

## **Legislative Framework for Judicial Protection of Consumers in Ethiopia: The Case of the Amhara National Regional State.**

**Yosef Workelule Tewabe <sup>Y</sup>**

### **Abstract**

*Judicial protection plays a critical role in safeguarding the fundamental rights of citizens. This protection encompasses both substantive and procedural elements. The substantive aspect involves the recognition of a right to judicial protection in laws and the provision of remedies for individuals whose rights have been violated. On the other hand, the procedural aspect focuses on establishing efficient pathways for individuals to access and benefit from these remedies. This article delves into a comprehensive analysis of the state of consumers' judicial protection arrangements in Ethiopia, specifically examining the Context in the Regional State of Amhara. Through a doctrinal research approach, the author evaluates relevant legal provisions, including the FDRE constitution, and identified shortcomings in the existing framework. The research revealed deficiencies in the explicit recognition of consumers' right to judicial protection and the inadequacy of rules governing this area. Recommendations are then offered to enhance consumers' access to judicial protection.*

**Key words: Consumers, Judicial Protection, Ethiopia**

### **Introduction**

In the wave of consumers' judicial protection there are two essential undertakings. Firstly, the judicial protection itself should recognize a substantive right of the consumers with the stipulation of different

---

<sup>Y</sup> LL.B & LL.M, University of Gondar, Lecturer in Law; Email: [yosyworkelule@gmail.com](mailto:yosyworkelule@gmail.com)

liability spectrums for consumer rights violation. The second undertaking is concerned with creating an effective process for the execution of the substantive consumer's right to have judicial protection. Literature in the area of consumer rights, after firstly identify consumer rights and studying the judicial framework for its implementation at the substantive level then it focus on analysing the most efficient and effective processes of dealing with the consumer disputes before a jurisdiction that have a power to adjudicate.<sup>1</sup>

International instruments including the UN guidelines and consumers' international report also follow the same theme. By pointing out the basic rights of consumers, they are also requiring member states to build accessible, efficient, fair and effective procedure for consumer dispute settlement. Hodges, in his work on the European approach to justice and redress has suggested three pillar models of integrated policies for enforcement and redress: Setting standards for expected behaviour; Seeking to prevent things going wrong; and putting things right when they are going wrong.<sup>2</sup>

Accordingly, in order to ensure the consumer protection in the given state, there should be a clear identification of consumer protection standards and to tackle their violation, a preventive measure should be taken by a responsible organ, and to respond to any violation of such rights there should be a well-designed system of remedy. The system of remedy should include both stipulation of liabilities for the violation of rights and the process of seeking such liabilities against

---

<sup>1</sup> Scott, C.D., Enforcing consumer protection laws, in: G. Howells, I. Ramsay & Th. Wilhelmsson (ed.), and Handbook of Research on International Consumer Law, Cheltenham: Edward Elgar, 2010. See also Christopher Hodges, Current discussions on consumer redress: collective redress and ADR, ERA Forum, Vol. 13, 2012, pp. 11–33 DOI 10.1007/s12027-011-0245-5 and other similar sources referenced in this research.

<sup>2</sup> Hodges, 'The European approach to justice and redress', *Can Supreme Court Law Rev.* (2nd edition) Vol. 53, No.1, 2001.

the wrongdoer. According to Hodges, to deliver model two and three of the integrated policy for enforcement and redress, countries may use either private or public outlets.<sup>3</sup> Public actions include use of wide-ranging and powerful sanctions, with both public and private techniques, subject to democratic and court controls.

On the other hand, enforcement by private actors includes use of private actions through the courts, direct negotiation and resolution of issues, assisted by independent ADR pathways. International literatures, including the 2016 UN manual of consumer protection have identified the most commonly used pathways or outlets of consumer dispute settlements of the consumer dispute. These pathways are selected from the public and private arrangements. Those outlets of consumer dispute settlement have their own merits and demerits. By considering this characteristic, some countries have preferred to use a combination of two or more of them for consumers' redress in their jurisdiction.

Different criteria are applicable to test the competency of one or more of those pathways for delivering cheap, fast and effective redress for consumer disputes. According to Smith's test, consumer access to justice should be based on three dimensions; consumer capability, the availability and quality of information, and the level of choice or the opportunity to switch.<sup>4</sup> Geraint Howells & Rhoda James in their works on litigation in the consumers' interest, stated "the kind of criteria against which to judge mechanisms for individual consumer redress are well known, and there is a general consensus in the literature about the kind of points which need to be met, certainly for a non-court based resolution scheme". The benchmarks recently

---

<sup>3</sup> Id.

<sup>4</sup> Smith, N. C., 'Marketing strategies for the ethics era', *Sloan Management Review*, Vol.5, 1995, 85-97 Cited by Gretchen Larsen and Rob Lawson , 'Consumer Rights: An Assessment of Justice', *Journal of Business Ethics*, Vol. 112, No. 3, 2013, pp. 515-528.

adopted by the Australian Government are broadly representative of this consensus identifying considerations of accessibility, independence, fairness, accountability, efficiency and effectiveness.”<sup>5</sup> The European Commission also uses these criteria when analysing the procedural aspect of consumers’ protection in member states.<sup>6</sup>

The primary objective of this article is to indicate the commonly used outlets of consumers’ judicial protection in the world with their merit and demerits as discussed in the literature and identifying the pathways of the consumer’s dispute that are established in Ethiopia, in particular, in the Amhara Regional state after describing the concept and its legislative backgrounds.

