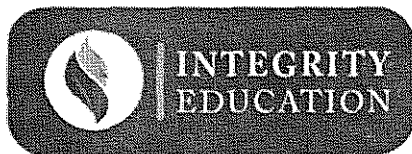


Reviving Wisdom

TRADITIONAL KNOWLEDGE SYSTEMS
ACROSS TIME

Editor

Dr. Anjali Dixit



PREFACE

Reviving Wisdom: Traditional Knowledge Systems Across Time is a tribute to the profound and time-honored knowledge systems that have sustained civilizations, guided ethical living, promoted social cohesion, and ensured ecological balance for millennia. This volume brings together diverse and insightful academic contributions from a range of disciplines, aiming to re-examine and reinterpret traditional wisdom in the context of modern-day challenges.

The book begins with a foundational chapter by the editor, **Dr. Anjali Dixit**, who explores the **sustainability lessons embedded in India's traditional practices**, setting the tone for a journey that traverses ancient customs, gendered knowledge systems, indigenous science, philosophy, law, and modern reinterpretations.

In the subsequent chapters, **Prof. (Dr.) Rohit P. Shabran** addresses the critical role of **women in science and protection of TKS**, emphasizing their contributions in building a sustainable India. **Prof. (Dr.) Pradeep Sharma** discusses **traditional conflict resolution systems** rooted in justice and social harmony, while **Dr. Firdous Wani** underlines the importance of **holistic knowledge-based societies** shaped by ancient Indian wisdom.

Dr. Aneesh V. Pillai and **Ms. Nandana Rajesh** trace the **legacy of scientific thought from the Vedas to the modern era**, reinforcing the scientific sophistication of early Indian texts. Complementing this, **Dr. Yogita Rathore** and **Mrs. Priyanka Jaiswal** highlight **gendered knowledge transmission pathways** that reveal the silent yet impactful roles of women in preserving traditions.

Legal dimensions are explored with critical depth. **Dr. Madhuri V. Sarwade**, **Dr. Wasim Ahmad**, **Dr. Swati A. Joshi**, and **Dr. Jiwanjot Kaur** examine traditional legal frameworks and their relevance in contemporary enforcement, including the **Consumer Protection Act**, **conflict resolution mechanisms**, and **comparative global traditions**. **Dr. Madhavi Satish Malge** brings ecological concerns to the forefront through a study on **biodiversity and legal protection of traditional knowledge**.

The book also traverses **post-colonial and global contexts** with chapters by **Mrs. Priyanka Jaiswal** and **Ms. Muskan Kachhawa**, and engages with education, youth, and philosophical schools through contributions from **Prakash George M**, **Aarti Arora**, **Dr. Meghana Raikar**, and **Aditi Sharma & Rajini Bollera Kushalappa**.

Narratives on **customary jurisprudence and ethics** are explored in chapters like “**When War is Justice**” by **Shirsho Ghosh and Mouboni Banerjee**, and “**Justice Beyond the State**” by **Dravyesh Narayan Pathak**, showcasing indigenous dispute resolution and moral reasoning.

The contributions of **Pradumnya Sachan & Mohammad Nazim Malik**, **Mohammad Nazim Malik & Ankita Tripathi**, and **Dr. Kana Mukherjee** delve into **economic traditions, nutritional sciences, and blended justice models**, while **Dr. Debika Mukherjee, Ishan Ahmad & Yasir Mustafa Khan**, and **Mrs. P. Shyamala** focus on **intellectual property protection** of traditional knowledge in India.

Themes of **mental health, environmental justice, and gender roles** are further enriched by chapters from **Tapan Kumar Pandit & Aditi Malviya**, **Ms. Meghna Thakur**, **Ms. Kunjana Mittal**, and **Raajitha Rachuri**, showcasing the relevance of traditional thought in wellness, equity, and literature.

Scientific heritage is not left behind. **Nyla Azmi A. and Beena Lawrence** present a research-based botanical study on *Pyrrosia heterophylla*, reinforcing the empirical foundation of India’s medical knowledge systems.

Collectively, these 29 chapters illuminate how traditional knowledge is not a static archive but a living continuum—dynamic, inclusive, and deeply interwoven with modern academic, legal, environmental, and cultural discourses.

This volume invites readers—academicians, students, researchers, and policy thinkers—to reconsider tradition not as an obstacle to progress but as a guiding force in envisioning a sustainable and ethically grounded future.

I am immensely grateful to all the contributors for their rigorous scholarship and passion. May this work inspire continued dialogue, research, and respect for the wisdom that has quietly but powerfully shaped our world.

Dr. Anjali Dixit

Editor

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Revisiting Traditional Legal Systems: A Critical Appraisal of the Enforcement Mechanism under the Consumer Protection Act, 2019

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Abstract

The development of consumer protection legislation in India illustrates a vibrant interaction between established legal traditions and contemporary legal frameworks. The Consumer Protection Act, 2019's enforcement mechanisms were created to effectively handle consumer complaints and uphold consumers' rights. But even though the Act brings about a lot of improvements, there are also problems and things that need to be carefully considered. Although the Consumer Protection Act of 2019 (hereinafter referred as "Act of 2019") is a start in the right direction, its enforcement mechanisms need to be greatly strengthened. Even though the Act adds new elements like the CCPA, mediation cells, and e-commerce legislation, its effectiveness hinges on resolving implementation, awareness, and infrastructure issues. The Act can create an effective and easily accessible redressal system and genuinely empower consumers by improving these elements. The enforcement mechanism is a crucial aspect of any consumer protection legislation, as it determines the effectiveness of the law in safeguarding the rights and interests of consumers. This paper investigates how traditional legal frameworks prioritized community-oriented, accessible, and participatory forms of justice, and assesses whether the existing statutory enforcement mechanisms are in line with or diverge from these principles.

