

# The Historical Development of Consumer Protection

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## Abstract

Consumers are continually in need of protection both locally and globally. The importance of providing consumer protection stems from the fact that the consumer represents the weaker party in the contractual process. This research focuses on examining the extent to which Saudi Law guarantees the protection of consumers using e-commerce from the expected legal problems such as antifraud locally and globally.

## Keywords:

*consumer, protection, consumer protection.*

## 1. Introduction

Consumers are continually in need of a variety of products and services for their daily lives. To acquire these goods, consumers need protection both locally and globally. The importance of providing consumer protection stems from the fact that the consumer represents the weaker party in the contractual process. In fact, the desire for quick profits has led many business owners, producers and service providers to adopt illegal methods using various fraudulent, and deceptive mechanisms. The victim of these deceptions is most often the consumer. To begin to conceptualize how to protect consumers, it is necessary to define the consumer that we need to provide protection for.

To have a complete overview of the subject of the present study, it is necessary to provide general details concerning the subject's background. Thus, I have divided these details as follows:

## 2. The Historical Development of Consumer Protection

The notion of consumer protection has been known in human societies since ancient times. Its historical importance is due to the consumer's need for protection. However, such protection has varied according to the social, political and economic factors of each particular region and era. After World War II and the ensuing economic crises, countries acted to develop procedures and laws in favour of

consumer protection. The aim was to protect each state's economic interests and consumer protection.

Consequently, to clarify the concept of consumer protection, a historical view of the concept must be presented, since it originated in ancient laws, and how it evolved into our present day must be explained.

### a. Consumer Protection in Ancient Times

#### I. Consumer Protection in Ancient Egypt

As early as the mid-fifties BC, ancient Egyptians were interested in making laws that regulated many aspects of their lives. This was the period during which they acquired their writing skills. Their writings include laws that regulated their lives in general and their economic affairs in particular, including consumer protection. For example, their laws imposed penalties upon price manipulators to limit price hikes.

#### II. Consumer Protection in Ancient Iraq

Old Iraqis issued laws that regulated their lives. They called these laws codes. Although they were not comprehensive, these laws were of great importance to the people of Iraq, because they organized their social, legal and economic lives. Only the kings issued the laws, and their orders actually shaped the law. The kings also wisely appreciated the fact that their people would revolt if they did not spread justice. This is why many codes included statements that the kings would often abide by justice.

#### III. Consumer Protection in the Greek Era.

The Draconian Law and Solon's Laws were the most important laws obtained from the Greeks.

The Draconian Law was issued in 620 BC. It was advanced after the abolition of the royal covenant to prevent the monopoly of law in the

hands of the most powerful people. The Draconian Law was distinctive because of its abolition of wars. It also abolished reprisals and left the government's judicial authority to fulfil sanctions. Although the Draconian Law was intended to involve the weakest members of the public and the most powerful people to spread the rules of justice, its articles did not diminish the exploitation of the weak and the poor by the rich and the powerful. Thus, Dracon's name became a sign of extreme cruelty in many European languages and remains so to this day. Aristotle said: "There is nothing in it except for the ultimate power and the intensification of sanctions".

Solon's Law was issued by the governor of Athens in 594 BC, because the people pressured him to do away with the Draconian law, which was characterized by brutality, lack of reform and many of the defects and loopholes that benefited the powerful people.

Some of the most notable characteristics of Solon's Law were:

- It aimed to achieve equality among the people so that its articles enabled public officials to take up positions of government in Athens.
- It abolished parental authority and gave personal and independent freedom to children.
- It limited interest rates and banned usury.
- It divided lands among the public.
- It established some weight and measurement systems.

#### **IV. Consumer Protection in the Roman Era.**

Roman law was simple when it first appeared, but later became stronger and more complex as Rome became more powerful in Italy and the surrounding area until it reached its maximum strength under the Great Roman Empire. The law continued to develop as Roman society evolved to become a civilized society.

At its inception, Roman law was influenced by previous laws. However, after its promulgation, most of the laws that followed it were influenced by Roman law. For example, French law was taken from Roman law.