## 1. The Concept of Judicial Protection of Consumers

Judicial protection is the pillar of all forms of human rights protection. At the very idea of human rights as a legal concept based on the principle of *ubi jus ibi remedium*, where there is a right, there should be a system of protection. According to this principle, this protection system should also be incorporated into the law as a human right.<sup>7</sup> The right to judicial protection is a combination of the right to access justice, the right to a fair trial, and the right to execution of judgments.<sup>8</sup> The right to judicial protection is both substantive and procedural. To effectively analyze this right, it is essential to examine

---

<sup>5</sup> G. Howells, R. James, Litigation in the consumer Interest, *ILSA Journal of International and Comparative Law*, 2022, p. 12.

<sup>6</sup> European Commission, An evaluation study of the impact of national procedural laws and practices on the equivalence and effectiveness of the procedural protection of consumers under EU law, *National Reports – Consumer Protection Strand*, JUST/2014/RCON/PR/CIVI/0082.

<sup>7</sup> Yulia Vladimirovna Samovich, ‘An Individual’s Right to Judicial Protection - Whether it Protects’, *Middle-East Journal of Scientific Research*, Vol. 14, No.12,(2013), PP. 1613-1617.[herein after Yulia V. Samovich, An Individual’s Right to Judicial Protection - Whether it Protects].

<sup>8</sup> Id.

both aspects.<sup>9</sup> First, it must be recognized as a fundamental right under the national legal system, including the constitution and other legal instruments. Additionally, remedies should be available for any violations of this right. When evaluating the feasibility of this right in different situations, special attention should be given to the procedural aspects, including the availability of legal pathways, their competency and their practical implementation.

The notion of consumer rights has become popular and began to be widely used in business literatures since it was raised by President J. F. Kennedy, in his address to the United States Congress. Following this address, consumer rights received focus from various international organizations, including the EU, OECD, and UN.<sup>10</sup> Until recently, many countries considered consumer rights merely a moral obligation, often conflating them with social rights and neglecting them as distinct legal protections.<sup>11</sup> In recent decades, particularly following the UN guidelines on consumer rights protection, countries have increasingly prioritized consumer rights. These rights are now viewed as fundamental human rights because of their significant influence on citizens' civil, economic, and social well-being.<sup>12</sup>

However, a dedicated focus on consumer rights protection is ultimately ineffective without solid judicial protection. Like other rights, the protection of consumer rights depends on effective access to justice, the guarantee of fair trials, and the proper enforcement of

---

<sup>9</sup> Id.

<sup>10</sup> The United Nations Conference on Trade and Development, Trade and Development Board Trade and Development Commission Intergovernmental Group of Experts on Consumer Protection Law and Policy, Third session, Geneva, 9 and 10 July 2018, item 3 (d) of the provisional agenda, dispute resolution and redress, Note by the UNCTAD secretariat, (2018). [Here in after UNCTAD Conference Note].

<sup>11</sup> Id.

<sup>12</sup> Id.

final judgments.<sup>13</sup> Both substantive and procedural aspects of consumers' right to judicial protection should be presupposed in every aspect dealing with consumer rights protection. If the judicial protection framework of a country's consumer rights regime is poorly established, its enforcement will also be very limited.<sup>14</sup> A state-established, well-framed judicial protection arrangement (both in its legal and practical aspects) will allow for better enforcement of consumers' rights.

### **1.1. Consumer Judicial Protection under the FDRE Constitution**

The FDRE Constitution is the supreme law of the land, and all substantive laws should be the extensions of its provisions. International agreements have also been recognized in the Constitution with substantive law status, except in the interpretation of the fundamental rights of the people under Chapter 3 of the Constitution.<sup>15</sup> The FDRE Constitution recognizes the right to access to justice rights, stating that everyone has the right to bring a justiciable matter to obtain a decision or judgment in a court of law or any other competent body with judicial power.<sup>16</sup> This right may be exercised by the person himself or through representation. To execute this constitutionally guaranteed judicial protection right, the Constitution declares the establishment of independent courts at both federal and regional levels of administration. Each tier of the

---

13 Geraint Howells & Rhoda James, 'Litigation In The Consumer Interest', *ILSA Journal of International & Comparative Law*, University of Sheffield, Vol. 9, No.1, (2002), pp. 2-56. [Herein after Howells and James, Litigation In The Consumer Interest].

14 Id.

15 Constitution of the Federal Democratic Republic of Ethiopia proclamation, (1994), *Federal Negarit Gazeta*, Proclamation No.1/1995, 1st Year, No.1[Here in after the FDRE Constitution]. Art 9 and 13(2).

<sup>16</sup> Id Art. 37.

government has a First Instance Court, High Court, and Supreme Court.<sup>17</sup> Religious and customary courts are also recognized by the Constitution to adjudicate civil disputes based on the consent of the parties. The competent judicial bodies established by law are also recognized by the Constitution to adjudicate cases within their legal framework.<sup>18</sup>

These constitutional specifications are equally appropriate for consumer rights protection as a parcel of the citizens' right<sup>19</sup> to judicial protection in the Ethiopian legal system. Consequently, consumers have a constitutionally guaranteed right to access to justice. As a result of this guarantee, when there is a violation of their rights under the law, they can freely bring their cases before courts, either the regular courts or another competent organ for consumer disputes.

## **1.2. Consumer Judicial Protection under International Legal Instruments Ratified By Ethiopia**

Effective judicial remedies are essential for the protection of human rights. Access to justice promotes equality before the law by ensuring that all individuals, regardless of their status, can seek legal redress.<sup>20</sup>

---

<sup>17</sup> Id Art. 79- Art. 81.

<sup>18</sup> Id Art. 34 & Art. 78(4) (5).

<sup>19</sup> Consumer rights are part of the fundamental rights of people, even if they are not explicitly recognized in a constitution. This concept is supported by various international frameworks and legal interpretations.

