



GLOBALISATION AND CONSUMER RIGHTS: THE DEVELOPMENTS, DEBATES AND DEFENCE

Prof. Navaneeta Rath

Professor in Sociology, Utkal University, Vani Vihar, Odisha, India.

&

Subhra Mishra

Ind Semester, Electrical Engineering, CET, Bhubaneswar, India.

Globalisation is an unchallengeable social and historical reality. It has touched every fringe of the world. “Globalization can be thought of a process (or set of processes) which embodies a transformation in the spatial organization of social relations and transactions – assessed in terms of their extensity, intensity, velocity and impact – generating transcontinental or interregional flows and networks of activity, interaction, and the exercise of power”(McGrew,2000)¹.Characterised by extensity, intensity and increased velocity in the movement of people, finance, ideas and goods, it has created a borderless world and has promoted liberalisation of economies giving way to free trade. The most manifested impact of globalisation is perceived in the sector of market.

Post Globalisation Developments, Changing Landscape of the Market and Need for the protection of Consumer Rights

Market reforms have followed economic globalization. Economic globalisation is mainly characterized by the rapid expansion of international trade, foreign direct investment and capital flows. Economic globalisation has removed borders and barriers between nations so that market forces can drive the global economy. The last twenty-five years have seen trade expansion by a significant margin and the increasing dependence of national markets on international trade (WTO, Annual Report) ². The decline in transportation costs and technological innovation have contributed to an unprecedented increase in the volume of

trade, financial flows and accelerated economic transactions by decreasing the time and methods of delivery of goods and services. Local market today accommodates global products and the global market places local products within it. Hybridisation, homogenisation and harmonisation of local products with the global ones are the marked feature of the globalised markets.

Certain off shoots of globalisation today have affected consumer rights significantly. Globalisation has its unique features. **Free trade** is an off shoot of the process of globalisation. It is often said globalisation promotes global capitalism. Under global capitalism free trade becomes rampant. Free trade stands contrast to the ideology of protectionism. Protectionism allows a nation to strengthen its industries by levying taxes and quotas on imports, thus increasing their own industrial capacity, output and revenue and at the same looking into the interests of its consumers. Through protectionism, national governments have extensive control over production and market. They decide the quality, quantity and price of the products. Under this, not only the domestic producers are protected, but also the consumers get amply insulated. But under free trade, the scenario changes. With free trade under globalisation, economically powerful nations have created a global trading regime with which they can determine the terms of trade. The North American Free Trade Agreement (NAFTA) between the US, Canada, and Mexico is an example of free-market fundamentalism that gives corporations legal rights at the expense of national sovereignty. The General Agreement on Trade and Services (GATS) agreed at the World Trade Organization (WTO) in 1994, aimed at removing all restrictions and internal government regulations that are considered to be "barriers to trade". The agreement effectively abolished national government's sovereign right to regulate subsidies and provide essential national services on behalf of its citizens. The Trade Related agreement on International Property Rights (TRIPS) forces developing countries to extend property rights to seeds and plant varieties patented by the Corporate. Thus, control over these resources and services are granted to corporate interests through the GATS and TRIPS framework. The primary beneficiaries of international trade are large, multinational corporations who fiercely lobby at all levels of national and global governance to further the free trade agenda. The common consumer is not considered under such a system of free trade and his rights are jeopardised under the cloak of free trade under globalisation. Thus corporate sovereignty and consumer rights stand at polarities. Free trade has proved to be detrimental to consumer rights.

Liberalisation is an associated process of globalisation. Free trade demands the nations to liberalise their economies. Liberalization, through Structural Adjustment Programs, forces poorer countries to open their markets to foreign products. It creates dependency upon commodities which are artificially low priced as they are strategically heavily subsidized by economically dominant nations. But less is guaranteed about the quality of products. A liberalized global market creates opportunities for the corporations to capitalize the resources and exploit the consumers. The World Bank, IMF and WTO are the new institutions developed under the process of globalisation. They are politically and financially dominated by Washington, Wall Street, corporations. As a result, these key governance structures of the global economy serve the interests of these corporate giants subduing the interest and rights of the poor consumers. Under WTO agreements, a sovereign country cannot interfere with a corporation's intentions to trade even if their operations go against domestic environmental, employment and consumer satisfaction guidelines. Those governments that do stand up for their sovereign rights are frequently sued by corporations for loss of profit, and even loss of potential profit. All these force the nation states to recede from protecting the rights of their domestic consumers.