Keywords: Enforcement Mechanism, Consumer Rights, Consumer Disputes Redressal, Consumer Protection Councils, Consumer Dispute Resolution, Consumer Welfare

1. Traditional Legal Systems and Consumer Protection in India

Before colonial rule, India's justice systems were deeply rooted in community values, religious doctrines, and local traditions, emphasizing resolution at the village level through dialogue and conciliation. Hindu and Muslim legal frameworks served their respective communities, with rulers expected to uphold citizen rights, including those of consumers. Ancient texts like Kautilya's Arthashastra addressed market malpractices such as fraud, adulteration, and price manipulation, advocating for regulation and consumer fairness. These localized

systems were accessible, culturally relevant, and represent early forms of consumer protection.

1.1 Panchayats System and Customary Law

The Panchayat system was a key element of traditional Indian justice, where village elders resolved disputes based on customary law and fairness. It handled trade-related grievances like fraud and price gouging using conciliatory, non-confrontational methods. Though its application varied across regions and often excluded marginalized voices, the system fostered ethical trade practices and laid the groundwork for today's Alternative Dispute Resolution (ADR) models.

1.2 Informal Dispute Resolution and Community Justice

Traditional Indian society relied heavily on informal, community-led mechanisms for resolving disputes. Issues concerning goods and services were often settled through negotiations led by elders, guilds, or religious figures who maintained ethical trade norms. Merchant guilds played a regulatory role, and violations like adulteration were met with social penalties. These methods, while informal, were quick, affordable, and maintained public trust in commerce through moral enforcement.

1.3 Relevance of Traditional Systems in Today's Consumer Disputes

The core values of traditional legal systems—accessibility, affordability, and ethical fairness—remain relevant in resolving modern consumer issues, especially in rural areas. They resonate with modern principles such as Corporate Social Responsibility (CSR). The Act of 2019 reflects this continuity by introducing mediation, digital grievance mechanisms, and public awareness programs. Still, it is crucial to balance formal legal standards with cultural relevance to make justice more effective and inclusive.

1.4 Strengths of The Enforcement Machinery:

The three-tier grievances machinery set up by the Act of 2019 to redress consumer grievances is known as Redressal Agencies. The three agencies are District Commission, State Commission, and National Commission.¹⁸⁰ To further strengthen the provisions for consumer protection especially in the new era of globalization,

¹⁸⁰ Redressal Agencies under the Consumer Protection Act, 2019 (11 Jun, 2024) Available at: <https://www.geeksforgeeks.org/redressal-agencies-under-the-consumer-protection-act-2019/> last visited on 30/12/2024.

online platforms, e-Commerce markets etc., the Act of 2019 was enacted to replace the Consumer Protection Act 1986.¹⁸¹

1.5 The Role of Enforcement Machinery under the Act of, 2019:

The moment a person comes into this world, he starts consuming. He needs clothes; milk, oil, soap, water, and many more things and these needs keep taking one form or the other all along his life. Thus we all are consumers in the literal sense of the term. When we approach the market as a consumer, we expect value for money, i.e., right quality, right quantity, right prices, information about the mode of use, etc. But there may be instances where a consumer is harassed or cheated.¹⁸² The importance of consumer protection cannot be overstated, as consumers are the foundation upon which any economic system rests¹⁸³. The Act of 2019 represents a significant step forward in safeguarding the rights and interests of Indian consumers. At the heart of this legislation is the enforcement machinery, which plays a crucial role in ensuring its effective implementation. The Act establishes a multi-layered enforcement system, with the Central Consumer Protection Authority at the national level, and State and District Consumer Protection Councils at the state and district levels, respectively. These bodies are responsible for monitoring the marketplace, investigating violations, and taking appropriate enforcement actions. One of the key strengths of the new Act is its emphasis on timely resolution of consumer complaints.

1.6 Central Consumer Protection Authority (CCPA):

The creation of the CCPA is a landmark feature aimed at regulating matters of unfair trade practices, misleading advertisements, and violations of consumer rights. The enactment of the CCPA 2019 in India is a significant milestone in the country's efforts to address the growing concerns around unfair trade practices, misleading advertisements, and violations of consumer rights. This comprehensive legislation aims to provide consumers with greater transparency, control, and protection over their personal data and information. One of the key features of the CCPA is the introduction of the "right to know," which gives consumers the right

¹⁸¹ "Consumer Protection Act, 2019 to strengthen provisions for consumer protection", (02 AUG 2023), Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1945167> last visited on 30/12/2024.

¹⁸² Division Two Commentary On Consumer Protection Act, https://ncdrc.nic.in/bare_acts/1_1_2.html last visited on 28/12/2024.

¹⁸³ Murtiza, G., Tariq, K. ur R., & Shahzad, M. A. (2020). Protection of Consumer Rights and Superior Judiciary of Pakistan. In *Global Legal Studies Review* (p. 37). [https://doi.org/10.31703/glsr.2020\(v-iv\).05](https://doi.org/10.31703/glsr.2020(v-iv).05)

to be informed about the personal information a business collects and how it is used and shared.¹⁸⁴ This addresses the issue of lack of transparency in data collection and processing practices, a common complaint among consumers. The law also grants consumers the "right to delete" their personal information, providing them with more control over their data.¹⁸⁵ The CCPA has the power to investigate, prosecute, and penalize offenders, providing consumers with centralized enforcement. The Act of 2019, landmark legislation in India, has emerged as a powerful tool in safeguarding the rights and interests of consumers. This Act, with its expansive jurisdiction, aims to provide consumers with a centralized enforcement mechanism to address their grievances effectively. The Act empowers the Consumer Protection Council, established at the federal, state, and local levels, to play a pivotal role in protecting and advancing consumer rights¹⁸⁶.

1.7 Mediation Framework:

In recent years, the Indian legal landscape has witnessed a significant shift towards alternative dispute resolution mechanisms, particularly mediation, as a means of addressing the mounting caseload in the country's overburdened court system. The introduction of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, and the more recent Commercial Procedure and Arbitration Centers Act, 2018, have further solidified the role of mediation in resolving commercial disputes in India. In the ever-evolving legal landscape of India, the introduction of the Mediation Framework and the Act of 2019 have significant implications for the way disputes are resolved and consumer rights are protected. The Automated Dispute Resolution System, proposed as an initial framework for digital justice, offers a promising approach to address the challenges faced by consumers in the digital commerce realm¹⁸⁷.

