

# Are Consumer Rights Human Rights

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**Abstract -** Since World War II, consumer protection has been increasingly important. In a similar vein, the idea of human rights has gained popularity. The claim that the propensity to widen the concept of human rights permits us to incorporate consumer rights within that definition is supported by substantive and procedural assessments of human rights. In a culture that values consumption, safeguarding the interests of the individual consumer is seen as an important component of upholding human dignity, particularly in the face of powerful cartels, monopolies, and multinational companies. Therefore, the basis for recognising consumer rights as human rights may be found in widely recognised human rights principles, such as the focus placed on an individual's prosperity, honour, and dignity.

**Keywords -** Consumer, Consumer rights, Human rights

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## INTRODUCTION

First, before evaluating whether or not consumer rights are human rights, we must take into account the two primary components of the topic: consumer rights and human rights. We'll look at the many definitions of these three concepts before determining whether or not consumer rights are human rights.

### What are Human Rights:

"All people are born free, with equal rights and respect. They should behave towards one another in a brotherly manner since they are gifted with reason and conscience."<sup>11</sup>

No matter our nationality, location of residence, sex, ethnicity, colour, religion, language, or any other status, human rights are rights that are inalienable to all people. Without exception, everyone of us has an equal claim to our human rights. These rights are all interconnected, indivisible, and tied to one another.

Conventions, basic principles of international law, customary international law, and other legal instruments frequently express and protect universal human rights. Governments are required by international human rights legislation to take certain actions or refrain from taking specific actions in order to advance and defend the basic freedoms of people or groups.

International human rights legislation is built on the tenet of human rights' universality. Numerous international human rights agreements, declarations, and resolutions have reaffirmed this idea, which was originally emphasised in the Universal Declaration on Human Rights in 1948. For instance, the 1993 Vienna World Conference on Human Rights said that regardless of their political, economic, and cultural systems, States have a responsibility to advance and safeguard all human rights and basic freedoms. Eighty percent of States have ratified four or more of the key human rights agreements, with all States having signed at least one of these agreements. This shows the states' support, places obligations on them, and gives universality a concrete form. Certain fundamental human rights standards are always protected by custom.

Human rights are unalienable, interconnected, and interdependent. They encompass economic, social, and cultural rights like the right to work, social security, and education as well as civil and political rights like the right to life, equality before the law, and freedom of speech. They also cover collective rights like the right to self-determination and growth. The development of one right makes the development of the others easier. The loss of one right similarly has a negative impact on the others.<sup>12</sup>

### What are consumer rights:

A consumer is a person who purchases products, services, or both. A customer and the party from whom products and services are purchased enter

<sup>11</sup> Article 1 of the United Nations Universal Declaration On Human Rights

<sup>12</sup> www.ohchr.org

into a contract when they make a purchase. In a contract, it is preferable that the parties have equal standing and that their relationship does not unjustly treat any party. The position of the contractual parties has, nevertheless, varied. A typical consumer transaction in our day would entail a large, financially diversified global company organisation. Of course, it is the stronger party in the agreement; the consumer of those goods and services is the weaker party. Due of its privileged marketing position, the product's provider may indulge

- The appliance purchased gives trouble
- The grocer sells adulterated edible items
- Rates are not displayed and there is overcharging
- The auto rickshaw does not go by the meter
- Seller does not bother about repairing the purchased item though it is within warranty
- Quality of service is poor<sup>13</sup>

Apart from this there are eight consumer rights as defined by the International Consumer Organization:

### 01. The right to satisfaction of basic needs-

All consumers have a right to access to basic necessities such food, clean water to drink, clothing, shelter, medical care, and sanitary services that guarantee a decent standard of living..

### 02. The right to be informed –

To protect consumers against deceptive advertising, mislabeling, and misrepresentation and to provide them with the exact information they need to make informed decisions.

### 03. The right to choose-

To have reasonable access to a variety of products and services at reasonable prices.

