

The Consumer Rights Protection Act 2009 in Bangladesh: Revisiting with Reformatory Approach

Ahmad Rajib Chowdhury *

Abstract

Consumer protection through legislative intervention is considered to be the most effective way to ensure the rights of the consumers. The Consumer Rights Protection Act of 2009 was enacted in Bangladesh in order to safeguard the rights of the consumers mainly from hazardous goods and services. Some provisions of reparation by means of compensation, product refunding etc. were inserted here as a part of civil redress process apart from criminal prosecution against the offenders. However, it is a matter of great regret that this unique legislation had been ineffective from the very starting point of its execution in 2009 due to some inherent problems. Problems like bureaucratic constitution and power of National Consumer Rights Protection Council, exclusionary provisions for the consumers' direct access to the court to seek remedy, excessive power of the consumer directorate, limited scope in addressing service sector, absence of legal experts in executing bodies and council, non representation of core consumers from grass root level, shortage of funds of the consumer awareness and advocacy etc. have forcefully made this core consumer protection legislation to remain obsolete till today. This article aims to find out the loopholes of the Consumer Rights Protection Act, 2009 in Bangladesh and to give proper suggestions thereof resorting to comparative analysis especially with India and previous drafts on consumer protection available in Bangladesh.

Keywords: Consumer Protection, CRPA 2009, Legislative Framework for Consumer Protection.

1.0 Introduction:

The notion of consumer rights now-a-days has become a burning issue in the process of growing globalization where consumers are said to be in the last stage of consumption. Throughout the centuries of human civilization, haggle between consumers and suppliers has paved the way for establishing some internationally recognized rights of the consumers. Consumer movements and awareness about consumer rights are at a very important stage now because of market based economy that is prevalent in all the countries of the world. Almost every country of the world now has a consumer policy with relevant legal and Institutional framework for the protection of the consumers.

* Assistant Professor
Department of Law
Premier University, Chittagong, Bangladesh
Email: rajibculaw@gmail.com, Cell: +880-1816360510

The concept of consumer has its own interdisciplinary root in various disciplines. In simple term consumer denotes 'an individual who purchases and uses products and services in contradistinction to manufacturers who produce the goods or services and wholesalers or retailers who distribute and sell them' (Lehman & Phelps, 2005, p.141). Legislative interpretation of consumer tends to include broadly all persons who pay money for goods and services including wholesalers and retailers (*Morgan Stanley Mutual Fund v. Kartick Das*, 1994, Para 26) [1].

Therefore, consumer protection phenomenon encompasses laws and policies regulating price policies, financing practices, quality of goods and services and other trade practices (Lehman & Phelps, 2005, p.141). Consumer protection through legislations or legislative framework has been considered the most effective way for ensuring the rights of the consumers apart from other protections like institutional protection and voluntary protection (Afroz, 2007). A comprehensive consumer protection legislation aims not only at protecting and promoting the rights and interests of the consumers but also enhances various socio-economic targets like poverty alleviation, efficient, fair and transparent market mechanism, good governance and above all, socio-economic justice for its citizens (Afroz, 2010).

In the process of consumer protection, states try to ensure some common standards *inter alia* like protection against the marketing of goods and services hazardous to life and property, rights to be informed about the quality, quantity, purity, standard and price of goods and services, the right to be heard and to seek legal redress against unfair trade practices. In the absence of any consumer protection law, consumers are being provided with sub-standard poor quality goods and adulterated food products which can cause serious public health hazards therefore creating a social concern (Belal, 2008, p.45).

