent people believe that their participation will not result in taking public friendly decisions/ framing consumer friendly regulations.

## Right to Healthy Environment

### Awareness

#### *Awareness regarding environmental friendly certifications*

Only 13 percent respondents are aware about certifications and initiatives viz. Energy Star Rating, Bharat/Euro Emission for Automobiles, Organic Food & Natural Textiles and Recyclable Plastic etc. Awareness level is more among urban households and APL households.

Awareness about such certifications is largely among residents of southern (18 percent) and northern (12 percent) region, while eastern region has lowest level of awareness (2.5 percent).

In order to promote such commodities, more intense awareness generation and information dissemination activities are needed.

#### *Awareness about incentives from government to promote environment friendly products*

About 63 percent respondents are aware about incentives from government to promote environment friendly products.

### Practice & Perception

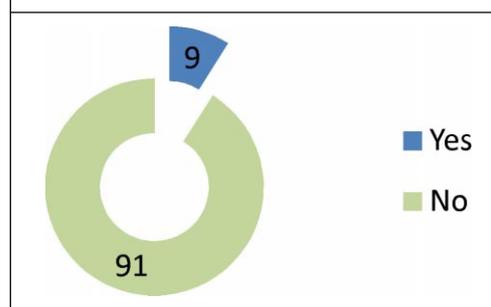
#### *Frequency of Purchasing Such Products*

About 28 percent respondents those who know about such products always tend to buy such products, while 36 percent buy such products very rarely. On the other hand 6 percent people never purchase such products. This phenomenon is common across all categories of respondents.

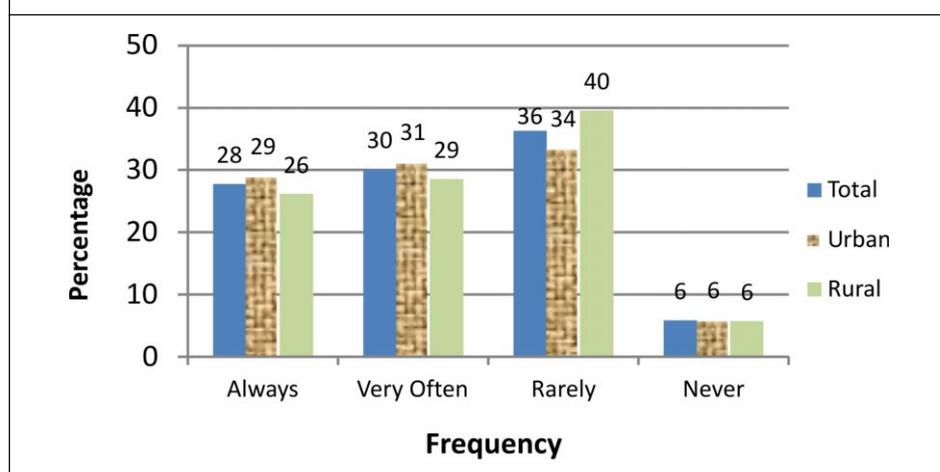
About 65 percent respondents those who purchase such products find them competitively price as compared to other similar products available in the market.

More than 60 percent respondents those who purchase such products believe that these products are easily available in the market and easy to maintain as compared to other similar products available in the market.

**Figure 44: Awareness regarding environmental friendly certifications**



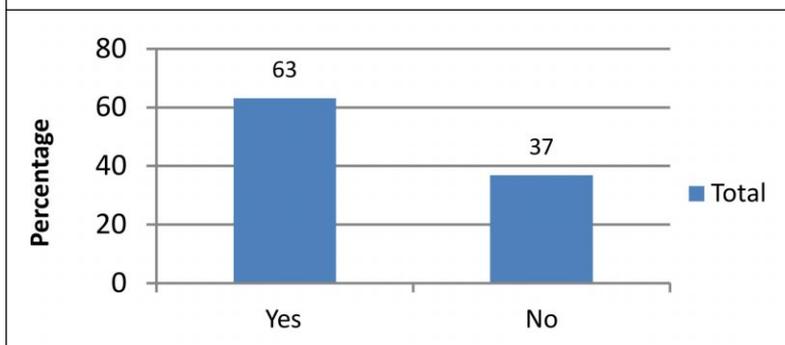
**Figure 45: Frequency of Purchasing Environment Friendly Products**



### *Willingness to pay extra money for such products*

About 63 percent respondents those who know about such products are willing to pay some extra money to buy such products. The trend is common across all categories of respondents. However, there is a significant regional variation. No BPL families in Haryana are willing to pay extra for such products, while not a single respondent in Uttarakhand and Chhattisgarh are willing to pay extra money for such products.

**Figure 46: Willingness to pay extra money for such products**



### *Qualitative Survey Findings*

Apart from the quantitative survey of consumers, about 385 qualitative samples have been collected with an objective to understand the state of Indian consumers from the perspective of public and private sector organisations, departments and individual working closely with consumers with an objective to develop policy lessons & recommendations on the way forward. The qualitative survey respondents comprising of the following:

- Presidents and members of State Consumer Dispute Redressal Commissions
- Presidents and members of District Consumer Dispute Redressal Forums
- Departments of Food, Civil Supply & Consumer Affairs
- Key functionaries of consumer organisations
- Reserve Bank of India
- Bureau of Indian Standards
- Legal Metrology Department
- Telecom Regulatory Authority of India
- Central & State Electricity Regulatory Commission
- Urban Development Authority
- Members of Central Consumer Protection Council
- District Supply Officers
- Sectoral regulator/ombudsman (electricity, banking, insurance etc.)
- Faculty Member of Educational Institutions
- Individual activist working in the area of consumer protection/consumer awareness etc.

For the purpose of analysis, the above mentioned respondents have been clubbed into four major categories as under:

- State Consumer Disputes Redressal Commission & District Consumer Disputes Redressal Forums
- Consumer Organisations
- Sectoral regulator/ombudsman (electricity, banking, insurance etc.)
- Central & State Government Departments and Regulatory Bodies

The following section presents the key findings of qualitative survey as per the above mentioned categories:

## State Consumer Disputes Redressal Commission & District Consumer Dispute Redressal Commission

To provide inexpensive and speedy redressal of consumer disputes, quasi-judicial bodies have been set up in each District and State and at the National Level, called the District Consumer Disputes Redressal Forums (DCDRF), the State Consumer Disputes Redressal Commissions (SCDRC) and the National Consumer Disputes Redressal Commission respectively. At present, there are 629 District Forums and 35 State Commissions with the National Consumer Disputes Redressal Commission (NCDRC) at the apex.

The discussions with presidents and members of state & district level consumer disputes redressal commissions/forums were focused on the following:

- Understand major reasons for delay in timely redressal of cases
- Seek suggestions for simplification of present grievance redressal mechanism in place
- To understand their opinion about empowerment status of present grievance redressal mechanism

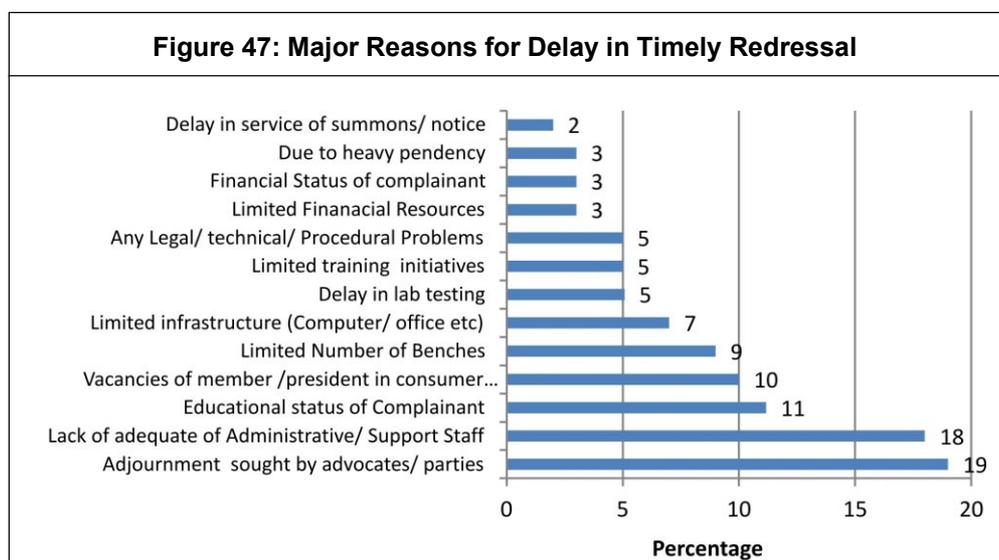
This section presents key findings from qualitative survey of State Consumer Disputes Redressal Commission (SCDRC) and District Consumer Disputes Redressal Forum (DCDRF).

### *Major Reasons for Delay in Timely Redressal*

It has been observed that a large number of cases are not redressed within the stipulated time frame prescribed by the law due to various reasons. The Figure 47 presents the major reasons/limitations cited by president and members of State Consumer Disputes Redressal Commissions and District Consumer Disputes Redressal Forums for not being able to dispose of complaints within stipulated time period.

Based on the responses received three major reasons for delay in redressal is adjournments sought by advocates/ parties (19 percent), followed by reasons such as lack of adequate administrative/ support staff (18 percent) and educational status of complainant (11 percent).

Other major reasons/ limitations includes vacant position of president/member (10 percent), limited number of benches (9 percent), limited infrastructure such as computer/ office etc (7 percent), delay in lab testing (5 percent), limited training initiatives (5 percent), any legal/ technical/ procedural problems (5 percent), financial status of complainant (3 percent), due to heavy pendency (3 percent) and delay in service of summons/ notice (2 percent).