### 04. The right to safety-

To be protected against injury or illness from hazardous products and services.

### 05. The right to be heard-

must have confidence that laws designed to protect consumers will be upheld and that industry and the

<sup>13</sup> Human rights and Gender Environment:  
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government will listen sympathetically to consumer interests.

### 06. The right to consumer education-

the right to develop a basic grasp of the consumer market at a young age, including the duties and rights of all societal groups. This right is also understood to imply that customers should have access to education throughout their life.

### 07. The right to redress

Every customer has the right to compensation if they experience frustration as a result of inaccurate labelling, misrepresentation, faulty products, or inadequate service.

### 08. The right to healthy environment

Every consumer has a right to live in a hazardous free environment which good for healthy life.

### Can Consumer Rights be considered as Human Rights:

Before making a decision about whether or not consumer rights should be regarded as human rights, opponents of this idea bring out the following drawbacks of doing so: it would undermine the concept of already overloaded human rights. Some claim that the number of human rights is finite and cannot be increased past a certain point. This American viewpoint, which cannot be taken to represent the viewpoint of the entire world community, limits the number of human rights. Some academics contend that only those rights may be referred to as human rights that are upheld by international organisations.

A combination of contract, tort, criminal, and administrative law, as well as private and public law, substantive law, and procedural law, makes up consumer law. The following inquiries are crucial for determining whether or not consumer rights are human rights.

1. Whether there is an accepted definition of human rights that will assist in establishing consumer rights as human rights, is there any exhaustive list of human rights ?
2. Whether consumer rights fulfill the substantive tests of human rights?
3. Whether there is a formal basis in international documents for acknowledging consumer rights as human rights?

Now we will consider each of this question in sequence in order to decide our basic question whether consumer rights can be considered as human rights

**(1) The term human rights includes two components, “rights” and “human rights.”**

several attempts to define human rights have yielded relatively few results, according to a detailed review of several books, papers, and other materials on the subject. There isn't a recognised, comprehensive list of human rights, and attempts to do so have largely failed. Similar to how the Universal Declaration was established more than three decades ago after distributing questionnaires to various governments, it should again be revised to include new rights. The fundamental issue here is, however, which rights ought to be acknowledged as international human rights. There are two major ways to respond to these inquiries. The first is to only count as human rights those that have been recognised as such by United Nations authorities. According to this method, as the United Nations' agencies have not yet recognised consumer rights as human rights, they cannot yet be recognised as such. The second strategy is to create rules that specify the elements of human rights. These criteria must be met in order for a right to be deemed a human right. The qualities of consumer rights should be examined using this method to determine whether or not they qualify as human rights.

Regarding the first strategy, a right may only be recognised as a human right after being recognised by the UN General Assembly. There is no consensus that every United Nations resolution may transform a right into a human right, and the United Nations General Assembly has never been acknowledged as the ultimate legislator of international law. Therefore, it may be claimed that not every resolution adopted by the UN will be necessary to convert a privilege into a human right. Even yet, establishing a human right's worldwide standing requires the process of international recognition. However, it may be seen of as a formal prerequisite for classifying a right as a human right.

The 1948 Universal Declaration of Human Rights and international treaties like the 1966 ICCPR and 1966 ICESCR are the only documents that legally recognise international human rights. The two covenants' names may be used to divide basic human rights into five categories: (1) civil, (2) political, (3) economic, (4) social, and (5) cultural. These treaties were coined in 1966, since then 43 years have been passed and as such these conventions cannot be considered as final document on human rights because as the time goes by need arises for the inclusion of more rights in the ambit of human rights which gives consumer rights a hand above all other new rights competing to be included in list of human rights.

**(2) Now coming to second question regarding characteristics of human rights.**

Human rights can be divided into two broad classifications 1) civil and political and 2) economic and social rights, though since their recognition preference is being given to first classification over economic and social rights but there is a common

understanding on considering both of them as human rights. Some of the basic characteristics which emerge from the study of various approaches towards the human rights are as follow:

- Human rights should pertain to the entire human community and not to any specific group.
- Human rights are the characterization of the individual as a primary concern, emphasizing the individual's prosperity, honor, and development.
- Human rights are rights of the individual against powerful governments.

