A Contextual Analysis of the Consumer Rights Protection Laws
With Practical Approach: Bangladesh Perspectives

Ahamuduzzaman*
Md. Lutfor Rahman**
Nahida Nazmus Zannat***

Abstract

The promotion and protection of consumer rights is essential for every citizen. It is considered as a ‘right to life’ which is a fundamental right. Apart from the Constitutional provisions, Bangladesh also has a few specific consumer protection legislations which are 'scanty,' 'scattered over a whole range of enactments' and are 'only indirectly related to the protection of consumer interests' except the Consumer Rights Protection Act, 2009. This study aims at finding out the loopholes of the existing laws of Bangladesh on consumer rights and to give proper suggestions thereof. The working of the various consumer rights related institutions of Bangladesh are evaluated in this article with a positive approach to improve their quality and capacity to ensure consumer rights. The distinctive legal terminologies are carefully adduced and interpreted to understand the linkage among various stakeholders such as producer, distributor, supplier, seller, consumer etc. This article shall give a comprehensive idea on the protection mechanisms of consumer rights in Bangladesh.

Key-words: Consumer, product, goods, commodities, articles, product safety, product liability, consumer perceived value, manufacturer/ producer, distributor, seller, purchaser/ buyer, Mobile court, Special Tribunal, Consumer Rights Protection Council, Consumer Rights Protection Department, traceability, hoarding, black marketing, smuggling, adulteration, fraud, weight & measurement etc.

Introduction

The Protection of consumer rights is now a global agenda. Bangladesh, a third world country, is struggling to fulfill the basic needs of its population. “Socialism meaning economic and social justice”, a fundamental principle of the state policy and the constitution is yet to be implemented although 38-years have already passed since its independence. The world economic giants have enacted a series of Laws on different heading to meet the contemporary global demand on economic progress in one side and protection of the consumers from unfair, misleading and aggressive business propaganda on the other. The United Nations (UN), European Union (EU) and World Trade Organisations (WTO) have adopted a lot of rules to regulate trade and business of various products and services through import or export that impacts seriously on producer or manufacturer, supplier or distributor, seller and ultimately the consumer. Bangladesh, a country with over population, has enacted “Consumer Rights Protection Act, 2009” to deal with the

* Assistant Professor, Department of Law, ASA University Bangladesh.
** Advocate, Supreme Court of Bangladesh
*** Student of LLB (Hons), Department of Law, ASA University Bangladesh.
consumer affairs. The law is an addition to a number of around 61 relevant Laws dealing with the consumer rights and their protection mechanisms in a sporadic way.

**Historical background of Consumer Rights**

The root of consumer rights protection Laws is found in the religious books. In the Bible, it is mentioned ‘to be good to one’s neighbour’. In Islam, a list of rights and duties are mentioned in the holy Qura’n to protect consumer’s rights. Islam prohibits falsification in representing goods; directs to use proper weight and measurement instruments, not to involve in usury; prohibits hoarding and *haram* food and inspires and directs to eat and drink *halal* food. Islamic law enumerates guidelines for good trade practices. However, it would not be improper to claim that the concept and rules of consumer protection primarily evolved within the system of common law.

The innkeeper’s liability in English law was based on the principle of ‘strict liability’ as they had “greater opportunity for theft than most other people.” The principles of *caveat emptor* i.e. let the buyer be aware and *laissez faire* i.e. ‘let do or allowing events to their own course’ are part of the evolution process of consumer rights. The judicial decisions in *Gardiner v. Gray in 1815* and also in *Jones v. Bright (1829)* emphasized on contractual obligations of the parties and proceeds further to save the buyer from fraudulent transfer of the seller. The common Law has imposed special duty on the professional having expertise in their respective fields who offered their services to the public at large should show care, skill and honesty in their dealings. It was only in 1932 in the landmark decision in *Donoghue v. Stevenson* which came to the House of Lords and was the decision of the majority judges that the manufacturer of goods owes a duty to the ultimate consumer, with whom he is not in any contractual relationship.

Since 1983, March 15 is observed as “World Consumer Rights Day” originated from the declaration of US President John F Kennedy in 1962. This day is observed with a view to (a) promoting the basic rights of all consumers; (b) demanding that those rights are respected and protected; and (c) protesting the market abuses and social injustices which undermine them. The UN guidelines on the protection of consumer rights in 1985 quoted that "all citizens, regardless of their incomes or social standing, have basic rights as consumers".

If we go further into the history, we shall see that a set of rights were enumerated in the Twelve tables and also in the ancient Code of human civilization, the Hammurabi Code, that ultimately protects consumers from the fraudulent and negligent activities of the seller, manufacturer, builder, lender, service provider, physician etc.

In Bangladesh, the consumer rights protection Law is purely a new-one. In 2006, a draft law was prepared but not presented before the parliament. The Non-party Care-taker Government in 2007 took the initiative to pass a law on Consumer rights under the pressure of NGO’s and civil societies. The president finally promulgated the “Consumer Rights Protection Ordinance in 2008. The Ordinance became ineffective and invalid for not presenting within 30 days for its approval by the Parliament after the elected government came to the power. And finally, the Government...
enacted the Consumer Rights Protection Act, 2009\(^5\) with a little modification of the previous Ordinance.

In the global level, the United Nations Guidelines for Consumer Protection (As expanded in 1999); European Union (EU) Unfair Commercial Practices Directive, 2005; the consumer protection from Unfair Trading Regulations 2008 (in UK) and the WTO Regulations are the most valuable documents on consumer rights.

**Concept of Consumer Rights Protection Law**

According to a leading European author on the subject, consumer law comprises “the body of standards, rules and instruments representing the juridical fruit borne by the various efforts that have been made to secure or improve the protection of the consumer on the economic market and to promote the interests of the consumer\(^6\)” to establish a balance of power between consumers and their economic partners or, probably more realistically, to define the means whereby the existing imbalance can be reduced.

In a narrower sense, consumer law “focuses mainly on citizens entering transactions to obtain products and services from commercial enterprises…?”.\(^7\)

It is now accepted in Sweden and other Scandinavian countries that the “legal consumer concept must be confined to private persons who are acquiring goods, services or anything else of value mainly for their own use and not for resale or use in business\(^8\).”


The concept of consumer Rights got a shape since 1962 with the Consumer Rights Protection Movement and finally received world recognition with the observance of World Consumer Rights Day on March 15 since 1983.

**Consumer Perceived Value**

“Consumer’s perceived value is an important variable to execute consumer’s rights. Perceived value is the consumer’s estimate of the product’s overall capacity to satisfy his or her needs. It is the consumer’s overall assessment of the utility of a product based on perceptions of what is received and what is given or what might be given. The traditional view in consumer’s value judgement is that “a trade-off is a trade-off is a trade-off,” which assumes that consumers always compare and are willing to make trade-offs among the alternative variables, such as, what is received (one of which is perceived quality), what is sacrificed (monetary or non-monetary), or what might be sacrificed in the future (probable future risk). Although, what is received varies across consumers (i.e. some may want volume, others high quality, still others benefits) and what is given varies (i.e. some are concerned only with money expanded, others with time and efforts, still others with the uncertainty of the purchase), value represents a tradeoff between or among the visual as well as the perceived give and take components. In fact, a purchase can be viewed in terms of which of the elements is considered a cost or a benefit and
which is considered most critical for a particular purpose. Zeithaml (1988) based on her exploratory study grouped the meaning of value as: (1) value is low price, (2) value is whatever a consumer want in a product, (3) value is the quality a consumer gets for the price s/he pays, and (4) value is what a consumer gets for what s/he gives. It means that the perceived value could be achieved either from perceived quality, or from reduced risk, or sometimes from other subjective components like low perceived sacrifice. In other words, value will be perceived only if a consumer feels that the benefits of the purchase of fer overlap the required and possible costs and if s/he is willing to exchange to receive these benefits.

