

OVERVIEW



STATE OF THE INDIAN CONSUMER

Analyses of the Implementation of
the United Nations Guidelines for
Consumer Protection, 1985 in India

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Note

The full report, which is of more than 200 pages, is available from:

Consumer Unity & Trust Society,
D-218 Bhaskar Marg, Bani Park,
Jaipur 302 016, Rajasthan India
Ph: 91-141-20 2940/20 5802
Fx: 91-141-20 2968
E-mail: cutsjpr@jp1.dot.net.in
Web site: www.cuts-india.org

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INTRODUCTION

The sole and end purpose of all production is consumption. The purpose of economic planning is to allocate resources, as far as possible, to the satisfaction of consumers' needs. This leads directly to the idea of consumer sovereignty, as the purpose of economic activity is to allocate resources to meet consumers' needs. And then, there is logical, moral and political force in the proposition that the right person to make the decision about the allocation of resources to her/his own needs is the consumer her/himself.

In the good old days, things were much simpler, e.g. the barter system, and the consumer did not face much problems in allocating her/his resources to satisfy her/his needs by choosing from a limited range of goods and services available. The situation has changed over time. Today the market place is huge but shrinking as well—in terms of faster reach and proliferation of organised business. Expressed the noted diplomat and economist, John Kenneth Galbraith: “It is not the consumer who is the king, but it is the large corporation who is the king in the economy. Whatever happens is not because the consumers wants it that way, but simply because powerful large corporations prefer it that way.”

Furthermore, there is the question of poverty, i.e. of such consumers who are marginal players in the marketplace; the poor, low-income as well as socially disadvantaged consumers. All welfare states are committed to socio-economic welfare, including India, but development projects and priorities are often skewed or benefits do not reach the targeted population.

It is unfortunate but also the reality in India, or for that matter in most developing countries. Marketplace distortions exist in developed countries too. Consumers are, more often than not, taken for granted.

The United Nations General Assembly adopted the Guidelines for Consumer Protection on 9 April, 1985 (the General Assembly Resolution 39/248). India is a signatory to the Guidelines. The Guidelines advises

governments to carry out specific measures for protection of consumers. It also stresses the need for development of strong consumer protection policies.

This is an overview of State of the Indian Consumer. Analyses and reporting have been done in the framework of the eight consumer rights, which the Guidelines addresses under five sections. The rights are:

- Basic needs,
- Safety,
- Choice,
- Information,
- Consumer education,
- Redressal,
- Representation, and
- Healthy environment.

The Report finds that while in some matters the implementation goes beyond the Guidelines, in most cases much remains to be done. For example, on the consumers' right to healthy environment the Guidelines limits its recommendations to environmental issues related to the use or misuse of pesticides and chemicals. However, India has a comprehensive legislation: Environment Protection Act, 1986 as well as specific laws covering other aspects such as air and water pollution etc.

On the other hand, while the Guidelines calls upon governments to adopt integrated drug policy, the drug policy announced in September 1995 is limited than the one of before. The policy looked after the interests of pharmaceutical industry only. Apparently, there was no consultation by the Ministry of Chemicals & Fertilisers (the relevant authority) with either the Health Ministry or the Consumer Affairs Ministry or civil society organisations, while drafting and adopting the policy.

The examples cited above point out structural as well as systemic problems relating to the implementation of measures for consumer protection. The major problem is that there is a plethora of laws but poor enforcement (implementation), on the one hand. On the other, the sheer population creates market asymmetries. Bureaucratic insouciance, inertia and the ubiquitous corruption and the overall lack of good governance worsen these two factors.

The Guidelines also calls upon governments to enhance regional and international co-operation, but India has done little in this regard. For

example, SAARC (South Asian Association of Regional Co-operation) has 11 Technical Committees dealing with myriad issues, including poverty alleviation, but not one deals with consumer protection holistically. One reason for this could also be the lack of consumer protection legislation in the SAARC countries such as Pakistan and Bangladesh.

