

Naveed Ahmed\*

## **CONSUMER PROTECTION LAWS AND APPLICATION: A CASE STUDY OF PAKISTAN**

### **ABSTRACT**

*Generally, in most of the countries, consumer protection consists of laws and organizations designed to ensure the rights of consumers and the free flow of truthful information in the marketplace. The laws are designed to prevent business trade activities that engaged in fraud or specified unfair practices from gaining an advantage over competitors and may provide additional protection for the weak and those unable to take care of themselves. Consumer protection is linked to the idea of “consumer rights” (that consumers have various rights as consumers), and to the formation of consumer organizations, which help consumers make better choices in the market place and get help with consumer complaints. However, the consumer protection laws are new in the country and their implementation is under process. Therefore, the Consumer Courts, and sometimes in appeals before High Courts, the Hon’ble Judges give their own interpretation to the vague language of the provision of this Act, 2005. And if an order is passed in favour of a consumer at the forum of Consumer Court after a period of about two or three years litigation, an appeal is routinely filed in about 90% cases before High Court which again takes about two to three years for decision. The result is that a Consumer approaching a Consumer Court regarding a product or service, to whatever petite matter or amount involved, does not get final relief until after the lapse of five to six years period. The provisions of the Act, 2005, not only require providing speedy remedy to the consumers but their scope should also be broadened. The procedure should be further simplified till the stage, the consumer gets his right or remedy.*

**Key Words:** Pakistan, Consumer Protection, PCPA, Consumer Court, Consumer Laws, High Court, complaints.

### **1.1 INTRODUCTION**

A consumer is defined as an end user, someone who acquires goods or services for direct use or ownership rather than for resale or for any commercial purpose, use in production and manufacturing.<sup>1</sup>

Pakistan is signatory to the UN Resolution no 39/248 of 1985 which has set legitimate consumer need i.e. protection of consumer rights. This resolution has issued a number of guidelines. These guidelines have declared protection of consumers from hazards to their health and safety, promotion and protection of economic interests of consumers and availability of effective consumer redress, as legitimate needs. To conform to the requirements of UN resolution Consumer protection laws have been promulgated in Islamabad capital territory, KP, Baluchistan and Punjab having different consumer protection mechanisms and infrastructures. 15<sup>th</sup> March is also observed World Consumer Day and it is celebrate like-wise the whole world for the last 11 years.

Consumer protection councils and courts have been established to provide redress mechanism but their presence and impact is very limited which shows lack of commitment of the respective provincial governments about consumer protection. The federal government has neither enacted any consumer protection law nor issued any national policy for consumer protection.

Punjab Consumer Protection Act-II of 2005 is considered better as far as consumer protection laws are concerned and 11 consumer courts have been established since 2006 for redressal of consumer complaints under this Act. Initially, these courts were in rented buildings, have poor infrastructure and are handling increasing number of complaints every year. Consumer court Lahore is the biggest consumer court in Punjab as far as numbers of complaints are concerned. The court admitted highest number of complaints

---

\* Dr. Naveed Ahmed, LL.B (PU), LL.M (PU), PhD (Warwick, UK), Postdoc (Washington University, USA), Assistant Professor, University Law College, University of the Punjab, New Campus, Lahore, Pakistan. Email: [naveed.law@pu.edu.pk](mailto:naveed.law@pu.edu.pk).

<sup>1</sup> Section 2 of Consumer Protection law.

during 2013. The analysis of cases has shown that people are filing complaints for defective services and products but not complaining against non issue of receipts, unfair trade practices of bait advertisement and false or misleading representation. Large number of cases is being disposed off due to non prosecution and withdrawal. These cases are consuming much of the time of court and are hindering in speedy disposal of cases. The process of disposal is no more speedy and simple as envisage by the Act. Poor infrastructure, certain provisions of PCPA, involvement of lawyers and use of old traditional method in these courts is severely affecting the effectiveness of redress mechanism. There is a need to enhance the number of courts, equip the courts with proper infrastructure, make the necessary amendments in law and use information technology to make the mechanism speedy and simple. These should be an express provision in the Act that the cases before the Consumer Court should be tried in a summarily manner. Amended is required in section 28 sub section(2), of the Act *ibid* that 15 days, notice should not be necessary in case of perishable goods the Act *ibid* that after filing of the written statement, time for reconciliation should not exceed 14 days.