Consumer rights are personal freedoms, not collective ones. Since everyone consumes occasionally, consumers are not a distinct group of individuals. Regardless of who purchases the items—the buyer or the seller—the latter of whom must have acquired the commodities from a third party. Consumer rights can be recognised as human rights since it is understood that they preserve a person's growth, honour, and prosperity. This proves that consumer rights are individual rights and must be taken into account while establishing a list of human rights. The primary goal of the numerous human rights that are available is to safeguard each person's right to human dignity. The protection of human dignity has been acknowledged as the primary goal in several United Nations agreements. The protection of the individual consumer in a consumer society is essential to upholding human dignity. A person's dignity is ignored if they are denied the rights to fair commerce, fair contracts, and access to courts. Therefore, it is abundantly evident that the major goal of both human rights and consumer rights is to uphold an individual's dignity, which strengthens the argument for include consumer rights in human rights..

The goals and objectives that both consumer and human rights seek to accomplish towards an individual have more commonalities. The purpose of human rights is to shield the person from arbitrary government violations. In the modern world, large corporations behave just like governments and have the power to influence consumer behaviour through monopolistic trade practises. Due to their size and power over market forces, these corporations are able to influence consumers, or more specifically, an individual's behaviour, in any way they choose. Thus, safeguarding one's rights against these powerful commercial enterprises is made possible by consumer rights; this also creates a striking parallel with the goals and purposes of human rights.

According to certain contemporary interpretations of human rights, the basic objective of human rights is to preserve human dignity, which is of the ultimate significance. One of the objectives of consumer rights is to preserve a person's dignity by providing

him with equal possibilities, fair trade practises, and a listening ear for his complaints about subpar goods and services. This supports the argument that consumer rights should be viewed as human rights.

### (3) International Documents

The inclusion of rights in official international treaties is one of the prerequisites for accepting rights as human rights, as was previously mentioned. Even if official recognition in international agreements is not the only criterion for a human right, it is unquestionably a powerful sign of such right. The international treaties and the constitution of our nation are taken into account for this.

#### 1. Universal Declaration of Human Rights :

The UDHR is referred to as the "Most Translated Document" in the world by the Guinness Book of Records. The Declaration, which was inspired by the Second World War, is the first universal statement of the rights that all people are devoutly entitled to. There are 30 articles in total, and they have been expanded upon in later international treaties, regional human rights agreements, national constitutions, and legislation.

The General Assembly approved the Universal Declaration on December 10, 1948, through resolution 217A (III). The Declaration served as a worldwide organization's first in-depth statement on human rights. The extensive list of economic and social rights included in the Declaration is very important for consumer protection. The right to "just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity" is stated in Article 23(3) of the Declaration of Independence."

And article 25(1) states that

"right to a standard of living adequate for the health and well-being of himself and of his family."

In accordance with the United Nations charter, this proclamation was the first to regard economic rights as human rights. Here, the relevance of Article 55 of the charter, which reads:

"The United states should work to provide the environment for stability and prosperity required for cordial and peaceful relations among states based on respect for the concept of equal rights and peoples' right to self-determination.:

- a. Circumstances for economic and social development and advancement, including full employment;
- b. Finding answers to global issues relating to the economy, society, and health, as well as international collaboration in the arts and in education; and

- c. Complete observance of fundamental freedoms and respect for human rights by all people without regard to their race, gender, language, or religion."

Although consumer protection was never intended to be included in the declaration, its goals and objectives seem to be very similar to those of the declaration because they both involve helping people achieve "just and favourable remuneration" and "an adequate standard of living."