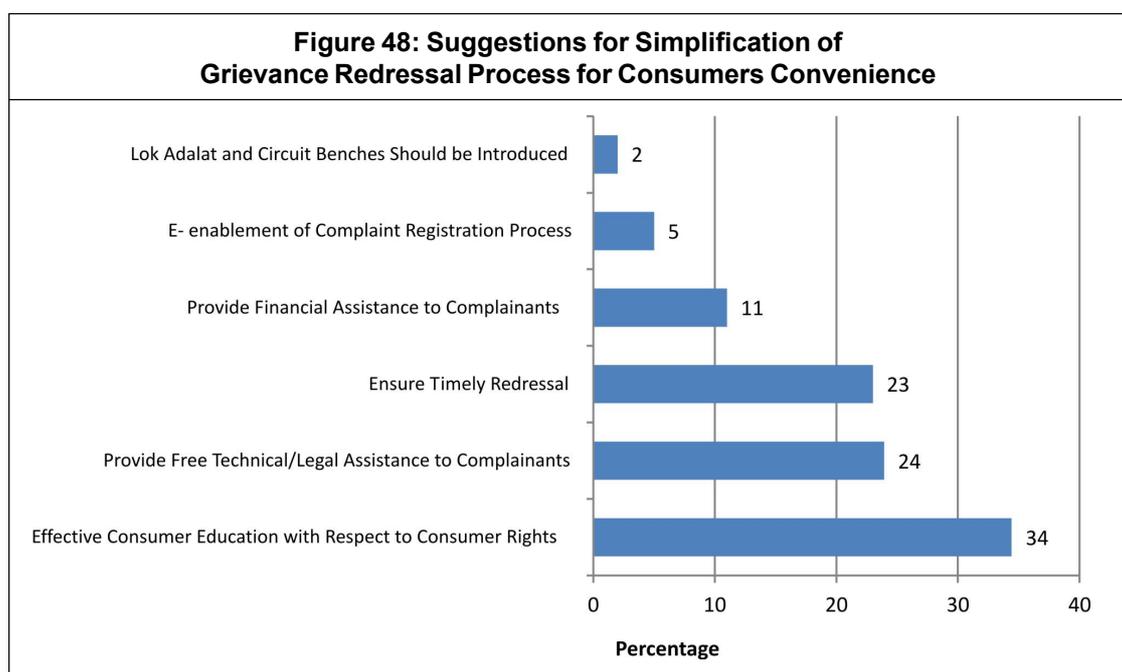
Other Minor reasons/ limitations include:

- Delay in service of summons and notice–Unlike other courts, consumer courts have to rely on postal service/ courier service which is not reliable and accountable
- Heavy pendency – is leading to accumulation of unresolved cases which is further delaying the redressal process, this has become a vicious circle now
- Limited financial resources and other facilities – SCDRC and DCDRF do not have adequate funds to smoothly carry out their functions and in turn affect the process of redressal, some members have also cited that unavailability of office vehicle for commuting to office also delay the redressal process
- Untrained members – members of SCDRC and DCDRF are not normally trained in judicial procedures which leads to the delay in resolving cases
- Strikes – frequent strikes in some states also leads to delay in redressal
- Low salary of members – according to the responses received, low salary of members is also a reason for delay in redressal
- Powers for fine recovery or implementation of judgments – the consumer court should have power to independently execute/ implement its judgement, in the present system judgments are implemented through district collector or police department which are not under direct control of consumer courts. Thus the actual implementation of orders/ judgements normally takes a long time; as a result the common man is losing faith in consumer courts. A case where the order/judgement is not implemented is equivalent to an unresolved case.

“Justice delayed is justice denied” is a legal maxim meaning that if legal redress is available for a party that has suffered, but is not forthcoming in a timely fashion, it is effectively the same as having no redress at all. In this context it is very important for the government to take corrective measure to this end.

#### *Suggestions for Simplification of Grievance Redressal Process*

In order to make grievance redressal process more convenient for consumer about 34 percent respondents believe that effective consumer education with respect to consumer rights should be helpful. On the other hand 24 percent respondents believe that providing free technical/legal assistance to complainant will make the process more convenient for consumers.



Other major suggestions include, ensuring timely redressal (23 percent), providing financial assistance to complainant (11 percent), E-enablement of complaint registration process (5 percent) and introduction of *Lok Adalat* & Circuit Benches (2 percent) to make way to the bottom of the pyramid, i.e. to the village level.

Some other suggestions include:

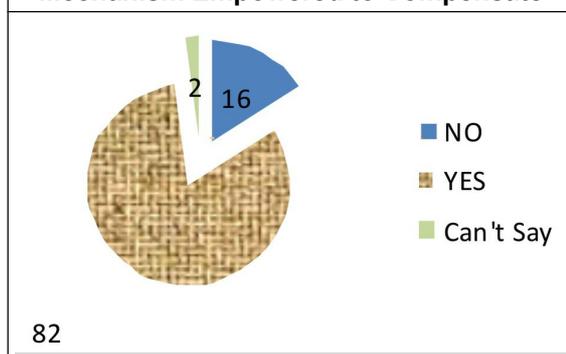
- Restriction of advocates in SCDRC/ DCDRF
- X-party judgments should be promoted, it is allowed as per the law though it is not much practiced
- Spreading more awareness regarding consumer rights & duties
- Ensure quick lab testing & expert opinion
- Use of local language at SCDRC/ DCDRF
- All procedures related to filing of cases needs to be simplified, procedures should be in such a manner that a common man can easily understand & follow them. According to the responses received from respondents the current procedures in place forces a common man to take services of an advocate for his assistance in filing a case. To overcome this, a counsellor/ advisor may be appointed at the consumer forum to help such complainants. These counsellor/ advisor should be ex-member/NGO member who have practical/working knowledge of consumer court procedures.
- Establishment of additional forums/ benches for quick redressal
- Members should be at least law graduate
- Proper and timely implementation of judgments
- Establishment of new lab for cutting down the time taken on lab testing
- To establish and strengthen more institutions and regulatory authorities like IRDA, TRAI, SERC/CERC. Such agencies should be made powerful to regulate the business and dispose of issues pertaining to their sector at their level
- Introduce system of seeking bank guarantee from respondents at the time of first hearing. The bank guarantee should be of the nature that it can be immediately seized if the judgment is in the favour of the consumer. This amount can then be used to partially/fully compensate the consumer. The amount of such bank guarantees should depend on the nature of case.

### *Empowerment Status of Present Grievance Redressal Mechanism*

About 82 percent SCDRC members believe that the present grievance redressal mechanism is empowered to sufficiently compensate aggrieved consumers. On the other hand 16 percent members believe that the present grievance redressal mechanism is not empowered enough to adequately compensate aggrieved consumer due to the following reasons:

- The present system is not able of timely redressal cases
- It does not have the power to execute orders/ judgement
- Not able to control unnecessary adjournment sought by advocates /parties
- Not empowered as compared to civil courts
- No effective fine/compensation recovery mechanism
- Judicial background of president is a barriers at times
- Presidents holding more than one office

**Figure 49: Present Grievance Redressal Mechanism Empowered to Compensate**



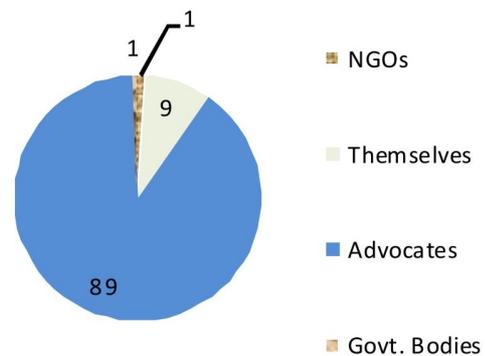
About 2 percent respondents didn't wish to comment on the empowerment status of present grievance redressal mechanism in India.

### Representation in Commission/Forum

According to the responses received, about 89 percent aggrieved consumers are represented through advocates in SCDRC and DCDRC. Despite the fact that the law allows an aggrieved consumer to represent himself/herself only 9 percent consumers are doing so.

On the other hand only 1 percent aggrieved consumers are being represented by NGOs & Govt. bodies each. Representation from government bodies is a very rare phenomenon.

**Figure 50: Representation of Aggrieved Consumers in Consumer Forums**



### Consumer Organisation

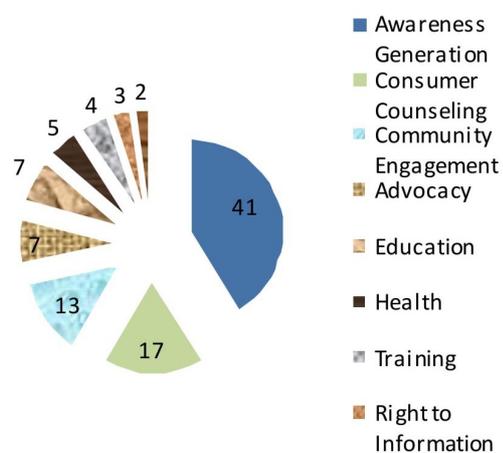
A substantial number of key functionaries and office bearer of consumer organisations (NGO's) and individual activists working specifically on consumer related aspects have been covered under survey. This section presents the key findings from qualitative survey of the following:

- Consumer Organisations
- Individual Activist

### Major Activities by Organisation

Majority of organisations covered under the survey are doing a variety of activities. Based on the responses received three major activities of such organisations are: (i) awareness generation (41 percent) regarding consumer rights and other socio economic issues through seminars, workshops, books, publications, media, newspaper, street plays, public consultations/meetings and camps among different sections of the society; and (ii) Consumer counselling (17 percent)- door to door counselling and individual counselling sessions for aggrieved consumers (iii) Community engagement/ community development programme (13 percent).

**Figure 51: Major Activities to Promote Consumer Rights (in %)**



Apart from awareness generation, community engagement and consumer counselling, other major activities include Advocacy on various issues faced by a common man (7 percent), Education (7 percent), Health (7 percent), Training & Capacity Building (5 percent), Right to Information (3 percent) and Environment Protection and Conservation (2 percent).

### Challenges in Promoting Consumer Rights

According to the responses received, about 27 percent respondents have reported lack of consumer awareness as one of the most important hurdles in promoting consumer right in India. While limited enforcement/ regulatory agencies (23 percent) & limitation of current law, rules & regulations to protect consumer (15 percent) are the other two important challenges in promoting consumer rights in the country.