Furthermore, the Report also find that the Government of India has never addressed the need for a comprehensive consumer policy. It argues for one as the basis for good governance and protection of consumer rights. For this, a draft National Consumer Policy statement is provided as annexure to the Report.

BASIC NEEDS

The first and foremost question is why do consumers require “basic needs”. A simple answer is, for survival and dignified living. Then the related question—what is dignified living? The answer lies in justice—social, economic and political. And, unless there is justice there cannot be a free and fair society.

In India, the conventional thought with respect to basic needs was proverbially limited to three items—*Roti, Kapda aur Makan* (food, clothing and shelter). Over time, several other essential items were included in the basket of basic needs—drinking water and sanitation, education, and health care. However, at least two more items are required to be added to complete the space called “basic needs”:

- the right to energy, without which one cannot light the home or the hearth; and
- the right to transportation, without which one cannot travel for work, necessity or pleasure.

Thus, there are two ‘goods’ and six ‘services’ under the ambit of ‘basic needs’. Without the fulfilment of these eight needs, it is difficult for a human being to live in a dignified manner.

More importantly, the issue is a sub-national one, i.e. under the management of either state governments or local governments. Resource constraints and lack of good governance hamstring these. Hence, the fulfilment of this crucial right varies from poor to bad. For example, local municipal authorities are required to provide a raft of civic services such as sanitation, drinking water etc. They are also empowered to

regulate sectors such as entertainment, food marketing, health care etc. within their local jurisdictions. More often than not, both their functions as providers or regulators range from poor to bad. To protect themselves from being mandated to perform by courts, some of them have institutionalised protective clauses in their legislation. Thus, the Calcutta Municipal Corporation Act, 1980 prefaces its mandatory function with a clause: “subject to available resources.”

What does the Guidelines say?

With respect to the right to basic needs, the following objectives are mentioned in the Guidelines:

- when formulating national policies and plans with regard to food, Governments should take into account the need of all consumers for food security;
- governments should, where appropriate, adopt or maintain policies to ensure the efficient distribution of goods and services to consumers;
- improve the quality and appropriate use of pharmaceuticals through integrated national drug policy;
- develop national drug policies that could address procurement, distribution, production, licensing arrangements, registration systems and availability of reliable information on pharmaceuticals taking into consideration the work and recommendations of WHO in this area; and
- develop, maintain and strengthen national policies to improve the supply, distribution and quality of drinking water.

Right to food

With respect to food, a broad definition of the right can be given in terms of food security. The issue of food security is a complex one. One has to consider not only the macro objective of food availability, but also people’s ability and access to acquire food.

In India, the per capita per day food grain availability was only 510.1 grams in 1991. In recent years, the annual rate of growth of food grain production is less than that of population—falling level of per capita availability!

Regarding food security, which the Guidelines mentions, but without much stress, the situation in India is bereft of structural problems (rigidities). Certainly, the issue is not that of availability *per se*.

There is a number welfare measures catering to the need for ensuring food security for the poor; the public distribution system (PDS) being a major one. Despite its changing nomenclature, the PDS has not succeeded in its avowed objective. The reasons are many, and some of them are in-built in the system itself. For example, one major reason for corruption in the system is the low margins allowed to the fair price shop (retail outlets of the PDS) owners.

However, the most important reason for failure of the system is that of the faulty perception of the objective behind it. It is to be noted that the PDS is not an alternative avenue for marketing of food grain but an institutional mechanism to ensure the availability of food at reasonable prices. Therefore, the objective should be based on the benefit principle, and not whether people are able to pay for food or not.

Right to clothing

In 1992, per capita availability of fabrics was 26.7 sq. metres. The Guidelines does not speak about clothing. However, clothing is a fundamental need, and therefore, it comes under the right to basic needs. Thus, the Textile Policy should address the issue: how this basic necessity can be provided to the poor.