The scholars divided Roman law into three sections according to the development of economic, social and intellectual factors:

#### **Section I: The Old Law Phase**

This phase includes two periods, the first of which was the period of the royal age, which began at the beginning of Rome in 754 BC until the collapse of the monarchy in 509 BC. The second began with the collapse of the monarchy and the beginning of the republican rule in 509 BC until the promulgation of the Ethiopian law in 130 BC.

The laws of this phase were very simple at first, as they tried to organize a primitive society. Moreover, the law was attributed to kings, and it was based on power and authority. The 12 Panels Law was one of the most important laws issued in this period.

#### **Section II: The Scientific Law Phase**

Most scholars believe that this era began in 130 BC and ended with the rule of Emperor Kallidianus in 284 BC. This era was characterized by the influence of Roman civilization on the Greek civilization in the religious and judicial spheres. The rulers during this era took measures to provide necessary goods to the public at reasonable prices. For example, Emperor Germanicus in 18 AD ordered the reduction of prices and the opening of grain silos to cope with the famine caused by the flood that year. In 19 AD, Emperor Tiberius paid money to merchants to secure living conditions for consumers, gave merchants honorary titles to provide low-priced goods to consumers, and passed a law that punished anyone who sought to monopolize goods or crops to raise prices.

#### **Section III: The Phase of Collecting Roman Law**

This was the last phase of Roman law, which began in 284 AD with the beginning of the reign of Emperor Dokeldianos and ended with the death of Emperor Justinian in 565 AD. The emergence of the legal collection set by Emperor Justinian was the most important event of this phase. Emperor Dokeldianos, who took power in 284 BC, put in place many legal rules aimed at reforms, such as issuing a list of necessary goods. It is clear through this phase that the Romans enacted a law aimed at protecting consumers by abolishing monopolies, limiting food prices and imposing severe penalties in economic crises.

## V. Consumer Protection in Islamic Law

Islamic law is distinguished by three fundamental characteristics: perfection, serenity and permanence. These attributes are derived from the source of Islamic law: they come from God, and they are his Creation. In its protection of the consumer, Islamic Sharia has targeted all aspects of human life considering the consumer an important member of society. This protection requires the maintenance of things that are necessary for the preservation of human life, whether consumer or non-consumer.

Islamic Sharia has established general laws that protect trust and equilibrium between the trader and the consumer. These laws work to establish justice among members of society, to stabilize commercial transactions and to achieve legitimate competition. These laws include:

- Preventing fraud in selling, spreading the spirit of trust in people and preventing harm to society. For example, Islamic law forbids taxation, because it is considered fraud. Allah says: "Woe to those that deal in fraud, those who, when they have to receive by measure from men, exact full measure, but when they have to give by measure or weight to men, give less than due." The Prophet Muhammad peace and blessings of Allah be upon him said: "Whoever cheats is not of us."

- Islamic law forbids monopoly in all of its forms and types. Thus, the Prophet Muhammad peace be upon him said: "No monopoly but wrong." Also, Omar ibn al-Khattab may Allah be pleased with him said: "I heard the Messenger of Allah peace and blessings of Allah be upon him say: 'Whoever monopolizes is stricken by Allah with leprosy and bankruptcy.'"

- Islamic law orders honesty and forbids lying. Allah the Almighty said: "Those who believe, fear God and be with the sincere".

- Islamic law establishes a system to control the markets from manipulation of prices and fraud and to control the owners of industries of all kinds and to protect consumers from exploitation and fraud.

- Islamic law forbids usury and protects the consumer. Allah the Almighty said: "But Allah has permitted trade and has forbidden interest."

Based on this introduction, it is clear that Islamic law has protected consumers in four ways:

- Protecting the consumer from himself; he has been shown what is permitted and prohibited and ordered to stay away from wastefulness and profanity.

- Protecting the consumer from the thing that he consumes; he was ordered to avoid all that is harmful to his health.

- Protecting the consumer from the greed of traders; it prohibited dealing with fraudulent acts, damage, monopoly and all transactions of interest and all the actions that lead to the manipulation of people's money wrongly.