In Bangladesh, The Consumer Rights Protection Act of 2009 (hereinafter cited as the CRPA) (The Consumer Rights Protection Act [CRPA] of 2009) came into effect on 6 April 2009 as an offspring of a two-decade consumer movement to safeguard the interests of the consumers. After the CRPA was enacted, it had been expected that it would create a sustainable system which would not only define and protect the rights of the consumers but also prevent abuse of consumer rights. But due to some inherent loopholes, the CRPA has failed to create minimum degree of credibility, momentum and acceptance among the consumers. The hope of the consumers shattered quickly as the law proves inadequate to protect the interest of the consumers. At this stage, proper reform of the CRPA has been felt for the effective implementation of consumer protection in Bangladesh. For this purpose we may seek help and analysis from previous draft law on consumer protection law prepared by the Law

Commission of Bangladesh (Law Commission Bangladesh, 2000) and legislations from different countries. This article hence seeks to find out the lacunas of the CRPA with recommendations wherever applicable through comparative analysis.

2.0 Background history of the CRPA

Prior to the enactment of CRPA in 2009, some legislations [2] indirectly protected the rights of the consumers in Bangladesh. However, those provisions did neither create a common framework for the consumer protection nor they defined the term consumer in the fullest sense. Rahman (1994) argued those scattered provisions as 'scanty,' 'scattered over a whole range of enactments' and 'only indirectly related to the protection of consumer interests' (p.351). The Constitution of Bangladesh is referred mostly as it has indirectly recognized the rights of consumers to a limited extent in Article 15 and 18 (The Constitution of the People's Republic of Bangladesh [CONST] of 1972) [3]. These provisions remain mostly non-enforceable in the courts of law as they are mostly mentioned as 'fundamental principles of state policy' (CONST, chapter II) rather than 'fundamental rights' (CONST, chapter III) in the Constitution of Bangladesh.

A unique piece of supplementary and coordinating legislation was therefore necessary for the actual protection of the rights of the consumers to create a common legislative framework. As a core legislation, the CRPA was enacted in 2009 as an addition (§3) to the existing legislations for consumer protection after a two-decade slow moving process by the then respective political governments. Since early 1990s, the movement for adopting a comprehensive legislation for the consumers gained its proper velocity. A draft Consumer Protection Act was formulated in 1998 by the Ministry of Commerce and the Law Commission Bangladesh suggested various changes to the draft Act so prepared in February 2000 (Afroz, 2002). This draft never turned into legislation. In 2006, a new revised draft of Consumer Protection Act was framed. Later on, the previous Caretaker Government promulgated the Consumer Rights Protection Ordinance in 2008 which can be considered as the precursor of the CRPA as the next government did not ratify the said Ordinance rather it passed the CRPA with minor changes in the Ordinance of 2008.

3.0 Salient features of the CRPA

The CRPA mainly focuses on product safety and product quality through defining 'consumer' in a broader sense covering various categories of persons like purchaser of any product or service by means of full or part payment, user of goods with the consent of original buyer, reselling wholesalers and retailers doing business by means of self employment for earning livelihood and

beneficiaries of service (§2[19]). Transport, telecommunication, water supply, drainage, fuel, gas, electricity, housing construction, residential hotel, restaurant and health service are included in the service sector (CRPA, §2[22]).

The CRPA lays out provisions for establishing the National Consumer Right Protection Council (NCRPC) (§5) and the National Consumer Right Protection Directorate (the Directorate) in the central administrative level (§18) as well as committees in the District, Upazila and Union levels (§§10 & 13). The NCRPC is entrusted with the functions of giving direction to the Directorate and District committees, making necessary regulations, taking proper steps for the effective implementation of the CRPA, advising and recommending Government wherever necessary etc (§8). Responsibilities of the District committees *inter alia* include compliance and cooperation with the direction of the NCRPC, creating public awareness, inspecting and examining manufacturing organizations (CRPA, §11).

Headed by the Director General (hereinafter the DG), the Directorate is set to cooperate the NCRPC in performing all of its functions and to execute the decisions under this Act (CRPA, §18[2]). The DG has the responsibilities to take all necessary actions as he deems expedient and necessary for protection of consumer rights, prevention of anti consumer rights practice, disposal of the complaint against violation of consumer rights (CRPA, §21[1]). The DG and any other officer appointed by him will have the powers regarding issue of warrant of arrest, search, order of temporary shut down of any business enterprise for any anti consumer rights practice, disposal and distribution of goods etc (CRPA, §§23-36).

