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**RESEARCH PAPER**

**A Single Piece of Legislation on Consumer Protection in Pakistan is a Matter of Urgency: A Lesson from India**

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**ABSTRACT**

This study is based on doctrinal research and aims to convince the government that a single legislation on consumer protection is essential in the context of Pakistan. Legislation on consumer protection in Pakistan is fragmented. Each province has its own law and the federal capital Islamabad has its own law. In the absence of single consumer protection legislation in Pakistan, a citizen of Pakistan who travels from one place to another place and buys a service or product from there and if the service is faulty or the product is defective, first he has to see in which province he stands and under which law he will get justice. With this in mind, this topic becomes very important. Moreover, the law of one province is different from the law of another province. This study examines the points where the law of one province differs from the law of another province. At the same time, the study provides an in-depth analysis of Indian law on consumer protection and concludes that there is an urgent need for single consumer protection legislation for the whole of Pakistan in the style of India in order to get the consumer of this country out of this confusion

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**Introduction**

The existing laws relating to consumer protection in Pakistan include Islamabad Consumer Protection Act 1995 (hereinafter ICP Act 1995), The Khyber Pakhtunkhwa Consumer Protection Act 1997 (hereinafter KCP Act 1997), The Balochistan Consumer Protection Act 2003 (hereinafter BCP Act 2003), The Punjab Consumer Protection Act 2005 (hereinafter PCP Act 2005), The Sindh Consumer Protection Act 2014 (hereinafter SCP Act 2014). A citizen of this country who is also a consumer when he moves from one place to another and he faces the oppression of the merchants and shopkeepers there, first he sees what law applies here and it hurts

a lot. He is forced to wonder why it is so difficult to get justice. Moreover, a comparative study of these laws reveals that they are quite different from each other. In this study we will look at the points where these laws differ from each other and at the same time we will take an in-depth look at the consumer protection law in India to know the procedure for compensation of consumer loss in India.

So let's first look at the points where the laws of all the provinces are different from each other.

### **Consumer Courts**

As per section 6 of ICP Act 1995, the 'Authority' i.e. the court of sessions is empowered to hear and remedy consumer complaints. Under section 8A, where it is a matter of taking more profit, charging higher prices for goods and services, adulterated and damaged food items, black marketing and hoarding, a special magistrate has power to hear and redress such complaints. According to section 10, against the order of 'Authority' high court has power to hear appeal whereas against the order of special magistrate, appeal shall lie to the 'Authority' under section 8A.

Under section 12 of BCP Act 2003, the government will set up consumer courts and appoint judges for each consumer court or it will authorize the judicial magistrate to exercise the powers of consumer court. Against the order of such court, appeal can be filed in the court of sessions or high court as the case may.

According to section 11A of KCP Act 1997, the government has the power to set up consumer courts for each district of the province and to appoint district and session judges or additional district and session judges. Under section 17, against the order of consumer court, appeal may be preferred in the high court.

As per section 26 of PCP Act 2005, the government will set up consumer courts in the province and appoint district and session judges or additional district and session judges for them and under section 33; appeal against the decision of the consumer court can be filed in the high court.

Under section 27 of SCP Act 2014, the government will set up consumer courts in each district and a judicial magistrate will be appointed as the presiding officer for each consumer court. Under section 34, against the order of consumer court, appeal can be filed in high court by the aggrieved person.

### **Semi-Judicial Set Up**

Each province, in its consumer protection act, has set up a judicial set up as well as a quasi set up for consumer justice.

ICP Act 1995 is silent on the quasi judicial set up as the word 'Authority' under section 2(a) has been used exclusively for the court of sessions.

Under section 2(a) of BCP Act 2003, the word 'Authority' has been used for district coordination officer. But the law is silent on his powers. Section 10 indicates that the consumer protection council may enforce its policy via 'Authority' and the council's powers and functions can be delegated to the 'Authority' by the government under section 11.

As per section 2(f b) of KCP Act 1997, the director of industries and commerce has been empowered to address consumer grievances. Where the rate list has not been displayed, receipt has not been issued to the purchaser, in case of false advertisement, in case of defective product or good, non disclosure about goods or products, in case of unfair trade practices, the director of industries and commerce under section 11B may fine the lawbreaker to the extent of Rs. 50000 but not less than Rs. 5000 after conducting inquiry under section 11C. Against the order of director, appeal may be preferred in consumer court under section 17.

According to section 2(b) of PCP Act 2005, the word 'Authority' has been used for district coordination officer or any other officer notified by the government. Where the rate list has not been exhibited, receipt has not been issued to the buyer, in case of non disclosure about products and services, the 'Authority' can impose fine to the extent of Rs. 50000 under section 23(1). Appeal can be filed before the secretary to the government, industries department as per rule 10 of Punjab consumer protection rules 2009 against the order of authority.