Other challenges include lack of support to consumer organisations (NGOs) for carrying out consumer protection/education activities (12 percent), inadequate efforts towards consumer education by government and other agencies (11 percent) and lack of coordination among various agencies responsible for consumer affairs/consumer protection in the country (10 percent)

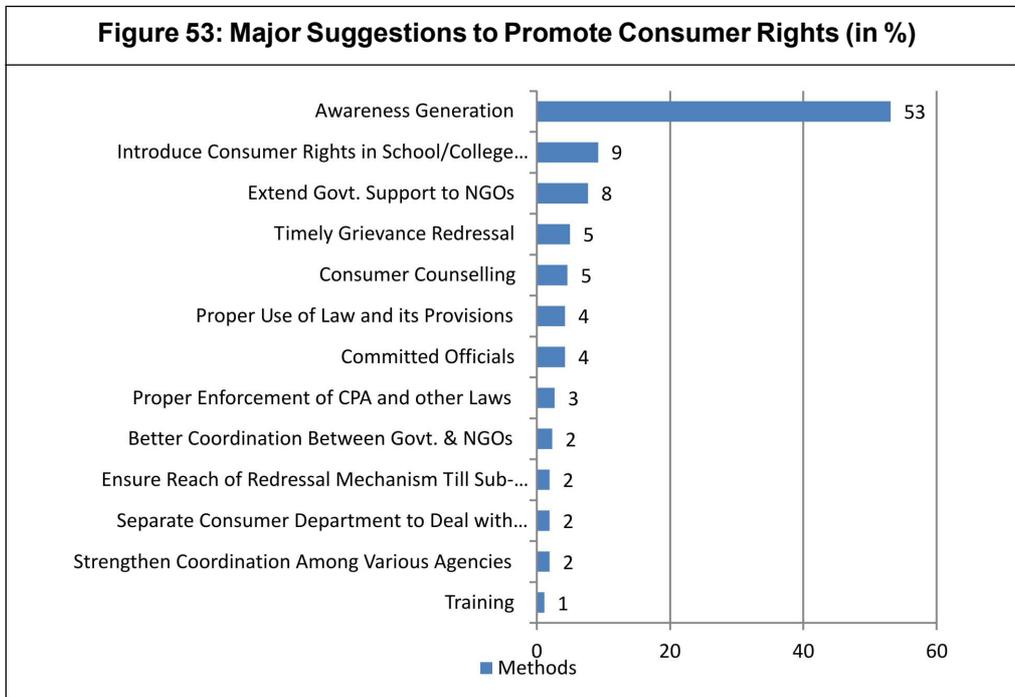
Some other challenges highlighted by organisations include:

- Involvement of advocates in consumer courts
- Limited use of local language in consumer courts and other consumer education activities
- No timely redressal – is a major factor that limits people from approaching consumer courts and fighting for their rights
- High political influx in consumer courts

### Promotion of Consumer Rights

Majority of organisations are of the view that promotion of consumer rights can only be possible by spreading more & more awareness among different sections of society, through different mode/ channels such as seminar, workshop, books, publications, media, newspaper, street plays, public consultations/meetings and camps. Almost 53 percent respondents have reported spreading consumer awareness as a major tool for promoting consumer rights, while 9 percent respondent have highlighted the need to include consumer education in school, college & university syllabus. They consider it as one of the most effective means of consumer education.

Another 8 percent respondent have highlighted the need to enhance govt. support to NGOs for promotion of consumer rights, such organisations can play a vital role in safeguarding consumer interest by educating and counselling them if they have adequate funds and other resources to operate.



Other suggestions include:

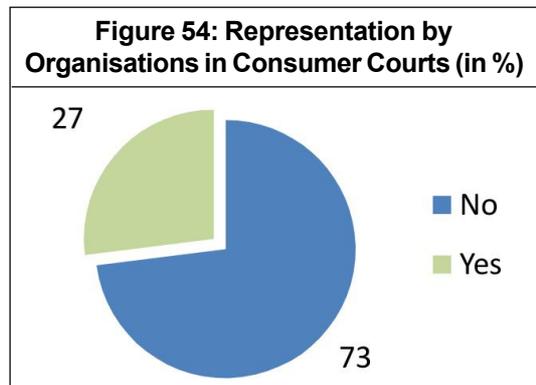
**Sr.No. Other Suggestions to Promotion of Consumer Rights**

- 1 Ensure Better Coordination Between Concerned Departments
- 2 Involve PRIs at Village Level
- 3 Make Consumer Protection Councils in States more Active
- 4 Strengthen regulatory agencies & ensure proper enforcement
- 5 Ensure Regular Consumer Court Functioning
- 6 Ensure Timely Redressal
- 7 Promote Self Representation in SCDRC/ DCDRF
- 8 Removal of case filing fees
- 9 Advocacy

**Representation by Organisation in Consumer Courts**

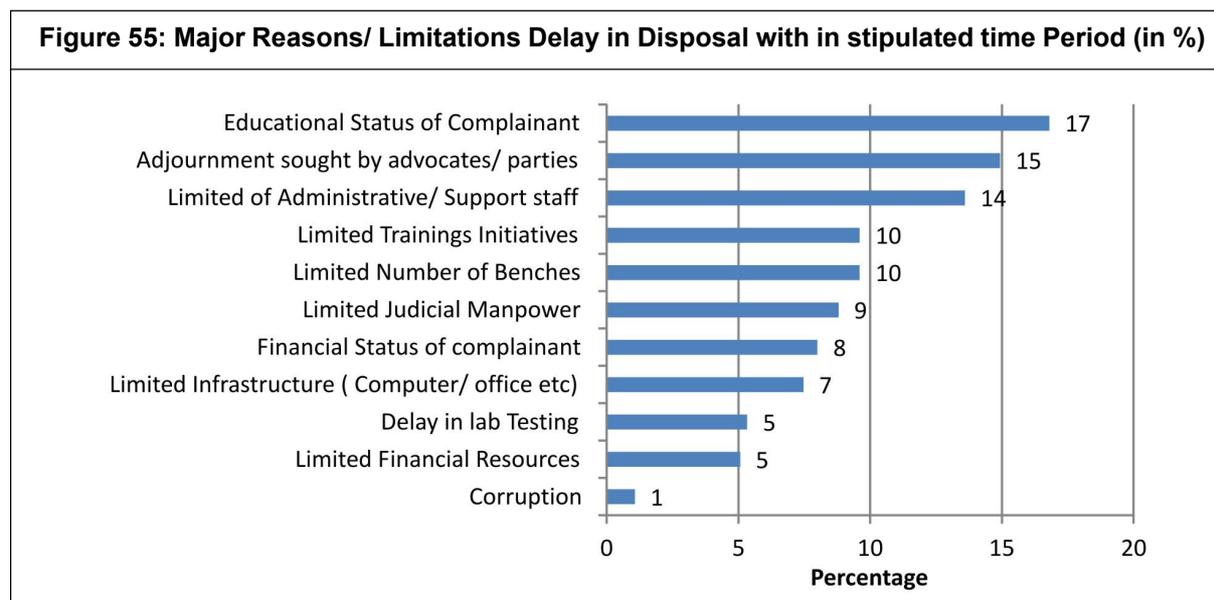
Only 27 percent organisations have provided representation to aggrieved consumers in consumer courts. Majority of organisations do not provide representation to aggrieved consumers in consumer courts, while some organisations work only on providing legal counselling to aggrieved consumers.

According to the responses received from consumer organisations and activist those who represent aggrieved consumers in courts, only 50 percent cases are redressed within the stipulated time frame in consumer courts. While the remaining 50 percent cases take more time than what is prescribed in the law. Major reasons for such delays are presented in the next section.



### Major Reasons for Delay in Grievance Redressal

It has been observed that, large numbers of cases are not redressed within the stipulated time frame prescribed by the law due to various reasons. The Figure 55 presents the major reasons/limitations cited by consumer organisations and individual activists for delay in redressal based on their experience of working with the system.



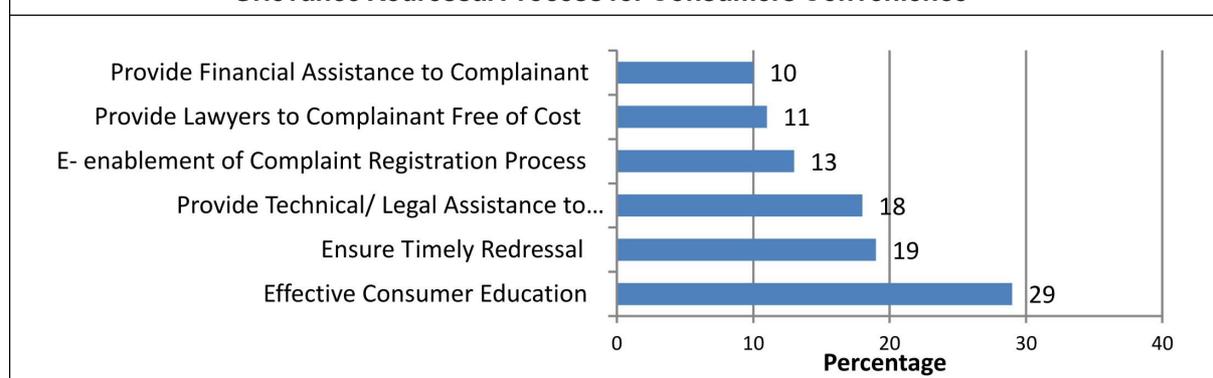
According to the responses received from different consumer organisation & individual activists the top three reasons/limitations for delay in redressal are – (i) Educational status of complainant (17 percent) – due to limited education and awareness, aggrieved consumers are not able to pursue the cases and blindly depend on advocates which leads to such delays (ii) Adjourment sought by advocates/parties (15 percent) – frequent adjourment sought by either advocates or by concerned parties leads to delay (iii) Inadequate administrative/ support staff (14 percent) – add a lot of burden related to administrative and clerical work in judicial staff which in turn delays the redressal process.

Some other important issues include - limited training initiatives (10 percent) - for judicial as well as administrative staff to enhance their knowledge and efficiency, limited number of benches (10 percent) – creates more work load on the existing benches, limited judicial manpower (9 percent), financial status of complainant (8 percent) – weak financial status of complainant does not allow him/her to properly pursue their case, limited infrastructure like computer/ office etc (7 percent) and delay in lab testing (5 percent).

### Suggestions for Simplification of Grievance Redressal Process

In order to make grievance redressal process more convenient for consumer about 29 percent respondent believe that effective consumer education with respect to consumer rights should be helpful. While 19 percent organisation believe that by ensuring timely redressal to complainant will make the process more convenient & attractive and will hold up trust of consumer towards the redressal mechanism. On the other hand 18 percent organisations believe that providing free technical/ legal assistance to complainant will make the process more convenient for the consumers and they will not hesitate much to approach consumer courts.

**Figure 56: Suggestions for Simplification of Grievance Redressal Process for Consumers Convenience**

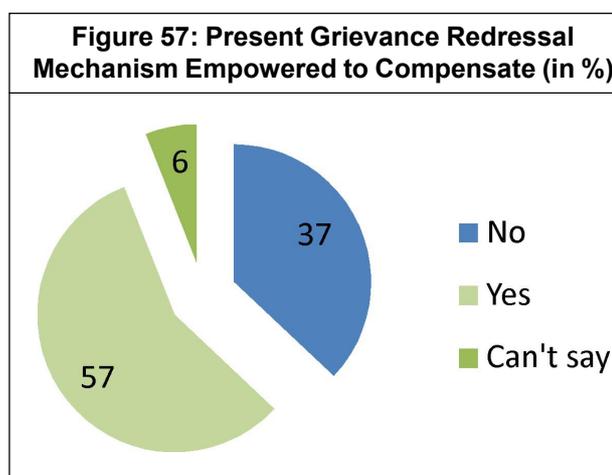


Some respondents have also suggested introduction of sub-divisional level forums for enhancing the reach of redressal mechanism as a measure. On one hand, introduction of sub-divisional forum will reduce case loads at district forums on the other hand it will give greater access to redressal mechanism by rural folks. Other suggestion includes: classification of cases according to its economic value, and clear distinction of responsibilities among president & members of consumer courts.