In a broader sense, perceived value could be obtained from: (1) the potential benefits a consumer can assess in a product; (2) the trade-offs between tangible costs and potential benefits in the deal; or, (3) the trade-offs among potential benefits, tangible costs and tangible costs in the deal.

**Aspects of Consumer Protection**

“There are three aspects of consumer rights protection, which every country must consider. (i) Voluntary protection; (ii) Institutional Protection; (iii) Statutory Protection;”

First, the aspect of ‘voluntary protection’ which means that consumers themselves would voluntarily set up associations and/or organisations to safeguard their own rights and interests. These associations/organisations generally work as pressure groups on the government for consumer rights issues e.g. the Consumers’ Association of Bangladesh (CAB).

Second, the aspect of ‘institutional protection’. By establishing national institutions to safeguard and promote consumer rights of citizens this aspect of consumers’ protection can be ensured. In Bangladesh Standard and Testing Institute has been active in protecting consumers of Bangladesh in a limited capacity by way of doing laboratory research and testing of commodities to find out whether the same comply with the expected standard. However, currently the country has established a “National Council for the protection of Consumer Rights” and a ‘District Committee’ in every district headed by the DC’s. The Consumer Rights Protection Act, 2009 has also established a Department/Directorate headed by a Director General (DG) for the protection of consumer’s rights. Except the Government institutions there are some Non-Government Organisations (NGO’s) working for the protection of consumer rights e.g. CAB, Adhunik, PAB, BAPA etc.

Third, is the aspect of ‘statutory protection’ which can be guaranteed by enacting relevant laws for protecting the rights and interests of the consumers. Many countries of the world, including those in Asia, have already enacted comprehensive laws in this regard. For example, the Consumer Rights Protection Act, 2009 in Bangladesh10.”

So, the concept of consumer rights depends upon the promotional activities and the protection mechanisms of a particular society or of a state. The protection of a consumer rights ultimately ensures safety in products and security in service whereas the promotion of a consumer rights depends upon the education, monitoring of the supply and marketing systems of various products,
examining goods, enforcing proper scale in weight and measurement, enacting proper laws, creating awareness, upliftment of moral standards etc.

**Importance of the Protection of Consumer Rights**

It is now universally acknowledged that the observance of basic human rights is the cornerstone of peace and security for all nations. A consumer right is considered as a basic human rights as part of right to life. Many European countries have already inserted ‘consumer rights’ in their constitution for giving special preferences e.g. Spain.

The constitution of Bangladesh enshrines ‘right to life’ as a fundamental right that indirectly protects consumer rights. The constitution also states that it is the fundamental responsibility of the State to ensure the basic necessities of life, including food, clothing, shelter, education and medical care with special regard to public health and morality.

In this digital era, the world is considered as a global village. So, concern for consumer rights rarely begins or ends at any single nation’s boundaries, and effective action to protect and promote consumer rights, whether at home or abroad, can be furthered by the imaginative use of national, regional or international techniques. In the European Countries a consumer’s right is protected through common directives applicable equally for all the EU nations. The World Trade Organisations (WTO) has a great role in regulating trade affairs through different agreements among various nations. The United Nations (UN) has adopted guidelines for the protection of consumer rights.

The right of a consumer is seen through the mirror of economic progress. A consumer right includes a ‘bundle of rights’ and is a ‘package’ to ensure security and safety in life. In spite of resistance from the business communities, especially those involved in monopoly business, it is now widely accepted that consumers should be dealt with special care and attention by providing ‘secured service’ and ‘safety products’. The people of the developing and least developed countries are still in an ordeal to this aspect of consumer rights. This study has a great importance to this respect.

It is widely accepted by the scholars that ‘trade and business’ relates to the socio-economic and religious conditions of a particular community. Bangladesh, a developing country with over population, is dependent upon the foreign countries for its essential commodities and imports huge quantities of food, cosmetics and essential products every year especially from India, Japan, China, the USA and the EU countries. It has very good relations with the Middle East countries and earns huge foreign exchanges by exporting goods, medicines and apparels.

The religious prohibition on consumption of some food and food items has a great impact over consumer rights. It is the prime responsibility of the state to ensure all those rights to its citizens.

So, the importance of the protection of consumer rights carries a great value towards humanity. To ensure security and safety in life, the consumer rights protection related Laws should be effectively enforced. The number of immature and unnatural death will be reduced if the consumer rights are duly ensured. Effective enforcement of consumer rights shall have impact
widely on economic progress in national and international level. The consumer related laws should be enforced equally for all the citizens irrespective of their nationalism or race, sex, colour, language, religion etc.

**Consumer rights Protection under the Different Laws of Bangladesh**

The term ‘consumer’ is used in different senses. The right of a consumer has got recognition by the Government only in 2009 with the enactment of the “Consumer Rights Protection Act, 2009.” Before the enactment, a set of consumer rights were mentioned in different Laws in a fragmented way. In Bangladesh, consumers can be divided into two types: (i) service consumer and (ii) product consumer.

In the opinion of Professor Ulf Bernitz, the term ‘consumer’ indicates a person who purchases goods “mainly for private use and which are sold in the course of the merchant’s professional activities.”

In the UK, the Consumer Protection from Unfair Trading Regulations 2008 states that “consumer” means any individual who in relation to a commercial practice is acting for purposes which are outside his business;

Section-2 (19) of the Consumer Rights Protection Act, 2009 in Bangladesh states the definition of consumer as follows:

Consumer” means any person who:

(a) Except for the purpose of resale and commercial purpose-
   i) purchases any product by payment of a price or promise to pay of a price;
   ii) purchases any product by partly paid and partly promised; or
   iii) purchases any product with the promise of paying price in extended term or by installments;

(b) uses the product purchased under clause (a) with the consent of the purchaser;

(c) who, after purchasing a product, uses it commercially for the purpose of making a living by self-employed;

(d) Any person who:
   i) hires or receives otherwise any service by payment or promises to pay the price;
   ii) hires or receives otherwise any service by part payment or promises to pay partly the price.
   iii) hires or receives otherwise any service by paying the price in an extended term or by installments.

(e) Any person who consumes the service received under clause (d) with the consent of the service consumer

So, consumer is a person who hires or purchases a product or service for his own use or for the use of someone with his consent without any commercial purpose except a living by self-employed.
Rights of a Consumer

The declaration made by former US President John F. Kennedy in 1962 outlined only four basic consumer rights: (1) the right to safety; (2) the right to be informed; (3) the right to choose; and (4) the right to be heard. Worldwide consumer movement led by Consumers International (CI), a global federation of over 250 consumer organizations, added four more rights: (5) the right to satisfaction of basic needs; (6) the right to redress; (7) the right to education; (8) the right to a healthy environment. Together these eight rights form the basis for current consumers’ movement worldwide.” Now-a-days, consumer rights include more sectors like banking, telecommunication etc. In Bangladesh a lot of laws (around 61 laws, list given below) are prevailing on consumer rights that aims to ensure safety products and security in service.

In negative sense, a list of consumer rights can be found from the explanation of the term “Acts against consumer rights”.