Punjab Government has been at forefront by enacting and implementing Punjab Consumer Protection Act, A dynamic institutional arrangement strengthened by Consumer Courts, District Consumer Protection Councils is available to dispense speedy and timely justice to the public by resolving their grievances against faulty services and defective products, while, there are no such institutional arrangements present in any other province of the country. In this regard, the present government also is about to establish the 6 more Consumer Courts, in the province.<sup>2</sup>

Government of Pakistan, being signatory of UN resolution 39/248 consumer protection, is bound to provide the consumers the rights as enunciated in the said resolution. The basic rights of consumers are right to protection, representation, compensation, information, education, right to choose, right to basic necessities and right of healthy environment<sup>3</sup>. As per requirements of UN guidelines, the government should have to maintain an adequate infrastructure to develop, implement and monitor consumer protection policies in order to promote and protect economic interests of the consumers and ensure availability of effective consumer redress. These laws have prescribed establishment of consumer courts and consumer protection councils to provide protection to the consumers. But the system seems inefficient and shows lack of commitment on part of respective governments. Islamabad has no separate consumer court and consumer council is also not operational, and the power delegated to the District & Session Judge, and Khyber-Pakhtunkhwa (KP) in original Consumer Act of 1997 followed the same Islamabad model but after amendment in 2015, consumer courts have been notified in 10 districts but functional in only 6 districts with no consumer court or council in the rest of province. Baluchistan has only promulgated the Act and no court or council has been established. The consumer courts are becoming replica of legal courts as the procedure is no longer simple and quick. The consumer redressal system is becoming cumbersome and time consuming than desired.

The Punjab Consumer Protection Act in field for the last 11 year, and it was amended only once in the year 2006.

## 1.2 LITERATURE REVIEW

The United Nations guidelines are considered to be the main driving force behind the introduction of current consumer protection legislations around the world especially in developing countries.<sup>4</sup> These guidelines provided the base for formulation of consumer protection policies by the governments and encouraged international cooperation in this regard.<sup>5</sup> But still the consumers all around the world are ill or under informed.<sup>6</sup>The enactment of antitrust legislation, Sherman Act in 1890, was first step towards

---

<sup>2</sup> Source: Voice of Consumer, 2<sup>nd</sup> edition, Vol. I.

<sup>3</sup> Consumers International, <http://www.consumersinternational.org/who-we-are/un-guidelines-on-consumer-protection>( accessed on 15 December 2012)

<sup>4</sup> Dr V.K.Agarwal, *Consumer Protection (Law & Practice)*, 6<sup>th</sup> ed. (New Delhi: B.L.H.Publishers Distributors Pvt.Ltd,2008), 5-7

<sup>5</sup> *ibid*

<sup>6</sup> Geriant Howells and Weatherill Stephen, *Consumer Protection Law*, 2<sup>nd</sup> ed.(Hants: Ashgate Publishing Ltd, 2005) 6

protection of modern day consumer from monopolistic business practices.<sup>7</sup> But, consumer protection has been ensured in ancient civilizations especially in Indian Civilization as early as 800 BC.<sup>8</sup> The rulers even in Vedic age were aware of interests of the buyers and established trade restrictions to safeguard interests of the buyers.<sup>9</sup> Codes of conduct for traders were introduced and punishments for committing crime against buyers, especially adulteration and unfair prices, were prescribed.<sup>10</sup> Consumer are also protected in Islam where complete framework for conducting business and safeguarding consumer rights have been provided 1500 years ago.<sup>11</sup> This framework is like commercial laws framed by human beings but the rules provided in Islam are of Allah and have reward not only in this world but also in the world hereafter.<sup>12</sup> In India, constitution has guaranteed social and economic justice and consumer justice is also a part of it.<sup>13</sup> This mandate culminated into enactment of a number of consumer protection related laws relating to standardization, grading, packaging & branding, prevention of food adulteration, short weight and measures etc like Drugs (Control) Act 1950, Drugs and Magic Remedies (Objectionable Advertisement) Act 1954, Prevention of Food Adulteration Act 1954, Essential Commodities Act 1955, Prevention of Black Marketing and Maintenance of Supplies of Essential Act 1980, Essential Services Maintenance Act 1968, Standards of Weights and Measures Act 1976, Bureau of Indian Standards Act 1986, The Monopolies and Restrictive Trade Practices Act 1969.<sup>14</sup> But all these measures were not enough with the increasing complexities of products, services and markets. There was enormous pendency and delay in the disposal of cases in the civil courts.<sup>15</sup> So, Consumer Protection Act was enacted in 1986 in India to provide better protection to the interests of the consumers.<sup>16</sup>