For instance, the United Nations Guidelines for Consumer Protection outline eight fundamental consumer rights, including the right to safety, information, choice, and redress. These guidelines emphasize that consumer protection is essential for ensuring the well-being and dignity of individuals.

In the European Union, consumer protection is integrated into the EU Charter of Fundamental Rights, which includes provisions for consumer protection under the "Solidarity" chapter. This demonstrates a growing recognition of consumer rights as fundamental rights within the EU legal framework.

Even in countries where the constitution does not explicitly mention consumer rights, these rights can still be protected through other legal mechanisms.

<sup>20</sup> Lima, V., Gomez, M., Access to Justice: Promoting the Legal System as a Human Right, In: Leal Filho, W., Marisa Azul, A., Brandli, L., Lange Salvia, A., Özuyar,

The right to judicial protection is widely recognized under international human rights instruments, including the Universal Declaration of Human Rights (UDHR)<sup>21</sup>, the International Covenant on Civil and Political Rights (ICCPR)<sup>22</sup>, and the International Covenant on Economic, Social, and Cultural Rights (ICESCR)<sup>23</sup>. These instruments require signatory states to establish enforcement frameworks recognizing access to justice as a basic human right. The 2030 United Nations Agenda for Sustainable Development, particularly Goal 16, emphasizes access to justice as both a fundamental right and a prerequisite for the enjoyment of other rights.<sup>24</sup>

Similarly, access to justice ensures that consumers can seek remedies for violations of their rights, such as defective products, misleading advertisements, and unfair contract terms. Access to justice is particularly important for vulnerable consumers who may face additional barriers, such as a lack of resources and awareness on their

---

P.G., Wall, T. (eds) Peace, Justice and Strong Institutions. Encyclopedia of the UN Sustainable Development Goals, *Springer*, (2021), Cham. [https://doi.org/10.1007/978-3-319-95960-3\\_1](https://doi.org/10.1007/978-3-319-95960-3_1)

<sup>21</sup> Article 8 of the UDHR

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

<sup>22</sup> ICCPR article 2(3) recognizes that people are entitled to seek effective redress for violations of their rights, which means they should be able to take their case to court to seek a judgment.

<sup>23</sup> While the ICESCR does not explicitly mention the right to access justice, it is implicitly supported through various provisions that require states to take appropriate steps to ensure the realization of the rights recognized in the Covenant. For instance, Article 2 of the ICESCR obliges states to take steps, including legislative measures, to achieve the full realization of the rights recognized in the Covenant.

<sup>24</sup> United Nations, Transforming Our World: *The 2030 Agenda for Sustainable Development* A/RES/70/1, 2015, Goal 16.



legal rights. Effective consumer protection laws and mechanisms ensure that such individuals can seek remedies.<sup>25</sup>

The UN resolution on consumer protection guidelines and UNCTAD notes on consumer redress urge member states to create effective judicial protection systems for consumers as part of their human rights. Section V.F of the resolution states:

Member States should encourage the development of fair, effective, transparent, and impartial mechanisms to address consumer complaints through administrative, judicial, and alternative dispute resolution, including for cross-border cases. Member States should encourage all businesses to resolve consumer disputes in an expeditious, fair, transparent, inexpensive, accessible, and informal manner, and to establish voluntary mechanisms, including advisory services and informal complaints procedures, which can assist consumers. Information on available redress and other dispute-resolving procedures should be made available to consumers. Member States should ensure that collective resolution procedures are expeditious, transparent, fair, inexpensive, and accessible to both consumers and businesses, including those about over-indebtedness and bankruptcy cases. Member States should cooperate with businesses and consumer groups in furthering consumer and business understanding of how to avoid disputes, dispute resolution, and redress mechanisms available to consumers and where consumers can file complaints.<sup>26</sup>

---

<sup>25</sup> Yuthayotin, S., *Access to Justice: A Goal for Consumer Protection*, In: *Access to Justice in Transnational B2C E-Commerce*, Springer, (2015), Cham. [https://doi.org/10.1007/978-3-319-11131-5\\_3](https://doi.org/10.1007/978-3-319-11131-5_3)

<sup>26</sup> Trade and Development Board , Intergovernmental Group of Experts on Consumer Protection Law and Policy, *Dispute resolution and redress*, Third session, Geneva, 9 and 10 July 2018, Item 3 (d) of the provisional agenda, (2018), pp. 3-4.

Ethiopia, as a founding member of the United Nations<sup>27</sup> and a ratifying state of many UN conventions, is committed to regulating citizens' right to access justice. Article 9(4) of the FDRE Constitution mandates the integration of international treaties into domestic law, reinforcing Ethiopia's commitment to honouring its international obligations.<sup>28</sup> In addition, the Constitution accords primacy to the principles outlined in international human rights instruments, ensuring that they inform national interpretations and implementations of rights.<sup>29</sup>

### **1.3. Consumer Judicial Protection under the Trade Competition and Consumer Protection Proclamation/TCCPP/**

The evolution of consumer protection in Ethiopia has passed through various stages, initially grounded in contractual and extra-contractual liability frameworks. Subsequently, the focus has broadened to include competition law and regulatory arrangements. However, these frameworks alone do not sufficiently safeguard consumer interests. To address these limitations, separate consumer protection legislation has been enacted. The Trade Competition and Consumer Protection Proclamation (TCCPP) No. 813/2013 marks a significant advancement in the protection of consumers' rights.

---

<sup>27</sup> Access to justice is a fundamental principle under the United Nations Charter and is closely tied to the rule of law. The Charter emphasizes the importance of justice and international law in maintaining peace and security. In its preamble, the Charter affirms faith in fundamental human rights, the dignity and worth of the human person, and the equal rights of men and women. It aims to establish conditions under which justice and respect for international law can be maintained. Further, as per Article 1 of the convention, one of the purposes of the United Nations is to bring about by peaceful means, and in conformity with the principles of justice and international law, the adjustment or settlement of international disputes.

