

The Role of Consumer Protection Associations in Protecting Consumers

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Abstract

The role of consumer protection associations can be summarized in a simple idea: an agreement aimed at achieving continuous cooperation between two or more people to use their activities or information for purposes other than profit distribution. Consumer protection associations play a leading and effective role in defending the interests of the consumer public. They have become social pressure groups that influence the legislator to adopt protective policies. They also form a pressure group on professionals through methods or ways to protect the collective interest of consumers, such as anti-advertising against projects that harm consumers or through boycotts of certain products or services. Additionally, they refuse to pay for products or services that are overpriced without prior notice.

A comparative scientific approach was used in this study to compare the role assigned to consumer protection associations in Iraqi law with their counterparts (Iraqi Consumer Protection Law No. (1) of 2010), especially in Egyptian law (Egyptian Consumer Protection Law No. (181) of 2018), due to the similarity of the legal, economic, and social environment in Egypt and Iraq. The aim was to find the most effective solutions to the research problem and provide appropriate recommendations to the concerned authorities.

Keywords: *Associations, Consumer Protection, Role of Associations.*

I. INTRODUCTION

The right to representation in decision-making related to consumers and the right to defend their interests through legally established Consumer Protection Associations are considered basic international consumer rights. Associations can generally be defined as an agreement aimed at achieving continuous cooperation between two or more individuals to use their activities or information for purposes other than distributing profits. Consumer Protection Associations play a leading and effective role in defending the interests of the consumer public. They have become social pressure groups that push legislators to adopt protective policies. They also exert pressure on professionals through methods such as counter-advertising against projects that harm consumers, boycotting certain products or services, and refusing to pay for them.

It is not hidden from observers and participants in the Iraqi market that consumers are exposed to various forms of exploitation, fraud, deception, and cheating by producers, traders, and service providers. After April 9, 2003, the Iraqi market became flooded with

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various goods and products that do not meet the minimum industrial and commercial standards accepted in international trade and violate the basic rules of commercial credit, causing significant damage to the national economy and seriously affecting the safety, health, environment, and even the psychology of consumers, as well as exhausting their resources. All of this is happening in the absence of an effective protective economic policy in this area.

Despite the issuance of the Iraqi Consumer Protection Law No. (1) of 2010, consumer protection associations have only been given a potential role within the tasks assigned to the Consumer Protection Council, leading to a mixing of roles and a lack of recognition of their roles outside the council, except for raising consumer awareness of their rights. As a result, these associations are deprived of the authority to represent consumers collectively and free of charge before official institutions, professionals, and in litigation to protect their rights, unlike in comparative laws. Recognizing that consumer protection can only be achieved through the emergence of representative frameworks that form groups or associations aimed at creating collective awareness to protect consumers through available legal means, we have chosen the topic 'The Role of Associations in Consumer Protection' to employ consumer protection associations in a sound way to serve the national economy and consumers alike.

The aim of this study is to identify the reality of the consumer protection movement in Iraq and the Kurdistan Region by highlighting the role of consumer protection associations in this field through:

1. Identifying the nature of consumer protection associations and their development, with a focus on the Iraqi context.
2. Explaining the reasons why associations are interested in protecting consumers, even though it is primarily the responsibility of state institutions.
3. Presenting the role assigned to these associations by the Iraqi legislator both inside and outside the Consumer Protection Council.
4. Examining the experiences of some countries in this field to benefit from them within the Iraqi environment.
5. Identifying the shortcomings in Iraqi legislation in this area and providing appropriate recommendations.

This research utilizes the comparative scientific method within the scope of legislation related to consumer protection, specifically comparing the role assigned to consumer protection associations in Iraqi law with their counterparts, particularly in Egyptian consumer protection law due to the similarity of the legal, economic, and social environment in Egypt to a large extent with its counterparts in Iraq. The aim is to arrive at the most effective solutions to the research problem and provide appropriate recommendations to the relevant authorities.

The nature of our gathered material necessitates building this research on two chapters, each of which concludes with a conclusion and a list of sources and references. The first chapter identifies the specific concepts (consumer, consumer protection associations) through three demands: the first demand provides a definition of consumer protection associations, the second demand provides a definition of the consumer, and the third demand is dedicated to defining consumer protection. The second chapter discusses the role of associations in protecting consumers through three demands as well: the first demand is dedicated to the means used by associations to protect consumers, the second demand is dedicated to the contribution of associations to the consultative and educational tasks of the Consumer Protection Council, and the third demand is dedicated to the contribution of associations to the administrative regulatory tasks of the council. In

conclusion, the research discusses the most important findings accompanied by recommendations.