Section 2 (20) of the Consumer Rights Protection Act, 2009 states that “Acts against consumer rights” mean:

- a) Selling or offering to sell at a price higher than the price prescribed by any law or Rule for any product, medicine or service;
- b) Knowingly selling or offering to sell any adulterated product or medicine;
- c) Selling or offering to sell any product which has mixture of any object that is dangerously harmful for human health and mixture of such object with food is prohibited by any Act or Rule;
- d) Deceiving people in general by false and untrue advertisement with the purpose of selling any product or service.
- e) Not to supply properly the product or service as promised in exchange price;
- f) To sell or supply in a weight lesser than that has been promised at the time of such sale or supply;
- g) The scale or instruments of weighing using for sale or supply of any product of a business establishment showing over weight than in actual weight;
- h) Using less than in promised weight in time of sale or supply of a product;
- i) The using ribbon for measuring length in any business establishment showing more length than in actual size;
- j) To make or manufacture any counterfeit product or medicine;
- k) To sell or offer to sell any date expired product or medicine;
- l) Commission of any act which is dangerous to the life or safety of the service consumer that is prohibited under any Act or Rule;

We, therefore, may come to a conclusion that the prevention of the above ‘acts against consumer rights’ means to ensure consumer rights.
An overview of the Bangladeshi Laws on the Promotion and Protection of Consumer Rights

The general protection of the consumers may be derived from principles enunciated in Articles-15,11 and 18,12 of the Constitution. Their Articles, though non-justifiable in its nature, indicates the importance attributed to the nutritional status of the people and basic principles and measures for protecting consumers from products, processes and services, which can endanger their health and safety. This constitutional safeguard has been strengthened through promulgation of related laws and regulations so that consumption be proper and appropriate.

Moreover, in the Constitution of Bangladesh some justifiable fundamental rights are incorporated which are connected with the rights of the consumers. As for examples, Article 32 provides that no person shall be deprived of life save in accordance with law; Article 38 provides that every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order; Article 40 provides that subject to any restrictions imposed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business. These fundamental rights interalia are enforceable by the Supreme Court of Bangladesh in accordance with Article 102 read with Article 44 of the Constitution.

The Consumer Rights Protection Act, 2009 provided both civil and criminal remedies. A consumer is entitled to lodge complaint to the Consumer Rights Protection Department for any violation of the Act. The Deputy Commissioners of different districts can exercise the same power as given to the department. A consumer although barred from filing a direct complaint to the police station under the Consumer Rights Protection Act, 2009 can file a case to the Police station under other Laws.

The Law on consumer rights not only prohibits adulteration, hoarding, smuggling, black marketing, cheating or fraud in weight and measurement or in selling products with higher price but also provides punishments for such acts. A manufacturer or producer as well as a service provider or even in special circumstances the seller is liable for adulterated foods or drugs or of other essential commodities. The counterfeit products or stolen goods or adulterated food or drugs are also prohibited for selling in the market and violation of which is punishable under the penal Laws including death penalty under the Special Powers Act, 1974 or imprisonment for 10 years and a fine of Tk.10 lakh under the Drug Control Ordinances, 1982.

The Bangladeshi laws provides for the establishment of different organizations to protect the rights of the consumers including various Courts or Tribunals such as-

(i) Consumer Rights Protection Department; (ii) National Consumer Rights Protection Council; (iii) Special Tribunal; (iv) Mobile Court (can work/ function under various Laws; It may be constituted by a special executive order); (v) Drug Court; (vi) Food Special Court; (vii) Ordinary Criminal Courts; (viii) Ordinary Civil Courts; (ix) Marine Courts; (x) BSTI; (xi) Claims Tribunal etc. (Please see-Appendix-I for details).
It should be noted that a consumers rights has different phases for its implementation (from production in a factory or firm upto the time reaching in a consumers hand) e.g.-

In respect of an agricultural product, there should have safety from seeds, using of chemicals/ fertilizers, harvesting, processing, products, manufacturing, packaging, labeling, marketing, selling, trade marks, standard marks, property marks, price fixing, supply chain, monopolizations, storing, hoarding etc. The State shall ensure safety of a product in every such stage.

In respect of a service, the state shall ensure uniformity in price of the same service by different service provider, safety measures during the period of such service; prevent fraud in providing service, ensuring security of service consumer and resist maltreatment of the service provider.

So, the product safety, product and service liability can be ensured in Bangladesh by a number of relevant laws. (Please see Appendix-II for details)

**The specific areas covered by the consumer rights Protection related statutes in Bangladesh**

- Adulteration of Food;
- Sale of adulterated food;
- Adulteration of drug;
- Sale of adulterated drug;
- Smuggling;
- Black-marketing;
- Counterfeiting of Product;
- Sale of date-expired product;
- Monopoly business;
- Price hike, if fixed;
- Weight & measurement;
- Trade Marks;
- Standards of Product and labeling;
- Milk & substitute to breast-milk;

**Specific areas covered by the consumer rights Protection related statutes in Bangladesh**

- Medical service;
- Legal service;
- Security service or service by Law enforcing agencies;
- Telecommunication service;
- Energy Regulatory service;
- Transport service that includes- Air, water, land i.e. motor vehicles and railway etc.;
Punishments for the Violation of Consumer Rights under various Laws

The various types of punishments under the consumer related Laws of Bangladesh can be summarized below:

- Death Penalty for adulteration of food, black marketing, hoarding etc. under the Special Powers Act, 1974;
- 10 years imprisonment and/or two lakh taka fine for manufacturing sub-standard or prohibited drugs under the Drug Control Ordinance, 1982;
- 3-years punishments and/or taka 2-lakh fine under the Consumer Rights Protection Act, 2009 for adulteration of food or medicine;
- Compensation 5-times than the actual loss under the Consumer Rights Protection Act, 2009;
- 4-years imprisonment and/or 1-lakh taka fine under the BSTI Ordinance, 1985;
- Tk.50 thousand as fine and/or rigorous imprisonment for one year under the Pure Food Ordinances for sub-standard food items or giving false warranty etc;
- 6-months imprisonment or one thousand taka fine under the Penal Code, 1860 for adulteration of food or drug or sale of adulterated food or drug. For fraudulent use of false weight or measure of length or capacity one year imprisonment or fine or with both. The same punishment can be imposed for an offence relating to trade mark and property mark. For offering prize in connection with trade as an inducement, the offender may be punished for 6-months imprisonment or with fine or both.
- 2-years imprisonment and 10000 Tk. fine for the violation of Standards of Weights and Measures Ordinance, 1982;
- 3-years imprisonment and/or 1-thousand tk. fine for the violation of the Control of Essential Commodities Act, 1956;
- 2-years imprisonment and/or 50,000 taka fine under the Breast-Milk Substitute (Regulation of Marketing) Ordinance, 1984 if any person make, exhibit, distribute, circulate, display or publish any advertisement promoting the use of any breast-milk substitute or implying or designing to create the belief or impression that breast-milk substitute feeding is equivalent or superior to breast-milk feeding.

Other Measures of punishments:
- Forfeiture of goods or products or commodities or articles;
- Destruction of goods attached;
- Sale of attached Goods;
- Arrest & detention;

Proper Implementation of Consumer Law may increase Revenue Income

The revenue income of a state can be increased by the proper implementation of the consumer rights protection Laws.
A Contextual Analysis of the Consumer Rights Protection Law

The achievement of BSTI can be summarized below: (Please see Appendix-III for details)
- Revenue income of 419.57 lakh taka for 2005-06;
- Revenue income of 1969.23 lakh taka in 2006-2007 fiscal year;
- Revenue income of 252.92 lakh taka in 2007-2008;
- Revenue income of 848.43 lakh taka in 2008-2009;
- If all the Laws can be implemented properly, the government exchequer will be benefited with huge revenue and corruption will be reduced;

Thereafter, the Govt. should take effective measures to ensure economic stability and shall secure investment by the proper implementation of consumer Laws.