#### 2. International Covenant of Economic, Social and Cultural Rights

The United Nations General Assembly approved the international treaty known as the International Covenant on Economic, Social, and Cultural Rights (ICESCR) on December 16, 1966. It became operative on January 3, 1976. It binds the parties to fight towards the granting of individuals' economic, social, and cultural rights (ESCR), such as labour rights and rights to health, education, and a livable wage.

Because of its disapproval of the convention, the United States is still the only industrialised democracy that has not done so. The United States' view that human rights exclusively encompass civil freedoms and political rights is one of the reasons it has not been adopted. As a result, the US government rejects the idea that consumer rights are human rights, although the rest of the world disagrees with this position. But in many instances, state courts have acknowledged economic rights as fundamental liberties.

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the objectives of consumer protection share a number of similarities, some of which are stated below:

"Article 11

1. The States Parties to the present Covenant recognise that every person has a right to an adequate quality of living for himself and his family, including enough food, clothing, and shelter, as well as a right to continuous improvements in living conditions. The States Parties will take the necessary steps to ensure that international cooperation is free and consent-based.
2. Recognising that everyone has a fundamental right to be free from hunger, the States Parties to the present Covenant must adopt the necessary steps, including particular programmes, both on an individual basis and via international cooperation.:

- To enhance techniques for food production, preservation, and distribution by fully utilising technical and scientific knowledge, spreading awareness of nutritional principles, and developing or reforming agrarian systems in order to achieve the most effective use and development of natural resources;
- To guarantee an equal distribution of the world's food supply in response to need, taking into account the issues faced by both food-importing and food-exporting nations.”

Consumer protection may be seen as a way to put these rights into practise and further these objectives. Quality food is a component of adequate nutrition, and consumer protection laws help to ensure this. The capacity to find housing and adequate housing of sufficient quality and safety are the two components of appropriate housing. The first is a matter of public expenditure and policy. The second is governed by numerous legal mechanisms and is based on consumer protection legislation. Regarding the rules regulating the development of distribution and manufacturing techniques for food. In addition to distribution methods, sanitary distribution, price regulation, and other consumer protection measures are also part of enhancing the distribution of food. Food that is contaminated and expensive cannot be regarded as having been distributed appropriately. Consequently, consumer

#### **Article 12(1):**

“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

The cited right to health is directly related to consumer protection. The "protection of consumers from hazards to their health and safety" is a fundamental consumer right.”

#### **Preamble Of ICESCR:**

“Recognising that the foundation of freedom, justice, and peace in the world is recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family, in accordance with the principles enshrined in the United Nations Charter, and Recognising that these rights derive from the inherent dignity of the human person,”

Therefore it resembles with the goal of consumer protection which also states it's paramount aim is to protect the human dignity.

### **3. United Nations Guidelines for Consumer Protection (UNGP)**

The United Nations broad Assembly overwhelmingly approved a set of broad principles for consumer protection on April 9, 1985. The Guidelines are a set of minimal standards that are accepted globally and may

be especially useful to developing nations. The approval of the Guidelines confirms the growing understanding in recent years that consumer policy concerns must now be seen in an international perspective and are no longer only a local matter.

#### **Article 1 discusses about objectives of UNGP:**

“These recommendations for consumers take into account the needs and interests of consumers in all nations, particularly those in developing nations, as well as their interests in promoting just, equitable, and sustainable economic and social development and environmental protection. They also acknowledge that consumers frequently face imbalances in terms of their economic status, educational attainment, and bargaining power.:

- (a) To aid nations in establishing or maintaining effective consumer protection for their citizens;
- (b) To enable manufacturing and distribution methods that are in tune with consumer demands and preferences;
- (c) To promote high standards of moral behaviour among those involved in the manufacture and supply of goods and services to customers;
- (d) To aid nations in putting an end to unfair commercial practises by all companies at the national and international levels that harm consumers;
- (e) In order to aid in the formation of autonomous consumer organisations;
- (f) IN order to advance global collaboration on consumer protection;
- (g) To promote the creation of market circumstances that provide customers more options at more affordable costs;
- (h) To promote sustainable consumption. ”

Governments are urged to create their consumer protection policies in accordance with the broad principles laid out in the UNGP. Every government must establish its own priorities based on the economic and social conditions of its nation and people..