The Act clearly defines various ranges of consumer offences and sets out the punishments for the same (CRPA, §§37-53). The courts of first class Magistrates or the Metropolitan Magistrates are empowered to try consumer offences (CRPA, §57). However, an aggrieved consumer cannot go directly to such courts to take action against consumer offences. Right to sue or *locus standi* in case of such offences is given to the Director General or any officer appointed by him for that purpose (CRPA, §71).

For the first time in Bangladesh, the CRPA has introduced reparation for the victims in criminal prosecution allowing 25% of the imposed fine to the complainant (§76[6]). It has also opened scope for civil remedies (CRPA, §67) [4] as the consumers can go to the respective civil courts directly in addition to remedies under criminal prosecution.

District Magistrate within his local limit or any Executive Magistrate appointed by him enjoys power like the DG under the CRPA (§69). The DG has been given an extraordinary power to settle consumer offences by imposing administrative fine without resorting to the court of Magistrate (CRPA, §70[1]).

4.0 Lacunas in the CRPA and possible recommendations

4.1 Declaration of consumer rights and representation

The CRPA, as the title goes, tends to protect the rights of the consumers. Unfortunately, rights of the consumers have been stated nowhere in this Act. Insertion of basic consumer rights like right to safety, right to information, right to choose, right to be heard, right to consumer education, right to be redressed and right to a healthy environment would have been better to enhance wide range of protection to the consumers allowing the courts to take liberal interpretation regarding the scope and extension of consumer protection. The CRPA limits the scope of interpretation describing some acts and omissions as 'acts against consumer rights' (§2[20]) without defining the term 'consumer rights'. Section 6 of the Consumer Protection Act of 1986 (hereinafter cited as the CPA 1986) of India has inserted the right to be protected against hazardous good or service, the right to be informed about the quality, quantity etc., the right to access goods and services at competitive prices, the right to be heard, the right to seek redressal and the right to consumer education (The Consumer Protection Act of 1986). We can follow such example to insert some basic rights of the consumers in the CRPA. Moreover, consumer representation has not been addressed as no provisions remain there for the core consumers or grass root consumers to share their views in different bodies established under the CRPA. Only the Consumer Association of Bangladesh (CAB) as an organization has been said as the representative of the consumers (CRPA, §§5[16] & 10[1][C]). Hence, compulsory presence of grass root consumers must be ensured at least in the District and Upazila level committees in the CRPA through proper amendment.

4.2 Consumers' access to criminal justice and neglected judicial mechanism

The CRPA puts some serious impediments to consumers' access to justice in case of criminal offences. Though various persons and entities are referred as complainant (§2[3]), the term 'complaint' indicates written allegation submitted to the DG or any other officer appointed by him for that purpose (CRPA, §2[2]). So, an aggrieved consumer can only lodge a complaint to the DG within thirty days of the cause of action (CRPA, §60). This Act does not provide any strict responsibility on the DG to file a case to the court of Magistrate. It is said in section 61 of the CRPA that the Magistrate shall not take cognizance of any offence if charge-sheet is not submitted within ninety days of complaint made by the consumer. Moreover, the DG have alternative ways to settle dispute through imposition of administrative fine not going to the regular fling of prosecution to the Court of Magistrate (CRPA, §70[1]). Apparently, redress mechanism under the CRPA is in the hand of the DG which can be detrimental to the rights and protection of the consumers if it is not exercised properly. This

type of restraint in the process of accessing to criminal justice must be removed in order to allow the aggrieved consumers to go directly to the court in case of consumer offences. For example, consumers do have direct access to the redress mechanism in India under the CPA 1986 (§2[c]) and in Thailand under Consumer Protection Act of 1979 where recognized association are allowed to institute civil and criminal proceedings or bring any legal proceedings for the protection of the consumers (Consumer Protection Act [B.E. 2522] of 1979, §41). Administrative settlement of consumer offences through imposition of fine under the CRPA should be removed as it bypasses or neglects the formal judicial mechanism. An offence hence should not be remedied through the hands of an executive. This type of discretion for all offences must be curtailed inserting provisions to submit charge-sheet to the respective court within a reasonable time limit in case of serious consumer offences. The list of complainants can be extended allowing legal heir or representative of the consumer to file complaint like India under the CPA 1986 (§2[b]).