**Problems of the existing Laws of Bangladesh on Consumer Rights Protection Mechanisms**

In Bangladesh, the consumers’ rights are not well-protected due to some procedural hindrances, lack of awareness, lack of proper and strict laws, lack of accountability, lack of monitoring systems, shortage of experts in examining goods and conditions of various mechanical services etc.

The various problems of the existing Laws of Bangladesh on consumer rights can be summarized below:

**Procedural hindrances in filing Criminal case**

The offences under the Consumer Rights Protection Act, 2009 shall be tried by a Metropolitan Magistrate or a Judicial Magistrate of the 1st Class. No complaint can be entertained by the Court without endorsement of the Director General of the Consumer Rights Protection Department. The Magistrate will not take cognizance of any offence if charge sheet is not submitted within 90 days of lodging complaint under section 60. The Magistrate may conduct summary trial following the provisions of the CPC which may raise questions of arbitrariness and despotism. The Magistrate may also examine the product with the help of the experts. The quality of the experts are not upto the marks. A question of fairness may arise if samples are collected from any shop and sent it to the laboratory for examination instead of instant test. A second trial is prohibited under the Law but an appeal can be filed to the Court of Session with in 90 days from receiving the judgement or order.

Therefore we can see that the Consumer Protection Act 2009 provides that only competent government officers are entitled to institute a case against the culprit for violation of such laws. A common consumer cannot initiate any legal action against him except lodging a complaint to the department concerned. The existing Consumer Rights Protection department is situated inside the Secretariat that discourages people to lodge complaint because of the restriction on entrances to the Secretariat. No court shall take cognizance if charge sheet is not submitted within 90 days from the date of complaint. So, the Court is virtually ineffective and the power is assumed by the department and they have a wide scope in involving corruption. Traders know it well that the customers are not eligible to institute a suit or take action against them except the Government officials and they also know how to manage such officers. Due to these legal flaws consumers are
not duly protected. Therefore, these legal flaws are to be removed to allow the consumers to institute a suit in the court of law. In case of exceptional circumstances the Department may lodge complaint to the Special Tribunal instead of going to the Magistrate Court (Section-75).

**Problems regarding Court-fees in filing Civil suit**

A civil suit may be filed directly claiming compensation by the consumers to the Joint-District Judges Court but advalorem court fees are to be paid that discourages consumers to the access to justice.

**Lack of Legal knowledge and Delay in Proceedings**

The ignorance of consumers as to their legal protection is one of the reasons for non-implementation of the legal provisions for their protection. Moreover, people want to avoid legal action due to delay in proceedings and unnecessary expenses and also mental harassment incurred in a court of law. Following the Indian pattern, new law should be introduced for the creation of quasi-judicial machineries at the district and national levels- such as Disputes Redressal Forum and National Consumers Disputes Redressal Forum.

**Dysfunctional District, Upazilla and Union Committees**

The existing District Committee under section-1 of the Consumer Rights Protection Act, 2009 chaired by the DC’s are dysfunctional due to their heavy load in other administrative functions. No Upazilla or Union Committee has yet been established for the protection of the rights of the consumers under section-13 of the Act, 2009 or any Rules or Regulations has not yet been made under sections, 13, 81 and 82 of the Act.

The other problems of the existing consumer rights protection mechanisms are-

- Different Laws on the same subject/topic;
- Different types of punishment for the same offence under different Laws;
- Court fees for filing a suit for compensation;
- Delay in proceedings;
- Investigation/inquiry procedure left to the police instead of independent authorities;
- Restriction to the filing of individual complaint to the Police Stations;
- Lack of monitoring systems;
- Laws are not effectively enforced;
- Punishments are negligible;
- Scope of corruption by the Department concerned;
- The Consumer Rights Protection Act, 2009 is not applicable for Drug;
- The Sellers have been given privilege to escape from legal actions in the name of selling in good faith;
- Lack of accountability of the Department concerned;
- Lack of expertise in examining products for safety and maintaining standards and quality;
- Lack of awareness;
- No frequent testing or examination of food, food stuffs or drugs after giving license to produce and sell;
- No power of the Director general to take action against private health and medical service (sec.73);
- No political commitment;
- No laws on traceability;
- No laws directly on child food;
- Lack of coordination between different organizations of the Government;
- No action against the service providers for the violation of the existing law;
- Trade unions;
- Less interest of the NGO’s in this sector;
- Lack of expertise in the BSTI;
- No law to check price hike of essential commodities, if the rate/ price is not fixed;
- No Law to maintain/ check halal and haram for the interest of the consumers;

The above are the basic problems of the existing consumer Rights that should be addressed with proper attention and due care. Even no law ensures proper legal action against the fraudulent and unfair trade practices except the ‘Monopolies and Restrictive trade practices (Control & Prevention) Ordinance, 1970 in a limited scale. There should have been some directives for unlawful trade practices like in European Countries.

**Recommendations for an Effective Consumer Rights Protection Mechanism**

The protection of the consumer rights is purely a legal issue. There should have been numerous organisations for the proper implementation of various statutes relating to the consumers rights. A special force may be constituted to monitor the market price of various goods and also the services provided by various organizations in different sectors e.g. hospitals, transports etc. The number of Mobile or Circuit Courts can be increased by giving special jurisdictions to punish the offenders on the spot.

There should have been frequent monitoring and checking or examining or testing of the quality and standard of a good in conformity with its labeling and the provisions of Law applied thereof. The examination must be conducted by the experts using modern technological equipments. In recent times, a serious public debate was on the melamine in baby food. The Bangladeshi experts failed to come in a consensus on the issue and we finally depended upon a foreign expert report. The Supreme Court finally rejected the application on PIL and the judgment goes in favor of the baby food suppliers.

We have come across serious information that 32-babies died within 3 months only in Dhaka Shishu Hospital & BSMMU on taking paracetamol produced by RID pharmaceuticals violating the Drug Rules. We are not sure, how it may happen when the Drug Council is to examine every medicine before giving them permission to sell in the open market? So, the negligence of the Drug Council and unfair trade practice of the concerned Pharmaceutical companies are liable for
these heinous acts. All of them should be tried under the existing laws of the country. A murder case should have been lodged against the paracetamol producers and also a suit for compensation can be brought against the Government authorities and the drug producers.

The social awareness and insertion of a chapter on consumer Law in the text book is essential to protect the rights of the consumers.

In case of foodstuff or food products, the following measures can be taken-

1. Specific people who will be engaged in production of specific food or fishing items should be given proper training regarding production, packaging, exporting etc;
2. For safety measures food and fishing items are to be testified by the specific agencies to maintain global standard;
3. Introduction scientific instruments/equipment for securing safety of food and fishing items and its qualities;
4. Safety measures should to taken such as from poisoning, insecticides, pest control, impure water supply, hazardous waste management etc by the Government to maintain quality of foods;

The Government machineries from practical point of view are very weak in enforcing consumer’s rights. As the Government machineries do not work smoothly, so non-government organizations should come forward with a programme of helping the consumers. In order to co-ordinate the activities of these organizations it is necessary to hold regular meetings and to provide legal aids and assistances to the consumers through a central unit.

Strong political commitment should be created for the protection of the consumers from the corrupt businessmen, traders and industrialists.