#### ***Empowerment Status of Present Grievance Redressal Mechanism***

Only 57 percent of consumer organisations believe that the present grievance redressal mechanism in the country is empowered to sufficiently compensate aggrieved consumers. On the other hand 37 percent respondents believe that the present grievance redressal mechanism is not adequately empowered to compensate aggrieved consumers due to the following reasons:

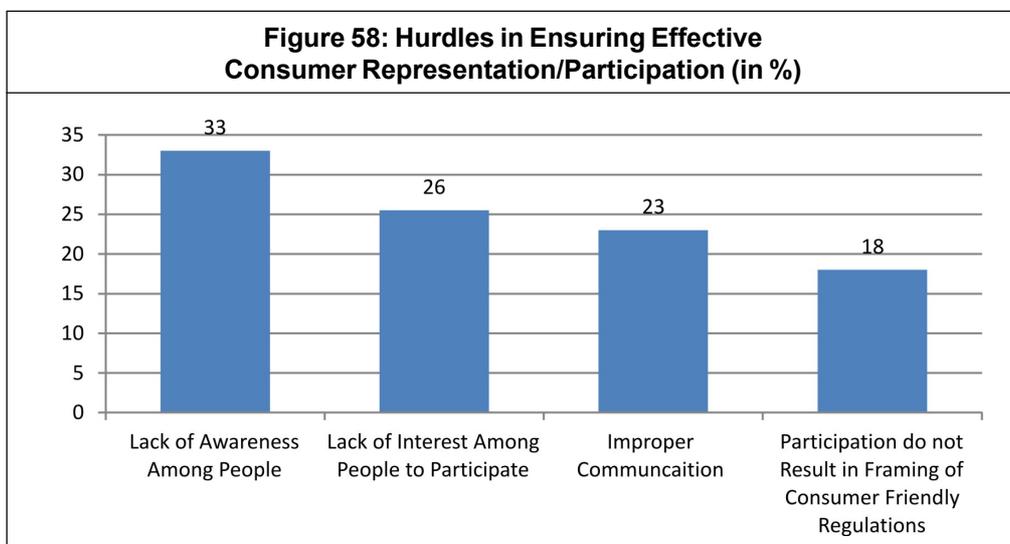
- Inability to ensure timely redressal
- Inability to control unjustifiable adjournment by advocates/parties
- Not empowered as compared to civil courts
- No proper check on advocates those who are misleading and exploiting consumers who are already suffering
- No effective fine/compensation recovery mechanism
- Not able to adequately compensate consumers
- Not able to ensure that enforcement/regulatory agencies work towards consumer interest



About 6 percent organisation didn't wish to comment on the present status of grievance redressal mechanism in India.

#### ***Representation in Public Consultation Forum***

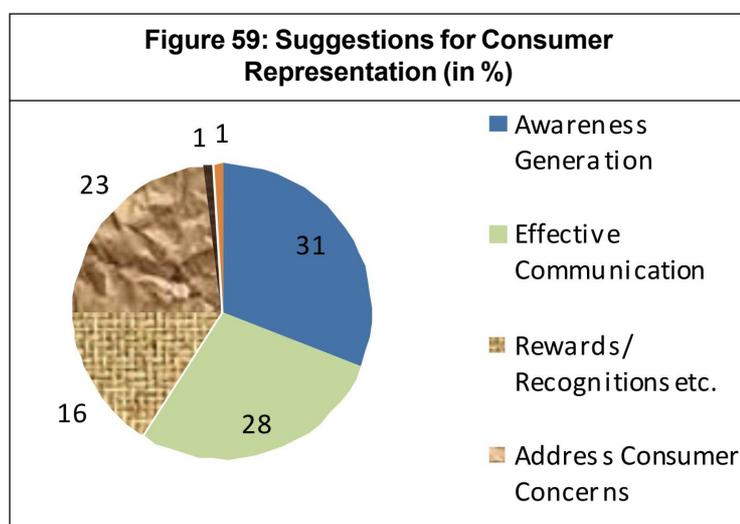
According to the responses received from organisations, three major hurdles in ensuring effective consumer representation/ participation in public consultation forum is (i) lack of awareness (33 percent), followed by (ii) lack of interest among people to participate (26 percent) and (iii) improper communication (23 percent) wherein date/ time & objective of public consultation are not properly communicated to people which in turn result in less or no participation.



About 18 percent respondents also think that their participation did not result in framing of consumer friendly regulations which is a demotivating factor that restricts participation.

### *Suggestions for Consumer Representation/ Participation*

In order to ensure effective consumer representation/participation in public consultation forums, about 33 percent respondents believe that more awareness with respect to importance of participating in such event should be generated through seminars, workshops, books, publications, media, newspaper, street plays, public meetings etc among different sections of the society. Secondly, effective communication of time, date and objective of such consultations to all stakeholders should ensure increased participation.



Some people have also suggested introduction of incentive models like – rewards/ recognitions etc as one of the important tools to ensure increased participation.

According to some respondents online consultation or e-enablement of consultation process can help in increasing participation. E-enablement of consultation process is already being practiced by various government and private agencies; however its reach is limited to a very small section of the society who uses computer and internet.

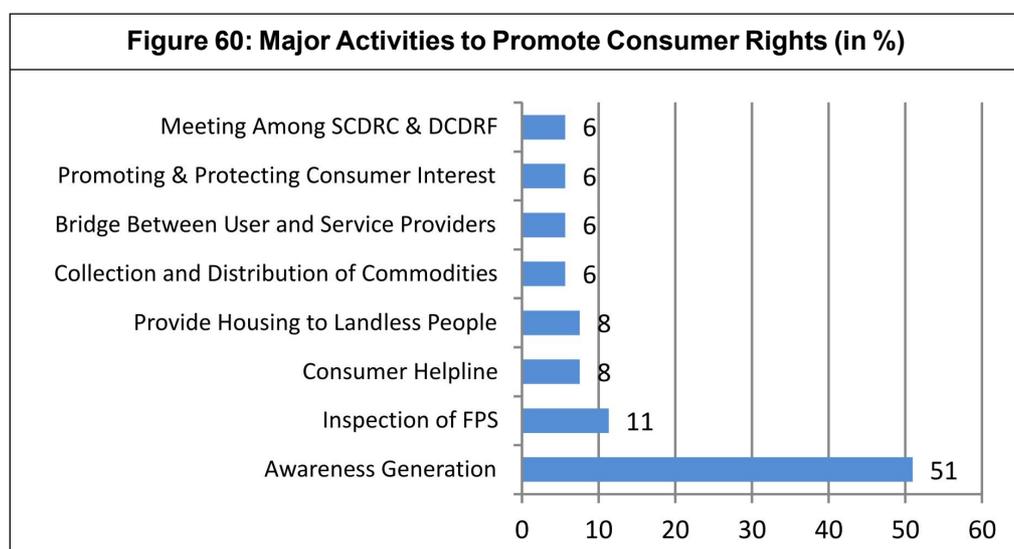
### *Central & State Government Departments and Regulatory Bodies*

As part of the qualitative survey, key officials of Central & State Government Departments and Regulatory Bodies were surveyed. This section presents the key findings from qualitative survey of officials of the following departments/organisations:

- State Department of Food, Civil Supply & Consumer Affairs
- Legal Metrology Department
- Reserve Bank of India
- Bureau of Indian Standards
- Telecom Regulatory Authority of India
- Central & State Electricity Regulatory Commission
- Urban Development Authority
- District Supply Officers

### Major Activities by Departments

Majority of departments covered under the survey are involved in a very diverse set of activities. Based on the responses received three major activities of such organisations are (i) awareness generation (51 percent) among different section of the society – this is one of the most common activity performed by almost all departments covered under the survey. It includes creating awareness about consumer rights, product standard (like BIS, ISO, ISI, AGMARK, and CODEX), weight & measures, regulatory policies and concept of consumerism etc. (ii) Inspection of FPS/PDS (11 percent) – these inspections are largely done by DSO office. Normally, departments conduct 2 types of inspections (a) on periodical inspection – conducted in every 6 or 9 months depending upon the distribution and supply pattern of PDS/FPS (b) on consumer complaint – inspection of PDS/FPS on consumer complaint for malpractices, corruption and black marketing etc. (iii) Consumer Helpline – includes both telephonic & online consumer helpline for resolving consumer queries (8 percent). These helplines are largely operated by Department of Consumer Affairs.



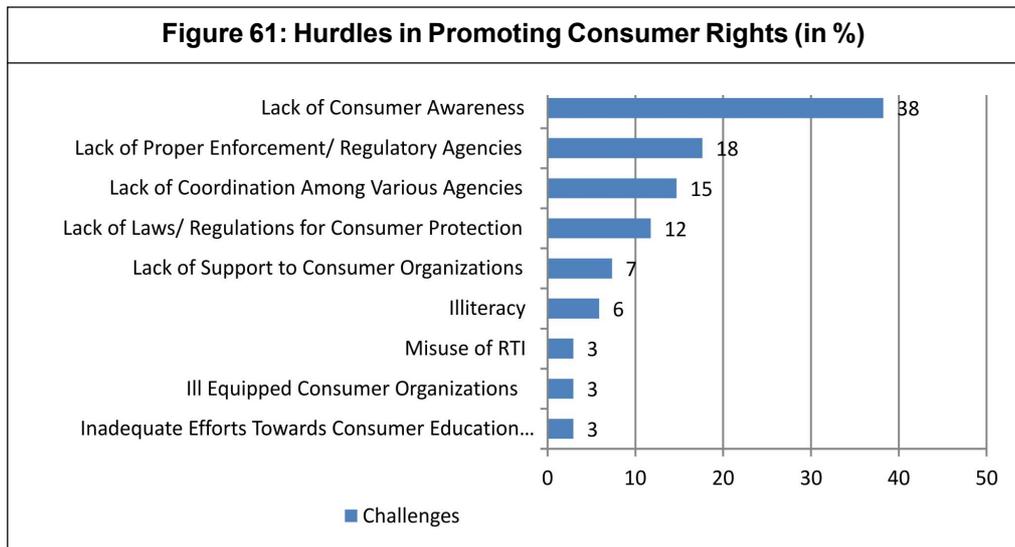
Other major activities/sectors of work include providing housing for landless people (8 percent) – reported by urban development authorities; collection & distribution of essential commodities (6 percent) – reported by DSOs; ensure interconnection between consumers & service providers (6 percent) – by CCPC, TRAI representatives.

Other activities performed by departments and regulatory agencies include: formulation of policies, regulation & tariff, ensure quality of service to consumers, maintain transparency, maintaining statistics & other records related to consumer interest, providing recommendations to govt. on issues pertaining to various sectors.

