

## **Rwandan legal framework on protection of consumer rights**

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### **Abstract**

*From various legal texts with special emphasis on article twelve to forty-three of the constitution of the Republic of Rwanda, a number of human rights have been expounded which include but not limited to: right to free choice of employment, right to form trade unions and employers' association and right to private property. However, consumer rights are not fully recognised as it is done by the jurisdictions which consider consumer rights as human rights.*

*This paper argues that the current Rwandan legal framework is insufficiently developed to provide an adequate level of consumer protection and to redress the issues of consumer exploitations manifested in various aspects of life. This argument is triggered by gaps identified in the legal framework especially the Rwandan constitution which does not clearly recognize consumer rights as human rights. The article further recommends therein the measures to be taken in ensuring that consumer right is effectively protected.*

**Key words: Rwanda, legal framework, consumer protection, constitution**

## 1. Introduction

Consumers or buyers have a right to expect that the goods are safe, properly described, priced correctly and will continue to work for a reasonable period of time.<sup>1</sup> Consumer contracts are usually presented on a take-it-or-leave-it basis where a consumer has no realistic bargaining opportunity<sup>2</sup>. The term 'consumer' can mean various things in different contexts.<sup>3</sup> Generally, consumers, by definition, include us all<sup>4</sup> because human beings are consumers by default and consumption is an essential requirement to human survival and endurance.<sup>5</sup> It is a duty to every nation to ensure that consumer rights are efficiently and effectively protected and this is achieved through creating the atmosphere that makes it possible. Some jurisdictions have come up with consumer protection laws to the extent that it is incorporated in their national supreme laws such as the constitution. The Republic of Rwanda has also attempted to ensure

consumer protection through establishing various institutions whose attributions are mainly to protect the rights of consumers, however when it comes to the Rwandan legal framework on consumer protection a number of gaps are identified and this leads to unfair practices of exploiting consumers as will be elaborated in this paper.

### Consumers' Constitutional rights

In as far as consumer protection is concerned consumers' rights must be constitutionalized and there should be non-governmental consumer organizations to participate in the development and implementation of consumer protection policy. If a state does not mention consumer rights in its constitution, it is a clear indication that consumer right is not awarded the status of fundamental right. The goal of constituting consumer rights is to ensure that consumers are treated fairly in market conditions that are

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<sup>1</sup>A DSG international case study, Meeting and exceeding consumer protection laws to drive competitive advantage.

<sup>2</sup>Ahmad Alhusban, the Importance of Consumer Protection for the Development of Electronic Commerce: The Need for Reform in Jordan, a thesis Submitted for the Degree of Doctor of Philosophy in Law at University of Portsmouth April. 2014. p. 2.

<sup>3</sup>Geraint Howells and Thomas Wilhelmsson, *EC Consumer Law* (1st, Ashgate, Dartmouth 1997) 2.

<sup>4</sup> President John F. Kennedy 'Consumer Rights' (the Global Voice for Consumer, 1962) Available on <<http://www.consumersinternational.org/who-we-are/consumer-rights>>. (Accessed on 20th June 2011).

<sup>5</sup>Muhammad Akbar Khan, 'The Role of the Islamic State in Consumer Protection' [2011] PJIR 31, 44.

unfavorable for the consumer. Economic welfare and the welfare of consumers, is clearly related to their constitutional guarantees of freedom, property rights, and other human rights,<sup>6</sup> therefore constitutional rights of consumers must be guaranteed by all jurisdictions including Rwanda.

### **Constitutions with Consumer Protection Provisions**

In considering states which have incorporated consumer protection in their national supreme laws such as constitutions, I can for example mention Consumer protection in Portuguese Republic. The Constitution of the Portuguese Republic acknowledges consumer rights in its Article 60 (1), by stating that consumers shall possess the right to good quality of the goods and services consumed; to training and information; to the protection of health, safety, and their economic interests; and to reparations for damages. In Portugal, the Secretary of State for Trade, Services and Consumer Protection, within the Ministry of the Economy, Innovation and Development, is responsible for consumer policy, consumer

protection and consumer affairs.<sup>7</sup> This indicates the extent to which consumer protection in Portugal has augmented.