The issue was addressed in the Textile Policy, 1985 and the Textile (Consumer Protection) Regulation, 1988. The main objective was to enable the sector to increase production of cloth of good quality at reasonable prices for the vast population of the country. Another important measure was the de-licensing of the sector in August 1991. Under this policy, no prior approval is necessary to set up textile units including power looms, i.e. to enable increased availability as well as decentralised access to clothing.

Right to health care

Health care is an area where the state has a major role to play. The Guidelines urges governments to improve the quality and appropriate use of pharmaceuticals through an integrated national drug policy.

In India, the overemphasis on curative aspects of health care has resulted in a lop-sided health care system (in 1991, population per unit of primary health centre was 29,942). The National Drug Policy, 1994 did address this issue, *albeit* unfocused. The objective should be based on the preventive aspects of health care under the decentralised system of planning, and a rational drug policy.

Right to drinking water and sanitation

A related issue to the right to health care is the supply of safe drinking water and sanitation. Without this, the health care objectives cannot be fulfilled. The Guidelines urges Governments to develop, maintain and strengthen national policies to improve the supply, distribution and quality of drinking water. Thus, it is the responsibility of the state organs to formulate appropriate policy, and to provide this vital utility service.

In 1986, the Government of India adopted the Technology Mission on Drinking Water under which more than Rs. 20,000 Crores (US\$ 4.73bn) has been spent. But only 55.92 percent rural households had access to safe drinking water in 1991.

Right to shelter

Another basic need is housing or shelter. The Guidelines is silent on this issue. Here also, the state should formulate the broad policy objective and address the implementation problems. Further, there is the vulnerable section (poor, low-income, disadvantaged consumers) of population for whom direct state intervention is necessary.

In 1988, the Government of India adopted the National Housing Policy. Among others, the Policy called for sustainable housing. However, in 1991, only about 42 percent houses were of permanent quality.

Right to education

The truth is that nobody can take part in the development process without having a basic knowledge of what is going on around her/him. In other words, education expands one's horizons. The Guidelines does not say anything on general education, as a basic need.

In India, successive education policies (National Policy on Education, 1986, the Revised Education Policy, 1992) failed to address the basic issue of universal and compulsory education. The adoption of a two-track approach—formal and non-formal education—has further accentuated the problems regarding primary education. An interesting trend is that, in case of primary education, the rate of growth of students per institution (174 in 1991 as compared to 149 in 1981) was greater than that of institutions per sq. kilometre (0.17 in 1991 and 0.15 in 1981). This indicates an increase in enrolment ratio and pressure on existing infrastructure to cater to the demand for education.

Right to energy

Energy is a utility service. The Guidelines does not address this issue. With respect to energy, the issue is not only that of supply, but at affordable cost. In India, it is the decentralised source, which meets most of the energy demand in rural areas. For example, in 1991, per capita electricity consumption was only 342 kwh. Therefore, a harmonisation between the centralised and decentralised (local level) energy requirement is required. The Advisory Board on Energy Study and the Energy Demand Screening Committee adopted this view.

Right to transportation

The Guidelines does not address this issue of vital utility service. As in the case of energy, with respect to transportation also, it is necessary to address the issue in terms of people's access and ability to proper mode of transportation. In 1990-91, about 50 percent roads in India were in unsurfaced category. Furthermore, there was only 0.61 km of road length per sq. kilometre of geographic area. Even further, the rail service reaches only 3 percent of villages. Therefore, there is the need to adopt an integrated transport policy, taking both road and rail transport into account.

SAFETY

The right to safety is important for safe and secure living. Without any effective regulatory mechanisms consumers suffer most in terms of safety. In this context, the adage *caveat emptor* (buyers beware) is appropriate. Therefore, the right to safety means the right to be protected against

products, production processes and services, which are hazardous to health or life. It includes concern for consumers' long-term interests as well as their immediate requirements.

What does the Guidelines say?

The Guidelines considers the right to safety as one of the fundamentals. They provide a framework under which governments should adopt and enact policy and legislation to ensure this right to consumers.