There are 2000 Courts and 50,000 Councils for the Protection and Rights of Consumer in India. In Pakistan, till mid 90s consumer protection remained a problematic and neglected category.<sup>17</sup> The overall environment was not encouraging for the consumers as the word “consumer” was absent from the indices of law books.<sup>18</sup> There was no express consumer welfare thing in administrative and regulatory enactments.<sup>19</sup> The main reasons behind suffering of consumers in Pakistan were absence of effective consumer protecting laws, lack of awareness among consumers and lack of action for protection of their rights.<sup>20</sup> Laws like Pakistan Environment Protection Act 1997, The Contract Act 1872, The Sale of Goods Act 1930, The Specific Relief Act 1877, The Fatal Accidents Act 1855, The Motor Vehicle Ordinance 1965 of Sindh, Punjab, N.W.F.P and Baluchistan, The Drugs Act 1976, and The West Pakistan Pure Food Ordinance 1960, all were partially accommodating the consumers and some remedy was available for them.<sup>21</sup> There was need to legislate for redress along with consistent efforts for awareness, provision of information/advice and setting of quality standards.<sup>22</sup> Consumer laws were enacted in Islamabad, NWFP

---

<sup>7</sup> See Sherman Anti-Trust Act ( 1890) at <http://www.ourdocuments.gov/doc.php?flash=true&doc=51> (accessed 5 May 2012)

<sup>8</sup> Dr.A.Rajendra Prasad,” Historical Evolution of Consumer Protection and Law in India”, Texas Journal of Consumer & Commercial Law 11, no.3 (Summer 2008).  
[http://www.jtexconsumerlaw.com/JCCL\\_V11N3\\_Summer08.html](http://www.jtexconsumerlaw.com/JCCL_V11N3_Summer08.html) (accessed on 2 December 2015).

<sup>9</sup> *ibid*

<sup>10</sup> *ibid*

<sup>11</sup> Kishwar khan and Sarwat Aftab,” Consumer Protection in Islam: The case of Pakistan” *Australian Economic Papers* December 2000.

<sup>12</sup> *ibid*

<sup>13</sup> Dr V.K.Agarwal, *Consumer Protection (Law & Practice)*, 6<sup>th</sup> ed. (New Delhi: B.L.H.Publishers Distributors Pvt.Ltd,2008), 9

<sup>14</sup> *ibid*

<sup>15</sup> *ibid* 11

<sup>16</sup> *ibid*

<sup>17</sup> Mohammad Sarwar Khan and Abrar Hafeez, *Consumer Laws in Pakistan*, part 1(Islamabad: Consumer Rights Commission of Pakistan, 1999) i

<sup>18</sup> *ibid* i

<sup>19</sup> *ibid*, 1

<sup>20</sup> Sikandar Aqeel Ansari and Abrar Hafeez, *Consumer Laws in Pakistan*, vol.2 (Islamabad: Consumer Rights Commission of Pakistan, 2000) 11

<sup>21</sup> *ibid* 12

<sup>22</sup> Kishwar Khan and Sarwat Mansoor, A strategy for Consumer Protection in Pakistan The Pakistan Development Review 35:4 part II(Winter 1996)1003-1017

(Khyber-Pakhtunkhwa), Balochistan and Punjab during 1995-2005. Although laws have been enacted but lack of will on part of relevant governments can be judged from the fact that the effective redress mechanism is absent as far as law and physical infrastructure is concerned.<sup>23</sup>

This was not the motive and desire, the government who established these Courts and Councils, the basic, thing was, easy way to get justice, freely without any delay, within no time, but now it is like a nightmare. After passing 11 years, the basic infrastructure is destroyed completely. Courts were not given proper and complete budget every year. A due to non-availability of Consumers Courts Complex, and the year wise shifting of these Courts from one rented building to another building also disturbs the innocent's consumers. There was no such platform available to them, before existing to these courts, it's a blessing Court to them, who got justice in very pity matters, cases, in which no can even dream to have justice in Pakistan through this system.