In Bangladesh, producers and consumers are very closely connected as territorially they live side by side. This might be one of the reasons why in Bangladesh tractability issues in food and vegetable sectors are not that relevant for any concerned parties. As a result we don’t see any major rules and regulations in this area. For Bangladeshies the EU rules and regulations might appear as the trade barriers because of their detailed and précise character on tractability. “In the areas of “General and Specific Hygiene Requirements” Bangladesh should and can adopt the EU regulations to ensure a better situation with regard to food safety.

The general public, whether they be educated or not, remain in darkness with regard to the consumer laws. In order to create awareness among the public at large it is necessary to hold regular conferences, seminars, workshops, meeting etc and to publish advertisements in the print and electronic media.

There is no political commitment towards the protection of the consumers. In some cases political parties take help, subscriptions from the businessmen, traders, industrialists who in return hoard goods through syndicates, create artificial crises in the market and earn unlimited profits at the cost of sufferings of the general electors.

The role of NGO’s is not adequate as the whole of the society are stricken with innumerable problems-- political, social, economic-- so their activities, though may be praiseworthy, cannot
give due protection to the helpless consumers. As a consequence helpless consumers remain helpless—day-by-day they have been becoming more helpless as well. The BSTI has no expertise to ensure international standards. It should be more effective to ensure standards of products.

There is no effective monitoring system to control price hike of essential commodities and also on the kitchen markets. Sometimes Government fixes prices of essential commodities without any effective monitoring system to ensure that price fixing and also to control the quality of goods or products.

The Ministry of commerce in Bangladesh constituted a committee to monitor kitchen market price of various commodities in every ten days and to report to the Ministry for effective measures. However, the committee did not visit any kitchen market for the last six months. The hon’ble Commerce Minister in a media conference 3 months ago told that no Minister across the world can control price hike of green chili. This is unfortunate for us as a nation to hear such a comment from a responsible person.

We may, therefore, conclude the recommendations as follows:

- Enact a law with all provisions to promote and protect the rights of a consumer and repeal the backdated laws or provisions thereof;
- Take effective measures to improve the conditions by establishing market-control authorities, monitoring price of essential commodities checking standards of various articles and ensuring safety products to the consumer.
- Constitute a ‘consumer redress authority’;
- Give up court fees for filing a suit on the protection of consumer rights;
- Allow individual consumers to lodge complain directly to the police or criminal Court;
- Give exact definition of various products;

Conclusions

The Government has enacted the Consumer Rights Protection Act, 2009 to protect the rights of the consumers. This is a pragmatic approach of the Government to ensure consumer’s right that ultimately ensures right to life.

“The Constitution of Bangladesh, under its 'fundamental principles of state policy’ part in Articles-15 and 18, recognises the rights of consumers to a limited extent. However, these provisions are mainly focused on the vital issues of 'health' and 'food' than on other consumer rights. These rights remain mostly non-enforceable in the courts of law as not declared as fundamental rights.

Apart from the said Constitutional provisions, Bangladesh also has a few specific consumer protection legislations which are 'scanty,' 'scattered over a whole range of enactments' and are 'only indirectly related to the protection of consumer interests' except the Consumer Rights Protection Act, 2009.\textsuperscript{14}
The aims of consumer protection require the fulfillment of several conditions which include the following:

i. Consumer information, without which it is almost impossible for the consumer to exercise his real freedom of choice. Information is required primarily in three areas; the quality and safety of goods and services available on the market; the price of goods and services offered and the rights that consumers can exercise in their dealings with suppliers;\(^{15}\)

ii. A genuine network of legal advice services which are readily accessible and competent in consumer affairs;

iii. There must be an effective protection of consumers against excessive examples of imbalance in their relations with suppliers;

iv. Consumers must be given real opportunities to defend their rights and obtain redress for any damage incurred;

v. Consumers must be involved, through consultation and representation, in decision making, not only by public authorities but actually within companies which affect their interests. Participation by consumers in the law making process is an essential factor in the development of specific consumer law;

vi. Education on consumer problems needs to be organized, so that every citizen is in a position to make active use of the legal aid which it is intended to make available to him. In a broad sense, law reform has to be accompanied by consumer education since there is no denying the fact that “you cannot legislate for fools”.

This enumeration of the types of action needed to promote consumers’ interests provides an accurate indication of the fields in which consumer law should come to play, foremost among which are:

a. protection against risks of physical injury to persons or property and against useless products.

b. protection against improper marketing measures and inadequate information.

c. protection against one-sided contract terms and risks of economic damage,

d. provision of effective and impulsive dispute resolution procedures for the consumer.

e. monitoring of the mechanism whereby prices and rates are fixed on the consumer goods and services market,

f. surveillance of practices or agreements jeopardizing the competitive structure of a market sector,

g. planning of a consumer education programme.

Thus, we may conclude that consumer protection is a large area, covering a diverse range of laws and policies. It includes such topics as the regulation of market-place relations (contract terms, advertising), the establishment of health and safety standards for products sold to consumers, and regulation of the provision of certain services (credit, professions, public services etc.). In short, consumer protection law is designed to protect citizens/consumers against injuries though to occur in unregulated markets.
Appendix-I

(Courts/ Tribunals/ Institutions working for the protection of consumer rights in Bangladesh.)

**Mobile Court**

| The Act under which it is established | The Mobile Court Ordinance, 2007 (Now in 2009). The Court is functioning under the Act, 2009, special executive Orders of the Government and/or under the different special Laws applicable thereof e.g. BSTI. The City Corporation may also conduct Mobile Court as per the Manual. |
| Composition | Any public officer or Executive Magistrate authorized by the Govt. |
| Jurisdiction | The Court can try any offence of the Schedule but can not give/ impose punishment exceeding 2-years imprisonment. This is contradictory with the Acts mentioned in the Schedule of the Ordinance. (Previously the Court was authorized to give only pecuniary punishment and if the fine is not paid accordingly, he can give imprisonment up to 3 months). There is a question on the validity/ legality of the exercise of judicial power by the executive Magistrates as it is solely vested to the Judicial Magistrates. |
| Appeal | District Sessions Judge or Metropolitan Sessions Judge as the case may be. |

**Special Tribunal**

| The Act under which it is established | The Special Powers Act, 1974 |
| Composition | Every Sessions Judge, Addl. Sessions Judge and Asst. Sessions Judge shall for the areas within his sessions division, be a Special Tribunal for the trial of offences triable by the Special Powers Act, 1974. The Govt. may constitute one or more additional Special Tribunals for some areas which shall consist of a Metropolitan Magistrate or 1st class Magistrate. |
| Jurisdiction | Sessions Judge, Addl. Sessions Judge, Asst. Sessions Judge- any sentence authorized by law for the punishment. Metropolitan Magistrate, 1st class Judicial Magistrate- Except death penalty, life imprisonment, imprisonment exceeding 7 years or fine exceeding 10,000 taka. |
| Appeal | To High Court Division within 30 days. In case of death sentence, the proceeding shall be submitted automatically. |

**Drug Court**

| The Act under which it is established | The Drugs (Control) Ordinance, 1982 |
| Composition | Consists of a person who is or has been a Sessions Judge and is appointed by the Govt. |
| Jurisdiction | i) to manufacture, import, distribute, stock or sale of any medicine which is not registered or which has been adulterated; punishment: 10 years rigorous imprisonment or fine of Tk. 2 lakh or both and also forfeiture of property. ii) to import any drug raw material without prior approval; punishment: 3 years rigorous or 50,000 taka or both and also forfeiture of the property. iii) prescription by the physician of any medicine which is not registered; punishment: 3 years rigorous imprisonment or fine of Tk. 2 lakh or both. |
| Appeal | High Court Division |
### The Food (Special Court)