4.3 Paradox of Civil remedies

One of the major impediments of common law remedy in case of criminal proceeding is that courts generally penalize the offenders and there is no scope for victims to get justice through reparation. Laws indirectly relating to consumer protection in Bangladesh generally come with the aim of prohibiting and punishing the suppliers or sellers in case of acts against consumer rights (Belal, 2008, p.9). Therefore, victims' agony cries in wilderness as there remains no restitution. The CRPA is considered a unique peace of legislation as it has provided both civil and criminal remedies for the consumers. Consumers are entitled to claim up to five times compensation of actual damages, to replace the defective product by appropriate product, to take back the defective product and pay back the price to the buyer under civil remedy in CRPA (§67). At *prima facie*, it may seem to include some hope for the victims of consumer offences but it is clearly said that civil remedy is a separate step to be taken by the consumers and it can be availed only when a person is convicted or sued under the criminal proceeding (CRPA, §66[1]). Therefore, it will be impossible for the consumers to get the most desired civil remedies unless criminal proceeding ends with convicting the offender to avoid conflict of judgment. We have seen earlier that *locus standi* has been given to the DG (§2[2]) under the CRPA and he is not bound to initiate criminal proceeding (§60). Irony is that there is no reported case during 2009-2013 from the office of the DG and the civil remedy remains a paradox for the consumers, a haunted one.

4.4 Bureaucratic dominance in the institutions, proceedings etc.

The implementation of decisions largely depends on the action of bureaucracy in the CRPA. Bureaucrats employed by the government hold different positions

in the NCRPC and the Directorate. Many of them have additional responsibilities and lack effort in ensuring rights of the consumers (Chowdhury, 2010). The NCRPC having 29 members allows 18 *ex-officio* posts including Minister, Secretary, Joint secretaries, and high officials from state owned or dominated entities. Rest other posts of respected citizens, experts, representative and the DG are appointed by the government. This statistics clearly shows a bureaucratic dominance in the NCRPC measuring the ineffectiveness of the highest regulative body under the CRPA. The DG being the only full time employee (CRPA, §20[3]) of the NCRPC, we can not hope for the smooth functioning of it. The District committees also represent dominance of the government headed by the District Commissioner (CRPA, §10). Problems are also seen in the decision making procedure of the NCRPC. A decision taken by the NCRPC is considered valid and seeking judicial review is barred though quorum is not fulfilled or there is a defect in the constitution of the NCRPC (CRPA, §7). This type of provision should be changed to maintain transparency in the activities of the NCRPC.

Regarding the appointment of the member of the NCRPC and the DG, the Government holds absolute power under the CRPA. It can cancel the appointment of any member of the NCRPC (CRPA, §6[1]) and the DG without showing proper reasons (CRPA, §20[5]). This allows the Government to control the mechanism within its desire with an absolute domination. In this regard, provisions must be there to maintain impartiality of functioning of the NCRPC thorough adding proper qualification clauses for appointment and disqualification clauses for the removal like many countries have. For example, Consumer Protection Act of 1999 of Malaysia has allowed removal of members from the National Consumer Advisory Council in case of misconduct, incapacity, insolvency and conviction for crime or moral turpitude (Consumer Protection Act of 1999, §77). The Consumer Affairs Authority Act of 2003 of Sri Lanka requires expertise in the field of industry, law, economics, commerce, administration, accountancy, science or health in order to become a member of the Consumer Affairs Authority (The Consumer Affairs Authority Act of 2003, §3). This type of qualification and disqualification clauses should be inserted for ensuring proper functioning of the NCRPC.