II. DEFINING THE SPECIFIC CONCEPTS (CONSUMER, CONSUMER PROTECTION, CONSUMER PROTECTION ASSOCIATIONS)

Consumer movements, especially consumer protection associations, have pushed and pressured legislators in industrialized countries to enact new and specialized legislation for the protection and defense of consumer rights.

To define the concept of consumer protection associations, we find ourselves obliged to define three concepts: the association, the consumer, and protection. To do so, we must first define the consumer, then define the protection provided by these associations to consumers, and finally define consumer protection associations themselves. We will attempt to clarify these concepts through three demands accordingly.

1. Defining the consumer

It should be noted that there is no comprehensive, definitive definition of the concept of the consumer at the jurisprudential level. As such, a fertile ground has been formed among scholars through varying opinions attempting to provide a definition for the consumer. In this regard, jurisprudence has split into two directions in attempting to define the consumer: one direction embraces a narrow definition of the consumer (first paragraph), while the other direction broadens this concept (second paragraph).

1.1. The narrow direction of the concept of the consumer

This direction provided a narrow definition for the concept of the consumer by stating that it is 'every person who acquires or uses a commodity or service for non-professional purposes'.

This definition of the consumer embraces a narrow view of the concept, as it limits the definition to individuals who acquire or use goods or services for non-professional purposes. In other words, it only considers those who purchase or use products or services for personal or household use, and excludes those who acquire them for professional reasons.

1.2. The broad direction of the concept of the consumer

The broad concept of the consumer, on the other hand, states that the consumer is 'every person who contracts for the purpose of consumption, whether for personal or professional use.'

This definition of the consumer embraces a broad view of the concept, as it includes any person who contracts for the purpose of consumption, whether for personal or professional use. In other words, it considers not only those who purchase or use products or services for personal use but also those who acquire them for professional reasons.

This broad definition is significant because it recognizes that individuals may acquire goods and services for mixed or dual purposes, and that they should be protected as consumers regardless of the purpose of the acquisition. This definition also emphasizes that the protection of consumers should not be limited to personal use only but should extend to any use of the product or service.

The Iraqi Consumer Protection Law defines the consumer in Article 1, paragraph 5 as follows: 'The natural or legal person who acquires a commodity or service for their benefit.' Therefore, the consumer may be a natural or legal person, and the legislator has thus prevented any interpretations or ambiguities regarding the consideration of legal persons as consumers.

The inclusion of legal persons in the definition of the consumer is significant because it recognizes that businesses and other organizations may also acquire goods and services for their benefit. This means that legal persons can also benefit from the protection and rights that are afforded to consumers.

Moreover, the provision does not restrict the definition of the consumer to only physical goods but also includes services. This recognizes that consumers may acquire services for their benefit, such as medical care or legal advice, which are not tangible goods.

2. Definition of consumer protection

There have been several attempts by jurists, including the definition that states: 'Consumer protection encompasses the expanded activities of the government, businesses, and independent organizations that aim to protect individuals from actions that are harmful to consumer rights.' The concept of protection is not limited to ensuring consumer rights before traders, manufacturers, and service providers, but extends to protecting them before the government, represented by all entities that provide services such as hospitals, water and electricity institutions, etc .

Ahmed Ibrahim Abdel Hadi considered "consumer protection" to be the philosophy adopted by various organizations in the state towards providing goods or services to consumers at the lowest possible cost, physically, materially, and psychologically, through the prevailing environmental changes in the country .

Another definition states that "consumer protection means the necessary measures to protect anyone seeking to obtain a commodity or service in order to satisfy their personal or family needs."

In any case, the topic of consumer protection has gained great importance in recent years, with the emergence of administrative weakness and the spread of corruption in most countries of the world, which has led to deceiving consumers and providing them with goods that do not conform to specifications or with disproportionate prices. This is due to the use of advanced media in the process of deception and misleading advertising, especially since "the consumer represents the weak party in the contractual process, and the desire for quick profit has driven many merchants, producers, and service providers to follow illegitimate methods of enriching themselves through various forms of fraud and deception .

The Iraqi legislator has distinguished himself among comparative laws in defining consumer protection, as he clarified in paragraph (4) of Article (1) of the law that the purpose of protecting the consumer is: "To preserve the rights of consumers and prevent harm to them.'