<table>
<thead>
<tr>
<th>The Act under which it is established</th>
<th>The Food (Special Courts) Act, 1956</th>
</tr>
</thead>
<tbody>
<tr>
<td>Composition</td>
<td>Special Magistrate appointed by the Govt. shall try an offence under this Act</td>
</tr>
<tr>
<td>Jurisdiction</td>
<td>Notwithstanding anything contained in the Control of Essential Commodities Act, 1956, or in any other law for the time being in force, contravention of any notified order in respect of foodstuffs made or deemed to have been made under the control of Essential Commodities Act, 1956 shall be tried and punishable by Special Magistrates appointed under this Act and no other Court shall have any jurisdiction to take cognizance of such offence.</td>
</tr>
<tr>
<td>Highest punishment</td>
<td>3-years imprisonment or fine or both and also forfeiture of the foodstuffs used in committing such offence;</td>
</tr>
<tr>
<td>Appeal</td>
<td>Sessions Judge following the procedure of Cr P C</td>
</tr>
</tbody>
</table>

### Marine Court

<table>
<thead>
<tr>
<th>The Act under which it is established</th>
<th>Section-47 of the Inland Shipping Ordinance, 1976.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Composition</td>
<td>Special Magistrate appointed by the Govt. shall try an offence under this Act assisted by not less than two or more than four assessors of whom one shall be a person conversant with maritime affairs and the other or others shall be person or persons conversant with navigation of inland ships or mercantile or marine engineering affairs.</td>
</tr>
<tr>
<td>Jurisdiction</td>
<td>Death or injury caused by launch accident, Plying without route permit, time table, fare table and printed ticket, Plying in coastal water without permission, Voyage without Telecommunication Equipment, Voyage during storm signal, violation of protection measures for fire and explosions, carriage of dangerous goods, voyage without insurance, excessive fare, passenger ship carrying cargo on the deck etc.</td>
</tr>
<tr>
<td>Highest punishment</td>
<td>5-years imprisonment and fine of Tk. 5-lakh for casualty or loss of properties;</td>
</tr>
<tr>
<td>Appeal</td>
<td>Sessions Judge following the procedure of Cr P C, 1898.</td>
</tr>
</tbody>
</table>

### Claims Tribunal

<table>
<thead>
<tr>
<th>The Act under which it is established</th>
<th>Section-127 of the Motor Vehicle Ordinance, 1983.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Composition</td>
<td>District Judge or any person who is or has been a District Judge.</td>
</tr>
<tr>
<td>Jurisdiction</td>
<td>Death or bodily injury or injury to property caused by accident. No Civil Court may entertain the same claim or impose any injunction on the claim.</td>
</tr>
<tr>
<td>Highest remedies</td>
<td>Any amount of compensation claimed by the applicant which is just based on evidences followed by the procedures of CPC as a Civil Court.</td>
</tr>
<tr>
<td>Appeal</td>
<td>High Court Division.</td>
</tr>
</tbody>
</table>
### Ordinary Civil Courts

| The Act under which it is established | Civil Courts Act, 1887, the Code of Civil Procedures, 1908. Section-66 of the Consumer Rights Protection Act, 2009 empowers the Joint District Judge as the Ordinary Civil Courts under the Act. |
| Composition | (i) District Judge, (ii) Additional District Judge, (iii) Joint District Judge, (iv) Senior Assistant Judge, (v) Assistant Judge. (b) In respect of Consumer affairs, only the Joint District judge can entertain the claim. |
| Jurisdiction | A consumer may file a suit directly to any of the above Courts based on the value of his claim. The jurisdiction of Assistant judge is from 1 taka to 2 lakh taka and the jurisdiction of Senior Assistant Judge is from 2 lakh one taka to 4 lakh taka and the jurisdiction of the Joint District Judge is from 4 lakh one taka to unlimited. The District Judge has no original Jurisdiction as an ordinary Civil Court. In Consumer affairs Civil Court can provide all or any type of the following remedies, as- (a) giving order to the defendant to change/ substitute the defect products with proper products; (b) giving order to return money to the plaintiff by receiving the defect product in return; (c) giving order to the defendant to compensate the victim/plaintiff by adequate (real/ proper) compensation fixed by pecuniary value and not more than 5 times of the proved loss; giving order to the defendant to bear the expenses of the suit; |
| Highest remedies | Based on the Courts jurisdiction. In Consumer affairs claiming not exceeding 5 times of the pecuniary compensation against the violation of consumer right. |
| Appeal | If the judgment is more than 5-lakh taka compensation appeal shall go to the High Court Division otherwise the District Judge may hear the appeal. But under section-68 of the Consumer Rights Protection Act, 2009 all appeal shall go to the High Court Division within 90 days |

### Ordinary Criminal Courts

| The Act under which it is established | The Code of Criminal Procedures, 1898. Section-57 of the Consumer Rights Protection Act, 2009 empowers the Metropolitan or 1st Class Magistrates to act as the Ordinary Criminal Courts under the Act. |
| Composition | (c) In the District level (Sessions Court) : (i) District Session Judge, (ii) Additional District Session Judge, (iii) Joint District Session Judge, and Magistrates Courts are (i) Judicial Magistrates, (ii) Judicial Magistrates of the 1st Class, (iii) Additional Chief Judicial Magistrate and (iv) Chief Judicial Magistrate (Highest Court in the Magistracy). (d) In the Metropolitan level (Sessions Court) : (i) Metropolitan Session Judge, (ii) Additional Metropolitan Session Judge, (iii) Joint Metropolitan Session Judge, and Magistrates Courts are (i) Metropolitan Magistrates/ Special Magistrates, (ii) Additional Chief Metropolitan Magistrate and (iii) Chief Metropolitan Magistrate (Highest Court in the Magistracy). |
### Jurisdiction

The offences as mentioned in the Consumer Rights Protection Acts in chapter IV (from sections- 37 to 56) are:

<table>
<thead>
<tr>
<th>No.</th>
<th>Offence</th>
</tr>
</thead>
<tbody>
<tr>
<td>37.</td>
<td>Punishment for not using cover etc. of products.</td>
</tr>
<tr>
<td>38.</td>
<td>Punishment for not displaying price list.</td>
</tr>
<tr>
<td>39.</td>
<td>Punishment for not preserving and displaying price list of services</td>
</tr>
<tr>
<td>40.</td>
<td>Punishment for selling products, service or medicine at a higher price.</td>
</tr>
<tr>
<td>41.</td>
<td>Punishment for selling adulterated product or medicine</td>
</tr>
<tr>
<td>42.</td>
<td>Punishment for mixing forbidden ingredients in food</td>
</tr>
<tr>
<td>43.</td>
<td>Punishment for manufacturing or processing in illegal way.</td>
</tr>
<tr>
<td>44.</td>
<td>Punishment for deceiving customers by false advertisements</td>
</tr>
<tr>
<td>45.</td>
<td>Punishment for not selling or supplying promised product or service.</td>
</tr>
<tr>
<td>46.</td>
<td>Punishment for committing fraud in weighing.</td>
</tr>
<tr>
<td>47.</td>
<td>Punishment for committing fraud in fixing scales fro weighing things</td>
</tr>
<tr>
<td>48.</td>
<td>Punishment for committing fraud in measurement</td>
</tr>
<tr>
<td>49.</td>
<td>Punishment for committing fraud in scale need measuring length</td>
</tr>
<tr>
<td>50.</td>
<td>Punishment for making or manufacturing counterfeit product</td>
</tr>
<tr>
<td>51.</td>
<td>Punishment for selling expired product or medicine</td>
</tr>
<tr>
<td>52.</td>
<td>Punishment for acts endangering life and safety of consumers</td>
</tr>
<tr>
<td>53.</td>
<td>Punishment for causing loss of money, health, life by negligence etc.</td>
</tr>
<tr>
<td>54.</td>
<td>Punishment for filing false or vexatious suits</td>
</tr>
<tr>
<td>55.</td>
<td>Punishment for repeating the same offence</td>
</tr>
<tr>
<td>56.</td>
<td>Attachment etc.</td>
</tr>
</tbody>
</table>

### Highest punishments

Ordinary jurisdiction of a MM/ 1st Class Judicial Magistrate is 5 years imprisonment and 10 thousand Taka fine but under the Consumer Rights Protection Act, 2009 is 3-years imprisonment and 2 lakh taka fine (penalty).