The 2019 Act promotes mediation to ease the load on consumer commissions and encourage amicable dispute resolution.¹⁸⁸ Prior to the implementation of the 2019

¹⁸⁴ O'Connor, S., Nurwono, R., Siebel, A., & Birrell, E. (2020). (Un) clear and (In) conspicuous: The right to opt-out of sale under CCPA. In arXiv (Cornell University). Cornell University. <https://doi.org/10.48550/arxiv.2009.07884>

¹⁸⁵ Ibid

¹⁸⁶ Anand, P. (2023). Effectiveness of Consumer Protection Act in Securing Consumer Rights: An Empirical Prospective. In Journal of Cardiovascular Disease Research (Vol. 12, Issue 4). Medknow. <https://doi.org/10.48047/jcdr.2021.12.04.338>

¹⁸⁷ Palanissamy, A., & Kesavamoorthy, R. (2019). Automated Dispute Resolution System (ADRS) – A Proposed Initial Framework for Digital Justice in Online Consumer Transactions in India. In Procedia Computer Science (Vol. 165, p. 224). Elsevier BV. <https://doi.org/10.1016/j.procs.2020.01.087>

¹⁸⁸ Palanissamy *Supra* note 1 at 4

Act, the consumer protection legislation of 1986 was in place, but it faced significant flaws, particularly in the area of delayed resolution of consumer complaints. The new Act has sought to address these issues by providing a more streamlined and efficient dispute resolution process. The key features of the Act of 2019 include the establishment of the Consumer Protection Council at the federal, state, and local levels to safeguard and advance consumer rights¹⁸⁹ The Act also introduces mediation as an alternative dispute resolution mechanism, which is expected to reduce the backlog of cases and provide a more amicable solution for both parties. The effectiveness of the Act in securing consumer rights has been the subject of empirical research.

1.8 Enhanced Jurisdiction:

The Act of 2019, landmark legislation in India, has significantly expanded the jurisdiction of consumer protection mechanisms, empowering consumers and enhancing their ability to seek redressal for grievances. This act applies to all goods and services, covering the private, public, and individual sectors, ensuring that consumers across various domains can avail of the relief and compensation it provides.¹⁹⁰ The 2019 Consumer Protection Act introduced Consumer Protection Councils at all levels to promote consumer rights and fix delays seen under the 1986 Act. It also expanded protection to digital commerce, ensuring online transactions are safeguarded like traditional ones.¹⁹¹

The increased monetary jurisdiction of consumer forums has made them more accessible and helped reduce the burden on higher courts. This shift reflects the growing focus on protecting consumer rights as a key part of a healthy economic system..¹⁹² Modern civil law has evolved to address new consumer challenges, giving rise to consumer law. This has led to higher household incomes, reduced buyer-seller conflicts, and greater public engagement. Protecting consumer rights reflects a strong economic system, with the judiciary playing a key role.¹⁹³ Consumer protection has gained attention recently, with debates over creating a

¹⁸⁹ Anand *Supra* note at 3

¹⁹⁰ Anand *Supra* note at 3

¹⁹¹ Chawla, N., & Kumar, B. (2021). E-Commerce and Consumer Protection in India: The Emerging Trend. In *Journal of Business Ethics* (Vol. 180, Issue 2, p. 581). Springer Science+Business Media. <https://doi.org/10.1007/s10551-021-04884-3>

¹⁹² Rastegari, S., & Dehkordi, S. S. (2013). Protection of consumer rights in cyberspace (p. 1). <https://doi.org/10.1109/ecdc.2013.6556744>

¹⁹³ Murtiza, G., Tariq, K. ur R., & Shahzad, M. A. (2020). Protection of Consumer Rights and Superior Judiciary of Pakistan. In *Global Legal Studies Review* (p. 37). [https://doi.org/10.31703/glsr.2020\(v-iv\).05](https://doi.org/10.31703/glsr.2020(v-iv).05)

dedicated advocacy agency versus relying on government intervention. However, most agree that strong enforcement of existing laws is key to safeguarding consumer interests.¹⁹⁴

1.9 Accountability for E-commerce Entities:

The growth of e-commerce in India has been promising, with a robust legal framework and consumer protection measures in place. The Act of 2019 has been introduced to enhance consumer trust and ensure the accountability of e-commerce entities.¹⁹⁵ The Act aims to address the various threats faced by consumers in the digital marketplace, such as privacy violations, intellectual property infringement, online piracy, unsolicited commercial electronic advertisements, and fraudulent activities.¹⁹⁶ The Act provides a comprehensive legal and compliance framework to safeguard consumer rights and ensure the responsible behavior of e-commerce entities. One of the key provisions of the Act is the establishment of the Consumer Protection Council at the federal, state, and local levels. This council serves as an advisory body to promote and protect consumer rights, including those in the e-commerce domain.¹⁹⁷ The Act explicitly includes provisions to regulate e-commerce platforms, ensuring they comply with fair trade practices and consumer protection norms.

1.10 Challenges and Criticism of the Enforcement Machinery

The 2019 Act aimed to improve consumer redressal, but enforcement still faces delays, weak penalties, and regulatory challenges.