It is interesting to see that the NCRPC has not allowed any legal expert from recognized field. Four experts are allowed under the CPRA having expertise on Economics, Commerce, Industries and Public Administration (§5[20]). Absence of legal expert may seriously hamper the activities of the council to remain in line with the existing laws. In this regard, we can put suggestion for inclusion of legal expert in the NCRPC so that such expert can address legal technicalities.

4.5 Problems in the official capacity of the Directorate

The Directorate under this Act enjoys huge discretionary powers with wider functioning objectives to protect the consumers' rights as well as to stem the unscrupulous traders from doing manifold profits through food adulteration and depriving the consumers by weight manipulation etc. throughout the whole country (CRPA, §21). It has been alleged that shortage of manpower and necessary logistic supports are severely hampering the activities of the Directorate and the committees in the district level. Its drives against unscrupulous traders are referred as 'sluggish and ineffective' covering limited protection in comparison to the whole country (Habib, 2011). Campaigning for the awareness of consumer rights and consumer education is also said to be hampered a lot due to shortage of manpower and fund (Habib, 2012). In this regard, it is highly suggested that regular raids of the DNCRP needs to be harmonized with other entities like Bangladesh Standard and Testing Institute (BSTI), mobile courts, city corporations, drug administration and district administrations in order to get the maximum cooperation and output.

4.6 Consumer fund, advocacy and reporting

Advocacy and awareness programs help to establish an educated class of consumers rather than the imposition of laws against the wrongdoers. Lack of sufficient funds may hamper consumer awareness, advocacy and education programs as envisioned by the CRPA to get a higher degree of awareness among the consumers. Responsibilities of educational and promotional campaigns, raising public awareness, undertaking research on consumer rights etc. are given to the NCPRC which are required to be implemented by the DNCRP and the District committees (CRPA, §§8 & 11). These types of wider activities require a huge sum of money whereas the devolution of fund was quite insufficient, i.e. taka 0.09 million in 2010 and taka 0.05 million in 2011 (Asian Development Bank, 2010, p.4). In fact, this type of financial drawback may thwart the desired results to be achieved by the CRPA if such fund flow continues. Moreover, the Council is required to keep accounts of its fund properly and prepare an annual statement of the accounts to be audited by the Comptroller and Auditor General of Bangladesh or any other person authorized by him (CRPA, §§16[1] & 16[2]). We have only one report dated from 24.11.2009 to 30.06.2010 so far at our disposal (Directorate of National Consumer Rights Protection, n.d.). It seems that the preparation and publication of annual report have been stopped afterward indicating a serious deviation from legal obligation. In this regard, we can recommend for proper flow and management of fund with annual reporting system for better functioning of the Council and the Directorate to ensure advocacy and awareness programs. For example, India has framed the Consumer Welfare Fund Rule of 1992 to ensure the best result with national

action plan for consumer awareness proposing Rs. 312 crores for various sectors concerning consumer awareness (Department for Consumer Affairs, 2013). We should set such long-term action plans and monitor the achievements periodically.

4.7 Service Sector, Medical negligence and health service

Service sector as envisioned under the CRPA is quite limited. Transport, telecommunication, water supply, drainage, fuel, gas, electricity, housing construction, residential hotel, restaurant and health service are defined as 'Service' under the CRPA. Financial service sector should be included as disputes regarding consumer service, debt, credit terms and credit cards are on the rise. Service under the state owned enterprises must also be inserted to ensure a greater degree of protection for the consumers. The most important thing will be to insert a 'Deficiency of Service' (CPA 1986, §2[g]) clause adopted by India to ensure greater degree of protection and easy access to redress system for the service receiving consumers.