The following provisions are specified in the Guidelines:

- adopt food safety measures, including safety criteria, food standards and dietary requirements, effective monitoring, inspection and evaluation mechanisms;
- adopt food standards of FAO, WHO CODEX Alimentarius or generally accepted international food standards;
- measures and standards to ensure safety and quality of goods and services;
- facilities for testing and certification of essential goods and services; and
- policies to ensure that manufacturers compensate for defective or hazardous products.

What is the situation in India?

In India, there are constitutional, legislative and administrative provisions with respect to this right. Among the constitutional provisions, the most important one is the protection of life and personal liberty (Article 21). Legislative provisions formulate regulations and standardisation. Two major legislations are the Prevention of Food Adulteration Act, 1954 and the Bureau of Indian Standards Act, 1986. The administration deals with the implementation of these provisions.

However, laws relating to consumers' safety are not comprehensive—bits and pieces exist. Furthermore, when it comes to implementation the situation is dismal, to say the least. The issue of safety in the delivery of services also lies with local governments. For example, it is the responsibility of municipalities to ensure that fire safety arrangements are made in cinema halls, which are situated within their jurisdictions.

Why is it so?

Lack of proper implementation is due to, and coupled with, the overall non-accountability of the system. Other drawbacks are the abject condition of testing facilities and inappropriate information dissemination in the country.

What are the solutions?

Therefore, what is needed is a holistic policy with respect to the right to safety. In other words, the Government of India should draw up an integrated and effective consumer safety policy; especially the creation of independent Consumer Products and Services Safety Commissions at the national as well as sub-national levels. Such a policy should be based on the following legislative and administrative measures:

- standardisation, regulation and enforcement;
- mandatory standards and notification system for hazardous goods and services;
- safety parameters in all legislation governing services like electricity, transportation etc.;
- standardisation body for certification;
- legislation governing not only compensation, but product liability, and product recall and replacement;
- international and regional co-operation for ensuring safety standards which are implementable across different countries and cultures;
- easy facilities available for consumers to check adulteration and sub-standard goods; and
- encourage consumer organisations for comparative testing with protection against libel/defamation.

The second major area of improvement is an integrated study of accidents in all spheres and other cases related to consumer safety. Another area of improvement could be the monitoring of the implementation process and, for this, it is necessary to advocate for transparency and public accountability in the way decisions are taken.

CHOICE

The right to choice deals with the issue of choosing between different alternatives. Under the micro perspective, it is the consumers' income and marketplace distortions, which determine their right to choose between different goods and services. However, the macro aspects of this right rest on the broad economic policy objectives of the Government. In other words, there should be compatibility between the development objectives and the right to choice.

Simply speaking, the right to choice can be defined as an assurance, wherever possible, of availability, ability and access to a variety of products and services at competitive prices. Then the related issue—does 'competitive' price always mean 'just' price? It is here that the role of institutions (by taking into account both consumers' as well as producers' interests) comes in, i.e. to pursue the objective of right to choice under the framework of "welfare state".

What does the Guidelines say?

The Guidelines does not address the issue directly—it deals with its economic aspects only under its section on promotion and protection of consumers' economic interests.

The broad objective of protecting consumers' economic interests is to provide an enabling framework under which consumers can obtain optimum benefits from their available economic and other resources. Another major objective is to ensure that the providers of goods and services adhere to established laws and mandatory standards so that consumers' economic interests are not violated.

In specific terms, the Guidelines speaks about the following provisions with respect to the right to choice:

- control of abusive and restrictive business practices;
- goods that meet durability, utility, reliability and fit their purpose and availability of reliable after sales service and spare parts;
- protection of consumers from unfair contracts and regulation of promotional markets and sales; and
- review of legislation and enforcement of weights and measures.

What is the situation in India?