1.10.1 Implementation Gaps:

The Act of 2019 aimed to strengthen consumer rights and streamline grievance redressal in India. However, its effectiveness has been hampered by major challenges. Delays in resolving complaints due to overburdened Consumer Commissions, especially at the district level, have reduced its impact. Inadequate infrastructure, shortage of trained staff, and delayed appointments further affect efficiency. Additionally, low public awareness about consumer rights and

¹⁹⁴ Lichtenstein, P. M. (1978). A taxonomical approach to consumer ignorance and information policy. In *Journal of Behavioral Economics* (Vol. 7, Issue 2, p. 121). Elsevier BV. [https://doi.org/10.1016/0090-5720\(78\)90008-6](https://doi.org/10.1016/0090-5720(78)90008-6)

¹⁹⁵ Shaik, D., & Poojasree, Ms. V. (2021). Consumer Protection in E-Commerce: A Legal and Compliance Framework in the Digital Market. In *Advances in Social Science, Education and Humanities Research/Advances in social science, education and humanities research*. <https://doi.org/10.2991/assehr.k.210506.004>

¹⁹⁶ Ibid

¹⁹⁷ Anand *Supra* note at 3

procedures has limited the Act's reach, particularly among marginalized communities.

1.10.2 Overburdened Forums:

In the modern financial landscape, the concept of consumer protection has become increasingly crucial¹⁹⁸. The Act of 2019, aims to address the challenges faced by consumers in various sectors, including the financial industry.¹⁹⁹ This paper provides an overview of the Act and its implications for consumers.

The Act was introduced in response to the growing concerns regarding consumer dissatisfaction and the need for stronger consumer protection measures²⁰⁰. The previous consumer protection legislation of 1986 was found to have significant flaws, including delays in handling consumer complaints, which led to the creation of the 2019 Act.²⁰¹ The new Act applies to all goods and services, encompassing the private, public, and individual sectors, with the goal of providing relief and compensation to consumers.²⁰² The Act has established the Consumer Protection Council as an advisory body at the federal, state, and local levels to safeguard and advance consumer rights.²⁰³ The Council plays a crucial role in ensuring the effective implementation of the Act and addressing the concerns of consumers. The Truth-in-Lending Act, which is a key component of the consumer protection legislation, has also been reviewed in this paper. Despite efforts to simplify processes, consumer forums are still overwhelmed with pending cases, which undermines the objective of speedy resolution.

1.10.3 Limited Awareness Among Consumers:

Many consumers remain unaware of the protections available under the Act or how to access them, especially in rural areas. The Act of 2019 was a landmark legislation aimed at safeguarding the rights and interests of consumers across the United States. However, a significant challenge remains in ensuring that all consumers, particularly those in rural areas, are aware of the protections available

¹⁹⁸ O'Mahony, L. F, Twigg-Flesner, C., & Akinbami, F. (2015). Conceptualizing the Consumer of Financial Services: a New Approach? In *Journal of Consumer Policy* (Vol. 38, Issue 2, p. 111). Springer Science+Business Media. <https://doi.org/10.1007/s10603-015-9293-5>

¹⁹⁹ Anand *Supra* note at 3

²⁰⁰ Kim, S. H., & Farragher, E. J. (1978). Creditors in the Consumer Protection Age. In *International Journal of Comparative and Applied Criminal Justice* (Vol. 2, Issue 2, p. 177). Taylor & Francis. <https://doi.org/10.1080/01924036.1978.9688659>

²⁰¹ Anand *Supra* note at 3

²⁰² Ibid

²⁰³ Ibid

to them and how to effectively access these safeguards.²⁰⁴ Existing research suggests that while the Act has made significant strides in addressing consumer grievances, its impact has been uneven across different regions.²⁰⁵ The establishment of the Consumer Protection Council at the federal, state, and local levels has been a crucial step in promoting consumer advocacy, but more needs to be done to reach and educate individuals in remote and underserved communities.

²⁰⁶ A study exploring the "Effectiveness of Consumer Protection Act in Securing Consumer Rights" found that although the Act was primarily designed to address the issues faced by consumers, it also contained notable flaws, such as delays in handling consumer complaint. This finding underscores the need for a more streamlined and accessible process for consumers to seek redress.

1.10.4 The Limitations of the Act of 2019 in Addressing Local-Level Grievances

While The Act of 2019 is a powerful body, its effectiveness depends on its ability to penetrate deeper into local-level issues. Its central structure may not address grievances at the grassroots level. While the Act of 2019 is a powerful piece of legislation, its effectiveness in addressing grievances at the grassroots level remains a concern. The Act, which was designed to protect consumers across all sectors, has been instrumental in providing relief and compensation to individuals who have been wronged by businesses. However, the centralized structure of the Act may not be sufficient to address the nuanced and localized issues that consumers often face. One of the key criticisms of the Act is that it has been primarily focused on resolving issues at the national level, rather than addressing the specific concerns of consumers at the local level.²⁰⁷ This is due, in part, to the fact that the Act has established a centralized Consumer Protection Authority, which is responsible for overseeing and enforcing the legislation. While this approach has been effective in addressing larger-scale consumer protection concerns, it may not be as well-equipped to handle the more granular issues that arise within individual communities. Moreover, the Act's enforcement mechanisms may not be as robust at the local level, as they are often reliant on the cooperation and participation of state and local authorities. This can lead to inconsistencies in the way the Act is

²⁰⁴ Sabri, M. F. (2014). The Development of Consumer Protection Policies in Malaysia. In *International Journal of Business and Social Research* (Vol. 4, Issue 6, p. 98). MIR Center for Socio-Economic Research. <https://doi.org/10.18533/ijbsr.v4i6.519>

²⁰⁵ Kim, S. H., & Farragher, E. J. (1978). Creditors in the Consumer Protection Age. In *International Journal of Comparative and Applied Criminal Justice* (Vol. 2, Issue 2, p. 177). Taylor & Francis. <https://doi.org/10.1080/01924036.1978.9688659>

²⁰⁶ Ibid

²⁰⁷ Ibid

implemented and enforced across different regions, with some areas experiencing more effective consumer protection than others. It is important to note that the Act's shortcomings in addressing local-level grievances are not unique to this legislation.