Markets have not only become integrated, but have become **deregulated**. They are no longer under rigid state control. The corporate agenda of increasing profits, demands favourable regulatory conditions. Regulations restrict profitability. Thus, the corporate call for liberalization is accompanied by a demand for deregulation in all sectors of commerce nationally and globally. This is accepted in principle to facilitate globalisation as a process. Regulations and regulatory agencies exist to monitor corporate activities, protect human rights and safeguard the environment. In recent years, regulatory bodies have shifted their focus from protecting the interest of the consumers to protect the profit seeking interest of industries. This has promoted corporate interest over consumer interest. To cite an example, Enron lobbied very effectively to deregulate the electricity market, then to deregulate the trading of energy futures, then to prevent the disclosure of futures contracts, then to repeal the regulated-auction requirement. This enabled it to trade without revealing any trade or financial details to regulators or the public. It proceeded to make record profits through illicit activities which affected the poor energy users tremendously. Thus, deregulation serves the interest of a microscopic minority at the cost of the majority of the population. Consumer rights go unprotected under the state of deregulation. Under a deregulated market situation the corporate establishes its monopoly. The consumer stands at the suffering end.

The Corporate giants become the governing agencies which seldom have an interest to protect consumer rights. The new financial elite which campaign for global prosperity create poverty amidst plenty and generate a microscopic interest protection and promotion desire and drive while sacrificing the interest and right protection of the majority. Neoliberal philosophy could trigger consumerism, but has failed to protect consumer rights. Deregulation, privatization and the removal of border restrictions provide fertile grounds for growing corporate activity, and soon it has led to a process of corporatization of the world. The neoliberal experiment under globalisation has failed to combat the unethical practices in trade and commerce, has exacerbated the violation of consumer rights, and is hampering environmental protection and safety. Thus, globalisation has created a high velocity economy, but has reduced the protection and safety net for the people as consumers. High velocity economy has made the consumers vulnerable to corporate tyranny. This brings the need to protect consumer rights.

To be more specific the markets of the globalised world on the one hand, witness a change in the quantity of transaction, a change in quality of products, product diversities, and competitive price and on the other hand are in a state of deregulation and are becoming control free . So, the landscape of consumerism and the competition in the erstwhile markets have taken a changed face. The nations now witness aggressive consumerism, demand driven production. Under this situation, the protection of consumer rights poses a big concern for the nations.

Another major development relating to globalisation is **privatisation**. Privatization is the transfer of ownership or control over the production and distribution of state-owned resources or services to private companies. This process is essential to increasing corporate profit and opportunity. Since, the beginning of the process of globalisation, there is a progressive privatisation of the of global commons to the progressive privatization of the global commons. The national ownership was always for collective good and the private ownership of the post globalisation period is marked with profit imperatives. Today basic services to resources are privatised. This is anti consumer interest in character. Profit instead of welfare guides the private role players. This affects the poor consumers in a significant way. The basic needs go unfulfilled and they are exploited to get their basic needs fulfilled.

Neoliberals claim privatization generates efficiency and market competition. To them it will drive prices down for consumers. However, these assumptions are basically incorrect and

often irrelevant when we consider the functions and purposes of public utilities. Essential services when privatised, brings consumer exploitation of a paramount level. Control of the state loosens and accountability of the producers decreases. This leads to the production of poor quality products to maximise profit, price rise etc. All these denounce the basic consumer rights. To give an example here, Water privatization in Bolivia was enforced in 1997 as a condition to a loan by the World Bank, in partnership with private interests such as the French multinational Suez. Mass protest was sparked by a serious failure to extend water and sewage services to tens of thousands of impoverished families, and connection costs that exceeded more than half a year's income for the average Bolivian.