### Challenges in Promoting Consumer Rights

According to the responses received, about 38 percent respondents have reported lack of consumer awareness as one of the most important hurdles in promoting consumer right in the country. While other major challenges reported by government department representatives include - limited enforcement/ regulatory agencies (18 percent), lack of coordination among various agencies dealing in consumer affairs matters/ consumer protection (15 percent) & limitation of current law, rules & regulations to protect consumer (12 percent).

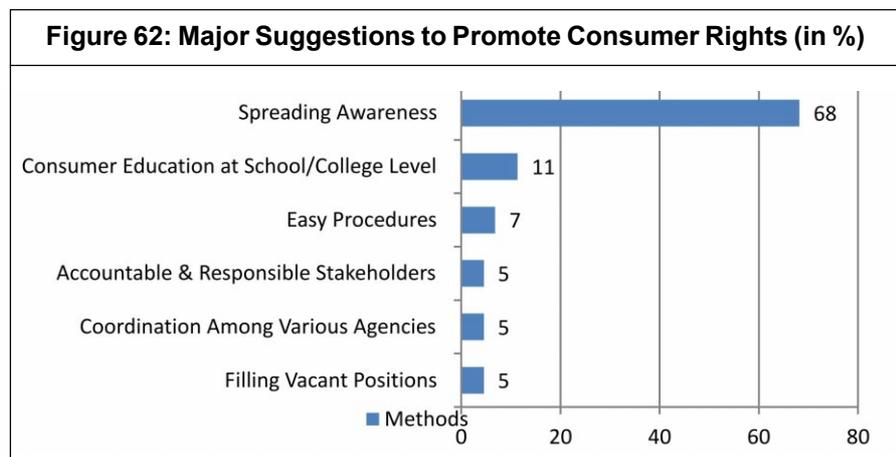
Some other challenges cited by government departments include - inadequate efforts towards consumer education by government/other agencies, lack of support to consumer organisations (NGOs) for carrying out consumer protection/education activities, illiteracy - among rural folks.



### Promotion of Consumer Rights

Majority of government department officials are of the view that promotion of consumer rights can be possible only through more & more awareness generation among different sections of society. Almost 68 percent respondents have reported spreading consumer awareness as a major tool for promoting consumer rights, while 11 percent respondent have highlighted the need to include consumer education in school, college & university syllabus.

Another 7 percent respondent have highlighted the need to simplify legal procedures to make it more accessible to common man, while 5 percent respondents have highlighted the need to increase accountability & responsibility among various stakeholders, whereas coordination



among various agencies and filling vacant positions in Central & state government departments are also important measures that need to be taken to promote consumer rights.

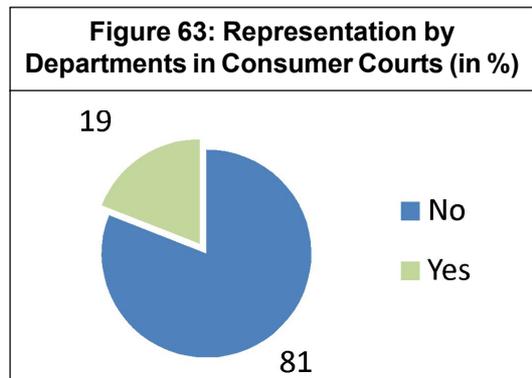
Some other suggestions include: strengthening of redressal mechanism to ensure timely disposal of cases & adequate compensation to consumers and capacity building of consumer organisation to act as mediator between operators and customers.

**Representation by Department in Consumer Courts**

Only 23 percent department have reported providing representation to aggrieved consumers in consumer courts.

These include DoCA, Weight and Measure Department, BIS, RVPN.

According to the responses received less than 70 percent of such cases were redressed within the stipulated time frame.

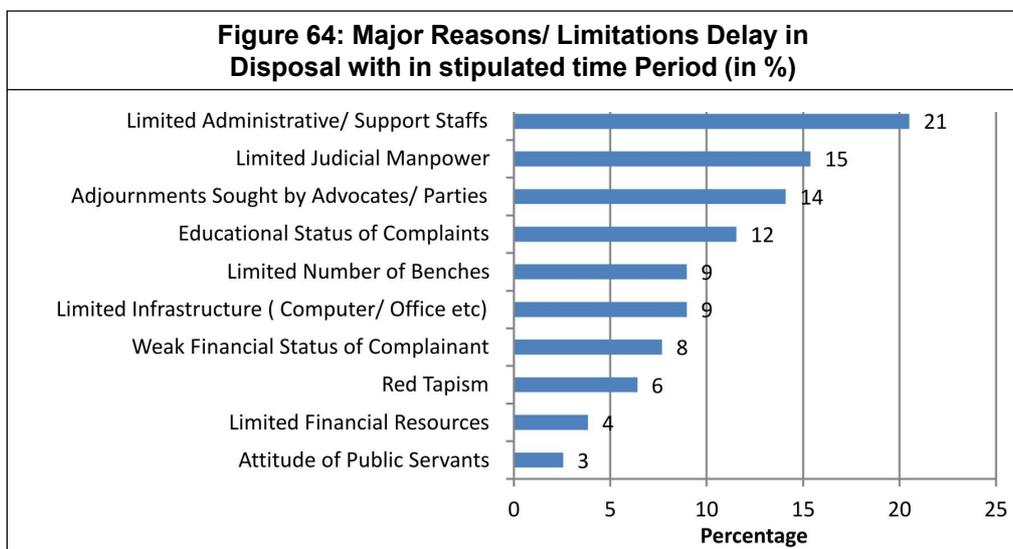


**Major Reasons for Delay in Grievance Redressal**

The Figure 64 presents the major reasons/limitations cited by representatives of government department and regulatory agencies for delay in redressal based on their experience of working with the redressal mechanism.

According to the responses received top four reasons/limitations for delay in redressal are – (i) Inadequate administrative/ support staff (21 percent) – add a lot of burden related to administrative and clerical work on judicial staff, thus delays the process of redressal (ii) Limited judicial manpower (15 percent) – vacant seat of judicial staffs one of the major reason for delay (iii) Adjournment sought by advocates/parties (14 percent) – frequent adjournment sought by either advocates or by concerned parties leads to delay (iv) Educational status of complainant (12 percent) – due to limited education and awareness, aggrieved consumers are not able to pursue their case independently and blindly depend on advocates which leads to delays.

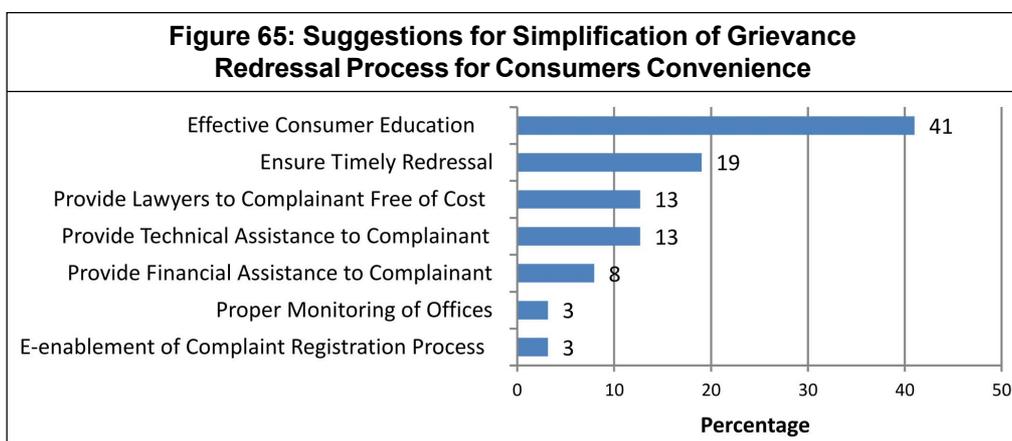
Some other important issues include - Limited number of benches (9 percent) – leads to excess burden on existing benches, limited infrastructure (computer/ office etc) (9 percent) – hampers functioning of court, weak financial status of complainant (8 percent), Red tapism (6 percent) – excessive paperwork and tedious procedures which are tough to follow, limited financial resources (4 percent) and negative and lethargic attitude of public servants (3 percent) leads to delay at times.



Some other reasons include: delay in the process of lab testing or seeking expert opinion, limited knowledge among members with respect to court functioning & related procedures and issues related to servicing of notices – as consumer courts have to depend on normal courier or postal service for delivering notices, these services are not reliable and accountable at times.

**Suggestions for Simplification of Grievance Redressal Process**

In order to make grievance redressal process more convenient for consumer about 41 percent respondent believe that effective consumer education with respect to consumer rights should be helpful. While 19 percent department officials believe that timely redressal to complainant will make the process more convenient for the consumers and will hold up trust of consumer towards the redressal mechanism. On the other hand 13 percent department officials believe that providing lawyers to the complainant free of cost and providing free technical/ legal assistance to complainant will make the process more convenient for the consumers as they will not hesitate much to approach consumer courts.



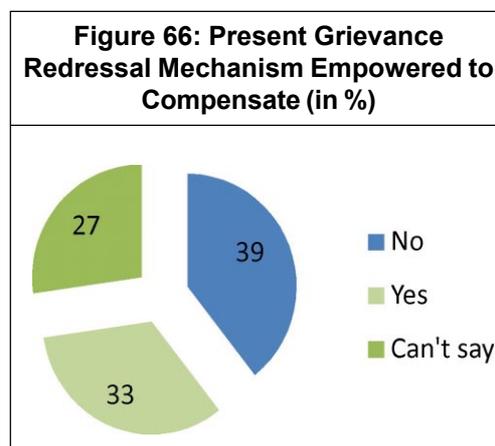
Some respondents have also suggested providing financial assistance to the complainant (8 percent), while some have suggested to properly monitor departmental offices & officials (3 percent) to ensure that they discharge their duties properly. About 3 percent respondents believe that E-enablement of complaint registration process will make grievance redressal process more convenient and accessible to consumers.