Jurisdiction of these courts section 3 of Consumer Protection Law, says Act not in derogation of any other law. The Provisions of this Act shall be in addition to and not in Derogation of the Provision of any other law for the time being in force<sup>24</sup> in light of these section consumer courts in Punjab stated taking cases, of all kinds of services including the institutions, department which governed by the Federal Status, laws, thereafter, the law developed the Lahore High Court Lahore decided in his various judgment, and fix the jurisdiction, which consumer laws provide the poor consumer from these departments, institutions, which were governed by Federal legislation, likewise the case writ Petition No. 2064-2011<sup>25</sup>, Telenor Pakistan Limited versus District Consumer Court etc., where the court, held that the consumers of telecommunication services have Honourable before PTA and Authority have under clause 15 of telecom consumer protection Regulation 2009 to hear compliments, likewise held in Wapda, Sui-Gas Insurance, Banking services<sup>26</sup>, whereas it is also seen that, the High Courts are taking different views in every consumer case, and it is also seen, that, the laws was not interpreted by the Apex Court.

### **1.3 CONSUMER PROTECTION MECHANISM IN PAKISTAN**

Currently four consumer protection laws are in force in Pakistan namely Islamabad Consumer Protection Act 1995, N.W.F.P (KP) Consumer Protection Act 1997, Balochistan Consumer Protection Act 2003 and Punjab Consumer Protection Act 2005.<sup>27</sup> Consumer Protection Councils (CPCs) and Consumer Courts have been established under these laws to protect the rights of consumers. Consumer Protection Councils are operational in Punjab province at district levels while they have not been notified in other provinces and Islamabad.<sup>28</sup> Consumer protection councils are meant for recommending policy input to the government. Consumer courts have been notified in 10 districts of Khyber-Pakhtunkhwa but are functional in 6 districts only. No consumer court has been established in Balochistan<sup>29</sup> while consumer complaints are heard in Sessions court in Islamabad instead of separate consumer court. Punjab has notified 11 consumer courts; functional in districts of Rawalpindi, Gujrat, Sialkot, Gujranwala, Lahore, Sargodha, Faisalabad, Sahiwal, Multan, Bahawalpur and Dera Ghazi Khan. The presiding officers in these courts are District & Sessions Judges who is appointed by the government in consultation with Lahore High Court. Another feature of Punjab Consumer Protection Act is creation of Authority. DCO has been declared as Authority who can fine upto 50,000 rupees in case of non disclosure of component parts, ingredients, quality, date of manufacture and expiry date. Non issuance of sale receipt, non display of price catalogue/list and non disclosure of capabilities or qualification of provider of any service or quality of products that are intended

---

<sup>23</sup> Asad Jamal, *Consumer Protection in Pakistan : Some Concerns* n.d available at <http://www.supremecourt.gov.pk/ijc/Articles/18/3.pdf> (accessed 01 May 2012) 13

<sup>24</sup> Section 3 of PCPA 2005.

<sup>25</sup> Writ Petition 2064-11, Telenor Pakistan Versus District Consumer Court etc.

<sup>26</sup> Case No. WP-11466/2009, Dubai Islamic Bank V/s Dec. etc Lahore High Court Lahore by Justice (Syed Mansoor Ali Shah), 28-I, 2016.

<sup>27</sup> Justice © Dr Munir Ahmad Mughal, *Law of Consumer Protection* 4<sup>th</sup> ed (Lahore: Muneeb Book House, 2010)

<sup>28</sup> Staff report, Activation of consumer laws demanded, *Daily Times* 14 March 2012 Consumer Court in Lahore gives first judgement, the Herald July 2007, Case of the Consumer, the News, July 2007 by Mamila Hyat.