<sup>28</sup> The FDRE Constitution Art. 9(4).

<sup>29</sup> Id. Art. 13(2)

The TCCPP recognizes several foundational rights and protection instruments for consumers. After delineating consumers' rights and business responsibilities, the TCCPP establishes various remedies for violations of consumer rights, encompassing administrative, civil, and criminal remedies.<sup>30</sup> Consumers are granted redress in cases that affect their rights and can seek recourse through various legal avenues.<sup>31</sup> These remedies seek to ensure fair trade practices and enhance consumer trust in the marketplace. In cases of defective goods or services, as a preliminary measure, consumers are entitled to request replacement, refunds, or replacement within 15 days of purchase, in addition to claiming damages arising from defects or a seller's failure to comply with legal obligations.<sup>32</sup>

Moreover, the TCCPP establishes that any contractual agreement waiving consumer rights under the TCCPP is void, thus addressing the power imbalance between consumers and businesses. This provision is crucial because businesses often leverage their superior bargaining power to impose waivers of consumer rights. Unlike the Civil Code, which allows party discretion in contractual terms, the TCCPP is an exception, emphasizing consumer protection.<sup>33</sup>

#### **1.4. Consumer Judicial Protection under the Amhara National Regional State Laws**

Since 1991, Ethiopia has been a federal state with ten regional state administrations and two federal city administrations. Following the establishment of a federal state administration framework in the country, state power is divided between the federal and regional state governments.<sup>34</sup> Similar to federal governments, the regional states also have a legislative, executive and judicial power within their limited

---

<sup>30</sup> Art 27 and the ff.

<sup>31</sup> Id Art. 14(5).

<sup>32</sup> Id Art. 20.

<sup>33</sup> The Civil Code Art. 2272 & the TCCPP Art. 21.

<sup>34</sup> The FDRE Constitution Art. 50.

jurisdiction. Furthermore, to determine the scope and the procedures of exercising these powers, the FDRE Constitution empowered the regional states to enact their own constitution. Under the FDRE Constitution, the legislative powers of the regional states and the federal government are clearly demonstrated.

Furthermore, they should exercise their own legislative power without interference from each other. The legislative power on the issue of consumers is the exclusive jurisdiction of the federal government.<sup>35</sup> Consequently, the federal legislative organ, the HPRs, has enacted two consumer laws that include proclamation no. 685/2010 and TCCPP no. 813/2013. The TCCPP is currently an active legislative framework for consumer protection issues at the current time. Under this proclamation, the regional states are delegated by the federal government to undertake three main activities. These are; administering the consumer issues within their jurisdiction except in those areas exclusively given to the federal authority, adjudicating cases involving consumer issues within their jurisdiction, and deciding for the establishment of a regional consumer adjudicative body when found necessary.<sup>36</sup>

The Amhara regional state has established bureaus to discharge its law enforcement duties. The new regional state proclamation, which repealed the earlier proclamation, proclamation No. 176/2010, to re-establish the state's executive organ, has mandated the regional Trade and Market Development Bureau to be responsible for consumer protection. Art. 15 of the same proclamation extensively enlisted the following as the major task of the Bureau:

---

<sup>35</sup> The FDRE Constitution Art 55(4).

<sup>36</sup> Trade Competition and Consumers Protection Proclamation, 2014, *Federal Negarit Gazeta*, Proclamation No. 813/2013, 20th Year, No. 28. [Here in after the TCCPP]. Art 23(5), Art 32(1(c), and Art 34.

Shall control and take administrative and legal measures on illegal trade practices disrupting the competitive trading system and harming the interest of consumers; 2) Shall support and coordinate efforts for the protection of consumer rights; 3) Shall establish a public prosecutor department that will administer civil and criminal cases in violation of trade competition and consumer protection laws; 4) Shall establish procedure enable to resolve disputes ,arise between consumers and traders, by mutual agreement and negotiation; 5) will use the regional police force to control illegal trade practices and investigate related criminal matters; and to execute administrative measures accordingly; 6) organize administrative judicial organ with jurisdiction on civil matters of trade competition and consumers protection in accordance with the provisions of this Proclamation; 7) It has authority to investigate, prosecute and litigate before courts of law on criminal matters of trade practice and consumer protection of the FDRE criminal law, criminal procedure law and other laws; ) Shall conduct investigations where there is sufficient ground to suspect that an offence has been committed against the fair trade practice and consumers rights; initiate or order discontinuance of investigation; and 9) Shall based on prices set for by the Federal Ministry of Trade, determine the conditions of distribution, sale and movement of basic goods and services within the Regional state, and, as may be necessary, order business persons to replenish stocks of same.<sup>37</sup>

This stipulation of the proclamation has constituted all the powers delegated by the TCCPP to the regional states trade Bureau. The empowerment of the Bureau is the first step in creating a system of consumers' judicial protection arrangement in the region. Among the mandates given to the Amhara Regional State Trade and Market

---

<sup>37</sup> The Amhara National Regional State Executive Organs Re-Establishment Determination of their Powers and Duties Proclamation, 2017, *Zikre Hig*, Proclamation No. 230/2016.

Development Bureau under this proclamation supporting the efforts of consumer rights protection, establishing a procedure for resolving consumer disputes through negotiation and creating an administrative organ for a consumer, civil case adjudicative body are the primary functions of the Bureau that have a direct link with the consumers judicial protection issue this study is largely concerned with. Support may be provided for consumers themselves or other authorities working in the area of consumer rights protection. To exercise their judicial protection rights, consumers must firstly be aware of their rights. Awareness creation activities should be addressed not only for consumers but also for businesses. Awareness creation activities may be undertaken either by the NGOs, public institutions, higher education's or the Trade Bureau itself. In addition to action by these groups, the Trade Bureau should always provide support for the proper execution of such activities.