Today it is felt, there are many new developments in the market landscape bringing enormous threats for the protection of consumer rights and many deviations are noted between promises made and ground practices. Consumer rights are violated in many instances without being properly insulated against the unethical practices of the profit seeking producers and corporations. A time has come to formulate clear cut, stringent consumer protection laws and make them move from prophecy to practice to ensure security to millions of consumers.

Debates relating to the Future of Consumer Rights in the era of Globalisation:

When the question of consumer rights comes in the context of globalisation, two sets of views emerge. The optimists view globalisation is protective and promotive to consumer rights, while the sceptics subscribe that globalisation has a detrimental effect on consumer rights. Each group has its own justifications. The optimist view technological advancements and reduced costs of transport, due to increased connectivity have not only heightened market competition, but have turned to be favourable for the consumers. With the proliferation of supplies the monopolies of the local marketers has gone down giving ascendancy to the consumers. This has equipped the consumers with higher bargaining power and made them empowered consumers (Gheorghiu Gabriela, Bunda Nicoleta Ramon, Popovici Veronica,2010)³. The cafeteria market situation provides them ample choice in the place of compulsion to choose the quality, product type according to their purse. Secondly, the optimists believe that due to the information revolution and the volume of information flowing across the borders, common consumers are sensitised about the quality, quantity, diversity of products and their prices. They are sensitized consumers now and the demand on the producers and the marketers are escalating. No longer hoodwinking of the consumers is possible. The consumer consciousness is taking the form of a class consciousness, consolidating consumer movements and awaiting to launch the consumer revolution. This is

pressurising the governments to not only profess consumer protection laws on papers, but to put them into practice for image building and as a mandate. Third, the multiplicity of market role players is a boom to the consumers. The marketers make aggressive advertisements of the components of their products, their product designing process which makes the consumers enlightened not only about the product, but about the process. This enables them to make a comparative vision about the quality of the product. Quality assessment at the level of the consumers always favours the consumer rights.

On the other hand the sceptics are apprehensive of secured consumer rights in the era of globalisation. To them, choice has no doubt increased in manifold forms, but the rights of the consumers are getting reduced after the opening of the borders and market expansions. They advance their own arguments to favour their stand. To them, states are in a sinking state so far as their sovereign authority is concerned. In a globalised world, sceptics note that the nation three distinct aspects of globalisation have posed challenges for the nation states. The first is the reduced ability of the nation state to exert influence on its economy when economic transactions take place increasingly at the global level. The second is the rise of the transnational bodies. The transnational bodies may be the political bodies like the U.N. or political bodies like the NAFTA, a combination of the two like the European Union, or some form of the NGO (ranging from business to civilian pressure groups). The third aspect is the emergence of super national and sub national centers of power. Holton (1998)⁴ observes “Flows of investment, technology, communications and profits across national boundaries are the most striking challenges of globalisation to nation states.” To quote Hirst and Thompson (1996)⁵ the nation state is side lined by the world market forces which prove to be stronger than the most powerful states. The nation state therefore has a reduced control over economic transactions and loses control over capital which it needs to sustain itself. Further, IGOs such as the European Union, The International Monetary Fund and the World Trade Organisation/ GATT have accumulated international legislative and coercive power and have posed a threat to national sovereignty of the traditional nation states. Under such a system how they can regulate the market and how their norms can impact the global market players.

Secondly, globalisation promotes neoliberal ideology. Under this ideology, market forces will bring prosperity, liberty, democracy, and peace to the whole of humankind and there should be with limited state control. So, under globalisation, the national, markets have become open to international market players on whom the state has the least control. The state cannot directly intervene to ensure the production of quality goods. In many cases the goods are not