#### **General principles:**

- (a) the defence of customers against risks to their health and safety;
- (b) advancing and defending consumers' financial interests;
- (c) access to sufficient information for customers to make educated decisions based on their unique wants and demands;
- (d) Consumer education, such as instruction on the effects of consumer choice on the economy, society, and environment;
- (e) Availability of effective consumer redress;
- (f) The freedom to create consumer groups and other related organisations, as well as the chance for these groups to voice their

opinions during decision-making processes that have an impact on them.;

- (g) The promotion of sustainable consumption patterns. “

The UNGP fits with a recent trend of countries implementing global accords to safeguard consumers. Both local law and international collaboration were impacted by UNGP. Despite not being legally binding, the UNGP's impact is crucial in transforming state consumer protection laws into international law and, eventually, international human rights. It was acknowledged that the UNGP is a document similar to an international consumer bill of rights and that it may serve as a basis for domestic constitutional law in a United Nations report that was supported by the Secretary-General. The effect of UNGP has been such that consumer protection no longer remains a issue of domestic interest and countries are being forced to include consumer issues in their constitutional laws.

#### 4. Constitutions of India

As ancient as trade and business in India is the consumer movement. The idea of consumer protection against exploitation by the trade and retailer with regard to product quality, short weight, measurement, and adulteration is mentioned in Kautilya's Arthashastra. However, there was no organised effort to protect consumers' interests in the nation until the late 1970s.

One of the most rights-based constitutions in the world is that of India. The Indian Constitution, which was written at the same time as the Universal Declaration of Human Rights (1948), encapsulates human rights in its Preamble, as well as in the sections on Fundamental Rights and the DPSPs.

It is essential to consider the welfare of the person as a consumer, a client, and a customer because of the Indian Constitution's concern for the preservation and promotion of individual rights as well as for the dignity and welfare of citizens. The rights protected by the Consumer Protection Act of 1986 are derived from those guaranteed by Articles 14 through 19 of the Indian Constitution. The RTI, 2005, which has made our nation's governance procedures more accessible to the general people, also has significant effects on consumer protection.

#### Possible Effects of including Consumer Rights In Human Rights:

- (1) It will lead to creation of additional legislation on consumer protection where such legislation is lacking;
- (2) promoting the implementation of current rules and regulations;
- (3) It will strike a balance between consumer rights and other competing human rights, such contract freedom and occupational freedom.;

- (4) It persuades legislatures and the judiciary to take action within the confines of the law in order to safeguard consumers' interests.
- (5) In order to prevent conflicts with other human rights, it can assist in evaluating existing legal requirements..

#### CONCLUSION

It is quite evident that a person has the right to certain freedoms just by virtue of being a human being. These are the morally defensible rights or assertions a person may have that allow him to maintain his human dignity.

Additionally, it is abundantly clear in today's interdependent globe. The human person has evolved into a consumer species, and they also rely on others to meet their fundamental requirements. Therefore, individuals need rights to ensure that they are not taken advantage of when they buy or hire these goods and services. As a result, it is imperative to recognise consumer rights as human rights.

If the international community is not yet prepared to accept them as full-fledged human rights that have legal force against governments, they can first be treated as soft human rights, but with time and state resources gradually increasing, they can be treated as legitimate human rights.

Consumer rights are well within the purview of being recognised as human rights in terms of international recognition. They are not new rights; rather, they are only extensions of the previously acknowledged human rights and will aid in their efficient application, therefore classifying them as human rights will not result in an overloading of the already existing framework.

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3. Here, the previously referred to Universal Declaration of Human Rights may serve as an example.
4. In this approach these should be noted: for example, children's rights, women's rights, minority rights, the rights of fathers, and, finally, consumer rights.
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- and passive right to vote, the right to freedom of association or the right to express opinions.
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