Moreover, the Bureau is responsible for creating a procedure that enables the resolution of disputes arising between consumers and traders, by mutual agreement and negotiation. This responsibility of the trade Bureau mainly aims at reducing the unnecessary wastage of time and costs involved in taking every dispute before an adjudicative body. The arrangement of the Bureau is not a strict procedure that should be followed by the disputing parties. If the disputing parties fail to reach an agreement through negotiation or have chosen not to negotiate, they are free to bring their cases before a proper judicial organ. Subsequently, the Amhara Regional State Council empowered the Trade and Market Development Bureau to establish an administrative adjudicative body for consumer cases in their establishment proclamation.

Nonetheless, the Amhara Regional State Trade and Market Development Bureau does not make a decision to this effect. As

promised by the proclamation, there is no an administrative consumer court in the region.

## **2. Common Pathways for the Consumers' Judicial Protection**

Consumers may make complaints for various reasons. In the consumer law regime of different jurisdictions, there are many specific grounds of claim that may include problems related with product standard, poor information, problems with the price, fees or bills, and the desire to apology or reassurance. In order to respond to these and other legal needs of consumers' countries may apply one or more pathways for dispute resolution.<sup>38</sup> According to the UNCTAD consumer's protection manual and different stipulations of consumers' dispute settlement, there are various forums for private or public consumer dispute resolution.<sup>39</sup>The most commonly known pathways of consumer dispute resolution include regular courts, public enforcement authorities, Alternative Dispute Resolutions/ADR/, ombudsmen, business customer care and complaint function/self- regulatory arrangements/, online dispute resolution, and special consumer court arrangements. These commonly used outlets for consumer disputes have unique features and differences. There are varying positives and negatives for each of these measures with respect to securing fast, cheap and effective consumer judicial protection. In this section, the main dispute settlement options for consumers and businesses are described.

### **I. Courts**

The traditional means of upholding justice for violation of legal rules by individuals is to bring a private claim by an individual faced with injury before the civil court. In the earlier periods, before the

---

<sup>38</sup> UNCTAD, Manual on Consumer Protection, *UNITED NATIONS PUBLICATION*, 2016, pp.91-97.

<sup>39</sup> Ibid, UNCTAD Conference Notes, and Howells and James, Litigation in the Consumer Interest.

proliferation of the concept of consumer rights, the consumer disputes were assimilated with other civil claims of individuals. There was no specification of the juridical authority that has a competency to adjudicate the consumer cases.<sup>40</sup> With the development of the idea of consumer rights and incorporation of consumer rights as a specific area of legal protection in different jurisdictions, the issue of the pathways for judicial protection of those enumerated rights in the legislations is also becoming the concern of the regimes. In their formation stage of consumer rights protection framework, most of the countries was employed the traditional regular court approach as a pathway for the adjudication of consumer disputes in their jurisdiction.<sup>41</sup>

The traditional court approach for consumer dispute is all about resolving the parties' dispute through litigation. Litigation as one form of adjudication has both a mandatory and optional condition.<sup>42</sup> According to Lon fuller and Fekadu Petros, the mandatory elements include the conferring of the opportunity to present one's evidence and arguments; attention to such proof and arguments from the bench or the person to whom these presentations are made; and responsiveness of the decision. The parties' equality in all respects is also an optional requirement for litigation.<sup>43</sup> The traditional court

---

<sup>40</sup> Howells and James, *Litigation in the Consumer Interest*, pp.3-6.

<sup>41</sup> *Id.*

<sup>42</sup> Mandatory conditions are conditions which are necessary for the ordinary existence of the given underlying dispute settlement institution. Without having these conditions we can't talk about it. Without having essential conditions we can't talk about election, contract, or adjudication. While the optimal conditions are ideal requirements what we expected from a certain dispute settlement institution, but it is difficult to achieve in the real world because of different preventing circumstance. Unlike essential conditions, optimal condition doesn't have effects on the existence of the institution.

<sup>43</sup> Fekadu Petros, 'Underlying Distinctions Between ADR, Shimglina And Arbitration: A Critical Analysis', *Mizzan Law Review*, Vol. 3, No.1, March 2009, [ here in after Fekadu Petros, 'Underlying Distinctions Between ADR, Shimglina



approach is a system of dispute settlement which is supported by the well framed procedures predetermined by a competent legislative organ and the government enforcement authority.

In addition, the appointment of the judges is preceded by well framed regulatory frameworks that entail liability for infringements of professional duties. Starting from initiation of claims up to the stage of enforcement of decisions, traditional courts have strict procedures and rules. By considering the procedural strengths of the traditional courts with the presumption of consumer protection law, an imbalance between businesses and consumers, we may prefer the traditional court approach as a right pathway for consumer dispute resolution.

As stated in the UNCTAD conference note, “the information and bargaining power asymmetry between consumers and businesses justifies supplementing traditional civil court procedures with specific models to provide consumers with a level playing field for settling disputes and defending their rights.”<sup>44</sup> However, the traditional court approach for consumer dispute is not a plain path for consumers. It is surrounded by significant barriers to consumers’ cheap, fast and effective judicial protection. The cost of pursuing proceedings, including exposure to adverse costs if a case is lost, the lengthy duration of procedures, the complexity of the law and legal procedures, the costly requirements of legal assistance and, in particular, the low economic value of claims, are among the barriers

---

And Arbitration] See also Lon L. Fuller and Kenneth I. Winston, ‘Forms and Limits of Adjudication’, *Harvard Law Review*, Vol. 92, No. 2 (Dec., 1978), pp. 353-409. [Herein after “Fekadu Petros, Underlying Distinctions Between ADR, Shinglina And Arbitration”.