Medical negligence has always been a debated issue in Bangladesh as there is no adequate forum or appropriate consumer friendly law to prevent the malpractice and to protect the service receiving consumers from the doctors, nurses, diagnostic centres and hospital authorities. The prevailing penal law in Bangladesh is either trivial or vexatious and due to difficulties under the law of torts, strong case law jurisprudence has not been molded (Billah, 2013). In the CRPA, health service is classified as 'service' under the auspice of consumer protection (§2[22]) and the DG has been given the power to inspect and discover defects in private health care service (§73[1]). The CRPA remains to be inert stating that the DG shall not take any preventive measures in respect of the defects in private health care services and only inform the Secretary of Health Ministry and DG of Health Department (§73[2]). Therefore, still we have the problems in the adjudication of the malpractices in health service. In this regard, India's CPA 1986 allows consumers to file petition against the doctors and medical service providers in case of 'Deficiency of Service' (§2[g])[6] in Consumer Disputes Redressal Agencies at Central, State and District levels. It is observed in *Indian Medical Association v. V.P. Shantha*, 1995 that patients are consumers under India's CPA 1986 and they can claim damages for injury caused by the negligence of the doctor, hospital or nursing home. Significant number of allegations have been placed and adjudicated under the said Act through compensation. We can also adopt this approach to ensure justice in gray areas like medical malpractice prevailing in Bangladesh instead of present view of medicare as merely a product under the CPRA.

4.8 Categorization of offences

The CRPA has asserted 18 offences that can be tried by the First Class Magistrate or Metropolitan Magistrate ranging from petty offences like not keeping and showing price list of goods and service to grave one like damaging consumer's money, health, life, security etc. by negligence or any detrimental act (§§37-54). It is surprising to see that all offences have been made bailable, cognizable and compoundable under the CRPA (§59) causing some degrees of imbalance between the offences. So, there should have been proper categorization of offences under an annexed schedule recognizing the grave type of offences as non-bailable and non-compoundable. Moreover, duration of sentence may create some distractions also when we will see that causing consumer's death by negligence or any detrimental act will result in an imprisonment not exceeding three years or fine not more than taka two lacs or both (CRPA, §§52-53). This type of sentence is unrealistic as such offences amount almost to a murder. Some more offences like causing environmental degradation through industrial pollutions and dumping, making artificial rise of the price of essential consumer goods through syndicated cut of supply etc. should be inserted to ensure a wide range of protection for the consumers.

4.10 Recommendation for speedy disposal of consumer grievances

So far it has been established that the scheme of judicial protection mechanism under the CRPA is quite detrimental to the protection of the consumers in true sense. Excessive power of the office of the DG can neglect the formal judicial mechanism going into the administrative fine imposition against the wrongdoers. Moreover, civil remedies being dependant on the criminal conviction make the grievance procedure a clumsy one. We can recommend one unified set up instead of few separate bodies dealing with consumer offences under the CRPA. Most of the developed jurisdictions across the world maintain such unified set up to accelerate the access to speedy justice for the consumers. For example, the CPA 1986 of India has provided for a three-tier quasi judicial set up. National Commission has been set up in the central level while State Commissions in the state levels. District Forums have been set up in every district (CPA 1986, §9). District forums consist of three members where one must be a District Judge or qualified to be so. The other two members must have at least ten years experience in the field of economics, law, commerce, accountancy, industry, public affairs or administration and one must be a female between them (CPA 1986, §10[1]). It can entertain claims up to twenty lakhs rupees (CPA 1986, §11[1]). The State commissions hears appeals from the District forums and it has original pecuniary jurisdiction up to one crore rupees from above twenty lakhs rupees (CPA 1986, §17[1]). It also has members of whom one must be a Judge of the High Court or has qualification to be so. Other members can be