produced within the national boundaries. Thirdly, globalisation has triggered aggressive global capitalism (Amin, 2014)⁶ where profit motive guides the market players. To maximise profit, they do not back out to compromise with quality. Here the consumer stands at the suffering end and the state becomes a tacit and silent observer. To take a quote from Noam Chomsky (2000)⁷ globalisation has heightened transnational corporate tyranny. Corporate stimulate artificial wants, addicted lifestyle which trigger consumption beyond one's capacity and overdependence on corporate products. People blindly run after consumption without understanding their health and economic implications. This promotes corporate interest and degrades consumer interest. In the World Economic Forum 1999 meet, Nobel laureate and UNDP Goodwill Ambassador Nadine Gordimer, condemned that the process of globalization increasing consumption unprecedentedly, has jeopardized consumer rights. In many cases the blind consumption has hidden toll on human lives. In the seesaw process the consumer remains on the downside allowing the marketer on the up side. Thus, microscopic minority are benefitted at the cost of the majority. Finally, the rise of the commercial blocs is a great threat to the interest of the consumers. All these provide the impression that in the post globalisation period, global capitalism; neo liberalism and the diminishing state authority are the greatest threats to consumer interests and rights.

Need for Responsible Consumerism and Responsive Consumer Laws in the Globalised Community:

Globalisation has thus opened both opportunities and challenges for the consumers. The question is how the consumer utilises his wit and right to release the vulnerabilities and to reap the dividends. In this context, the paper starts with an assertion that it is less important to frame rights for the consumers, but to create responsible consumerism which needs to be the call of the day. So, the paper highlights on responsible consumerism and responsive consumer laws which can provide a safe environment to the global consumers in the era of globalisation. Responsible consumerism refers to that situation where consumers act as concerned citizens through a variety of activities such as curbing excessive consumption, supporting socially responsible companies by purchasing their products and conversely boycotting products of companies that exhibit irresponsible behaviour⁸. Simply they can be described as the Ethical consumers. Responsible consumerism or ethical consumerism stands contrast to obsessive consumerism or possessive consumerism or unethical consumerism which together can be labelled as aggressive and blind consumerism. Under unethical consumerism, the consumers do not think about sustainable consumption. They become self

centred. They become crazy consumers stressing on short term needs and overlook the ethical standards followed by the producer or marketer for a luxurious life. However, this tendency is likely to provide a freehand to the producers and capitalists to maximise their profits putting the common consumers in trouble.

It is responsible consumerism or ethical consumerism that can force the international community to frame consumer responsive laws to safeguard consumer rights. The consumer's conscious knowledge, subscription of certain standards, input and involvement in the policy designing and policy implementation can reap the real result to protect consumer rights.

Till the date responsible consumerism or ethical consumerism is a missing phenomenon in most of the developing countries where access to education is still absent among millions of people and exposure to media and information technology is still unreachable to majority of the common milieu. Consumers are unaware of their basic rights and they do not have a notion of consumer duties which are described as responsible consumerism. Further, among the educated and exposed masses aggressive consumerism, craze for luxury, misconceived notion of status symbol, and lack of concern for sustainable consumption make them unethical and irresponsible consumers⁸. The volume of the use of imported goods is on rise and it is percolating to the bottom rung of the population. Today to give examples, many drugs and drinks of international origin flood the local markets of rural areas and people have become used to their consumption without judging the health risks they will bring to them. Drug related deaths; drink driven deaths sometimes become the common out come. But, the rate of sensitization is very low. Even in the post consumption disaster period people do not have the knowledge to challenge the producer, distributor or the seller because of the zero level of sensitization they have about their consumer rights. Further, the lack of knowledge, networking prevents the development of a strong consumer consciousness crystallizing into a movement. This allows the fraudulent consumers to flourish in the market.

National laws witness a wide range of diversities in regulating the markets. In the post globalisation period, it becomes very difficult to regulate the global, regional and bilateral trading systems with a common law. Under global and bilateral trading system, the national governments jurisdiction fails to control the process in which the product is manufactured. In most cases, manufacturing is done outside the geopolitical boundaries of the nations. There are two important considerations which become contradictory to each other. They are the

health and safety standards of the population and the regulatory norms for the products that flood the markets. When a national government regulates the product in terms of quality, it is often criticised to be fussy, partisan to promote local products and it is supposed to be boycotted from the global integration process. But, if a nation state will become blind to the health and safety needs of the people, it becomes an unpopular government and is criticised as anti people and pro product and pro company in attitude and activities.