### Appeal

To the District and Sessions Judge / Metropolitan Sessions Judge.

### Consumer Rights Protection Department/ Directorate

**The Act under which it is established**

Section-18 of the Consumer Rights Protection Act, 2009.

**Composition**

Headed by the Director General (DG) assisted by other officers and staffs.

**Powers and functions of the Director General (section-21)**

The Director General may take all such steps as he considers necessary for protection of consumer rights, prevention of acts against such rights and other proceedings required for disposal of complaints of violation of consumer rights. The functions of the DG includes-(i) to supervise quality of food or service, (ii) to supervise if fraud is being committed in measurement and weighing while supplying and selling products and take proper steps; (iii) to supervise if counterfeit of any product or medicine is being produced, manufactured or processed and if mass people is being misled and take proper steps in this regard, (iv) to monitor if any food or medicine is being adulterated and take steps accordingly, (v) to monitor if the date of manufacturing and date of expiry is being properly imprinted on the wrapping of any product or medicine as required by any Act or Rule and to take
steps, (vi) to monitor if any expired product or medicine is being sold and to take steps, (vii) to monitor if any food product which is dangerous to the life and safety of human are being sold and to take proper steps, (viii) to monitor if any product that is manufactured or processed in a manner that is harmful for human life and safety is being sold and take steps accordingly, (ix) to monitor if any medicine is being sold anywhere without license and take steps accordingly, (x) to monitor of customers are being deceived by false or untrue advertisement for the purpose of selling a product or service, (xi) to monitor if transports carrying public in general such as Minibus, Bus, launch, steamers, and trains are being conducted by incompetent and unlicensed drivers illegally and take necessary steps, (xii) to monitor if life or safety of the consumers are being endangered by non-compliance with injunctions imposed under any act or ordinance, (xiii) The Director General shall prepare a consolidate annual report of activities of his own as well as of the districts every year, if any, with in April 30 in respect of the activities of the preceeding year up to 31st December.

The DG may conduct search, investigate the matter, issue warrant and arrest the offender on suspicion for his alleged involvement in any activities in violation of consumer rights Protection Act, 2009. He may temporarily close any shop, business centre etc for acts against Consumer Rights and also impose restriction over production, sale etc of any product dangerous to human health. He may also enter into any place collect samples for examination and attach any products for the sake of the consumer’s interest.

<table>
<thead>
<tr>
<th>Highest remedies</th>
<th>The DG can not pass any order for punishments without the help of the Judicial Magistrates. The DG may act as a 1st class Magistrate.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeal</td>
<td>To the Sessions Judge’s Court following the provisions of Cr P C.</td>
</tr>
</tbody>
</table>

**National Council for the Protection of Consumer Rights**

<table>
<thead>
<tr>
<th>The Act under which it is established</th>
<th>Section-5 of the Consumer Rights Protection Act, 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Composition</td>
<td>The Council will be composed of 24-members of which 20 will be nominated/selected by the Government chaired by the Minister of the Ministry of Commerce for a period of 2 and half years.</td>
</tr>
<tr>
<td>functions</td>
<td>Enact Rules, Regulations for effective enforcement of the Act, 2009; to suggest and advice the Government to enact new law or create awareness; to conduct research and/ or to monitor the functions of the DG and the District Committee.</td>
</tr>
<tr>
<td>Highest remedies</td>
<td>No punishment can be given as it is a monitoring authority.</td>
</tr>
<tr>
<td>Appeal</td>
<td>N/A</td>
</tr>
</tbody>
</table>

There may have District, Upazilla and union committee for the protection of consumer rights composed of the members as mentioned in the sections 10 to 13 of the Consumer Rights Protection Act, 2009. The District Magistrates (Commonly Deputy Commissioners) under section-59 of the Act, 2009 is authorised to exercise all the power as is given to the DG of the Consumer Rights Protection Department.
**BSTI (Bangladesh Standard Testing Institute)**

| The Act under which it is established | Section-3 of the Bangladesh Standard testing Institute Ordinance, 1985. |
| Composition | The Council under the BSTI shall be comprised of 12 members headed by the Minister of the Ministry of Industries. The BSTI shall have a principal executive officer known as DG. The DG may be assisted by the Inspectors. The offences under the BSTI Ordinance will be tried by a Metropolitan Magistrate or a (Judicial) Magistrate of the 1st Class. |
| functions | To maintain quality and standards relating to materials, commodities, structures, practices and operations and also to set Standards for the measurement of length, weight, mass, volume and energy; to promote standardization and to secure compliance; to provide or arrange facilities for examination, testing and inspection of commodities, processes and practices for any investigation, research, or promotion of export that may be necessary and to issue test reports; to certify the quality of commodities, materials, produces, products and other things including food materials, whether for local consumption, export or import; to specify standard mark and to grant, renew, reject, suspend or cancel, in such manner as may be prescribed, a licence for the use of Standard Mark; to collect samples and examining the standard marks etc. The BSTI is authorised to prohibit improper use of standard marks, grant licence, prohibit use of certain names etc. |
| Highest remedies/Punishments | The Magistrate may order for closing any factory, attach any articles, and try the offence as per this law and impose punishments upto 4-years imprisonment and one lac taka fine. |
| Appeal | District/ Metropolitan Session Judge Court. |

**The Animal Slaughter (Restriction) And Meat Control Act, 1957**

| Offences to be tried | Sell or slaughter of any animal on prohibited days or in violation of restrictions on slaughter of animals like a she-goat below the age of two years or any other female animal below the age of three years or a he-goat, ram or lamb below the age of one year or any other male animal below the age of seven years or any female animal which is pregnant or is in milk etc. |
| Judge | The Govt. may appoint any officer to inquire an offence under this Act who may report to the nearest Magistrate or the Officer in charge of the nearest police station but shall not arrest without warrant. |
| Highest punishment | 6-months imprisonment or fine not exceeding one thousand taka or both |

**The Iodine Deficiency Disorders Prevention Act, 1989 (essential provisions)**

| Offences to be tried | Control of the import of edible salt and restrictions on sell of edible salt including hoarding, packaging, distribution or exposure etc. |
| Judge | Judicial Magistrate Court shall try an offence. No court shall try or take cognizance of an offence without written permission from an officer of the Govt. specially empowered for this purpose. |
| Highest punishment | 3 years or 5,000 taka or both |
| Specially created committee or commission | There shall be a salt-committee composed of one chairman and five other members appointed by the Govt. |
Restrictions on the sell of edible salt

The following information should be mentioned in every packet of edible salt-

(i) name of the producer and his address;
(ii) weight of the packet, date of production and date of packaging;
(iii) Packet No.;
(iv) Highest retail price etc.