more than two but must have qualifications like the district forums have (CPA 1986, §16[1]). The National Commission is required to have at least one judge from the Supreme Court. It can have other members who can be more than four in number having same expertise like that of district forums and state commissions (CPA 1986, §20[1]). It has original pecuniary jurisdiction over one crore rupees and can hear appeals from the State commissions. Revisional jurisdiction has also been given to the National commission over the other two agencies (CPA 1986, §21). We can adopt such system to entertain the grievances of the consumers. Labour Act of 2006 of Bangladesh has already provided for such quasi-judicial set up for speedy disposal of labour disputes (§§209-231). We can also go for special tribunals in each district to settle the disputes under the CRPA to provide speedy justice. Forming special tribunals or courts may be suitable as these tribunals or courts can be empowered with capacity to give both civil and criminal remedy within their rules of procedures. In this point, we can assert some proposed provisions of the Law Commission Bangladesh's 'Proposal for the enactment of Consumer Protection Act, 2000' (Law Commission Bangladesh, 2000). It had proposed for District Consumer Tribunals (Law Commission Bangladesh, 2000, §8) and National Consumer Tribunals (Law Commission Bangladesh, 2000, §23) but the lawmakers had implemented none of these. Therefore, we must have separate and unique bodies under the CRPA to deal with the disputes and provide both types of remedies. Imposing mandatory Alternative Dispute Resolution (ADR) under the CRPA can also be a proper way to curtail the overload of dispute. In the United Kingdom, conciliation, arbitration and mediation are frequently used in resolving consumer disputes (Chowdhury, 2010). Inserting ADR in the CRPA can provide speedy and low cost involved remedies to the consumers apart from the formal judicial mechanism.

4.11 Harmonizing the CRPA with other legislations

One of the main reasons for non-implementation of the CRPA is that it was never viewed as supplementary not even complementary with other available legislations indirectly protecting the rights of the consumers. It remained 'Additional' with other legislations of Bangladesh (CRPA, §3). Therefore no scope was left to harmonize CRPA with other legislations available for the protection of consumer rights. For example, we have more than dozen of laws now in Bangladesh to deal with the food safety affairs that also falls under the purview of the CRPA [7]. In Practice, food industries of Bangladesh alleged to have been blatantly ignoring the existing food safety laws and regulations (Huda, Muzaffar, & Ahmed, 2009, p.228). Some reasons like regulatory failures, food price, choice of product, lack of consumer information, and educational and cultural influences can be liable for the existing food safety concerns in Bangladesh (Atahar Ali, 2013, p.35). Therefore, those scattered laws must be

harmonized along with the CRPA so that there must be some coordination while implementing the laws and there must not be multiplicity of provisions. For instance, the Penal Code of 1860 in Bangladesh endorses food adulteration as an offence (The Penal Code of 1860, §§272-273). The Pure Food Ordinance of 1959 also tries the same offence in section 6(1)(a) and prohibits the food adulteration in manufacturing. Section 16 of the said Act proscribes keeping of adulterants in places where food is manufactured (The Pure Food Ordinance of 1959). Later in 1974, food adulteration has been repeatedly comprised under the Special Powers Act of 1974 by inserting section 25C, which is simply considered as the alteration of the language, punishments (in this instance, death penalty) of the parallel provisions of the Penal Code of 1860. Food adulteration again had been inserted (§2[20][b]) and penalized (§42) under the CRPA stating 'sell or offer to sell adulterated goods or medicine intentionally' as 'Acts against Consumer Rights'. This type of multiplicity of provisions creates confusion among all concerned. Therefore, it can be argued that an integrated law is essential. Food Safety and Standards Act of 2006 in India consolidates all Acts and Orders to address the food safety issues of the country (Preamble). We can also have such integrated legislation and the CRPA must be made a coordinating legislation to harmonize all other laws relating to consumer protection empowering to supplement and complement whenever necessary. It is worth noting that Bangladesh has already enacted the Food Safety Act of 2013 for such consolidation (The Food Safety Act of 2013). This Act is yet to be implemented and hence government must take necessary steps for the implementation of this Act to harmonize the provisions regarding food safety in other legislations.