Global legal defence for the Protection of Consumer Rights:

No doubt, the world forum has not remained blind to protection of consumer rights. Struggle of the people against poor product at various instances have led the world forum to bring consumer rights to the centrality of their debates, deliberations and policy decisions. In this context, it becomes worth here to mention that the 1990s saw the emergence of many important international agreements and commitments embracing the need to transform unsustainable patterns of consumption and production to insulate the consumers from the consumption of spurious products and to liberate them sufficiently against market tyranny. Among these initiatives:

The UN Guidelines have outlined the following eight areas for developing policies for consumer protection:

- A. Physical safety;
- B. Promotion and protection of consumers' economic interests;
- C. Standards for safety and quality of consumer goods and services;
- D. Distribution facilities for essential consumer goods and services;
- E. Measures enabling consumers to obtain redress;
- F. Education and information programmes;
- G. Promotion of sustainable consumption; and
- H. Measures relating to specific areas like water, food and pharmaceuticals.

The United Nations Guidelines for Consumer Protection (UNGCP)⁹ act adopted by the UN in 1985 and updated with a new section on sustainable consumption and production in 1999 highlights on the following rights of the consumer. These set of eight rights are judged to be the cardinal issues in any consumer activity. These rights include:

- The right to satisfaction of basic needs - To have access to basic, essential goods and services: adequate food, clothing, shelter, health care, education, public utilities, water and sanitation.
- The right to safety - To be protected against products, production processes and services that are hazardous to health or life.
- The right to be informed - To be given the facts needed to make an informed choice, and to be protected against dishonest or misleading advertising and labelling.
- The right to choose - To be able to select from a range of products and services, offered at competitive prices with an assurance of satisfactory quality.
- The right to be heard - To have consumer interests represented in the making and execution of government policy, and in the development of products and services.
- The right to redress - To receive a fair settlement of just claims, including compensation for misrepresentation, shoddy goods or unsatisfactory services.
- The right to consumer education - To acquire knowledge and skills needed to make informed, confident choices about goods and services, while being aware of basic consumer rights and responsibilities and how to act on them.
- The right to a healthy environment - To live and work in an environment that is non-threatening to the well-being of present and future generations.

Agenda 21, the action plan that emerged from the 1992 Earth Summit in Rio de Janeiro¹⁰, called on international institutions and national governments to promote greater energy and resource efficiency, minimize waste generation, encourage environmentally sound purchasing, and shift toward pricing systems that incorporate hidden environmental costs.

The U.N. Commission on Sustainable Development¹¹ has provided a useful annual venue for governments and others to discuss consumption and production issues. Though the deliberations have produced little concrete action, they resulted in the successful revision of the 1998 U.N. Guidelines for Consumer Protection to include more environmental factors.

The Organisation for Economic Co-operation and Development has sponsored a series of meetings and papers aimed at encouraging governments to implement innovative sustainable consumption and production policies, including product ecolabeling, “take-back” legislation, reductions in harmful government subsidies, and environmental taxes to internalize environmental costs into the price of environmental taxes to internalize environmental costs into the price of products.

The U.N. Environment Programme has been an active player in efforts to promote sustainable consumption on a global scale, including through a product life-cycle initiative, green procurement, and work with the advertising, fashion, finance, and retail sectors as well as consumer and youth groups.

Governments have strengthened several international treaties that address the global environmental threats posed by consumption and production—including the 2000 Cartagena Protocol on Biosafety, the 2000 Stockholm Convention on Persistent Organic Pollutants (POPs), and the 1997 Kyoto Protocol.

Several new initiatives have emerged in the corporate and financial sectors, including the United Nations' Global Compact¹², which calls on participating companies to integrate ten core values related to human rights, labor standards, and environmental protection into their operations, and the Equator Principles, which call on leading banks to manage environmental and social risks in their lending operations.

More recently, at World Summit on Sustainable Development¹³ in Johannesburg, South Africa, governments agreed to develop of a 10-year framework of programs to accelerate the shift toward sustainable consumption and production. These include offering a better range of products and services to consumers, providing more information about the health and safety of various products, and establishing programs of capacity building and technology transfer to help share these gains with developing countries. The World Summit also generated more than 230 partnership agreements among diverse stakeholders.