1.10.5 Challenges in Regulating E-commerce:

The rapid growth of e-commerce in India has brought about significant changes in the country's retail landscape. As the medium for conducting business has shifted from physical stores to online platforms, it has become crucial to establish a robust legal framework to protect consumer rights and ensure fair practices. This research paper aims to analyze the evolution of e-commerce and the corresponding developments in consumer protection laws in India. The e-commerce industry in India has witnessed remarkable growth in recent years, driven by the increasing accessibility and adoption of the internet. The COVID-19 pandemic has further accelerated this trend, with more consumers turning to online platforms for their shopping needs.²⁰⁸ The industry's growth is projected to continue, with the emergence of new business models and innovative technological solutions.²⁰⁹ However, the rapid expansion of e-commerce has also brought about challenges in terms of consumer protection. Factors such as cultural differences, privacy concerns, and issues related to cyber security have posed significant hurdles in the development of the e-commerce ecosystem in India.²¹⁰ The Digital Age has ushered in a new era of commerce and digital branding, as well as a new set of customer expectations. Digitization has provided easy access, a large variety of choices, convenient payment mechanisms, improved services and shopping as per convenience. However, there are also associated challenges related to consumer protection.²¹¹

1.10.6 The Rise Of Global E-Commerce Platforms Creates Jurisdictional And Enforcement Challenges, Particularly In Cross-Border Transactions:

The rapid growth of global e-commerce platforms has created significant challenges in terms of jurisdictional oversight and enforcement, particularly when it comes to cross-border transactions. As consumers and businesses increasingly

²⁰⁸ Pallivalappil, A. S., & Jagadeesha, S. N. (2021). India's E-Commerce Industry's Growth and Projected Breakthroughs. In *International Journal of Case Studies in Business IT and Education* (p. 314). <https://doi.org/10.47992/ijcsbe.2581.6942.0137>

²⁰⁹ Ibid

²¹⁰ Chattered, S. (2015). E-Commerce in India: A review on culture and challenges [Review of E-Commerce in India: A review on culture and challenges]. 105. <https://doi.org/10.1109/icscti.2015.7489547>

²¹¹ "The Consumer Protection Act of 2019 A Brief Overview" Available at: <https://byjus.com/free-ias-prep/consumer-protection-act-2019/> last visited on 30/12/2024.

engage in online transactions that transcend national borders, they face a complex web of legal and regulatory frameworks that can be difficult to navigate.²¹²

One of the primary challenges stems from the high degree of information asymmetry between cross-border buyers and sellers. Due to language and cultural barriers, as well as the poor enforcement of national laws, consumers often have difficulty verifying the legitimacy and trustworthiness of merchants operating in foreign markets.²¹³ This can lead to a rise in fraudulent activities, such as credit fraud and speculative behavior, which erode consumer confidence and hinder the growth of cross-border e-commerce.²¹⁴ Moreover, the digital nature of e-commerce transactions has introduced new complexities in terms of jurisdiction and enforcement. Traditional legal frameworks were not designed to accommodate the borderless nature of online interactions, making it challenging to determine which laws and regulations apply and how to effectively enforce them across national boundaries. These issues are further compounded by the rapid pace of technological change and the emergence of new payment systems, such as digital wallets and cryptocurrencies, which can further obscure the lines of legal responsibility and accountability.²¹⁵

1.11 The Need for Robust Data Protection and Privacy Measures in E-commerce Transactions:

Provisions for data protection and privacy in e-commerce transactions remain underdeveloped. In the digital age, the rapid growth of e-commerce has brought about significant benefits for both businesses and consumers. However, this expansion has also heightened concerns regarding data protection and privacy in online transactions.²¹⁶ The integration of technology in e-commerce has created a

²¹² Liu, A., Osewe, M., Shi, Y., Zhen, X., & Wu, Y. (2021). Cross-Border E-Commerce Development and Challenges in China: A Systematic Literature Review. In *Journal of theoretical and applied electronic commerce research* (Vol. 17, Issue 1, p. 69). Multidisciplinary Digital Publishing Institute. <https://doi.org/10.3390/jtaer17010004>

²¹³ He, Y., Wu, R., & Choi, Y.-J. (2021). International Logistics and Cross-Border E-Commerce Trade: Who Matters Whom? In *Sustainability* (Vol. 13, Issue 4, p. 1745). Multidisciplinary Digital Publishing Institute. <https://doi.org/10.3390/su13041745>

²¹⁴ Cao, C., & Huang, S. (2022). How Can SMEs Boost Trust Through Third-Party Means? Tracing the Multi-Dimensional Institutional Basis of Online Trust. In *IEEE Access* (Vol. 10, p. 127149). Institute of Electrical and Electronics Engineers. <https://doi.org/10.1109/access.2022.3226889>

²¹⁵ Branovitsky, K. L. (2020). Digitalization of the Civil Process in the Trans boundary Aspect: Formulation of the Problem. <https://doi.org/10.2991/assehr.k.200321.126>

²¹⁶ Medlin, B. D., & Romaniello, A. (2008). The cost of electronic retailing: prevalent security threats and their results. In *International Journal of Electronic Marketing and Retailing* (Vol. 2, Issue 1, p. 80). Inderscience Publishers. <https://doi.org/10.1504/ijemr.2008.016818>

complex landscape where the misuse of information can have severe consequences, such as the introduction of malware, information disclosure, and piracy. While recent legislation, such as the Act of 2019, has attempted to address these issues, the provisions for safeguarding data and privacy in e-commerce remain underdeveloped, leaving both consumers and businesses vulnerable to potential risks.²¹⁷

The increasing challenges in effective data security and personal privacy protection in the e-commerce realm are well-documented²¹⁸. The specific characteristics of online transactions, such as the reliance on data transmission, have amplified the importance of robust information security measures. Furthermore, the evolving nature of cyber threats, including automated algorithms, big data, and artificial intelligence, has added to the complexity of the problem, shaping consumer attitudes towards online shopping and creating a sense of digital distrust.²¹⁹ Addressing these concerns requires a multifaceted approach that considers the diverse stakeholders involved in e-commerce transactions.