- Protecting consumers from the injustice of governments, which were not allowed to impose taxes.

Therefore, these laws form a basic guarantee for the protection of consumers and their rights. They include the most important things that protect the consumer, such as prohibiting fraud, monopoly, interest and illegal competition, as well as moral aspects. Verses and speeches have developed consumer protection systems, such as the option of disability, vision, etc. However, the Islamic law focused on honesty, because honesty is the basis for dealing with people, so that a trader should never provide false information about his products to consumers.

## b. Consumer Protection in Modern Times

Technological developments were a key factor in facilitating the emergence of the consumer protection movement at the international level. These developments led to significant increases in the productive capacity of many enterprises. The emergence of consumer protection legislation was linked to the economic and industrial progress of society. This process might be described in three distinct phases: production, distribution and consumption. In the beginning, international regulatory attention was paid mainly to the stages of production and distribution and to the welfare of their stakeholders because of the social and economic importance of these activities. Interest in consumer protection arose at a later stage.

After the emergence of the consumer protection movement, concerned associations were founded, and their struggle began to bear fruit as laws were issued to protect consumers from bad acts by producers and distributors of goods. The

American Consumer Protection Act is one example of such a law. The response of the official bodies in the United States and Europe to consumer associations was a powerful sign in favour of those countries establishing a culture of consumer protection. Movement at the international level continued and was manifested by a series of international institutions and conventions focused on consumer protection.

### **I. Consumer Protection Movement in the United States of America**

The United States was the first country to advocate for consumer protection, since consumers are typically the weakest links in the economic community. President John F. Kennedy sent a message to Congress on March 15, 1962, in which he called for additional laws to be enacted so that the federal government could implement its commitment to consumers. This message advocated new rights for the consumer, including the right to be heard by the parties involved. Industrial development and associated production increased and had a major impact on the emergence of consumer protection movements, because the consumers felt some vulnerability in the marketplace. These movements led to a global response struggling to issue laws to protect consumers.

There were earlier consumer protection laws in the United States, such as the 1882 Act on Deception and Fraud, and the 1890 Act that regulated the local food industry and set standards for consumer protection. In 1927, the Food and Drug Administration was established and became the law enforcement agency. In 1930, it succeeded in its request to the Ministry of Industry to set standards for the quality of local products.

Since President Kennedy's message, American presidents have repeatedly sent similar messages to Congress to emphasize the need for attention to consumer rights. President Johnson in 1964 and President Nixon in 1969 acted similarly. The consumer protection movement is at the heart of politicians' priorities in the United States and has a strong electoral influence among the voting public.

In the early 1970s, a group of consumer activists led by Ralph Nader, one of the most well-known consumer protection activists in the United States and globally, prepared an extensive list of

consumer rights, in which he added six more rights to reach a total of ten rights.

### **II. Consumer Protection Movement in Europe**

When the European Market was established under the Treaty of Rome on 25 February 1957, its provisions did not include a reference to the rights of consumers as a result of the lack of clarity of the relationship between producers and consumers. In addition, the power of the consumer was weak, and there were no consumer protection associations or organizations. The European administration began to take more interest in consumers at the beginning of 1972 with a recommendation issued at the Paris Summit of Heads of State and Government of the Market. In 1975, the Council of Ministers of the Market set up a consumer protection program, in which the basic rights of the consumer were announced.

Once the European countries announced the establishment of this regional economic system, their efforts were focused on finding ways to coordinate their states in protecting the domestic and international consumption of their citizens. As a result, the European Declaration for the Protection of Consumers was issued in 1973. This Declaration guarantees the basic rights of consumers, such as: the right to health protection, the protection of economic and financial interests, and the right to encourage the establishment of associations and bodies concerned with directing consumers and protecting their rights.

In addition to the basic rights adopted by the European Community, the member states of the EU have harmonized domestic laws to protect consumers through the enactment of unified legislation and the establishment of a special program in 1975.