Under section 2(c) of SCP Act 2014, 'Authority' is secretary or director general, supply and prices department or any other officer notified by the government. Authority can impose fine to the extent of Rs. 50000 under section 23(1) in case of non issuance of receipt to the buyer, non disclosure about products and services by the shopkeeper and non exhibition of rate list. Against the order of 'Authority' appeal may be filed by the aggrieved person before the government under section 23(7).

### **Consumer Councils**

Under section 3 of ICP Act 1995, power has been granted to federal government to establish consumer protection council Islamabad. The consumer protection council Islamabad will form Islamabad consumers association (ICA) under rule 4 of Islamabad capital territory (consumer protection) rules 2011 and then ICA under rule 7 will form area consumers association (ACA) in consultation with consumer protection council Islamabad.

As per section 8 of BCP Act 2003, the government will set up consumer protection councils at the provincial and district levels.

Under section 8 of KCP Act 1997, the government will establish a consumer protection council at provincial level.

According to section 24 of PCP Act 2005, government has power to establish a consumer protection council in the province. The government may also set up district consumer protection councils which shall report to provincial consumer protection council.

Under section 25 of SCP Act 2014, a consumer protection council in the province shall be set up by the government. The government has also power to establish consumer protection councils in all districts of the province.

### **Settlement at Pretrial Stage**

The parties to the dispute may submit a settlement to each other in writing at the pre-trial stage and the consumer court will decide accordingly. This provision is contained in PCP Act 2005 under section 29 and SCP Act 2014 under section 30. Other provinces' consumer protection laws do not have this provision.

### **Written Notice before Filing a Case in Court**

The consumer must give written notice before filing a case in court to the manufacturer or service provider that the product is defective or service is faulty. The manufacturer or service provider is required to respond to this notice within fifteen days. If the manufacturer or service provider does not respond to this notice within fifteen days, consumer has the option to take his case to court. The court will entertain the case only if there is evidence that a written notice was given to the manufacturer or service provider and the notice was delivered but he did not consider it appropriate to respond to the notice. This provision is contained in PCP Act 2005 under section 28 and SCP Act 2014 under section 29. Other provinces' laws with respect to consumer protection do not have this provision.

### **Limitation Period**

ICP Act 1995 is silent on limitation period. Under section 14(2) of BCP Act 2003, limitation period is ten days and it starts from the time of purchase of the products or services. But the court can allow the case to be filed even after ten days if it thinks there is a good reason not to file the case. This period will not be more than sixty days from the completion of the guarantee or warranty period. If the guarantee or warranty period is not specified, the limitation period will be one year. Exactly the same provision exists in KCP Act 1997 under section 13.

Under section 28 of PCP Act 2005 and under section 29 of SCP Act 2014, limitation period is thirty days.

### **Procedure after Filing a Complaint**

ICP Act 1995 does not provide a lengthy procedure for disposal of complaints. Under section 8 of ICP Act 1995, the authority will give the respondent

seven days to file his reply after receiving the complaint from the complainant. The authority may, after hearing both parties, issue any order it deems fit.

Under section 15 of BCP Act 2003, after receiving the complaint from the complainant, the court will give the respondent thirty days to file his reply. This time can be extended for another fifteen days. If the nature of the case is such that a laboratory test is required to test the quality of the product, the court will order that a test report of the product be obtained so that any defect in it can be detected. The court will give thirty days for laboratory report, which may be extended. The fee for this test will be paid by the complainant. This fee will be refunded by the respondent to the complainant if the complainant wins the case. Upon receipt of the test report of the product, a copy will be given to the parties and the whole process will be completed in three months. If the parties object to the test report, they will be asked to file written objections. The court will hear both parties before issuing any order. Where this procedure is not required or the complaint is about services, the court will give the respondent thirty days after receiving the complaint from the complainant to submit his reply and this time can be extended for another fifteen days. After receiving the reply, the court will decide on the basis of evidence. If no reply is received from the respondent, the court will decide on the basis of evidence presented by the complainant.

Under section 14 of KCP Act 1997, the above procedure has been adopted for disposal of the complaint. But the law sets a two month deadline to complete the laboratory process.

Under section 30 of PCP Act 2005 and section 31 of SCP Act 2014, after receiving the complaint from the complainant, the court will give the respondent fifteen days to file his reply. This time can be extended for another fifteen days. The rest of the procedure is the same as in the laws of Balochistan and Khyber Pakhtunkhwa.

### **Duration of Complaint Disposal**

Under section 30 of PCP Act 2005 and section 31 of SCP Act 2014, duration to decide the claim by the court is six months while in other provinces there is no mention of this mandatory period.

### **Remedy by Court**

The wording of section 16 of BCP Act 2003 and section 15 of KCP Act 1997 is the same. If the court finds that the products that have been complained about are really bad or that the allegations about the services have been substantiated, so the court can issue any of these orders to the respondent (a) product issues should be fixed immediately (b) replace bad products with new ones (c) price of product should be refunded to the complainant (d) amount of compensation fixed by the court should be paid to the consumer immediately (e) requirements of section 4,5

and 6 should be complied with (section 4 is about the obligation of manufacturer, under section 5 and 6, it is the duty of the shopkeeper to display the rate list and give the buyer a receipt for his purchase).