1.12 Inadequate Use of Technology in India's Legal System:

Although e-filing and virtual hearings have been introduced, digital infrastructure and consumer digital literacy in many parts of India remain underdeveloped, limiting the accessibility of these features. Despite the introduction of e-filing and virtual hearings, the digital infrastructure and consumer digital literacy in many parts of India remain underdeveloped, significantly limiting the accessibility of these technological advancements within the legal system. India has been one of the early adopters of e-governance among developing economies, yet the implementation of digital solutions in its legal system has been sluggish. The issue appears to be a lack of a comprehensive national ICT policy, as well as the essential skills required for the creation and execution of such a policy.²²⁰ Emerging economies and rural regions are particularly vulnerable to the digital divide, as they

²¹⁷ Ariffin, S. K., Mohan, T. R. M., & Goh, Y.-N. (2018). Influence of consumers' perceived risk on consumers' online purchase intention. In *Journal of Research in Interactive Marketing* (Vol. 12, Issue 3, p. 309). Emerald Publishing Limited. <https://doi.org/10.1108/jrim-11-2017-0100>

²¹⁸ Haoyu, W. (2012). Privacy, How Can I Protect You? How to Construct Safe Data Security System in E-commerce Transaction (p. 441). <https://doi.org/10.1109/iccis.2012.213>

²¹⁹ Abiakwe, J. (2022). Effect Of Digital Distrust On Attitude Towards Online Shopping Among Undergraduates In Enugu State, Nigeria. In Zenodo (CERN European Organization for Nuclear Research). European Organization for Nuclear Research. <https://doi.org/10.5281/zenodo.6344022>.

²²⁰ Balkrishna, A., Singh, S. K., Pathak, R., & Arya, V. (2024). E-governance paradigm in the Indian agricultural sector. In *Discover Agriculture* (Vol. 2, Issue 1). Springer Science Business Media. <https://doi.org/10.1007/s44279-024-00012-7>

often lack the necessary technical infrastructure, affordable technology, digital skills, and regulatory environment to effectively utilize technological innovations.²²¹ The legal sector in India is not immune to these challenges. While e-filing and virtual hearings have been introduced, their widespread adoption has been hampered by the limited digital literacy and access among the population. The rural communities, which make up a significant portion of India's population, are at a disadvantage when it comes to leveraging these digital tools. The lack of reliable electricity, affordable connectivity, and user equipment, coupled with topographical challenges and limited industry incentives for low-cost ICT, are significant barriers to the effective implementation of digital solutions in the legal system.²²² Furthermore, the lack of digital awareness and the necessary skill sets among both legal professionals and the general public hinder the successful utilization of these technological advancements.

1.13 Mediation as a Voluntary Process: Implications of the CPA Act of 2019:

Mediation under the Act is voluntary, which may lead to resistance from parties unwilling to settle amicably, pushing more cases into formal adjudication. The Act of 2019 has established mediation as a voluntary process, which presents both opportunities and challenges in the realm of dispute resolution.²²³ While mediation offers a collaborative and non-adversarial approach to resolving conflicts, the voluntary nature of the process may lead to resistance from parties unwilling to settle amicably, potentially pushing more cases into formal adjudication.²²⁴ Mediation has been increasingly recognized as an effective alternative to traditional litigation, as it allows parties to have a greater degree of control over the outcome and maintain positive relationships.²²⁵ In the context of the Act of 2019, the voluntary nature of mediation can foster a more cooperative and mutually beneficial environment for dispute resolution. However, this voluntary aspect may also present a significant challenge, as parties who are unwilling to engage in mediation may opt for the more formal and adversarial route of adjudication.²²⁶

²²¹ Ibid

²²² Kumar, S. K. A., Ithita, G. V., Chaudhari, S., & Paventhan, A. (2022). A Survey on Rural Internet Connectivity in India (p. 911). <https://doi.org/10.1109/comsnets53615.2022.9668358>

²²³ Wiley. <https://doi.org/10.1111/j.174-1617.1985.tb01016.x>

²²⁴ Pearson, J., & Thoennes, N. (1985). A Preliminary Portrait Of Client Reactions To Three Court Mediation Programs*. In *Family Court Review* (Vol. 23, Issue 1, p. 1).

²²⁵ Emery, R. E. (1995). Divorce Mediation: Negotiating Agreements and Renegotiating Relationships. In *Family Relations* (Vol. 44, Issue 4, p. 377).

²²⁶ Makmor, M., Ismail, Z., Zolkafli, U. K., & Rahim, F. A. M. (2011). The viability of implementing dispute board in Malaysia (p. 415). <https://doi.org/10.1109/isbeia.2011.6088849>

Research suggests that the voluntary nature of mediation can be both strength and a weakness. Mediation programs that have been implemented voluntarily have seen widespread adoption, as parties are given the opportunity to try an alternative approach to dispute resolution.²²⁷ At the same time, the lack of a mandatory requirement for mediation may result in some parties refusing to participate, leading to a higher proportion of cases being directed towards formal adjudication²²⁸.

1.14 Ineffective Penal Provisions and the Need for Stronger Deterrence against Corporate Misconduct:

While penalties for misleading advertisements and unfair trade practices do exist, they may not be stringent enough to deter large corporations from repeatedly violating consumer rights²²⁹. The ever-increasing power of multinational corporations calls for a new approach to corporate punishment that goes beyond mere fines and aims to address the systemic causes of corporate crime.²³⁰ Existing research has highlighted the challenge of deterring corporate misconduct, particularly among multinational enterprises. The traditional "detection, apprehension, and punishment" approach to law enforcement has proven insufficient, as corporations often have the resources to continue paying fines and the expertise to navigate regulatory systems.²³¹ Furthermore, studies have shown that deterrence can, in some cases, actually increase net levels of corporate crime in developing countries, as the potential benefits of misconduct outweigh the costs of punishment.²³²

This underscores the need for a more comprehensive solution that not only punishes wrongdoing but also addresses the underlying systemic factors that enable corporate crime to thrive. One such approach is restorative justice, which involves the perpetrator, victim, and community in the sentencing process²³³. By remedying