The Constitution of the Republic of Poland also provides for basic personal, political, economic, social and cultural rights of the citizens.<sup>8</sup> This constitution has a good number of articles on human rights, and it is one of the few constitutions in the world that recognize consumer rights as human rights unlike the constitution of Rwanda. The constitution of the republic of Rwanda of 2003 revised in 2015 as well as the *Constitution of The Republic Of Poland* of 1997 have a lot in common in as far as human rights provisions are concerned. However, the little difference that exists has made it possible for the consumer protection in Poland to be more efficient than consumer protection in Rwanda.

Another mechanism is that in Poland there is an Office of Competition and Consumer Protection which provides various services on consumer protection. The President of the Office is responsible for shaping the antitrust policy and consumer protection policy. The

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<sup>6</sup>E.U. Petersmann. Taking human dignity, poverty and empowerment of individuals more seriously: Rejoinder to Alston. – EJIL 2002 (13)/4, p. 849.

<sup>7</sup> Consumer policy institutions in PORTUGAL. Report of June 2010. p. 2.

<sup>8</sup> *Constitution of The Republic Of Poland* available at <http://www.wipo.int/wipolex/en/details.jsp?id=7539> accessed on 24<sup>th</sup> October 2017.

primary antitrust instrument used by the President of the Office are proceedings concerning competition restricting practices, i.e. abuses of a dominant position and prohibited agreements (cartels). The proceedings may end in a decision ordering the enterprise involved to cease the activities in question and pay a fine. The President of the Office is also authorized to control mergers in order to prevent situations where as a result of a merger a dominant entity is created on the market.<sup>9</sup>

In Poland there is an institution called a Polish Court of Competition and Consumer Protection (CCCP) which has competence to annul a decision taken by the Office for Competition and Consumer Protection (Competition Office) and may impose fines on producers.<sup>10</sup> For example on 17 September 2001, five Polish producers of yeast imposed price increases of between 16% and 22% on their products. The Office for Competition and Consumer Protection found that such parallel behavior arose out of

a prior illegal price-fixing agreement. It therefore imposed fines on all members of the cartel. The yeast producers appealed the Competition Office's decision to the CCCP, arguing that the Competition Office did not apply uniform criterion when comparing the price increases. The CCCP found that the Competition Office did not present sufficient evidence to show that the parallel behavior of the five companies resulted from a prior agreement between them.<sup>11</sup> This demonstrates a big picture on how the state has an efficient policy of consumer protection through establishing such institutions.

The incorporation of consumer protection provisions in constitution also appear in the legal framework of the Republic of Lithuania. For example, article 46 of the Lithuanian constitution stipulates that "Lithuania's economy shall be based on the right of private ownership, freedom of individual economic activity and initiative. The State shall support economic efforts and

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<sup>9</sup> What is done by the Office of Competition and Consumer Protection available at [https://uokik.gov.pl/what\\_we\\_do.php](https://uokik.gov.pl/what_we_do.php) accessed on 18th October 2017

<sup>10</sup> See where the Polish Court of Competition and Consumer Protection annuls Competition Office decision imposing fines on pricing cartel at [https://uk.practicallaw.thomsonreuters.com/6-103-0343?\\_lrTS=20170527141517006&transitionType=Default&contextData=\(sc.Default\)&firstPage=true&bhcp=1](https://uk.practicallaw.thomsonreuters.com/6-103-0343?_lrTS=20170527141517006&transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1) accessed on 23rd October 2017.

<sup>11</sup> I dem

initiative that are useful to society. The State shall regulate economic activity so that it serves the general welfare of the Nation. The law shall prohibit monopolization of production and the market and shall protect freedom of fair competition. The State shall defend the interests of the consumer.”<sup>12</sup> The constitution obliges the State to defend the interests of consumers which leads to a belief that consumer right is recognized as human right.

### **Consumer protection policy in Rwanda**

In as far as consumer protection policy is concerned Rwanda has enacted laws and established a number of institutions whose main attributions include consumer welfare and protection. The institutions include Rwanda Standards Board (RSB) whose mission is to be a trusted party in providing internationally recognized and customer suited standardization services through provision of standards-based solutions for consumer protection and trade promotion for socio-economic growth in a safe and stable environment,<sup>13</sup> as well as Rwanda Utilities

Regulatory Authority (RURA) whose mission is to build an environment that promotes fair competition and quality of public utility service in a transparent, independent and reliable manner.<sup>14</sup> These institutions have got numerous ways on how they can achieve their goals which include various activities done on daily basis as well as legal texts drafted for the awareness of the public.