In India, there are several legislative and administrative measures which address the issue of the right to choice. One of the most important one is the Monopolies & Restrictive Trade Practices Act, 1969. The objectives of this Act are to ensure fair competition among the producers as well as service providers. Also, the objective is to give consumers as many choices as possible. Another important act is the Bureau of Indian Standards Act, 1986. It seeks to set up a benchmark of high quality supported by a visible presentation. The idea is to help consumers to make informed choice.

The implementation of this right involves several players—government (legislative), bureaucracy, producers, middlemen, and consumers. However, what is lacking is that of a holistic policy. The existence of too many laws and players make it difficult for implementation.

Why is it so?

Improper implementation of the right is due to several factors. A major factor is that of limited information about the products. The situation is further aggravated by the absence of effective regulatory mechanisms, both in product as well as utility sectors.

The second drawback is that often people are occupied with pre-conceived ideas regarding the process of development. Thirdly, the Indian producers are mostly engaged in price competition, not the quality competition, which is an essential factor for consumers' satisfaction and value for money. Fourthly, very often the right has not been properly implemented due to the dubious role (like forcing an uninformed consumer to buy a particular brand) played by the middlemen. Finally, consumers are also responsible for its lack of implementation. This is due to the peculiarity of the majority of Indian consumers; they want their right but, at the same time, shirk their responsibility.

What are the solutions?

In order to improve the situation/system, policy interventions are required in three areas—availability, information and regulations. By availability, we mean removal of constraints like hoarding, black marketing etc., and to ensure fair play in business.

Secondly, there should be right information about the product so that consumer can make free and fair (informed) choice. Misleading advertisement should be declared an economic and moral offence. On regulations, an effective competition policy is required to protect consumers' economic interests (and also for public interest), particularly in this era of globalisation. Furthermore, the role of the state and the market should be compatible and complementary—not substitutes to each other.

INFORMATION

The objective definition is the right to be informed about the quality, quantity, potency, purity, standard and price of goods or services as the case may be, so as to protect consumers against abusive practices like price distortion etc. Therefore, the right to information is essential for making “informed decisions”. Therefore, consumers must be provided with adequate information, enabling them to act wisely and responsibly.

What does the Guidelines say?

The Guidelines sets down various means to promote the interests and needs of the consumers. These means are to be used as a standard against which various practices (production, dissemination of information etc.) that have a bearing on consumers would be tested for their effects. The Guidelines also calls for necessary legislation relating to diffusion of information for consumer protection.

The following provisions are mentioned in the Guidelines with regard to consumers' right to information:

- information for consumers on proper use and risks associated with consumer products; and
- free flow of accurate information relating to consumer products.

What is the situation in India?

In India, the implementation of this right is being done through constitutional, legislative and administrative provisions. Various interpretations of Article 19 (2) clearly state that there should be a definite policy or uniform guideline on the part of the state to help consumers make “informed choice”. Furthermore, provisions regarding the right to

information are provided under the Consumer Protection Act, 1986, the Monopolies & Restrictive Trade Practices Act, 1969, the Standards of Weights and Measures Act, 1976, the Bureau of Indian Standards Act, 1986 etc. However, the drawback of the system lies in its inadequate implementation.

Why is it so?

Implementation problems are due to several factors. A major one is the inter-play of too many actors, and with little co-ordination. For example, there are confusing advertisements for the same kind of product. And, without any comprehensive regulation or definite guideline (covering all products and services), consumers are not able to make proper use of information provided. Another major problem is ineffective dissemination of information due to the lack of effective institutional mechanism. This is particularly affecting illiterate and disadvantaged consumers.

What are the solutions?

The imperative is to make a holistic policy for dissemination of information in simple language, and proper use of appropriate information. However, the holistic policy should not be interpreted as an avenue for centralisation. Therefore, the requirement is “a law” at the national level, whose implementation is to be made in a de-centralised manner at the sub-national levels.