This provision highlights that consumer protection aims to safeguard the rights of consumers and prevent harm to them. This includes ensuring the safety and quality of products and services, protecting consumers from unfair business practices, and minimizing the risks associated with product use. Ultimately, the goal of consumer protection is to promote fairness, transparency, and trust in the marketplace, which is essential for a healthy and sustainable economy.

3. Definition of a consumer protection association

Jurists and legislators have differed in providing a unified definition for associations, but they have agreed on the purpose of establishing associations, which is to achieve a public benefit (the non-profit objective of associations). Generally, associations in their definitions are social formations that are active and organized, seeking non-profit voluntary foundations to achieve general goals for a group that adopts the principles of good governance within legal frameworks that ensure transparency and freedom of formation.

Jurists have discussed in their various writings the definition of consumer protection associations, most of which are based on the purpose for which these associations were established. Some see them as an organized movement of citizens and government entities aimed at increasing the rights, influence, and impact of consumers on product sellers .

Another opinion from jurists focused on the contractual aspect of the agreement that unites the founding members of the association, stating that it is 'an agreement that permanently binds more than two individuals who share knowledge or activity in the service of a non-profit goal, or that they are active social formations seeking non-profit voluntary foundations to achieve general goals for a group that adopts the principles of good governance within legal frameworks that ensure transparency and freedom of formation' .

A consumer protection association is defined as "one of the institutions of civil society and is of great importance as it provides services to the consumer public by providing them with the necessary protection through raising awareness, receiving and verifying their complaints, and following them up with the relevant authorities." .

It was also defined as "an organized movement of citizens and government entities aimed at increasing the rights, influence, and impact of buyers on product sellers." .

Article (10) of the Executive Regulations of the Egyptian Consumer Protection Law No. (67) of 2006 defines consumer protection associations as follows: "Associations, civil institutions, and their registered federations according to the provisions of the Associations and Civil Institutions Law, which are concerned with consumer protection associations, whether primarily or subsidiary. The association is primarily concerned with consumer protection if its main purpose is to work in the fields of consumer protection, and it is considered subsidiary concerned with consumer protection if the purpose of consumer protection represents one of its areas of work." .

As for the Iraqi Consumer Protection Law No. 1 of 2010, it did not provide an official definition for consumer protection associations. However, instead of that, the Iraqi legislator focused on defining the scope of work, duties, and rights of these associations, including providing guidance to consumers, protecting their rights, submitting and following up complaints with relevant authorities. The law also strengthened the powers of government bodies concerned with consumer protection and provided measures to ensure the protection of consumer rights.

Consumer protection associations are of great importance as one of the institutions of civil society that provide services to the consumer public, and provide them with the necessary protection through raising awareness, receiving and verifying their complaints with relevant authorities. Consumer protection associations are considered one of the most important types of associations because they address the issues of the largest group, which is the consumers who represent people as a whole, and who have formed associations away from any political influence. The emergence of these associations is due to the insufficient efforts of state agencies in providing the required protection for consumers.

III. THE ROLE OF ASSOCIATIONS IN PROTECTING CONSUMERS

Consumer protection associations play important roles in defending the interests of the consumer public, as they have become part of collective pressure groups, especially on professionals, by encouraging them to respect the collective interest of consumers in their projects. To carry out this mission, they adopt a range of methods, including raising awareness, counter-advertising, consumer boycotts, or payment boycotts. I will attempt to elaborate on this through three demands, where I will discuss in the first demand the

methods used by consumer protection associations to protect consumers, in the second demand, we will explain the preventive role, while in the third demand, I will address the remedial role of consumer protection associations.

1. The methods used by consumer protection associations to protect consumers

Consumer protection associations follow several methods to defend consumers, including:

- a) Raising consumer awareness of their rights, often through the distribution of publications such as newspapers, magazines, weekly or monthly bulletins, to provide them with information about the characteristics of goods and services available in the local market. This is stipulated in Article 5/A/Sixth of the Iraqi Consumer Protection Law and Article 23/W of the Egyptian Consumer Protection Law.
- b) Counter-advertising, which involves consumer protection associations exposing the defects of a product that the producer tries to hide, by publishing or distributing written criticisms (in newspapers, publications, and comments), or audio (via radio), or visual (via television) criticisms of the products or services available in the local market.
- c) Consumer boycotts, where consumer protection associations may ask the consumer public to stop or refrain from purchasing a specific product or service, or not to deal with a specific project if it is found not to respect the desires and rights of consumers. Boycotting is not a mistake in itself unless the approach of the consumer association is arbitrary.
- d) Refusing to pay, where consumer protection associations may encourage consumers who have received a service or purchased a product from a certain project, to refuse to pay the price or bill if they feel that their rights as consumers have been violated. This is sometimes referred to as "payment strike." According to legal rules, this refusal is not justified as a principle if the creditor himself did not comply with the contractual terms, as the opposite would be a violation of the principle of the binding force of the contract .
- e) Resorting to legal action in accordance with the law.