<sup>44</sup> United Nations Conference on Trade and Development, Trade and Development Board Trade and Development Commission Intergovernmental Group of Experts on Consumer Protection Law and Policy, Third session, Geneva, 9 and 10 July 2018, item 3 (d) of the provisional agenda, dispute resolution and redress, Note by the UNCTAD secretariat.[Here in after UNCTAD Conference Note].

that serve to deter consumers from undertaking ordinary judicial claims.<sup>45</sup>

To make judicial proceedings friendly to consumers, some countries have introduced different measures, starting from supporting consumers through consumers' legal aid and consumers claim insurance, up to referring consumer cases for special consumer courts, consumer authorities judiciary branch, small claim courts, arbitration and other ADR arrangements.<sup>46</sup>

## **II. Amicable Dispute Resolutions/ADR/**

The disputes between 'Amicable and Alternative' in determining the scope of ADR between scholars of dispute settlement is unending. The current literature is starting to use Amicable over alternative by considering the different criticisms that may arise on it. According to Fekadu Petros, since the 'alternative to what question is not answerable' and the arbitration has characteristics shared with litigation as a family of adjudication, the term amicable should be used for ADR by excluding arbitration from the group. Arbitration should be constituted in the adjudication group of dispute settlement mechanisms and should be treated out of the scope of ADR.<sup>47</sup> The writer also prefers to use amicable for the purpose of this analysis. The Oxford Dictionary defines 'Amicable' as an activity characterized by friendliness or absence of discord."<sup>48</sup> Accordingly, amicable dispute resolutions are the pathways for disputes based on the parties' negotiation and agreement. ADR is characterized by the absence of influence from third parties. Even in cases where third

---

<sup>45</sup> Id.

<sup>46</sup> Supra Note 6.

<sup>47</sup> Fekadu Petros, Underlying Distinctions Between ADR, Shimglina And Arbitration.

<sup>48</sup> the Concise Oxford Dictionary, 10th Edition, s.v, "Amicable"

parties are involved, their role is delimited to facilitating the parties' negotiation process.

Unlike the case of adjudications (regular court procedure and arbitration), which begins from the initiation of proceedings to the final outcomes of the process, the parties' agreement has a major role. All processes are under the control of the parties. By referring to the role of negotiations and the parties' agreement in the process, Lon Fuller and Fekadu Petros categorized ADR as a contractual form of a dispute resolution mechanism.<sup>49</sup> Negotiation, mediation, conciliation, and compromise are the commonly known Amicable Dispute resolution/ADR/ mechanisms. Except negotiation, other actions may be undertaken at both institutional and private levels. In mediation, conciliation, and compromise, third parties are involved, although they have limited roles. The idea of resolving disputes through ADR arrangements may come into parties mind either before or after the point of controversy has been created. Furthermore, the business may create one department as a self-regulatory arrangement for consumer disputes. This method is also known as internal complaint-handling schemes.

Empirical research shows that direct negotiations between consumers and businesses are by far the most popular form in which consumer complaints are made.<sup>50</sup> Compared with the adjudicative approaches that include arbitration and litigation, ADR is characterized by a flexible procedure that is suitable for parties and the direct enrolment of the parties on the outcome of the process. Moreover, ADR arrangements can play a significant positive role in allowing consumers to make a complaint to a business in an inexpensive, rapid, and generally efficient manner.<sup>51</sup> On the other hand ADR arrangements are criticized by some as enabling fraud practices and

---

<sup>49</sup> Fekadu Petros, *Underlying Distinctions between ADR, Shinglina And Arbitration*.

<sup>50</sup> *Id.*

<sup>51</sup> The UNCTAD Conference Notes p. 7-8.

risks (i.e., delaying consumers' access to other forms of dispute settlement mechanisms, and prolonging the time for redress to be obtained). In addition, the bargaining power disparity between businesses and consumers may negatively affect the outcome of the parties' negotiation.

Some negotiations may require expertise and knowledge of the subject matter and due to illiteracy or other related factors; the consumers may be unable to persuade the business to provide remedies in these processes. In addition, third parties in mediations and conciliations may lack independence and impartiality. They may influence consumer decisions by supporting the business. These factors and other related factors may discourage consumers from using ADR as a pathway for dispute settlement.<sup>52</sup>

### **III. Arbitration**

Arbitration is an adjudicative form of dispute settlement mechanism. Similar to court proceedings, arbitration also shares the mandatory and optional conditions of adjudication. Unlike court litigation, arbitration emanates from the parties' agreement. In arbitration, there is the involvement of third parties, namely arbitrators. Unlike third parties involved in mediation and conciliations, third parties have a major role in controlling the process and have power to order binding awards. Parties may agree to refer their disputes to an arbitration tribunal and to be bound by the decisions of the arbitrators either at the time of the contract or after a dispute has occurred.<sup>53</sup> According to the UNCTAD stipulation, "for commercial disputes, well-known arbitration 'courts' exist, but for consumer disputes a variety of systems exist. There may be a permanent dispute settlement board, or

---

<sup>52</sup> Id.

<sup>53</sup> Fekadu Petros, *Underlying Distinctions between ADR, Shimglina And Arbitration*.

less formal or nebulous arrangements.”<sup>54</sup> Furthermore, they may be state sponsored, sectorial trade association funded or private industry.<sup>55</sup> Arbitration schemes may also vary on whether they are free to consumers (usually funded by business, but sometimes with State contributions) or require an access fee, which might or might not be refunded if the consumer wins.<sup>56</sup> Similar with the arbitration centers in commercial disputes, consumer arbitration also has merits and demerits. Most of their demerits are similar to the abovementioned ADR problems.