<sup>29</sup> *ibid*

to use for provision of the service are also come under purview of Authority. The consumer protection mechanism of Punjab province is considered better,<sup>30</sup> so Punjab province is focus of study in my thesis. Punjab Consumer Protection Act 2005 covers faulty products, faulty services, obligation of manufacturers/traders to exhibit prices at business place, issue receipt to purchasers and about return & refund policy. It also covers unfair, trade practices of false, deceptive or misleading representation and prohibits the bait advertisement. The Act covers all products and services excluding goods in natural state before being processed and personal services like palmistry, astrology and services of personal servants employed on contract. Punjab Consumer Rules have been notified in 2009<sup>31</sup> to streamline the processes in Consumer councils and courts. The rules have provided for creation of Provincial Consumer Protection Council but it has not been notified till the writing of this thesis. Besides the government, many NGOs are working. The community solidarity system, an NGO working for Consumer Rights, will discourage other who exploit Consumer, Mr. Mohsin Raza Bhatti, the President says, now they will be hesitate before indulging in unfair practices for fear of the easy prosecution procedure of the Consumer Court.<sup>32</sup> On the other hand, civil Society is also performing a fundamental role for the welfare of consumer, long term enthusiastic efforts of the Consumer Association of Pakistan (CAP) to defend and promote the interests of Pakistan Consumer and its active role in Policy making process. Consumer Association of Pakistan is also serving to create awareness among consumer through arranging programme like Consumer Food Safety & Quality (CFSQ). Conference, which provides, supervisory bodies and production stakeholders, an incomplete occasion to congregate work together and concentrate on areas of consumer concern in such an unregulated market system, which results in to the contented consumer, which is the foundation of a health economy prosperous society.<sup>33</sup>

The Directorate created to assist the Provincial Consumer council on the other hand, is working quite efficiently. It has generated its website [www.pcpc.punjab.gov.pk](http://www.pcpc.punjab.gov.pk) from where a lot of information can be taken regarding law, rules, court cases, court decisions, authority cases and decisions and links to foreign consumer protection authorities and organizations. Collection and compilation of data received from district consumer councils and courts for analysis and policy formulation, is the primary function of directorate. The directorate has published a number of pamphlets and brochures voice of Consumers Ediction a news reader of DPIIP Council of Punjab for consumer awareness and education. Seminars and workshops are also organized by the directorate especially on “World Consumer Day”(15<sup>th</sup> March ).

As per section 24(2) of Punjab Consumer Protection Act, district councils have to be established by the government. Rule 22 of Punjab Consumer Protection Rules 2009 has given the composition of these councils. Out of 22 members; 9 are official members while 13 are non official members which are notified by the government in official gazette.

#### **1.4 AUTHORITY UNDER SECTION 23 OF PCPA ACT II OF 2005**

District Coordination Officer has been declared authority of section 23 of PCPA, 2005 for disposal of cases falling under section 11, 16, 18 and 19 of PCPA. Matters related to non disclosure of component parts, ingredients, quality, date of manufacture and expiry of products; non disclosure of capabilities or qualification of provider of a service or quality of products to be used for provision of service; non display of price catalogue/list and non issuance of receipt are taken up by the authority at district level. Around 6229 complaints have been filed in 11 districts of Punjab from 2007 to January 2016.<sup>34</sup>

---

<sup>30</sup> *ibid*

<sup>31</sup> Govt. of Punjab, Industries Department dated 22<sup>nd</sup> May 2009, Lahore, Notification No. SO(E)08-35/2009 Conferred by Section 38 of PCPA 2005.

<sup>32</sup> The daily *Khabrain*, dated 15.03.2014.

<sup>33</sup> Source: Voice of Consumer, 2<sup>nd</sup> edition, Vol. I.

<sup>34</sup> Although all DCOs have declared Authority in respect of section 23 of PCPA but Provincial directorate compiles data of only 11 districts where consumer courts have been established. The data of individual district is not displayed by the PCPC Punjab.

The issue with working of authority is time. The law has provided a time limit of 6 months for decision of cases in courts but no time limit is provided for cases to be decided by the authority. The data obtained from provincial council has given the number of cases decided by the authority in 11 districts mentioned but gives no information about length of time in which these cases have been decided nor their result in terms of acceptance or rejection by the authority. In Pakistan bureaucracy is not known for quick and efficient decisions.<sup>35</sup> Also the officer posted as DCO is too busy in other official assignments and normally, consumer redress is not considered as the priority in daily affairs of the incumbent officer.<sup>36</sup> So it can easily be inferred that the decisions should have taken considerable time for providing the relief to the complainants.<sup>37</sup> The phenomenon of delay discourages the probable complainants from availing the remedy available to them and is also against the spirit of PCPA which has been enacted for speedy redress.

### **1.5 DISTRICT CONSUMER COURTS**

Industries, Commerce & Investment Department (IC&I) Government of Punjab through its notification no E&A (ID)7-15/2001 dated 2-2-2007 established 11 consumer courts in Punjab. The courts started functioning in February 2007. Consumer courts have been notified in following 11 districts of Punjab covering the adjoining districts also, in the pattern of old divisional system.