Rwanda Standards Board (RSB) as well as Rwanda Utilities Regulatory Authority (RURA) have played a tremendous role in consumer welfare, however a lot more issues still need to be tackled. For example the expiry dates of almost all of the products are always hidden or written in smaller letters than the ones that advertise the product, as a result some consumers use products which are expired and have a negative impact in their lives therefore measures to solve this problem must be taken by the very institutions. Another phenomenon is as a survey conducted by the author of this paper

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<sup>12</sup> See Article forty six of the Lithuania's Constitution of 1992 with Amendments through 2006. This complete constitution has been generated from excerpts of texts from the repository of the

Comparative Constitutions Project, and distributed on [constituteproject.org](http://constituteproject.org). PDF generated: 23 Nov 2017, 15:15

<sup>13</sup> Raymond M. Director General of Rwanda Standards Board. Available on <http://www.rsb.gov.rw/main-nav/about-us/a-word-from-the-director-general.html> accessed on 18/09/2017

<sup>14</sup> RURA Mission, Vision and Values, available at <http://www.rura.rw/index.php?id=46> accessed on 18/09/2017

concerning the respect of consumer rights in conclusion of a loan agreement between Clients and Financial Institutions in Rwanda which proved that 71% of clients ( here referred to as consumers) never understand clearly and undoubtedly all clauses in the loan agreement as well as all details on the papers provided by the financial institutions before signing, simply because of a language barrier as well as of course the urgent need for money.

Rwandan law does not strictly prohibit financial institutions from drafting an agreement which is not clearly understood by a client, most agreements and forms are drafted in English language simply because it is one of the official languages used in Rwanda, and ignore the fact that many consumers don't understand the language. Even if consumers recklessly sign the agreements and therefore bound by clauses provided therein, it is a loophole in Rwandan legal framework on consumer protection because it should be structured in such a way that consumers are legally protected in all aspects of their lives.

### **Rwandan competition law**

Rwandan competition law aims at encouraging competition in the economy by

prohibiting practices that undermine the normal and fair course of competition practices in commercial matters. It also aims at ensuring consumer's interests promotion and protection.<sup>15</sup> However, when you deeply analyze consumer protection policy under Rwandan law you find that a lot of issues have to be dealt with on this matter to ensure that consumer's interest is well protected. Article one of the law n°36/2012 of 21/09/2012 relating to competition and consumer protection, provides that the law aims at encouraging competition in the economy by prohibiting practices that undermine the normal and fair course of competition practices in commercial matters. It also aims at ensuring consumer's interests promotion and protection.<sup>16</sup> This provision gives hope to consumers since it aims at ensuring consumer's interests, promotion and protection if it is implemented in its entirety.

Again article thirty-three of the above mentioned law tackles on obligation to inform the consumer where it clearly states that "No later than the time of the conclusion of a sale contract, the seller must provide the consumer with correct and necessary information on the characteristics of the

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<sup>15</sup>Article one of the law n°36/2012 of 21/09/2012 relating to competition and consumer protection, *Official Gazette* n° 46 of 12/11/2012.

<sup>16</sup> Article one of the law n°36/2012 of 21/09/2012 relating to competition and consumer protection, *Official Gazette* n° 46 of 12/11/2012.

product or service and conditions of contract considering the need for information expressed by the consumer and given the reported use by the consumer or reasonably foreseeable use.<sup>17</sup> This provision though not detailing on how to implement this, at least gives consumers right to information. However, the process through which the information will be obtained is another phenomenon due to the fact that it is not precisely detailed.

### **Observations**

This paper has observed that the constitution of Rwanda has not recognized and incorporated consumer rights in her provisions to the extent that it is never mentioned anywhere. There are gaps in legal framework on consumer protection in Rwanda due to a number of causes as seen earlier. Some of the reasons include the fact that consumer rights are not recognized like any other human rights recognized by the Rwandan constitution, which might be the reason why other laws become neutral when it comes to the consumer protection provisions as seen in the results after distributing structured questionnaires in the survey conducted by the Researcher and

whose purpose was to find out the respect of consumer rights in conclusion of loan agreements between Clients and Financial Institutions. Consumer protection policy in Rwanda however is not ignored, though not again fully practiced.

There is a law on consumer protection and plays a big role in consumer protection, but due to some loopholes identified in the law, some sellers or producers and service providers take advantage of it and exploit consumers who are weak depending on the services they need. There are even some public institutions whose missions include consumer protection and have done a remarkable job in as far as consumer protection is concerned, but not to the desirable extent due to gaps in legal framework on consumer protection as identified.