#### **IV. Small Claim Courts**

Smaller values for most consumer claims make access to justice very difficult given the high costs of litigation, difficult court procedures and formalities, and long lengthy procedural waiting times in the process of adjudicating the case. By simplifying court procedures and formalities, and reducing legal expenses and waiting times, small claims courts aim to make the legal proceeding more accessible to citizens with small amount of claims. The characteristics of small claim courts vary in different jurisdictions. However, in general, they are characterized by oral procedures, simplified rules of evidence, no obligation to be represented by a lawyer, and certain geographic proximity. Their jurisdiction is limited to proceedings under a certain financial level of claim.<sup>57</sup>

---

<sup>54</sup> UNCTAD Manual on Consumer Protection p. 93.

<sup>55</sup> The permanent consumer disputes board of Netherland and in Nordic states and less formal arbitration centres that are including the Tribunal for Consumer Complaints of Malaysia, the hierarchy of the consumers’ arbitration tribunal in India, and the multi-sectorial matrix of Geschillencommissie operated by a single foundation in the Netherlands can be mentioned as an illustration to these.

<sup>56</sup> The Lisbon Arbitration Centre for Consumer Conflicts in Portugal is one instance of consumer arbitration centres serving the community free of charge.

<sup>57</sup> UNCTAD Conference Notes, and UNCTAD Manual on Consumer Protection, pp. 93-94.

In some jurisdictions, there is a clear prohibition of representation by a lawyer. Various states already have in place viable low-cost small claims tribunals for consumer claims<sup>58</sup> These procedures vary significantly from jurisdiction to jurisdiction in terms of type of procedure; type of dispute and claim that may be heard; monetary thresholds; financial costs to parties; and overall accessibility to consumers. Duggan distinguishes two types of mechanisms for processing small claims; court based mechanism and tribunal based mechanism. The court-based mechanism corresponds to an ordinary court proceeding with simple procedures, restricted use of legal representation in many cases, reduced costs, and less possibility of appealing a judge's decision. On the other hand, tribunal-based mechanisms differ from ordinary courts by sometimes limiting admissible actions to certain categories of litigants, by allowing consumers to launch an action simply by filling out a form, by prohibiting legal representation, by having waiting times counted in weeks rather than months, and by including tribunal members who do not necessarily have to be legal experts. The UN guideline on consumer rights protection and the 2007 OECD recommendations on the consumer dispute resolution and redress call for states to establish simplified court procedures for small claims.

Save the paramount importance of simplifying court procedures and reducing waiting times and cost of litigation, it is also characterized by many difficulties. For instance, the restriction of representation by a lawyer may make a legal proceeding remain complex to the layman consumer. According to M. J. Trebilcock, prohibiting legal representation sometimes has the disadvantage of leading to poor preparation, and thus to lost time, ineffective use of court resources,

---

<sup>58</sup> We find, in one form or another, small claims courts in Colombia, Brazil, Japan, France, Belgium, Italy, Malaysia, Malta, Australia, South Africa, Portugal, Pakistan and India.

and even bad decisions.<sup>59</sup> When there is a lack of resources, such as an experienced judge, the time of proceeding may be longer in small claim arrangements and the outcome of the proceeding may not satisfy parties to the proceeding. Even if it reduces direct costs such as representation, it raises opportunity, information, and emotional costs. The working hours of small claim courts should also be considered.

## **V. Collective Action**

Collective action has been one of the most important developments in judicial law in recent years. Collective action in consumer proceedings also emerges from the small amount of claims common feature of consumer cases.<sup>60</sup> Collective action ensures that similar individual claims will be treated collectively in a single case. It is important for consumers' justice when they have no interest to provide individual claims because of its amount. Members of the group are not obliged to participate in the process. This demonstrates an extraordinary commitment by the person who is volunteering to represent the group. The indirect costs of organizing collective action are very high.<sup>61</sup> Collective action has an importance in distributing direct economic costs between individuals within the group. In addition to reducing direct costs to consumers proceeding, collective action has a deterrence or preventive function from the business person perspective. If there is a collective consumers' action practice in a given jurisdiction, since the outcomes of the proceeding would be burdensome, the business person will give due consideration to the consumers' rights protection.<sup>62</sup> Specific laws providing for collective action may vary substantially from state to state, depending on the overall legal framework. In addition to the difficulties in organizing

---

<sup>59</sup> Michael J. Trebilock, 'Rethinking Consumer Protection Policy', p. 88., in C. E. F. Rickett and T. G. W. Telfer, *International Perspectives on Consumers' Access to Justice*, op. cit.

<sup>60</sup> Howells and James, *Litigation in the Consumer Interest*, pp. 31-49.

<sup>61</sup> Id.

<sup>62</sup> Id.

consumers who have common small claims, the collective action is difficult for a juridical body to manage in a short period of time. This difficulty may lead the system to delay the time for proceeding, and lawyers may discourage to represent such a claim. Because of the principle of ‘locus standing’ collective action was limited to representative claims by individuals who have a direct and personal interest in the matter to be litigated.<sup>63</sup>

However, recently, different jurisdictions have started modifying this strict rule. France, India, the UK, China, and Thailand are among the jurisdictions that have established a system in which the consumers’ interest can be represented by consumers’ association before the court.<sup>64</sup> In addition, public authorities, i.e. the ombudsman and civil society organizations are also the competent organs in representing consumers’ interests in collective actions.