2. The contribution of associations to the advisory and educational tasks of the Consumer Protection Council

If the Prime Minister adds a representative from consumer protection associations in accordance with the provisions of paragraph (four) of Article (4) of the Iraqi Consumer Protection Law, they will contribute with the other members of the council in its advisory and educational tasks, which include:

2.1. Raising the level of consumption

This task embodies one of the most important rights declared in the United Nations Guidelines for Consumer Protection, as the consumer must have a high level of knowledge and awareness of the specifications of goods known in the markets. This is achieved through enlightening the consumer's will with labels placed on goods, which include specifications of the product, the materials used in its production, its production date, and expiration date. The consumer's right to information and access to information for services is also reflected in various guidelines, images, advertisements, and required documents, as well as how to request them .

Hence, the importance of this task entrusted to the Iraqi Consumer Protection Council, given its important role in raising consumer awareness and informing them. Consumer protection associations in Iraq can certainly perform this task either by contributing with the Council as one of its potential members according to paragraph (four) of Article (4) of the Consumer Protection Law, or as a supporter and consultant to this council as the

specialized body entrusted with this task according to paragraph (six) of Article (5) of the aforementioned law.

Here, media takes on a broad concept of informing consumers about legal and technological developments, as well as explaining consumer rights and obligations and defending them.

To achieve these goals, it is necessary for associations to develop training and education programs for consumers and guide them to the laws that protect their rights. They should also educate and raise awareness about the importance of the quality of goods and services and monitor their compliance with specifications. This can be done through organizing seminars and study days, as well as publishing advertisements and articles through print, audiovisual, and electronic media. All of these measures are very important and have a significant impact on shaping consumer awareness and educating them from a consumption standpoint.

2.2. Developing policies and work programs that ensure consumer protection and their rights and organizing them

Legislation generally retains ties to the economic interests of the state and the interests of the public as consumers. Thus, consumer protection is an integral part of the economic policy in advanced and developing countries alike, and this protection is closely linked to economic and social development. Therefore, the legislative philosophy of consumer protection laws is based on the interests of consumers and defending their rights, and the legislative policy for consumer protection is based on economic and informational data. The Iraqi legislator did well when assigning this task to the Consumer Protection Council.

2.3. Studying draft laws related to consumption and consumers, providing feedback on them, conducting studies and research, and building a database related to consumer protection

This means that the Iraqi Consumer Protection Council is required to study draft laws related to consumption and consumers, provide comments and reviews, conduct studies and research related to consumer protection, and work on building a database related to consumer protection and the information related to it.

2.4. Introducing the tasks, functions, and objectives of consumer protection associations and seeking their assistance in raising consumer awareness about their rights

This means introducing the tasks, functions, and objectives of consumer protection associations and utilizing their expertise in raising consumer awareness about their rights.

3. Contributing to the administrative regulatory tasks of the Council

The Council has the authority to receive and investigate complaints, make appropriate decisions and recommendations regarding them. This includes receiving complaints from consumers and related entities, conducting all necessary investigations such as auditing commercial books and records or obtaining copies or excerpts from them, requesting immediate oral clarifications, entering any places required for the necessary investigation. The individuals being investigated are legally obligated to cooperate with the investigating body by providing the records and documents required for this purpose, or they may face the penalties set forth in paragraph (1) of Article (10) of the Iraqi Consumer Protection Law, in accordance with paragraph (2) of Article (9) of the aforementioned law in case of refusal to cooperate.

If the Council finds reasons to believe that illegal methods have been used that harm the interests of the consumer, either by the supplier or the advertiser, it shall request that they appear in person or through a legal representative before the relevant authorities or those related to their work within seven days from the date of notification to answer any violation of the provisions of this law or to provide any information regarding the goods

or services being supplied or advertised . Paragraph (4) of section (A) of Article (5) of the law specifies the decisions that the Council may take after conducting the necessary investigation, which include issuing a warning to the violator to remove the violation within seven days from the date of notification or initiating legal action upon the expiry of this period and the continuation of the violation. The Council relies on inspection committee reports, which are formed according to paragraph (8) of section (A) of the same article, and which specify their tasks according to section (B) of the mentioned article, when issuing a warning.