### **Conclusion and recommendations**

In ensuring the efficacy of the consumer protection, the Rwandan legal framework on consumer protection must be revised. This might be done through incorporation of provisions of consumer protection or consumer rights in the Rwandan constitution. This is because other rights like right to form

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<sup>17</sup> Article 33 of the law n°36/2012 of 21/09/2012 relating to competition and consumer protection, *Official Gazette* n° 46 of 12/11/2012.

trade unions and employers' association are recognised by the constitution of Rwanda while consumer rights are neither recognised nor mentioned anywhere in the constitution of Rwanda.

The law regulating financial institutions must be amended and incorporate articles that make it compulsory for financial institutions to draft loan agreements as well as other forms to be filled in the national language which is Kinyarwanda whenever the agreement to be concluded and signed is between a financial institution and a Rwandese. However, the contract might also be concluded in any other language the contracting partner understands most or the native language. This must be done in order to safeguard the parties in the agreement, that is, for the loan agreement to be concluded all parties must understand distinctly all provisions in the agreement, and one of the ways to achieve this is through using the language that is understood by all parties.

The reason of this is that after a study conducted by the researcher, it was proven beyond reasonable doubt that above seventy per cent of consumers in financial institutions, due to the extent to which they need money, sign a loan agreement inaccurately and without properly paying attention on all provisions provided therein.

The laws that regulate financial institutions must have provisions that noticeably stipulate that all agreements concluded between financial institutions and clients shall be drafted in Kinyarwanda unless requested otherwise by one of the parties and consented by the other. By doing this consumer protection policy will be enhanced.

Another crucial point to be highly considered by the stakeholders is the expiry date of products which must be openly visible and producers ensure that the letters appear as the ones that advertise the products. This will protect consumers from purchasing and consuming expired products due to the unawareness which may affect negatively their mental, physical and economical welfare.

## References

1. the constitution of the Republic of Rwanda of 2003 revised in 2015 *official gazette n° special of 24/12/2015*.
2. A DSG international case study, Meeting and exceeding consumer protection laws to drive competitive advantage.
3. Ahmad Alhusban, the Importance of Consumer Protection for the Development of Electronic Commerce: The Need for Reform in



- Jordan, a thesis Submitted for the Degree of Doctor of Philosophy in Law at University of Portsmouth April. 2014. p. 2.
4. Geraint Howells and Thomas Wilhelmsson, *EC Consumer Law* (1st, Ashgate, Dartmouth 1997) 2
  5. President John F. Kennedy 'Consumer Rights' (the Global Voice for Consumer, 1962) Available on <<http://www.consumersinternational.org/who-we-are/consumer-rights>>.
  6. the law n°36/2012 of 21/09/2012 relating to competition and consumer protection, *Official Gazette* n° 46 of 12/11/2012.
  7. See where the Polish Court of Competition and Consumer Protection annuls Competition Office decision imposing fines on pricing cartel at [https://uk.practicallaw.thomsonreuters.com/6-1030343?\\_lrTS=20170527141517006&transitionType=Default&contextData=\(sc.Default\)&firstPage=true&hcp=1](https://uk.practicallaw.thomsonreuters.com/6-1030343?_lrTS=20170527141517006&transitionType=Default&contextData=(sc.Default)&firstPage=true&hcp=1)
  8. E.U. Petersmann. Taking human dignity, poverty and empowerment of individuals more seriously: Rejoinder to Alston. – EJIL 2002 (13)/4,
  9. Consumer policy institutions in PORTUGAL. Report of June 2010.
  10. Constitution of The Republic of Poland available at <http://www.wipo.int/wipolex/en/details.jsp?id=7539>
  11. the Lithuania's Constitution of 1992 with Amendments through 2006. This complete constitution has been generated from excerpts of texts from the repository of the Comparative Constitutions Project, and distributed on [constituteproject.org](http://constituteproject.org).
  12. What is done by the Office of Competition and Consumer Protection available at [https://uokik.gov.pl/what\\_we\\_do.php](https://uokik.gov.pl/what_we_do.php)
  13. Raymond M. Director General of Rwanda Standards Board. Available on <http://www.rsb.gov.rw/main-nav/about-us/a-word-from-the-director-general.html>
  14. RURA Mission, Vision and Values, available at <http://www.rura.rw/index.php?id=46>