**Empowerment Status of Present Grievance Redressal Mechanism**

Only 33 percent respondents believe that present grievance redressal mechanism is empowered to sufficiently compensate consumer, while 39 percent respondents believe that the present grievance redressal mechanism is not empowered enough to compensate aggrieved consumers. They have highlighted the following shortcomings in the present redressal mechanism:

- Lack of adequate judicial and administrative staff which delays the process of redressal
- Justice delayed is equal to justice denied
- Lack of enforcement powers with consumer courts

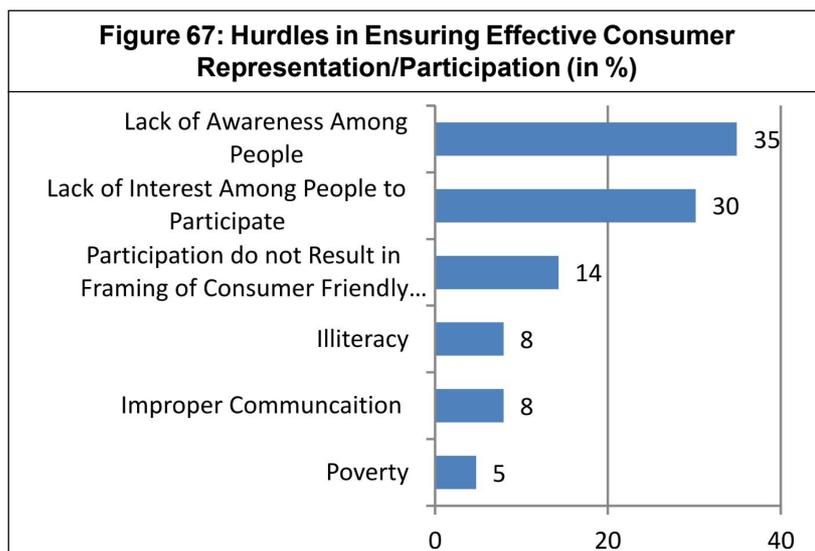
About 27 percent officials were not able to comment on the present status of grievance redressal mechanism in India.



### Representation in Public Consultation Forum

According to the responses received from government department representatives three major hurdles in ensuring effective consumer representation/ participation in public consultation forums is lack of awareness among people (35 percent), followed by lack of interest among people to participate (30 percent) and a belief that participation do not result in framing of consumer friendly regulations (14 percent).

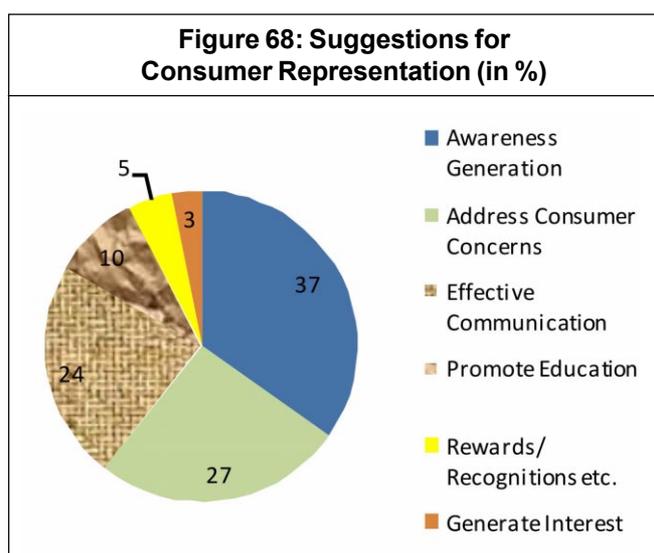
About 8 percent respondents highlighted improper communication as an hurdle in ensuring effective consumer participation wherein date/ time & objective of public consultation are not properly communicated to the intended citizens which in turn result in less or no participation. According to responses received illiteracy (8 percent) & Poverty (5 percent) mainly among rural folks are also an hurdle in ensuring participation.



Regulatory agencies like CERC and TRAI have various consumer orientation on their panel, even after that they find it very difficult to ensure effective consumer representation or participation due to various reasons. Some people also share their views comments through e-mails, online interface and letters which are also taken into consideration while forming regulations and policies etc.

### Suggestions for Consumer Representation/ Participation

In order to ensure effective consumer representation/participation in public consultation forum, about 37 percent of government department officials believes that more awareness with respect to importance participation in such event should be generated through seminars, workshops, books, publications, media, newspaper, street plays etc among different section of the society. Secondly, such forums should adequately address consumer concerns then only people will gain more trust over public consultation forums.



Thirdly, effective communication with respect to time, date and objective of such consultations to all stakeholders should ensure increased participation in such forums.

Some people also believe that better education can lead to increased participation and generating interest for a particular topic among people can also boost participation. As it has been noticed that participation also depends on the topic of public consultation, as topics which are more close to people's life always attract more participation than others.

### Sectoral Redressal Mechanism/Ombudsman

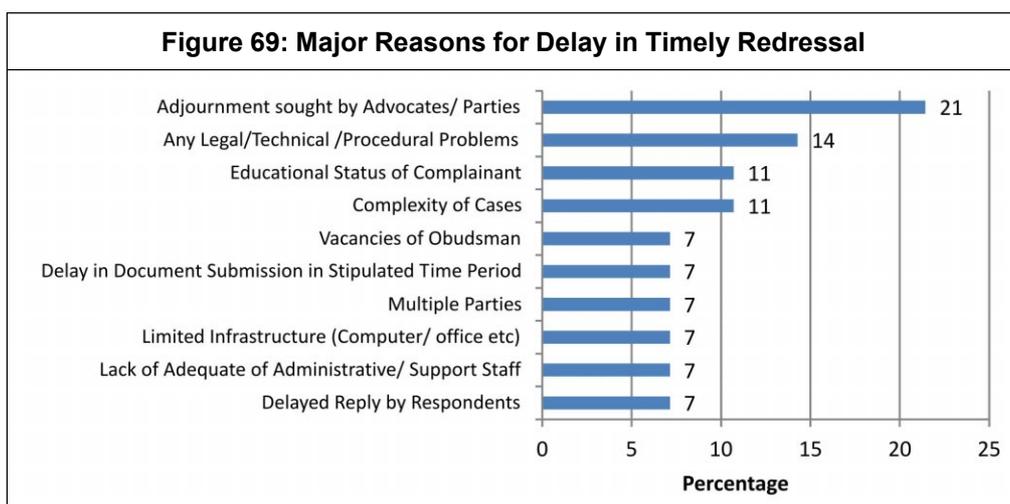
An ombudsman is a person who acts as a trusted intermediary between either the state or an organisation, and some internal or external constituency, while representing not only but mostly the broad scope of constituent interests. The Government of India has designated several ombudsmen for the redress of grievances and complaints from individuals in the banking, insurance and other sectors being serviced by both private and public bodies and corporations. The concept of Ombudsman was introduced by the Administrative Reform Commission of 1966, which recommended the setting up of an Ombudsman both at the Center (Lokpal) and the State (Lokayukta) with varying degrees of Power. This section presents key findings from qualitative survey of sectoral redressal mechanism/ ombudsman in banking and power sector.

#### Major Reasons for Delay in Timely Redressal

The Figure 69 presents the major reasons/limitations cited by officials of sectoral consumer grievance redressal forums and the ombudsman for not being able to dispose of complaints within stipulated time period.

Based on the responses received three major reasons for delay in redressal is adjournment sought by advocates/ parties (21 percent), followed by any legal/ technical/ procedural problems (14 percent) and educational status of complainant (11 percent).

Other major reasons includes complex nature of cases (11 percent), vacant position of ombudsman/ president/member (7 percent), delay in document submission (7 percent), involvement of multiple parties in a single respective case (7 percent), limited infrastructure (Computer/ office etc.) (7 percent), lack of adequate administrative/ support staffs at different grievance redressal forum & ombudsman office (7 percent), are the major reasons for not being able to redress the complaint within the stipulated time period.



Some other minor challenges include:

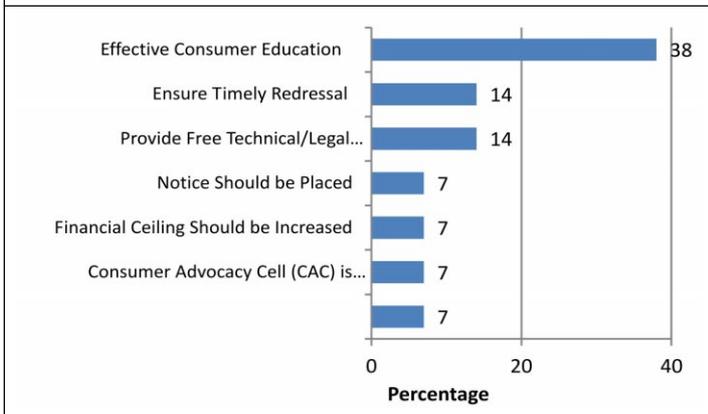
- Delay in service of notice - as they have to rely on postal service/ courier service which is not reliable and accountable
- Limited financial resources –hamper their functioning and in turn affect the process of redressal
- Delay in Lab Testing

### Suggestions for Simplification of Grievance Redressal Process

In order to make grievance redressal process more convenient for consumer about 38 percent members believe that effective consumer education with respect to consumer rights should be helpful. On the other hand 14 percent members believe that providing free technical/ legal assistance to complainant will make the process more convenient for consumers.

Other major suggestions include, ensuring timely redressal (14 percent), providing financial assistance to complainant (7 percent), financial ceiling of cases to be handled by ombudsman and sectoral redressal forums should be increased (7 percent), and consumer advocacy cell is required (7 percent).

**Figure 70: Suggestions for Simplification of Grievance Redressal Process for Consumers Convenience**



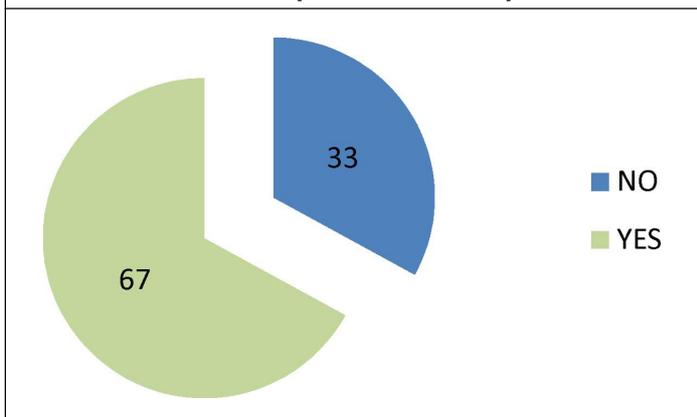
Other major suggestions include, ensuring timely redressal (14 percent), providing financial assistance to complainant (7 percent), financial ceiling of cases to be handled by ombudsman and sectoral redressal forums should be increased (7 percent), and consumer advocacy cell is required (7 percent).