Subsequently, the European countries issued laws that specifically sought to combat consumer abuse. On September 12, 1976, Germany issued a federal law to ban arbitrary conditions to the detriment of consumers under general conditions set out in model contracts. In England, a special law was issued about unfair conditions in consumer contracts, and then French law No. 78/23 was issued on January 10, 1978, followed by a law for the legal protection of consumers on August 25, 1983, then the Consumer Protection Law on June 16, 1984, and in Portugal Law No. 446/85 was issued on October 25, 1985, aimed at protecting the consumer. In the

Netherlands, the Consumer Protection Act was enacted on June 18, 1987, and, in Belgium, the law regulating the practice and information of consumers was issued on January 14, 1991.

In France, consumer protection associations began to be established and became more active and prominent. Because of their pressure, France issued the Trade and Crafts Directive on December 27, 1973, which stated in Article 1 that trade and craft were to rationalize and satisfy the consumer's desire both in terms of the price and quality of services and products offered.

Before enacting the consumption law, France previously had some laws in place dealing indirectly with protecting consumers from bad faith conduct by producers, or interference with the process of trading products. One example is the law of 1905, which imposed penalties for deception or fraud in dealings with a commodity. The government then contributed to the establishment of several specialized bodies, such as the National Institute of Consumption and the National Consumption Council. The Ministry of Consumption was established in the mid-1970s, followed by a State Secretary of Consumption in response to consumer pressure, although its role was limited due to the economic crisis at the time. On January 10, 1978, a law was issued on consumer protection and information that increased the scope of legal protection to consumer products and services. On January 10, 1982, a law was enacted that which included several provisions in various areas of consumer protection.

On December 12, 1984, a decree was issued that replaced the decree issued in 1972 concerning the regulation of labelling and data on food products. A decree issued on December 1, 1986 concerning prices and free competition, included several provisions relating to consumers. Then, a decision was issued on December 3, 1987, which replaced the 1971 decree on regulating consumer price information. It also gave Consumer Protection Associations the right to resort to the judiciary to defend the common interests of consumers under the law of January 5, 1988. After all of these efforts, the French system promulgated the Consumption Code in 1993, which collected all rules for consumer protection into several laws.

### **III. Consumer Protection Movement on the International Level**

Increasing awareness of the need to protect consumers, especially since the industrial revolution, the great increase of production, and the weakness of consumers in purchasing transactions, resulted in a state of mistrust. The consumer required greater legal protection.

The United States, as a leading industrial country in which consumer awareness had developed relatively early, has seen the emergence of associations, organizations and elites calling for the need to protect consumers. This pressure has led to the enactment of consumer rights laws through which the President of the Consumer Federation of the United States initiated the establishment of the first international organization called the International Organization of Consumers in various states in 1960. The organization has an adviser to the UN Economic and Social Council (UNESCO) and the Food and Agriculture Organization (FAO). It is a 15-member council that aims to protect the material and moral interests of consumers.

One of the objectives pursued under these principles is to help countries achieve adequate protection for their populations by establishing consumer associations and organizations, by urging countries to develop policies and laws and to monitor their implementation to protect the interests of consumers.

### **IV. Consumer Protection Movement in Saudi Arabia**

The Kingdom of Saudi Arabia, like other countries, has been affected by the global mobility of consumers. In 2000, a number of activists and specialists were called upon to establish the Consumer Rights Association to provide consumers with necessary protection by informing them about their rights, complaining, verifying and following up with the competent authorities, adopting their cases in public and private entities and protecting them from all types of fraud in all goods and services. In 2008, the Consumer Protection Association was approved, but it has not yet issued a comprehensive special law to protect consumers.

As the Saudi regime applies Islamic law in all of its spheres, Saudi Arabia considers the Islamic Sharia its constitution. This means that the Consumer

Protection Act is an extension to that period. However, after some research, we determined that there is no independent law in the Saudi law called "consumer protection". There are no associations or organizations in this regard other than the Consumer Protection Association, which was approved in 2008. Some may point to the existence of some consumer protection laws in Saudi Arabia, such as the Commercial Fraud Act of 1984, the Commission's Law Saudi Arabian Standards Organization issued in 1972, the Consumer Protection Act in the General Authority for Civil Aviation issued in 2010 and similar laws that contribute to consumer protection.

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