Under section 31 of PCP Act 2005 and section 32 of SCP Act 2014, in addition to the order mentioned above, the court may also issue an order to award damages. The court may ask the losing party to pay the money spent on litigation to the winning party. It may order the destruction or confiscation of the defective product. It may set a time limit for providing justice. It may say that the faulty service or defective product should not be brought to market unless it meets the required standards. It can issue an order to recall such and such product from trade.

Under ICP Act 1995, there is no such wording as mentioned above. But section 9, which deals with the penalties, states that the authority may, if it deems fit, order the respondent to pay compensation to the consumer to the extent that the consumer has been harmed. Authority may order confiscation or destruction of products to protect consumer rights.

### **Penalties**

Under section 9 of ICP Act 1995, anyone who violates the rights of the consumer can be punished for up to two years or will have to pay a fine which can be up to Rs. 40000 or he will be entitled to both. False advertisement is punishable by up to two years or a fine of up to Rs. 30000 or both.

Under section 16 of KCP Act 1997, anyone who infringes the rights of the consumer can be punished with rigorous imprisonment which shall not be less than seven days or will have to pay a fine which can be up to fifty hundred thousand rupees but not less than ten thousand rupees or he will be entitled to both. False advertisement is punishable with rigorous imprisonment by not less than seven days or a fine of up to twenty hundred thousand rupees but not less than ten thousand rupees or both.

Under section 17 of BCP Act 2003, anyone who disregards the rights of the consumer can be punished for up to two years or will have to pay a fine which can be up to Rs. 50000 or he will be entitled to both. False advertisement is punishable by up to two years or a fine of up to twenty five thousand rupees or both.

Under section 32 of PCP Act 2005 and section 33 of SCP Act 2014, anyone who disrupts the rights of the consumer can be punished for up to two years or will have to pay a fine which can be up to hundred thousand rupees or he will be entitled to both.

### **Contempt of Court**

Under section 33 of SCP Act 2014, anyone who disobeys a consumer court order will be punished. The sentence will not be less than one month and can be up to three years or a fine which shall not be less than fifty thousand rupees and this fine can be up to two hundred thousand rupees or both.

According to section 32 of PCP Act 2005, anyone who disobeys a consumer court order will be punished. The sentence will not be less than one month and can be up to three years or a fine which shall not be less than five thousand rupees and this fine can be up to twenty thousand rupees or both. The laws of other provinces are silent on contempt of court.

### **Vexatious Claims**

According to section 36 of SCP Act 2014, section 20 of BCP Act 2003, section 19 of KCP Act 1997 and section 35 of PCP Act 2005, the consumer court will dismiss the vexatious and frivolous claim and impose a fine of Rs. 10000. Under rule 12 of Islamabad capital territory (consumer protection) rules 2011, such claim shall not be processed. But there is no mention of fines under ICP Act 1995.

We saw how the consumer protection laws of all the provinces of Pakistan are different from each other. We will now take a closer look at the Indian consumer protection law.

### **The Consumer Protection Act 1986**

The consumer protection act 1986 (hereinafter CPA 1986) has two main features. One is that it is enforced throughout the country. Secondly, the hierarchy that has been described for the benefit of the consumer is amazing. Let's take a look at the hierarchy that is stated in this law for the benefit of the consumer.

### **Consumer Disputes Redressal Agencies**

The agencies existing under section 9 of CPA 1986 for consumer redressal are named as district forum, state commission and national commission. Under section 11, the district forum has the power to hear cases worth up to Rs 2 million. According to section 17, the state commission can hear cases worth more than two million but up to one crore. Under section 21, the national commission can hear cases worth more than Rs 10 million. As per section 15, an appeal against the decision of the district forum is filed in the state commission. The consumer will appeal to the national commission against the decision of the state commission under section 19. According to section 23, the Supreme Court has the power to hear appeals against the decision of the national commission.

### **Consumer Protection Councils**

In CPA 1986, there are district consumer protection councils under section 8A, state consumer protection councils under section 7 and central consumer protection council under section 4.

This law is for the whole country and the classification of institutions that is sated in it to provide justice to the consumer is its main feature. The rest of the law is more or less the same as in the provinces of our country.

### **Conclusion**

The field of consumer protection in Pakistan has always been a target of government neglect. The state of unity is such that we have not been able to enact a single law for the whole country to protect the consumer. In contrast, our neighbor India has a single law on consumer protection that is in force throughout the country. In order to get justice, a consumer here has to first look at what area he is in and what law is in force here. And then there is disparity in the consumer protection laws of all the provinces which has caused a strange dilemma to the consumer. The study calls for a single law on consumer protection across Pakistan to make it easier for consumer to get justice wherever he is.



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