### Empowerment Status of Present Grievance Redressal Mechanism

About 67 percent respondents believe that the present grievance redressal mechanism is empowered to sufficiently compensate aggrieved consumers. On the other hand 33 percent respondents think otherwise and are thus dissatisfied with the present grievance redressal mechanism due to the following reasons:

- The present system is not able to adequately compensate consumers
- In case of electricity sector and its related grievance, ombudsman is the supreme authority to redress consumer's grievance, but in some cases utility do not adhere to or follow ombudsman's judgment, and there is no proper mechanism to monitor it and ensure justice.
- Very limited powers with consumer grievance redressal forum

**Figure 71: Present Grievance Redressal Mechanism Empowered to Compensate**

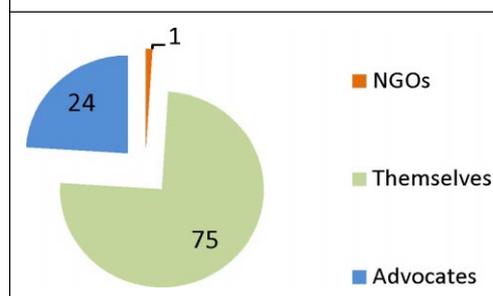


### Representation in Commission/Forum

About 75 percent aggrieved consumers represent himself/herself in front of consumer grievance redressal forum/ombudsman, while 24 percent aggrieved consumers are represented through advocates.

On the other hand only 1 percent aggrieved consumers are represented by NGOs. Representation from government bodies is reported to be nil in consumer grievance redressal forum/ ombudsman.

**Figure 72: Representation of Aggrieved Consumers in Consumer Forums**





1.8 Address \_\_\_\_\_

1.9 Telephone/ Mobile number/ Email \_\_\_\_\_

## 2. Right to Basic Needs

2.1 Where do you buy your food materials from?

- |                          |               |
|--------------------------|---------------|
| FPS/PDS                  | 1             |
| Standalone/ Retail Chain |               |
| Standalone               | 2             |
|                          | Skip to Q 2.2 |
| Both                     | 3             |

For those who use PDS/FPS PDS/FPS

i) How often do you receive appropriate quantity of food grains as per your entitlement?

- |                              |   |
|------------------------------|---|
| Always                       | 1 |
| Very Often                   | 2 |
| Rarely                       | 3 |
| Never                        | 4 |
| Don't know about entitlement | 5 |

ii) How often do you receive food grains at govt. prescribed rates?

- |   |   |
|---|---|
| Always                                  | 1 |
| Very Often                              | 2 |
| Rarely                                  | 3 |
| Never                                   | 4 |
| Don't know about Govt. prescribed rates | 5 |

iii) How many installments would you like to buy your entitlement?

- |                              |   |
|------------------------------|---|
| Daily                        | 1 |
| Weekly                       | 2 |
| Fortnightly                  | 3 |
| Monthly                      | 4 |
| Don't know about entitlement | 5 |

iv) How often do you make a complaint to govt. authority if you do not receive appropriate quantity of food grains at govt. prescribed rates?

- |  |   |
|--|---|
| Always                                 | 1 |
| Very Often                             | 2 |
| Rarely                                 | 3 |
| Never                                  | 4 |
| Don't know where to register complaint | 5 |

2.2 Are food materials available in adequate quantity at shops?

- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |

2.3 Are you aware about the proposed Food Security Act and its provisions?

- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |

Skip to Q 2.4

i) If yes, in your opinion, the proposed Food Security Act will enable you to easily access affordable food materials in adequate quantity?

- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |

- 2.4 What is the prime source of energy for cooking for your HH?
- |             |               |
|-------------|---------------|
| LPG Gas     | 1             |
| Electricity | 2             |
|             | Skip to Q 2.5 |
| Wood        | 3             |
|             | Skip to Q 2.5 |
| Charcoal    | 4             |
|             | Skip to Q 2.5 |
| Dung        | 5             |
|             | Skip to Q 2.5 |
| Kerosene    | 6             |
| Others      | _____         |
- i) If gas/kerosene in the last months how often did you obtain it from the black market?
- |            |   |
|------------|---|
| Always     | 1 |
| Very Often | 2 |
| Rarely     | 3 |
| Never      | 4 |
- 2.5 Is this source of energy for cooking affordable?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- 2.6 What kind of a house do you live in?
- |   |               |
|---|---------------|
| Owned-Self financed on private owned plot | 1             |
| Self financed on govt housing scheme plot | 2             |
|   | Skip to Q 2.7 |
| Partially or fully financed by govt       | 3             |
|   | Skip to Q 2.7 |
| Rented                                    | 4             |
|   | Skip to Q 2.7 |
| Others                                    | _____         |
- i) If self -financed on own plot have you ever tried to access govt. housing or finance scheme?
- |     |               |
|-----|---------------|
| Yes | 1             |
| No  | 2             |
|     | Skip to Q 2.7 |
- ii) Do you think that govt or bank finance for housing is easily accessible?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- iii) Do you think that terms of govt or bank finance for housing is affordable?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- 2.7 Are you aware of the initiative for regulating the real estate/housing market?
- |     |             |
|-----|-------------|
| Yes | 1           |
| No  | 2           |
|     | Skip to 2.8 |
- i) if yes, do you think that the proposed regulator for Real Estate will make housing accessible and affordable?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- 2.8 What is your primary source of drinking water?
- |                   |   |
|-------------------|---|
| Government Supply | 1 |
| Private Supply    | 2 |
| Community Source  | 3 |

2.9	Do you think that you can obtain adequate quantity of drinking water from this source?	
	Yes	1
	No	2
2.10	Do you think that the water from this source is potable/ safe for drinking?	
	Yes	1
	No	2
2.11	Is the price paid/cost incurred for obtaining drinking water from the primary source affordable?	
	Yes	1
	No	2
	Free	3
2.12	What kind of toilet do you use?	
	Private Toilet at Home	1
		Skip to Q 2.12(ii)
	Community Toilet	2
	None	3
	i) If community toilet is it usable with adequate cleanliness, water supply and lighting?	
	Yes	1
	No	2
	ii) If toilet at home, did you receive any govt. support (from Nirmal Gram/ILCS) to construct it?	
	Yes	1
	No	2
		Skip to Q 2.14
2.13	Are you aware of Nirmal Gram Yojana/ILCS/ NUSP?	
	Yes	1
	No	2
2.14	Do you think that govt. support for home/ community toilet is easily accessible?	
	Yes	1
	No	2
	DK/CS	3
2.15	Do you have electricity connection at home?	
	Yes	1
	No	2
		Skip to Q 2.18
	i) If yes, how many hours in a day do you get electricity supply?	
	No of Hours in a day	_____
	ii) In your opinion, is your monthly electricity bill affordable?	
	Yes	1
	No	2
2.16	Are you aware about the Electricity Regulator?	
	Yes	1
	No	2
2.17	If yes, has the Electricity Regulator improved access to affordable electricity?	
	Yes	1
	No	2
2.18	Where do children in your household receive primary education?	
	Government School	1
		Skip to Q 2.19
	Private School	2
		Skip to Q 2.19
	Don't go to School	3

i) If they do not go to school, what are the reasons (multiple options)		
School is far away		4
Required to work at home		5
Has to support HH income		6
Cannot afford education		7
Parents are not interested		8
Education not necessary		9
Schooling facility not available		10
Other _____		
2.19 Has access to primary school increased due to Right to Education?		
Yes		1
No		2
2.20 Has access to primary school increased due to availability of mid-day meal?		
Yes		1
No		2
DK/CS		
2.21 Do you think that private schools need a regulator?		
Yes		1
No		2
2.22 What is the most commonly used mode of public transport by you and your family members?		
Bus/jeep		1
Train /metro		2
Auto –rickshaw		3
Cycle –rickshaw		4
Taxi		5
Own vehicle		6
	Skip to Q 2.23	
None		7
i) Is the commonly used public transport easily available?		
Yes		1
No		2
ii) Is the commonly used public transport affordable?		
Yes		1
No		2
2.23 Is your habitation connected with a fair weather road?		
Yes		1
No		2
2.24 Have you obtained institutional health care in the last 6 month?		
Yes		1
No		2
	Skip to 2.25	
i) If yes, where did you obtain institutional healthcare facility?		
Govt. facility		1
Private facility		2
Charitable facility		3
ii) How far is this healthcare facility from your house?		
Less than 1 km	1	
1-3 km		2
3-5 km		3
5 km or more		4
iii) How do you rate the quality of health care at this facility?		
Good		1
Fair		2
Bad		3

vi) Do you think that cost incurred in obtaining this healthcare easily afforded?		
Yes		1
No		2
v) In your opinion, do doctors usually prescribe generic/ competitively priced medicines at this healthcare facility?		
Yes		1
No		2
vi) Are generic/competitively priced medicines easily available in market?		
Yes		1
No		2
vii) For BPL respondents only, were you provided free medicines/tests by the healthcare facility?		
Yes		1
No		2
2.25 Which of these communication facilities is easily available with you? (multiple response)		
Telephone/Mobile		1
Post		2
Courier		3
Internet		4
Others		
i) Are these communication facilities used by you affordable?		
Yes		1
No		2
2.26 Do you think the Right To Basic Needs should be enacted to cover products and services as Food, Housing, Health, Water, Education, Sanitation, Energy, Transport and Communication?		
Fully agree		1
Slightly agree		2
Slightly disagree		3
Fully disagree		4
2.27 Are you satisfied with the efforts of the government to ensure adequacy, accessibility and affordability of basic needs?		
Fully Satisfied		1
Slightly Satisfied		2
Slightly Dissatisfied		3
Fully Dissatisfied		4

### 3. Right to Safety

3.1 Have you ever purchased a product /service that has caused or had the potential to cause any hazard/ threat to human being or environment) ?		
Yes		1
No		2
3.2 While making any other purchase, how often do you assess a products or service from its potential to cause a threat /hazard?		
Always		1
Very Often		2
Rarely		3
Never		4
3.3 Normally, which certification do you look for while making a purchase?		
ISI		1
ISO		2
AGMARK		3
CODEX		4

None 5  
Others \_\_\_\_\_

3.4 Name two products/ services other than cigarettes, pan masala, liquor, food materials and medicines should carry mandatory warning/ safety provisions/ certification.

Product 1 Product 2

3.5 Do you think certification and warnings are an important means to ensure right to safety?

Fully agree 1  
Slightly agree 2  
Slightly disagree 3  
Fully disagree 4

#### 4 Right to be informed

4.1 Do you always take a receipt after making a purchase of goods or availing any service?

Yes 1  
Skip to 4.2  
No 2  
Depends on Nature of Product 3

i) If no, why

4.2 Prior to making a purchase/availing a service, how often do you check any of the following

	Always	Very Often	Rarely	Never
Weight	1	2	3	4
Contents/Content mark	1	2	3	4
Producer/Provider Details	1	2	3	4
Maximum Retail Price/Tariff	1	2	3	4
Terms & Condition	1	2	3	4
Warnings	1	2	3	4
Quality Certification/Service Standards	1	2	3	4
Period of Use/Expiry Date/Best Before	1	2	3	4
Complaint/redressal mechanism	1	2	3	4

4.3 Have you heard of the following Acts?

	Yes	No
Consumer Protection Act 1986	1	2
Weights & Measures Act 1976	1	2
Sale of Goods Act 1930	1	2
Contract Act 1872	1	2
Competition Act 2002	1	2
Food Safety & Standards Act 2006	1	2
Public Services Guarantee Act 2011	1	2
Legal Metrology Act 2009	1	2
If all No Skip to 4.4		

i) If yes (in any of the above), Do you think that you have benefited by implementation of any of the above Acts that you are aware of?