The following legislative and administrative measures are to be considered for the proper implementation of the right to information:

- strengthen the legislation on mandatory labelling/information on both consumer products and services;
- governments at national, sub-national and local levels to provide resources and mechanism for developing effective delivery of user-friendly information to not only illiterate but also literate consumers; where it cannot, it should:
 - empower consumer organisations to carry out the task; and
 - encourage mass media to allocate time for consumer information.

CONSUMER EDUCATION

The right to consumer education means the right to acquire the knowledge and skills to be an informed consumer. Thus, the right to consumer education envisages the right to knowledge and skills needed for taking actions to influence factors which affect consumers’ decisions.

What does the Guidelines say?

According to the Guidelines, the governments should develop and encourage the development of general consumer education programmes, bearing in mind the cultural traditions of the people concerned. The aim of such programmes should be to enable people to act as discriminating consumers, capable of making informed choice of goods and services, and conscious of their rights and responsibilities. In developing such programmes special attention should be given to the needs of disadvantaged consumers.

The following provisions are mentioned in the Guidelines:

- introducing consumer education in the basic curricula of the education system;
- governments to develop consumer education programmes in mass media aimed at rural and illiterate consumers.
- education programmes particularly for the benefit of low-income consumers in rural and urban areas;
- business to undertake/participate in factual and relevant consumer education programmes; and
- governments to organise training programmes for education, mass media professionals etc.

What is the situation in India?

The central and state governments have accepted the introduction of consumer education in school curriculum. The National Council of Education Research and Training (NCERT) is working on developing syllabus and textbooks on consumer education. The Indira Gandhi National Open University (IGNOU) has devised a syllabus for distant education on consumer protection.

REDRESSAL

Furthermore, the Government of India through the Consumer Welfare Fund has the provision to fund consumer education programmes undertaken by consumer groups or the state governments. It is to be mentioned here that the role of the press is vital for educating consumers. Today, most of the leading Indian periodicals carry regular consumer columns, while television channels also have regular consumer programmes.

However, experience indicates that educating consumers is not the same as informing them. It is an endlessly demanding task; of time, personal dedication and money. The situation in India is not different.

Why it is so?

In India, consumer education faces the universal problem of matching limited resources against an infinite need. Furthermore, in a large country like India, with multiplicity of languages, the problem is of larger dimension. Apart from the problem of resources, there is also the lack of planning in developing a comprehensive curriculum for consumer education.

What are the solutions?

The general consumer education should be need-based. It should attempt to teach a value system which goes beyond purchasing skills, wise use of money and possessions and effective complaining, to encompass a countervailing notion of sustainable consumption. Such a programme might include care for the environment, duties and obligations as well as rights, concern for the disadvantaged, and an awareness of the finite resources of the economy. And, this requires motivation on the part of different actors—executive, planners, teachers, and students.

To achieve that the imperative is to adopt the following administrative and legislative measures:

- consumer education programmes through co-operation with other branches of the government like the Education Ministry and business chambers;
- budgetary provisions and institutional mechanism to be provided to conduct training on a regular basis; and
- consumer organisations and other NGOs to be provided resources to carry this out effectively.

The right to redressal means the right to a fair settlement of just claims, not only economic but also social and political. The socio-political dimension of the issue stems from the fact that in a stratified society (polity) like India, vulnerable sections may not have real access to justice. It includes the right to receive compensation for misrepresentation of shoddy goods or unsatisfactory services and the availability of acceptable forms of legal aid or redress for small claims where necessary.

What does the Guidelines say?

The Guidelines provides a framework for the governments to use in elaborating and strengthening consumer protection policies and legislation. One of the major objectives of the Guidelines is that the governments should establish or maintain legal and administrative measures to enable consumers to obtain redress through formal and informal procedures that are expeditious, fair, inexpensive and accessible. Another objective is to encourage all enterprises to resolve consumer disputes including advisory services and informal complaint handling mechanisms. The third objective is that the information on available redress and other dispute resolving procedures should be made available to consumers.

What is the situation In India?