The legislator, through the Consumer Protection Law, has sought to empower the Council to follow all possible means by which it can reach a result in the matter, all in support of the Council's role and recognition of its authority as capable of making and enforcing decisions in the field of consumer protection . After granting it the authority to form inspection committees composed of members with relevant expertise in consumer protection matters, these committees were tasked with reviewing product specifications, monitoring compliance with storage conditions in warehouses and display locations during official working hours or thereafter, and imposing full cooperation from the supplier and advertiser in this regard . They were also required to retain sales receipts or copies thereof and present them or provide them to the relevant official authorities upon request or allow them to view them on-site without any objection . The law also prohibited the use of force or resistance with inspection committees and representatives of relevant official authorities and prevented them from interfering with their duties or impeding them in any way.

IV. CONCLUSION

After completing our research, in which we attempted to understand the role of associations in protecting consumers under Iraqi law, the varying solutions implemented in this field, and the legal problems raised by this issue, we have reached the following conclusions and recommendations:

Firstly, Conclusions:

1. It is difficult to establish a clear and unified definition of the term "consumer protection associations," despite its prevalence among writers and thinkers. The difficulty arises from several reasons, including the fact that this term has not yet been firmly established and there is no consensus among those interested in the subject. Another reason is the overlap in many regulatory, economic, and social matters of these associations.
2. To provide a clearer definition of consumer protection associations, we defined both the consumer and consumer protection.
3. Consumer protection associations employ several methods to defend consumers, including educating them about their rights to enable them to defend themselves, counter-advertising, boycotting purchases from suppliers who arbitrarily refuse to cooperate with these associations, refusing to pay for price increases without prior notice, and resorting to legal action in accordance with the law. These associations' efforts to ensure consumer protection through these means are more effective if they have their own media outlets or if they receive support and assistance from other media institutions. The media plays an important role in raising public awareness about their rights and interests and defending these rights as they are part of social issues.
4. The Iraqi legislator adopted a strange position without justification, which was not stipulated in comparative law when defining the tasks, competencies, and objectives of consumer protection associations and relying on them in awareness-raising campaigns about consumer rights within the tasks assigned to the Consumer Protection Council. This restricts the activities of these associations and only recognizes their role in raising

awareness about consumer rights. The role assigned to these associations within the Council is a potential role, as it allows the Prime Minister to add a representative of consumer protection associations to the Council without being obliged to do so.

5. Based on the assumption of membership of consumer protection associations in the Consumer Protection Council, the Iraqi legislator allows these associations to contribute to the tasks assigned to the Council, some of which are advisory and educational, while others are administrative and regulatory. However, the legislator did not grant consumer protection associations the authority to defend consumer interests and rights, i.e., to represent consumers collectively and free of charge before official institutions and professionals and in litigation to protect their rights, unlike the Egyptian legislator.

6. The Iraqi legislator did not differentiate between the role of consumer protection associations and the tasks assigned to government bodies and institutions responsible for protecting consumer interests, despite the fact that official national institutions are responsible for enacting their protective laws and implementing them. Consumer protection associations only provide guidance and are not obligated to enforce laws, making the lack of differentiation between them a repetition and overlap of roles.

Secondly, Conclusions:

1. There is a need to review the Iraqi Consumer Protection Law No. (1) of 2010 to align it with the contemporary and increasing role of consumer protection associations and employ them in a sound way to serve the national economy and consumers. This can be done by separating the roles and tasks of these associations from the Consumer Protection Council, which represents the official role of the state. Consumer protection associations should be granted an active role in receiving and verifying consumer complaints, working to remove their causes, and having the right to initiate all lawsuits related to consumer interests or intervene in them based on a written agency by at least two concerned consumers. They should also have legal authority in price control, monitoring monopolistic practices, and raising consumer awareness of their rights through various media outlets. They should also provide advice or comments in response to various requests.

2. There is a need to establish consumer protection associations in Iraq and the Kurdistan region by competent and dedicated individuals who are committed to achieving their assigned tasks.

3. Consumer protection associations should hold workshops, conferences, studies, and research that educate the general public about their rights in their daily market transactions.

4. Consumer rights should be integrated into educational programs and curricula at all levels of education, and specialized consultation centers should be established to address consumer-related issues.

5. Consumer protection associations should have the right to legal assistance, especially those that suffer from financial constraints when defending consumer interests.

6. Material and moral support should be provided to consumer protection associations to carry out their tasks, such as workshops that require significant financial resources in addition to human resources, and they should be encouraged to form national alliances.

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