The provisions of the World Trade Organization (WTO), too, stand to have a large impact on the ability of both consumers and governments to promote sustainable business practices worldwide. Meanwhile, the rising concern about possible clashes between international trade law and the international environmental treaties aim at encouraging consumers and producers to shift to more environmentally sound practices.

The breakdown of WTO negotiations in Cancún in September 2003¹⁴ provided reform-minded governments and activists with an opportunity to push for bringing future trade negotiations into better balance with sustainable development concerns.

Deviations between Policy Intentions and Policy Implementations:

Irrespective of such a plethora of policies, provisions, conventions and proclamations, consumer rights are at stake in the globalised society today. There are a lot many anomalies in the policies and many proclamations remain as records without being put into practice. These situations render a gross and easy violation of consumer rights. But, it is alarming now to overcome such situations. Consumers are becoming conscious, civil societies are now fighting for the consumers. Unless and until stringent and responsive policies are formulated, the situation will still continue to take a grave turn.

Forward Looking Ideas:

The following tasks are needed to provide a protective coverage to the common consumers who till the date is outside the coverage of the high sounding international conventions and proclamations.

- All the bilateral treaties have to include a compulsory provision to enforce some consumer protection laws and should clearly pronounce the provisions of consumer protection in their trade practices. Any violation should be inflicted with heavy punishment and trade boy cot.
- Consumers should be technologically equipped to lodge their grievance online and get quick redressal. Apps should be developed for common users and training has to be imparted to them. This will enable them to assert their consumer rights as and when needed.
- World trade Organisation should impose heavy economic sanctions against corporate houses and their origin nations indulged in fraudulent trade practices.
- Nation states should be empowered to prohibit the basic consumer interest violating parties' entry into their territorial jurisdiction.
- Nations should provide preferential trade treatment to "green consumer goods".
- Civil society organisations should take up the task of enlightening the ignorant consumers about the consumer protection laws, install in them a new wave of consciousness about their rights and about the institutional supports for their consumer grievance redressal.
- Information Service Providers and Internet Access Providers should take it up as a corporate social responsibility to act as watch groups for consumer rights protection.
- A campaign for changing life style is to be launched vigorously. Institutions like education, workplaces and media houses need to volunteer in this effort.

- Producers, distributors and marketers should not only ingrain consumer protection within their business ethics but also should put them into use.

In all such situations the existing international legal defence for the protection of consumer rights can deliver their best dividends to the consumers in terms of the protection of their best interest and rights. This will create a balance between market, producers and consumers to build a sustainable global village.

References

1. McGrew, Anthony (2000) Sustainable Globalization. In: Allen & Thomas (eds.): Poverty and development into the 21st century, p. 348
2. WTO(2015), Annual Report
3. Gheorghiu Gabriela, Bunda Nicoleta Ramona, Popovici, Veronica (2010) Globalisation and Consumer Protection, REVISTA ECONOMICĂ No. 3(50), Vol.1
4. Holton, R.J. (1998) Globalization and the Nation-State, Palgrave Macmillan
5. Hirst, Paul Q. and Thompson, Grahame (1996) Globalization in Question: The International Economy and the Possibilities of Governance, Polity Press
6. Amin, Samir (2014) Capitalism in the Age of Globalization: The Management of Contemporary Society (Critique. Influence. Change), Zed Books Ltd.
7. Chomsky, Noam (2000) Globalization: The New Face of Capitalism, <http://www.democracynow.org/2000/2/3/>
8. Financial TIMES Lexicon, lexicon.ft.com
9. Eckhardt, Giana M., Belk, Russel, Devinney, Timothy M. (2010) Why don't consumers consume ethically?, Journal of Consumer Behaviour
10. United Nations Guidelines on Consumer Protection (1985), Consumer International www.un.org/esa/sustdev/publications/
11. United Nations Conference on Environment and Development (UNCED) (1992), Rio de Janeiro, Agenda 21
12. <http://sustainabledevelopment.un.org/index>
13. https://www.unglobalcompact.org/docs/publications/UN_Global_Compact_Guide_to_Corporate_Sustainability
14. World Summit (2002), Johannesburg
15. The Fifth WTO Ministerial Conference (2003), Cancun, Mexico, <https://www.wto.org/english/>