²²⁷ Emery *Supra* note at 45 Wiley. <https://doi.org/10.2307/584993>

²²⁸ Ahmad, S., Kahar, R., & Hasbullah, M. (2022). Knowledge, Attitude and Practice of Community Mediators in Malaysia. In *Kajian Malaysia* (Vol. 40, Issue 2, p. 45). University of Science Malaysia. <https://doi.org/10.21315/km2022.40.2.3>

²²⁹ Spalding, A. B. (2014). Restorative Justice for Multinational Corporations. In SSRN Electronic Journal. RELX Group (Netherlands). <https://doi.org/10.2139/ssrn.2403930>

²³⁰ Ibid

²³¹ Nurse, A. (2020). Contemporary Perspectives on Environmental Enforcement. In *International Journal of Offender Therapy and Comparative Criminology* (Vol. 66, Issue 4, p. 327). SAGE Publishing. <https://doi.org/10.1177/0306624x20964037>

²³² Ibid at 49

²³³ Spalding *Supra* note 1 at 48

the harm caused, preventing future harm, and reintegrating the defendant into the community, restorative justice offers a more holistic and effective way to tackle corporate misconduct.

1.15 Enhancing Consumer Protection: Recommendations for Improvement under the 2019 Act

The Act of 2019 has been a significant step forward in safeguarding the rights of consumers in various sectors of the economy²³⁴. However, there are still areas where the Act can be strengthened to better address the evolving challenges faced by consumers in the digital age. One key recommendation is to enhance the effectiveness of the Consumer Protection Council. The Council, established at the federal, state, and local levels, plays a crucial role in advocating for consumer rights and addressing their concerns. However, research has shown that the previous Act of 1986 suffered from delays in resolving consumer complaints, a challenge that the 2019 Act has not fully addressed.²³⁵ To improve the Council's efficiency, it is essential to provide it with adequate resources, streamline the complaint handling process, and ensure that it is empowered to swiftly investigate and resolve consumer grievances. Additionally, the Act should place a greater emphasis on consumer education and awareness. Studies have found that a lack of awareness among consumers regarding their rights and the available redressal mechanisms is a significant barrier to the effective implementation of consumer protection laws in countries like Pakistan. To address this, the Act should mandate the Council and other relevant authorities to conduct extensive awareness campaigns, utilizing various media platforms and targeted outreach programs, to ensure consumers are well-informed about their rights and the available avenues for seeking redress. Furthermore, the Act should consider decentralizing consumer protection efforts, enabling local authorities to play a more active role in addressing consumer issues within their respective jurisdictions. This would not only improve the accessibility of consumer protection services but also foster a more responsive and tailored approach to addressing the unique challenges faced by consumers in different regions.

1.16 Need To Strengthen Infrastructure:

Invest in modernizing consumer forums with better technology, facilities, and staff training. Ensure timely appointment of members and sufficient allocation of funds.

²³⁴ Anand *Supra* note 1 at 7

²³⁵ *Ibid*

The Act of 2019 has introduced significant changes to the consumer protection landscape in India, aiming to empower and safeguard the rights of consumers. One crucial aspect of this legislative reform is the need to strengthen the infrastructure supporting consumer forums and complaint redressal mechanisms. Investing in the modernization of consumer forums is a critical step in ensuring timely and effective resolution of consumer grievances. This can be achieved through the infusion of better technology, improved facilities, and enhanced staff training. The integration of advanced technology can streamline the complaint filing and tracking processes, improving the overall efficiency of the system. Upgrading the physical infrastructure of consumer forums, such as accessible and comfortable venues, can create a more welcoming environment for consumers to seek redressal. Equally important is the timely appointment of members to consumer forums and the allocation of sufficient funds to support their operations. Delayed appointments and inadequate budgetary provisions can hinder the forums' ability to function effectively, leading to a backlog of cases and prolonged resolution times. Ensuring the availability of qualified and trained personnel to staff the consumer forums is another crucial factor in strengthening the infrastructure.

1.17 Increase Consumer Awareness:

Conduct widespread awareness campaigns about the rights and grievance redressal mechanisms available under the Act, especially in rural areas. In the rapidly evolving Indian consumer landscape, the need to foster greater consumer awareness has become increasingly paramount. The Indian consumer's background has progressed significantly, with emerging trends and preferences shaping the dynamics of the market.²³⁶ As the country undergoes economic reforms and globalization, consumers have become more discerning, with higher expectations and a growing awareness of their rights.²³⁷ One key aspect of consumer awareness is the concept of brand trust, which plays a crucial role in shaping consumer loyalty and decision-making. Researchers have highlighted the multifaceted nature of brand trust, underscoring the need for a deeper understanding of the factors that influence it, particularly in the context of the Indian shampoo market. Additionally, studies have shown that consumer trust in advertising can have a significant impact on their purchase behavior, suggesting the importance of building credible and trustworthy marketing strategies.²³⁸

²³⁶ Singh, J., & Hira, D. S. (2002). Strategic marketing-key to success in changing business scenario in India (p. 173). <https://doi.org/10.1109/iemc.2001.960509>

²³⁷ Anand *Supra* note 1 at 7

²³⁸ Mesiya, A. Y. (2020). The Influence of Adtrust (Trust In Advertising) on Current and Future Purchases of Consumers: A Study of Hair Products in Pakistan. In *IBT Journal of Business Studies* (Vol. 16, Issue 1, p. 30). <https://doi.org/10.46745/ilma.jbs.2020.16.01.03>

The luxury skincare market in India presents a promising opportunity for brands to tap into the growing demand for premium products. As the middle class expands and disposable incomes rise, consumers, particularly the younger demographic, are increasingly willing to invest in high-quality skincare products that promise visible results. This trend is further reinforced by the rising focus on personal grooming and wellness, as well as the influence of globalization and exposure to international brands.²³⁹ At the same time, the traditional Indian consumer's strong attachment to Ayurvedic and natural skincare products remains a significant consideration. The population's deep-rooted connection to cultural heritage and the growing awareness of sustainable and eco-friendly practices have led to an increased demand for Ayurvedic skin care products.²⁴⁰ To effectively address these evolving consumer preferences, brands must adopt a multifaceted approach that combines traditional and contemporary marketing strategies.²⁴¹ This may involve leveraging experiential marketing techniques to create compelling, emotionally-driven experiences that resonate with consumers, while also highlighting the quality and benefits of their products²⁴².