In India, until the Consumer Protection Act (COPRA), 1986, consumers had to rely upon a number of legislations but none provided effective remedy against violation of consumers' rights. COPRA was designed with the specific purpose of protecting consumers' rights and providing a simple quasi-judicial dispute resolution system for resolution of complaints. The rationale of the Act is to take the system of redressal to the people's doorstep.

Furthermore, COPRA envisages the establishment of Consumer Protection Councils at the Centre and in the states whose main object is to promote and protect the rights of consumers. These Councils are advisory bodies and meet once a year with a generalised agenda. Apart from the COPRA, redressal mechanisms are incorporated under the Monopolies & Restrictive Trade Practices Act, 1969, Indian Arbitration Act, 1940 (revised in 1997), and through codes of ethics of business. However, despite the existence of such a holistic law, the situation in

India (with respect to consumers' redressal) is bereft with problems (like delays in judgement, non-compliance with consumer courts' orders etc.).

Why is it so?

The first and foremost problem is that, most state governments do not evince requisite enthusiasm and attention in promptly implementing the provisions of the Act by carrying out their mandatory obligation of establishing properly functioning District Forums and State Commission. Secondly, even with the existence of justice delivery system, the system is plagued by systemic problems resulting in inordinate delays. Apart from these, consumers are also reluctant to make use of the redressal system. One major reason is the absence of proper guidance from voluntary organisations and fear of exploitation by lawyers.

What are the solutions?

In Section 2 (1) (d) of COPRA, the definition of consumer is limited and restricted in its scope and ambit. In a welfare state like India, the government is the biggest provider of services, especially to the poor. The exemption of these services, on the ground of want of consideration results in a defeat of the purpose of the right to redressal. Therefore, the definition of the word 'consumer' should be inclusive to encompass all such services so as to make equal access to justice a living reality.

Secondly, there should be a Product Liability Law to save consumers from ill effects, and to proof 'fault' in the product and 'negligence' of the manufacturer. Such law should relieve consumers from the obligation of establishing negligence.

Thirdly, there should be speedy redressal of cases. And for this, three things have to be done on a priority basis—improve the institutions, upgrade the quality of the personnel, and simplify the procedures.

In order to fulfil the objective of effective consumer redressal, the following legislative and administrative measures are to be taken:

- strengthen the existing forums for consumer disputes;
- adopt legislation for alternative dispute resolution or binding arbitration;
- co-regulation with mandatory participation of public interest groups;

- encourage business to establish ombudsman schemes to avoid costly and time consuming litigation;
- business to establish consumer cells under their Chief Executives;
- chambers to
 - pursue the adoption of voluntary codes;
 - consumer complaints cells;
 - voluntary arbitration mechanisms; and
 - most importantly, information dissemination about these measures.

REPRESENTATION

The right to representation (to be heard) means the right to advocate consumers' interests with a view to their receiving full and sympathetic consideration in the formulation and execution of economic and other policies.

This right includes the right to representation in the Government and other policy-making bodies as well as in the development of products and services before they are produced or set up. In other words, the right to representation is a right as well as responsibility on the part of the civil society to get justice.

What does the Guidelines say?

The Guidelines suggests following objectives with respect to the right to representation. First, the governments should facilitate the development of independent consumer groups. Secondly, the opportunities for the consumer groups to present their views in the decision-making processes (to speak on consumers' behalf) affecting consumers at large. Therefore, the broad objective of the right to representation is to protect consumers, particularly the disadvantaged ones, from various abuses.

What is the situation in India?

In order to facilitate the process of representation, the government has set up different Committees of the Union Parliament as well as representation mechanisms in various Departments. Both the Houses

of Parliament have own Petitions Committees and petitions on public issues may be presented to each or any one of them. The Committee also considers representation including letters and telegrams from individuals and associations, which are not covered by the Rules in relation to the petitions and give directions for disposal.