The procedure for filing of cases is given in section 25 of the PCPA. The consumer who suffers damage from any product or any defective, faulty services, shall send a written notice u/s 28.1 to the manufacturer or provider of services informing him about the defect in product or conduct of the manufacturer or service provider and will ask for remedy or for damages suffered. The manufacturer or service provider is bound to reply within fifteen (15) days of receipt of notice. If the manufacturer or service provider does not reply, the consumer can then file the case alongwith acknowledgement receipt in court within a period of 30 days. The consumer court will not entertain any case until a written notice is given and proof of such notice is provided to the court. The case can be filed within 30 days of the arising of the cause of action, Section 29 of PCPA 2005 deals with the procedure of court. Once the case is filed with the court, notice is issued to the defendant to reply within 15 days which may be extended upto 30 days, it is mandatory provision of law the written reply should be filed before a Consumer Court within a period of 30 days.

Out of 11 consumer courts notified and established, (Gujranwala) Bahawalpur, Dera Ghazi Khan shifted in their own complexes, Lahore and Rawalpindi is housed, in district courts building, while remaining are functioning in rented buildings. With this infrastructure and above mentioned staff, the consumer courts have dealt following number of cases from March 2007 to 31 December 2015.

The fact coming out of these figures is that cases relating to faulty services are far more than the defective products. Within the broad category of faulty services, public utilities are the most prominent category followed by general utilities/trade/business. The public sector agencies are mostly involved in provision of utilities in Pakistan so it can be easily said that people have lots of complaints about government departments, there the original problems and great hindrance in the way to get justice. Because, the really problem a consumer faces that are in Government department. This gives us the importance of consumer grievance mechanism.

The number of cases filed does not correspond to the amount of services provided and products sold in Lahore and very poor condition in adjoining districts. Lahore being the commercial hub and have population of 12 million and of activities attracts a lot of people not only from adjoining areas but also from far flung areas of province. Being home of more than 12 million people, it has a lot of business in service

---

<sup>35</sup> Asad Jamal, *Consumer Protection in Pakistan : Some Concerns* n.d available at <http://www.supremecourt.gov.pk/ijc/Articles/18/3.pdf> (accessed 26 December 2015)

<sup>36</sup> The DCOs are mostly concerned with development, administrative issues, visits and meetings with lower and higher officials. Besides this, continuous engagement is with attending phone calls from various quarters. Consumer redressal is no where the prime objective.

<sup>37</sup> It needs to be researched as it is not topic of current study.

provision area. Filing of only 6229 cases of faulty services and defective products from four districts is quite low. But if we see the trend in filing of cases, it is evident that every year the number of cases is increasing with the increase in awareness about consumer rights and court. The number of cases filed in the initial two years 2007 and 2008, was very less. Being a new way and not known to many (it is still so), the number of consumers turning to courts was low. With awareness about presence of redress mechanism, the trend is changing now and number of cases filed in consumer court is increasing posing another challenge that of pendency in courts which is a great issue now. The other important aspect in court is predominance of complaints filed by complainants of Lahore district and number of complaints relating to Sheikhpura, Kasur and Nankana Sahib is almost negligible. The number of cases filed by complainants of Kasur from March 2007 to December 2015 is 58, from Nankana 18 and from Sheikhpura 86. Thus, only 152 cases out of 6175 cases filed were from these three districts. Out of these 152 cases, 28 cases are still pending in the court. Filing of less complaints from adjoining district amply indicate the need of having separate consumer courts in these areas as people need redress mechanism at their door step to their abodes and avoid traveling to some distance place to get relief. Normally, the amount involved in such cases is not very high and traveling to Lahore increase expenses of complainants both in terms of time and money. Likewise in a case Mrs. Iram Shaheen a consumer lady from Jehlum fixed a case here in consumer court, where, the actual grievance was on 71,000/- alongwith damage, but he cost increase, the passage of time to Rupees 5 lakh during the pendency of case, even at the end there was a decree against the same lady due to time barred claim. So, less people of other districts resort to consumer redress mechanism found in the shape of consumer court, which were decided by Judge Consumer Court on 23.02.2015.<sup>38</sup>