Appendix-II

(List of relevant statutes on consumer rights)

1. The Consumer Rights Protection Act, 2009;
2. Bangladesh Standard Testing Institute Ordinance (BSTI), 1985;
3. The Customs Act, 1969;
4. The Special Powers Act, 1974;
5. The Penal Code, 1860;
6. The Drug Control Ordinance, 1982;
7. The Breast-milk Substitute (Regulation of Marketing) Ordinance, 1984;
8. The Fish and Fish Products Ordinance, 1983;
9. The Pure Food Ordinance, 1959;
10. The Trade marks Act, 2009;
11. The sale of goods Act, 1930;
12. The Foodgrains Supply (Prevention and prejudicial activity) Ordinance, 1979;
13. The Control of Essential Commodities Act, 1956;
15. The Medical and Dental Council Act, 1980;
16. The Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982;
17. Police Act, 1861;
18. The Bangladesh Energy Regulatory Commission Act, 2003;
19. The Bangladesh Telecommunication Act, 2001;
20. The Motor vehicle ordinances, 1983;
21. The Inland Shipping Ordinance, 1976;
22. The Railways Act, 1890;
23. The Carriage by Air Act, 1934;
24. The Right to Information Act, 2009;
26. The Food (Special Courts) Act, 1956;
27. The Mobile Court Ordinance, 2007 (now repealed);
28. The Iodine Deficiency Disorders Prevention Act, 1989;
29. The Cantonments Pure Food Act, 1966;
30. The Standards of Weights and Measures Ordinance (Amendment) Act, 2001;
31. The Animal Slaughter (Restriction) And Meat Control Act, 1957;
32. The Conservation and Protection of Fish Act (modified up to 21 Sept. 2002), 1950;
33. Tobacco Goods Marketing (Control) Act, 1988
34. Price and Distribution of Essential Commodities Ordinance, 1970;
35. Standards of Weights and Measures Ordinance, 1982;
36. Dangerous Drug Act, 1930;
37. The Constitution of the People’s Republic of Bangladesh, 1972;

(Source: Bangladesh Code);

**Appendix-III**

The achievement of the CM Wing of the BSTI is mentioned below- (Chart-01)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>01</td>
<td>Number of new licenses given</td>
<td>775</td>
<td>850</td>
<td>580</td>
</tr>
<tr>
<td>02</td>
<td>No. of licenses renewed</td>
<td>1007</td>
<td>704</td>
<td>560</td>
</tr>
<tr>
<td>03</td>
<td>Rejection of No. licenses renewal/ given</td>
<td>720</td>
<td>838</td>
<td>396</td>
</tr>
<tr>
<td>04</td>
<td>No. of Maintaining Mobile Court/ Surveillance team</td>
<td>420 (Surveillance-284, Mobile Court-136)</td>
<td>383, only Mobile Court</td>
<td>432, Mobile Court only</td>
</tr>
<tr>
<td>05</td>
<td>No. of cases filed</td>
<td>279</td>
<td>696</td>
<td>973</td>
</tr>
<tr>
<td>06</td>
<td>No. of cases disposed off</td>
<td>243</td>
<td>555</td>
<td>882</td>
</tr>
<tr>
<td>07</td>
<td>Jail/ Fine recovered (in Lakh)</td>
<td>27.25</td>
<td>77.28 lakh Taka &amp; imprisonment of 22 for different periods</td>
<td>182.69 lakh taka &amp; 13 persons were punished for different periods of imprisonment</td>
</tr>
</tbody>
</table>

Source: BSTI Office, 116/ka, Tajgaon Industrial Area, Dhaka-1208;

The no. of renewal of licences were decreased due to the specific information on manufacturing date and expiry date on the labeling of the products; No surveillance team were run or functioned after the amendment of the BSTI Ordinance in 2003; the functions of Mobile Courts were also decreased in the financial year 2004-2005 in comparison with the year of 2003-2004;
### Chart-02 (Achievement of BSTI)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>01</td>
<td>No. of application received</td>
<td>----</td>
<td>5555</td>
<td>------</td>
<td>----</td>
</tr>
<tr>
<td>02</td>
<td>No. of factories inspected</td>
<td>----</td>
<td>4790</td>
<td>------</td>
<td>----</td>
</tr>
<tr>
<td>03</td>
<td>No. of licenses given</td>
<td>476</td>
<td>2256</td>
<td>2385</td>
<td>1539</td>
</tr>
<tr>
<td>04</td>
<td>No. of licenses renewed</td>
<td>685</td>
<td>2026</td>
<td>1633</td>
<td>737</td>
</tr>
<tr>
<td>05</td>
<td>No. of rejection of licenses given/renewed</td>
<td>683</td>
<td>973</td>
<td>735</td>
<td>365</td>
</tr>
<tr>
<td>06</td>
<td>No. of Mobile court maintained</td>
<td>65</td>
<td>645</td>
<td>1049</td>
<td>454</td>
</tr>
<tr>
<td>07</td>
<td>No. of surveillance team worked</td>
<td>-----</td>
<td>---</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td>08</td>
<td>No. of cases filed in the Mobile Court</td>
<td>14</td>
<td>1426</td>
<td>2414</td>
<td>1139</td>
</tr>
<tr>
<td>09</td>
<td>No. of cases lodged by the surveillance team</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>----</td>
</tr>
<tr>
<td>10</td>
<td>No of cases disposed off</td>
<td>08</td>
<td>1178</td>
<td>1811</td>
<td>1139</td>
</tr>
<tr>
<td>11</td>
<td>Amount of jail/ fine recovered</td>
<td>Not mentioned</td>
<td>520.36 lakh taka fine were recovered and 24 persons were imprisoned for different periods</td>
<td>252.92 lakh taka &amp; 3-persons were imprisoned for different period;</td>
<td>96.69 lakh taka</td>
</tr>
<tr>
<td>12</td>
<td>Revenue income</td>
<td>419.57 lakh taka</td>
<td>1969.23 lakh taka</td>
<td>848.43 lakh taka</td>
<td></td>
</tr>
</tbody>
</table>

Source: BSTI Office, 116/ka, Tajgaon Industrial Area, Dhaka-1208;
Endnotes

1 Out of more than six thousand Quranic verses, only a few hundred of them are directly or indirectly related to legal matters. The Quran is the product or outcome of a long gradual process of revelation continued for 22 years (610-632 c.a.); The Quran is the fundamental source of Islamic law. The spirit of the Quranic verses is often more important than the direct and mere the literary meaning of a particular verse. The relevant verses of Al Qura’n on consumer’s rights are-(83:1), (6:152, 17:35, 83:1-6, etc.); (2:172-173), (6:145, 2:168, 23:51, 6:121, 5:5);

2 Donoghue v. Stevenson (1932) A.C. 562; Judgment was passed by Lord Atkins of the House of Lords;


5 http://www.minlaw.gov.bd or Bangladesh Code, Vol.38, Ministry of Law, GOB;

6 This point has been emphasized in David Caplovitz, The poor pay more, New York, Free Press, 1963.


10 Supra, note,3;

11 Article-15 of the Constitution of Bangladesh (1972): Basic necessities;

“It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens- the provision of the basic necessities of life, including food, clothing, shelter, education and medical care;”

12 Article-18 of the Constitution of Bangladesh (1972): Public Health and Morality;

“(1) The State shall regard the raising of the level of nutrition and the improvement of public health as moving its primary duties, and in particular shall adopt effective measures to prevent the consumption, except for medical purposes or for such other purposes as may be prescribed by law, of alcoholic and other intoxicating drinks and drugs which are injurious to health.

(2) The State shall adopt effective measures to prevent prostitution and gambling”

13 The High Court Division in a recent judgement ordered all the medical service providers to pay the VAT by themselves not to charge the consumers;