Fully agree 1  
Slightly agree 2  
Slightly disagree 3  
Fully disagree 4

4.4 Have you heard of the following Regulatory agencies?

	Yes	No
Electricity Regulatory Commission (ERC)	1	2
Telecom Regulatory Authority of India (TRAI)	1	2
Food Safety & Standards Authority of India (FSSAI)	1	2
Stock Exchange Board of India (SEBI)	1	2

Insurance Regulatory and Development Authority (IRDA)	1	2
Reserve Bank of India (RBI)	1	2
Pension Fund Regulatory & Development Authority (PFRDA)	1	2
Forward Market Commission (FMC)	1	2

If all No Skip to 4.5

i) If yes (in any of the above), Do you think that you have benefited from the regulations of any of the above regulators that you are aware of?

Fully agree	1
Slightly agree	2
Slightly disagree	3
Fully disagree	4

## 5. Right to choose

5.1 Could you name any two products or services, for which you have only 1-2 provider/producer/seller?  
Product 1 Product 2

5.2 What has been your experience with telecom portability?

Good	1
Fair	2
Bad	3
Not Tried	4
Don't Know	5

5.3 Could you name any two products or service other than telecom which should also be provided with portability?

Product 1 Product 2

5.4 What are the key barriers to accessing other options for various products & services?

Cost of alternative product/ service	1
Transaction fee	2
Access time	3
Documentation requirements	4
Technical aspects	5
Perception of service quality	6
Don't Know	7

5.5 Name two sectors in which free and fair competition will increase benefits to you

Sector 1 Sector 2

## 6. Right to redress:

6.1 Who will you normally approach for complaint/ redressal, if the product/ service provided to you are faulty or not as per the prescribed standards?

Seller	1
Company	2
Consumer Forum	3
Sector Ombudsman	4
None	5

6.2 Have you ever approached any of these for complaints/ redressal?

Seller	1
Company	2
Consumer Forum	3
Sector Ombudsman	4
None	5

Skip to Q 6.3

- i) If Yes, please give us the details regarding your last complaint/ redressal experience  
Product /Service category  
Reason/ Issue  
To Whom
- ii) How was the complaint/redressal process?  
Easy 1  
Slightly Difficult 2  
Very Difficult 3
- iii) Was your complaint redressed?  
Fully Redressed 4  
Partially Redressed 5  
Not Redressed 6
- iv) If not, did you take the complaint to a higher authority for redressal?  
Yes 1  
No 2
- v) Was the redressal within the specified time limit?  
Yes 1  
No 2
- vi) How would you rate direct cost of seeking redressal?  
High 1  
Average 2  
Low 3  
None 4
- vii) Based on your last complaint, are you satisfied with the redressal mechanism?  
Fully Satisfied 1  
Slightly Satisfied 2  
Slightly Dissatisfied 3  
Fully Dissatisfied 4
- viii) Did you get adequate compensation from the redressal mechanism?  
Yes 1  
No 2
- ix) Who represented you in the forum?  
Yourself 1  
Advocate 2  
Representative of Consumer Forum 3
- x) Did you get support from consumer organization in seeking redressal?  
Yes 1  
No 2
- xi) Based on your experience, what 2 changes would you like to suggest for making the redressal mechanism more consumer friendly?  
Suggestion 1  
Suggestion 2
- 6.3) In your opinion, is the internal redressal mechanism of a company independent and accountable?  
Fully agree 1  
Slightly agree 2  
Slightly disagree 3  
Fully disagree 4  
DK/CS 5
- i) If disagree, where should the authority be based?

- 6.4) In your opinion, is the external redressal mechanism independent and accountable?
- |                   |   |
|-------------------|---|
| Fully agree       | 1 |
| Slightly agree    | 2 |
| Slightly disagree | 3 |
| Fully disagree    | 4 |
| DK/CS             | 5 |
- 6.5) In your opinion, is the external redressal mechanism easy accessible for you?
- |                   |   |
|-------------------|---|
| Fully agree       | 1 |
| Slightly agree    | 2 |
| Slightly disagree | 3 |
| Fully disagree    | 4 |
- i) If disagree, where should the authority be based?
- 6.6 Name two sectors which require an independent and accountable redressal mechanism?
- |          |          |
|----------|----------|
| Sector 1 | Sector 2 |
|----------|----------|
- 6.7 Do you think that the grievance redressal mechanism is empowered to compensate the consumer?
- |                   |   |
|-------------------|---|
| Fully agree       | 1 |
| Slightly agree    | 2 |
| Slightly disagree | 3 |
| Fully disagree    | 4 |
| DK/CS             | 5 |

## 7. Right to consumer education:

- 7.1 Are you aware of consumer rights?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- i) If yes, how did you get to know of these rights and responsibilities?
- |                          |   |
|--------------------------|---|
| TV                       | 1 |
| Radio                    | 2 |
| Newspaper                | 3 |
| Internet                 | 4 |
| Wall Hoardings & Posters | 5 |
| Consumer Organizations   | 6 |
| Seminars                 | 7 |
| Through friend           | 8 |
| In School or College     | 9 |
| Others                   |   |
- 7.2 Are you aware of Jago Grahak Jago campaign?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- Skip to 7.3
- i) If yes, how did you get to know of Jago Grahak Jago campaign?
- |  |    |
|--|----|
| TV   | 1  |
| Radio                                      | 2  |
| Newspaper                                  | 3  |
| Internet                                   | 4  |
| wall hoardings & posters                   | 5  |
| Consumer Organizations                     | 6  |
| Seminars                                   | 7  |
| In school or College                       | 8  |
| Postal Stationary                          | 9  |
| Utility Bills (electricity/ telephone etc) | 10 |
| Others                                     |    |

- ii) Did you benefit from this campaign?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- 7.3 In your opinion which one of these is the most effective means of communication for consumer education?  
(Select only one option)
- |  |    |
|--|----|
| TV   | 3  |
| Radio                                      | 4  |
| Newspaper                                  | 5  |
| Internet                                   | 6  |
| wall hoardings & posters                   | 7  |
| Consumer Organizations                     | 8  |
| Seminars                                   | 9  |
| In school or College                       | 10 |
| Postal Stationary                          | 11 |
| Utility Bills (electricity/ telephone etc) | 12 |

## 8. Right to consumer representation

- 8.1 Are you aware of public hearing/forums organized seek consumer representation to develop regulations?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- 8.2 Have you ever participated in public hearing as a consumer representative?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- Skip to Q 8.3
- I) If yes, did your participation result in framing of consumer friendly regulations?
- |                   |   |
|-------------------|---|
| Fully agree       | 1 |
| Slightly agree    | 2 |
| Slightly disagree | 3 |
| Fully disagree    | 4 |
- 8.3 In your opinion, what are the major hurdles in ensuring effective consumers representation/ participation?
- |   |   |
|---|---|
| Lack of awareness among people  | 1 |
| Lack of interest among people to participate                                  | 2 |
| Date/ Time and Objective of public consultation are not properly communicated | 3 |
| Participation do not result in framing of consumer friendly regulations       | 4 |
| Others _____  |   |
- 8.4 What can be done to further improve effective consumer representation/ participation?
- \_\_\_\_\_
- \_\_\_\_\_

## 9. Right to healthy environment

- 9.1 Could you, name two products/ services that have an adverse impact on environment?
- |            |            |
|------------|------------|
| Product 1: | Product 2: |
|------------|------------|
- 9.2 Are you aware of certifications and initiatives as Energy Star, Bharat/Euro emission norms for Automobiles, organic food & natural textiles, recyclable plastic etc?
- |     |   |
|-----|---|
| Yes | 1 |
| No  | 2 |
- (end of questionnaire)

i) If yes, how often do you purchase a products/ services with above attributes?	
Always	1
Very Often	2
Rarely	3
Never	4
ii) Do you find such products competitively priced?	
Yes	1
No	2
iii) Do you find such products easily available priced?	
Yes	1
No	2
Iv) Do you find such products easy to maintain?	
Yes	1
No	2
v) Are you aware of any incentives from the govt. to promote such products?	
Yes	1
No	2
vi) Are you to willing to pay a premium for such products?	
Yes	1
No	2W

## About CUTS

Established in 1983 as a voice of the poor to express their developmental needs and aspirations, CUTS International ([www.cuts-international.org](http://www.cuts-international.org)) is a leading Southern voice and face of consumer empowerment through its rights-based approach and activities for influencing the process and content of inclusive growth and development.

From consumer protection work in India it has expanded its scope and interventions to subjects such as good governance and social accountability, trade and development, economic and business regulations including competition, investment and corporate governance issues, and human development, particularly women's empowerment.

With its headquarters and three programme centres in Jaipur, India, one in Chittorgarh, India, a liaison office in New Delhi, India and resource centres in Calcutta, India; Lusaka, Zambia; Nairobi, Kenya; Hanoi, Vietnam and in Geneva, Switzerland the organisation has established its relevance and impact in the policy-making circles and among the larger development community in the developing world and at the international level.

## About the Project

India has been pioneer in consumer protection having Consumer Protection Act (COPRA), 1986 to provide not only easy and quick redressal of consumers' grievances but also a mechanism to promote and protect their interests. Now, as this Act has attained its Silver Jubilee in 2011, there is need of compressive and forward looking Consumer Protection Policy to address emerging consumer issues.

To address the gap, Memorandum of Understanding was signed between Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, Government of India and CUTS on November 04, 2011 to implement a one-year project to assess the status of awareness and realisation of consumer rights in the process of taking the Indian consumer movement forward with an objective to create an enabling environment for protection and promotion of consumer interest contributing towards the national interest.

Within the CUTS family, one of the programme centres of CUTS – CUTS Centre for Consumer Action Research & Training (CUTS CART) was entrusted with the implementation responsibility of this project. More details about the activities of CUTS CART can be seen at: [www.cuts-international.org/cart](http://www.cuts-international.org/cart)

The project is implemented in mainly four states, namely Haryana, Jharkhand, Karnataka and Tripura, but for the research purpose, 15 additional states and three union territories have been covered namely Andhra Pradesh, Bihar, Chhattisgarh, Goa, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal. The union territories are Chandigarh, Delhi and Pondicherry.

*For more details, please visit:*

<http://www.cuts-international.org/CART/ConsumersUp>



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