## 1.6 EFFICACY OF CONSUMER COURT

Various tools are being employed around the world to vague the effectiveness of consumer protection regimes. In a report on consumer laws in UK, the Department for Business Enterprise & Regulatory Reforms (BERR) has conceded that UK consumer law is well developed but is complex and inflexible<sup>39</sup>. The main challenge for reform is making the law simple understandable and reducing the cost.<sup>40</sup> A well informed consumer is considered the pillar of consumer empowerment and redress.<sup>41</sup> But in Pakistan, the sole parameter for judging the effectiveness of consumer court is the “time taken” to decide the case as these courts have been established for speedy relief to the consumers. As per Section 30 subsection 5 of PCPA 2005, the case has to be decided within six months of institution. The main aim of introducing consumer legislation is availability of free and fast redress mechanism involving least codal formalities technicalities. The time limit has been introduced to make the consumer courts different from normal courts which take long times to decide the cases. The following table is showing the details of cases filed and their disposal till 31<sup>st</sup> December 2011. The time taken to dispose the cases has been mentioned to get a fair idea about the effectiveness of the court.

The figures given above show a considerable number of cases which have not been decided within 6 months; the time specified by PCPA for decision of cases. Out of 401 cases disposed during 2011, 107 cases were decided after six months. This figure will increase considerably as 337 cases are yet to be decided. Considering the fact, as mentioned in preceding sub section, 3/4<sup>th</sup> of the cases of 2011 have been disposed off due to non prosecution and withdrawal, the time taken by the court to decide the cases is too long. The court time is being wasted due to non prosecution and withdrawal. This trend is not restricted to the year 2011 alone. The total number of cases pending in the court till March 2012 is 562. The time wise break up of these cases is given in the court record which shows that 131 cases are over six months old, 149 over 1 year and 76 are over two years old. Adding to this problem is number of cases pending in High Court. One hundred and nine cases are lying in apex court. Out of these 109 cases, 19 are of 2007 and 2008. The obvious question arising out of this situation is that why decisions are not coming within the specified time. The general view that it's lack of infrastructure which is hampering the efficiency along

---

<sup>38</sup> Iram Shaheen V/s Iman Collection, Source: Record Room of Consumer Court, Lahore.

<sup>39</sup> Department for Business Enterprise & Regulatory Reform, *Consumer Law Review: Call for Evidence* (London: BERR, 2008),5

<sup>40</sup> *ibid* 8

<sup>41</sup> *ibid* 25

with nature of cases and attitude of lawyers who are representing the clients. Information Technology has a lot of potential to improve the working of the consumer courts. Just one operative software of allotting automatic first hearing date with time can systemize all the subsequent procedures. Currently it is the discretion of court to allot the first date for court attendance. Even complaints filed on same day have different dates for first appearance without any logical explanation. Computerized system will generate suitable dates for attendance without the involvement of court officials which will improve the image of consumer court in the eyes of ordinary complainants.

## CONCLUSION

The Act is in the field for the period over 11 years and it has been amended only once in 2006, whereas the Additional District and Session Judge, replaced with full District and Session Judge. The establishment of these Courts and their working shows that awareness has come in the public and they are being benefitted by availing their rights under this law. The role of the Bench and Bar will create further usefulness of this law by better presentation of the cases and interpretation of it.

Consumer redress mechanism is very important for empowering the consumers. Consumer protection has not remained a top priority among the policy makers in Pakistan. Consumer protection laws have been promulgated to protect the consumers in Islamabad, KP, Balochistan and Punjab. Punjab Consumer Protection Act 2005 (PCPA) and Lahore Court is considered the better one in Pakistan. According to this Act, Consumer protection Councils at provincial and district levels and Consumer courts for district or area notified by the government have to be established. Provincial consumer council has not been notified while district consumer councils have been notified for whole of the province. These councils besides other functions are meant for advising the government about consumer protection policy and consumer awareness. Not a single policy advice is on record as far as advice to government by district councils is concerned. People are still not well aware of consumer protection mechanism. The DCOs have been declared authority to protect consumers under PCPA but people are not utilizing this forum due to lack of awareness and delayed redress. Consumer courts are working in 11 districts of Punjab since 2007. The courts are functioning with poor infrastructure and except four others courts are in rented buildings. The effectiveness of consumer court lies in timely disposal of complaints as envisaged in Section 30 of PCPA. The record of consumer court Lahore has revealed that the filing of complaints is increasing. The court received highest number of cases during 2013 and has decided 5470 cases out of 5624 cases filed till November 2013. There is a dire need to enhance the number of courts, equip the courts with proper, modern infrastructure, make the necessary amendments in law and use information technology to make the mechanism speedy and simple.