5.0 Conclusion

It is undeniable that there is no alternative to set and implement an effective legislation as well as legal framework in order to ensure and protect the rights of the consumers in true sense. As the core consumer legislation of Bangladesh, the CRPA still remains obsolete due to its inherent defects though the countrymen had wished for a better law. Obviously, the law is flawed in many ways as it is weighted towards the suppliers rather than to the consumers offering a minimum degree of protection for them. Therefore, it is high time to amend certain provisions to make the CRPA capable to meet the demands of the people. Insertion of 'Deficiency of service' clause, making NCRPC and DNCRP more independent and effective avoiding present bureaucratic complexities, inclusion of legal experts in various levels, representation of grass root consumers, providing compulsory submission of complaints to the court by the DG in order to ensure access to criminal justice, establishing quasi-judicial bodies in various levels to ensure speedy justice, insertion of compulsory mediation and ADR in case of general consumer disputes to help consumers getting remedies outside the court, proper categorizing offences and providing

deterrent punishment for severe offences, proper harmonization of other existing legislations with the CRPA treating it supplementary and complementary in consumer disputes, proper flow of fund and personnel for the regulatory authorities and awareness campaigns must be included through proper amendment as soon as possible to guarantee the rights of the consumers protecting them from hazardous good and service. In this period of globalization and free market economy, proper amendment and effective implementation of the present CRPA will make the legal and regulatory regime for consumer protection much stronger and it will help creating security for the consumers.

Notes

[1] The consumer as the term implies is one who consumes. As per the definition, consumer is the one who purchases goods for private use or Consumption. The meaning of the word 'consumer' is broadly stated in the above definition so as to include anyone who consumes goods or services at the end of the chain of production. The comprehensive definition aims at covering every man who pays money as the price or cost of goods and services.

[2] These acts are the Pure Food Ordinance of 1959, the Control of Essential Commodities Act of 1957, the Price and Distribution of Essential Commodities Ordinance of 1970, the Drugs Control Ordinance of 1982, the Breast-Milk Substitute (Regulation of Marketing) Ordinance of 1984, the Tobacco Goods Marketing (Control) Act of 1988, the Penal Code of 1860, the Poison Act of 1919, the Dangerous Drug Act of 1930, the Animals Slaughter (Restriction) and Meat Act of 1957, the Special Powers Act of 1974, the Standards of Weights and Measures Ordinance of 1982, the Bangladesh Standards and testing Institute Ordinance of 1985, the Narcotics (Control) Act of 1990, the Safe Blood Transfusion Act of 2002 etc.

[3] Article 15 imposes fundamental responsibility of the state to attain inter alia standard of living of the people, the basic necessities of life, including food, clothing, shelter, education and medical care. Article 18 sets the raising of the level of nutrition and the improvement of public health among the primary duties of the state.

[4] Section 67 allows the Court to make order for replacing the defective product, repaying money back after the replacement, giving compensations up to five times of the proved damage and cost of the suit.

[5] Under section 2 (3), complainant includes any consumer, consumers having common interest, any consumer association, NCRPC or any officer authorized to file any complaint on its behalf, the Government or any government officer authorized by the Government for that purpose and concerned trader, wholesaler or retailer, making any complaint.

[6] Section 2 (g) defines deficiency as 'any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be

maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.'

[7] These Acts include the Penal Code of 1860, the Control of Essential Commodities Act of 1956, the Food (Special Courts) Act of 1956, the Food (Special Courts) Act of 1956, the Pure Food Ordinance of 1959, the Cantonments Pure Food Act of 1966, the Pesticide Ordinance of 1971, the Special Powers Act of 1974, the Fish and Fish Products (Inspection and Control) Ordinance of 1983, the Breast-Milk Substitutes (Regulation of Marketing) Ordinance of 1984, the Bangladesh Standards and Testing Institution Ordinance of 1985, the Iodine Deficiency Disorders Prevention Act of 1989, Stanio Sarkar (City Corporation) Ain of 2009, Stanio Sarkar (Paurashava) Ain of 2009 and Mobile Court Ain of 2009.

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