1.18 Enhance Digital Infrastructure:

Improve accessibility and usability of online complaint filing systems, particularly in rural and semi-urban areas. The importance of a robust digital infrastructure has become increasingly evident in recent years, particularly in the context of the Citizen Protection Act of 2019. Recognizing the need to improve accessibility and usability of online complaint filing systems, especially in rural and semi-urban areas, this research paper aims to provide a comprehensive analysis and recommendations for enhancing the overall digital infrastructure.

²³⁹ Monika, Kapoor, D., & Gupta, P. (2023). An Assessment of Factors Influencing University Students' Intentions to Purchase Luxury Skincare Products. In ICST Transactions on e-Education and e-Learning (Vol. 8, Issue 3). Institute for Computer Sciences, Social Informatics and Telecommunications Engineering. <https://doi.org/10.4108/eetel.v8i3.3214>

²⁴⁰ Nalina, K. B., Adarsh, A., & Puttabuddhi, A. (2023). Consumer Awareness for Ayurvedic Skin Care Products. In International Research Journal on Advanced Science Hub (Vol. 5, Issue 8, p. 257). <https://doi.org/10.47392/irjash.2023.052>

²⁴¹ Rishi, B. (2013). Determinants of Brand Trust for FMCG Products with Special Reference to Shampoos Category. In Asia-Pacific Journal of Management Research and Innovation (Vol. 9, Issue 2, p. 221). SAGE Publishing. <https://doi.org/10.1177/2319510x13504338>

²⁴² Dhillon, R., Agarwal, B., & Rajput, N. (2021). Determining the impact of experiential marketing on consumer satisfaction: A case of India's luxury cosmetic industry. In Innovative Marketing (Vol. 17, Issue 4, p. 62). Business Perspectives. [https://doi.org/10.21511/im.17\(4\).2021.06](https://doi.org/10.21511/im.17(4).2021.06)

One of the key findings from the existing literature is the need to institutionalize and observe proper procedures in handling public complaints. The study on complaint management in the Philippines public sector organizations highlighted the importance of resolving complaints based on principles of fairness, accessibility, responsiveness, efficiency, trust, and citizen participation. Similarly, the examination of the success of online public grievance Redressal systems in India emphasized the positive correlations between various constructs, such as information quality, system quality, service quality, and user satisfaction, which are crucial for a transparent and corruption-free system.²⁴³ However, the research also identified several barriers to effective management of public complaints, including information gaps, procedural design flaws, human resource limitations, and issues with the legal and regulatory framework.

To address these challenges, a multifaceted approach is required. First, the integration of systems, the creation of a single window for grievance Redressal, and enhanced electronic connectivity can significantly improve the technological aspects of the digital infrastructure²⁴⁴. Additionally, targeted capacity-building efforts, training programs for personnel, and increased resource allocation can address the human resource and administrative challenges.²⁴⁵

1.19 Review Penal Provisions:

Revise penalties to ensure they are stringent enough to deter non-compliance by corporations. The Penal Code of India has long recognized the importance of holding corporations accountable for misconduct. The recent Corporate Affairs Act of 2019 has further emphasized this need, introducing a range of penalties to deter non-compliance by businesses. However, there remains a question of whether these penalties are stringent enough to effectively curb corporate malfeasance.

One key aspect that must be considered is the global shift towards more robust corporate prosecutions. The United States, for instance, has seen a dramatic increase in the size of penalties for organizational crimes, transforming the

²⁴³ Rana, N. P., Dwivedi, Y. K., Williams, M. D., & Lal, B. (2014). Examining the Success of the Online Public Grievance Redressal Systems: An Extension of the IS Success Model. In *Information Systems Management* (Vol. 32, Issue 1, p. 39). Taylor & Francis. <https://doi.org/10.1080/10580530.2015.983019>

²⁴⁴ Al-Shbail, T., & Aman, A. (2018). E-government and accountability. In *Transforming Government People Process and Policy* (Vol. 12, Issue 2, p. 155). Emerald Publishing Limited. <https://doi.org/10.1108/tg-09-2017-0057>

²⁴⁵ Mantaring, A., Angela, M., Espinoza, P., & Gabriel, A. G. (2019). Complaint Management in the Public Sector Organization in the Philippines. In *Public Policy and Administration Research*. <https://doi.org/10.7176/ppar/9-2-03>

landscape of corporate criminal liability. This trend has been paralleled by developments in international treaties and growing post-financial crisis concerns over corporate violations.²⁴⁶ In this context, India's Act of 2019 must be evaluated to ensure it keeps pace with these global advancements. Importantly, the CPA 2019 has introduced several new penal provisions that aim to hold corporations accountable. These include penalties for non-compliance with financial reporting requirements, falsification of books of accounts, and failure to maintain proper records. However, the effectiveness of these measures ultimately depends on their implementation and the severity of the consequences. Evidence from China suggests that a well-developed corporate criminal compliance system, focused on prevention rather than just ex-post punishment, is critical for deterring misconduct. In India, the focus has traditionally been more on civil and administrative liabilities, with criminal liability being an afterthought. To address this, the Act of 2019 should consider strengthening the criminal liability framework for corporations, potentially drawing on international best practices in this domain. One area that merits particular attention is the penalties for white-collar crimes. Research has shown that financial penalties alone may be insufficient to deter sophisticated corporate actors, who often view such fines as a cost of doing business.

²⁴⁶ Garrett, B. L. (2017). The global evolution of corporate prosecutions. In *Law and Financial Markets Review* (Vol. 11, Issue 2, p. 55). Taylor & Francis. <https://doi.org/10.1080/17521440.2017.1355043>