## REFERENCES

- Agarwal, Dr. V.K. *Consumer Protection (Law & Practice)*, 6<sup>th</sup> ed. New Delhi: B.L.H. Publishers Distributors Pvt. Ltd, 2008.
- Ansari, Sikandar Aqeel, and Abrar Hafeez. *Consumer Laws in Pakistan*, vol.2. Islamabad: Consumer Rights Commission of Pakistan, 2000.
- Department of Business Enterprise & Regulatory Reforms. *Consumer Law Review: Call for Evidence*. London: BERR, 2008.
- Howells, Geraint, and Weatherill Stephen. *Consumer Protection Law*, 2<sup>nd</sup> ed. Hants: Ashgate Publishing Limited 2005.
- Jamal, Asad. *Consumer Protection in Pakistan: Some Concerns* n.d available at <http://www.supremecourt.gov.pk/ijc/Articles/18/3.pdf>.
- Khan, Kishwar, and Sarwat Aftab. Consumer Protection in Islam: The case of Pakistan” *Australian Economic Papers* December 2000.
- Khan, Kishwar, and Sarwat Mansoor. A strategy for Consumer Protection in Pakistan *The Pakistan Development Review* 35:4 part II (Winter 1996).
- Khan, Mohammad Sarwar, and Abrar Hafeez. *Consumer Laws in Pakistan*, part 1 Islamabad: Consumer Rights Commission of Pakistan, 1999.



Mughal, Justice (R) Dr Munir Ahmad. *Law of Consumer Protection* 4<sup>th</sup> ed. Lahore: Muneeb Book House, 2010.

Prasad, Dr.A.Rajendra. "Historical Evolution of Consumer Protection and Law in India" *Texas Journal of Consumer & Commercial Law* 11, no.3 (Summer 2008).

[http://www.jtexconsumerlaw.com/JCCL\\_V11N3\\_Summer08.html](http://www.jtexconsumerlaw.com/JCCL_V11N3_Summer08.html)

Consumer Laws in Pakistan, by Dr. (R) Munir Ahmad Mughal. Is ted. Lahore, Muneeb Book House, 2009. Constitution of Pakistan, 1973.

A case in Consumer Court by Kamila Hiyat, Article published on July 26, 2007.

Pryer is a king, Article, by Shahzada Irfan, publishing in News, March 2012.

Laws of Consumer Protection, Second Edition, 2009, by Justice DP Wadhwa. Former Judge, Supreme Court of India & NL Rajah, Vol. 1 & 2.

PLD Journals, 2010-2015.

## **CASE LAWS**

F.A.O. No. 12/2010 (Bahawalpur Bench), Unilever Pakistan Ltd. V/s Mian Wasif Saeed No. 7259 AR (CRCs) FAL-12/10(BWP) dated 18.03.14.

F.A.O No. 198/2008 Tayyab Jamil V/s The Presiding Officer Consumer Court Gujranwala etc.

Writ Petition No. 2064-2011, Telenor Pakistan V/s District Consumer Court, etc, by Umar Ata Bandial.

Case F.A.O. No. 43 of 2011, Rizwana Nuzhat V/s Lesco etc by Umar Ata Bandial Judge.

F.A.O. No. 120/2008 SNGPL etc. V/s Abdul Hameed By Justice Mehmood Maqbool Bajwa.

Case W.P. No. 1130-2010 Adamjee Insurance Co. V/s Presiding Officer etc by Umar Ata Bandial Judge.

Case W.P. No 1130-2010 Adamjee Insurance Co. V/s Presiding Officer etc. by Umar Ata Bandial Judge.

2014 CLC Page 154, Muhammad Aslam V/s General Manager Pioneer Pakistan Seed Limited and Flour.

F.A.O. No. 10, 2016. M/s Muller & Phipps Pakistan (Pvt.) Ltd. V/s Ehsan Ellahi, etc. by Justice Sajid Mehmood Sethi, Judge.

Case F.A.O. No. 93 of 2016 M/s New Khan Road Runners (Pvt) Limited V/s M/s Service Line (Pvt) Ltd. By Justice Sajid Mehmood Sethi.

Case F.A.O. No. 11 of 2016 Digicon Trading Pvt. Ltd. V/s Umair Hussain Wain by Ali Akbar Qureshi, Judge.

PLD 2013, Lahore 454, Allied Bank Limited Faisalabad V/s Khalid Mehmood by Nasir Saeed Sheikh Judge.