The second important representation mechanism is that of complaints to the government departments (under Article 350 of the Constitution of India). The Directorate of Public Grievances handles complaints to the Central Government. Thirdly, any individual or association can seek redressal through representation by filing writ petitions at the Supreme Court or at the High Courts. Fourthly, there is the proposal to introduce the Freedom of Information Bill which will facilitate the process of representation. Finally, consumer and other groups are using their right to representation as members of various Committees of the Government.

However, again the problem is that of over-burdening the justice delivery system, and the apathy of the government machinery to hear peoples' concerns..

Why is it so?

A major reason for the none-to-impressive representation system is due to the built-in corruption in the system itself. Corruption leads to unnecessary delay in seeking justice. Secondly, there is a lack of effective co-ordination between different consumer organisations to enforce proper representation. The third major factor is the lack of proper handling of different representations, and decisions on them.

What are the solutions?

Firstly, there should be a balance between supply of and demand for justice. Secondly, administration should be effectively trained to handle the situations, as and when the needs arise. Thirdly, there should be a simple and holistic right to representation law, covering the entire gamut of the issue. Fourthly, and most importantly, consumer organisations should increase co-operation among themselves and other NGOs—to make speedy and effective representation on important issues.

The following legislative measures are necessary for proper implementation of the right to representation:

- strengthen the legislative intent and resources require to ensure the development of an independent consumer movement;

- constitutional provision is required for not only for access to information but representation as a fundamental right of citizens; and
- mandatory consumer impact assessment and consultation will be required in every area of governance where consumer interests are affected.

RIGHT TO HEALTHY ENVIRONMENT

Consumers not only have the right to consume goods and services, but should do so in a sustainable manner. In other words, resources used in the production and consumption of goods and services should be utilised in a healthy and ecologically sound manner. This is the rationale behind the right to healthy environment. Consumers can have access to the right to healthy environment through redressal and information.

The object of environmental law, however, is not simple. In actual practice, both in the formulation of law and the actual application of it, one finds a great deal of complexity. Therefore, the issue has to be approached from two angles—quantitative as well as qualitative factors relating to the right to healthy environment.

What does the Guidelines say?

The following objectives are stated in the Guidelines. Firstly, the governments should adopt measures relating to use, production and storage of pesticides and chemicals. Secondly, the Government should ensure the inclusion of health and environmental information in labelling of pesticides and chemicals. The Guidelines does not specifically talk about sustainable production and consumption.

The Guidelines is under review now. A seperate section on promotion of sustainable consumption is added into it. Sustainable consumption as defined in the Guidelines includes meeting the needs of the present and future generations for goods and services in ways that are economically, socially and environmentally sustainable.

What is the situation in India?

In India, there is an holistic law with respect to the right to healthy environment—the Environment Protection Act, 1986. The Act provides the guidelines for the management of hazardous wastes etc., e.g. safety report, safety audit etc. However, when it comes to the implementation stage the effectiveness of the law gets diluted.

Why is it so?

One reason for ineffective implementation is the multiplicity of laws, which in turn leads to multiplicity of administrative mechanisms, and thus complexity in implementation.

Furthermore, implementation ineffectiveness is accentuated due to the confusion regarding its interpretation in legislation and those in case laws (judiciary). The third important reason is lack of awareness on the part of consumers regarding hazardous nature of pesticides and chemicals. The fourth important reason is ineffective training on the part of the people—responsible for ensuring healthy environment.

What are the solutions?

Thus, the issue comes down to how to improve the system. One way to do so is through enactment of sub-ordinate legislation under the broad purview of the EPA, 1986. Another effective way out is training of officials dealing with environmental laws. The third route is through the creation of a decentralised institutional framework for diffusion of information to consumers at large.

To achieve the objectives and ways out, the following measures should be adopted:

- strengthen legislation relating to regulation and control of pesticides and chemicals including preventative and compensatory provisions;
- mandatory labelling and education programmes obliging manufacturers to notify hazards to Governments and users;
- education programmes for users of pesticides and chemicals; and
- international co-operation in regulation of trade in banned/severely restricted pesticides and chemicals.