## **VI. Online Dispute**

With the development of electronic transitions, online consumers’ disputes also require the construction of parallel pathway. According to the UNCTAD manual stipulation “many online traders have built-in ‘online dispute resolution’ (ODR) arrangements, which can vary between using panels of legally-qualified and verifiable individuals on an arbitration model, to algorithmic generation of automated proposals based on the statistically most likely sum that both parties would be most likely to accept, to crowd-based ‘jury’ decisions.”<sup>65</sup> The United Nations Commission on International Trade Law (UNCITRAL) has also advised countries to build an online dispute

---

<sup>63</sup> Id.

<sup>64</sup> Id.

<sup>65</sup> UNCTAD Manual on Consumer Protection, p. 95.



resolution systems for a cross boarder e-commences.<sup>66</sup> However, this does not mean that the online dispute resolution system is limited to online transactions.<sup>67</sup> Countries like India and Mexico has created an online dispute resolution system, which is working for all types of consumer disputes.<sup>68</sup> This platform is created to reduce the barriers of regular courts and other informal systems of consumer dispute. In spite of this, an online dispute resolution has many prerequisites in relation to the literacy of the beneficiaries and the level of the technological development in the country. Creating a system without a competent system to implement is meaningless. Therefore, countries in establishing an online platform for consumer disputes they should have considered the level of the consumers' technological literacy.

## **VII. Public Authorities; Ombudsman and Consumer agencies**

Another alternative platform for consumer disputes to reduce the problems of the regular court process in the consumer cases is creating the public authorities competent to adjudicate consumer cases. The most commonly known platforms are the Ombudsman and the Consumer Tribunal/Agency.

The ombudsman is inherently a public body responsible for representing the public interest when there is a maladministration practice. It had no adjudicative power. Its power was limited to investigating maladministration in public offices following the peoples' grievances. Its primary focus has been ensuring effective public service for people living in certain areas. In recent times countries are starting to use an Ombudsman as a system to adjudicate

---

<sup>66</sup> Review of the Guide for the Incorporation of Domestic Law, New Version of UNCITRAL Model Law, New York, 2012.

<sup>67</sup> The UNCTAD Conference Notes, p.9.

<sup>68</sup> Id.

private disputes.<sup>69</sup> The justification behind this new role of the Ombudsman is the existence of widespread problems of the regular court structure and other tribunals in ensuring cheap, fast and effective judicial protection. The ombudsman will play a gap filling role to other arrangements.<sup>70</sup> Unlike their earlier approach, here, they play a judiciary role. The judges mostly play inquisitorial role. The procedure they apply and the cost they charge against consumer is very less compared with other arrangements.

Based on this increasingly pivotal role, the ombudsman office is now widely recognized as being capable of making a significant contribution to human rights protections, both at the individual and wider societal levels.<sup>71</sup> International organizations such as the UN and the EU are supporting the expansion of this trend in their member states. With the development of consumers' rights protection private sector Ombudsman have spread rapidly to offer consumers new paths for their complaints. In addition, most Ombudsmen are freely accessible to consumers to assure their access to justice need. Small claims of the consumer, in particular, are the primary subject matter of the Ombudsman's adjudication. The private sector Ombudsman is a widely known arrangement in European countries.<sup>72</sup>

The other well-known public arrangement for the jurisprudence of consumer disputes in different jurisdictions is the establishment of a special administrative tribunal.<sup>73</sup> This form of consumer adjudicative body is mostly an arrangement within the executive branch of the

---

<sup>69</sup> Julinda Beqiraj and Lawrence McNamara, *International Access to Justice: Barriers and Solutions*, Bingham Centre for the Rule of Law Report, 2014. See also the UNCTAD Manual on Consumers Protection, pp.94-95.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> The UNCTAD Manual on Consumer Protection pp. 93-94.

government. It is a branch of consumer authorities; it is accountable to an organ that regulates trade. Starting from deciding the on the procedure until the appointment of presiding judges, the involvement of executives is very high. Like other formal and informal arrangements for consumer redress, the establishment of a consumer tribunal is also a response to the problems of regular court arrangements in providing cheap, fast, and effective judicial protection.<sup>74</sup> However, it is not free from critics. The critics are related to the independence of the tribunal and judges, the process of adjudication, and bureaucratic bottlenecks.

The Ethiopian experience at the federal level can be taken as an example of special tribunals charged with consumers' dispute. As previously described, the breaking point of the special focus for the consumer protection in Ethiopia is the enactment of the trade practice and consumers protection proclamation No. 685/2010. Before 2010 the issue of consumer was governed by different scattered laws. Under this proclamation, the administrative authority, which was empowered to regulate the issue of consumer is the Trade Practice and Consumers Protection Authority/TPCPA/. Within this arrangement, there was a judicial sub-branch it has an authority to adjudicate the consumer claims. The amended TCCPP follows a similar approach with the repealed proclamation. The TCCPP authorized the Trade Competition and Consumer Protection Authority (TCCPA) to regulate the enforcement of the proclamation, which included the consumer protection stipulations.

TCCPA is accountable for ministry of trade currently restructured in within a consumer's protection department in the ministry. It is composed of three organs; Director General, judges, and Investigative officers. The latter two are responsible for administering the judicial aspect of the authority responsibilities. Protecting consumers from

---

<sup>74</sup> Id.

unfair acts of business and organizing judicial organs with a jurisdiction on issues of trade competition and consumer protection is among the power and responsibilities of the authority under Art 30 of the TCCPP. According to Art 23(5) of the TCCPP, the powers of the authority are limited to those entitlements within the proclamation; the rest is left to the ministry of trade and regional bureaus. This principle is working for all branches of the authority. According to Art 32 of the TCCPP the adjudicative branch of the authority has a power to take both administrative and civil measures. The administrative aspect of the adjudicative bench of the authority is delimited to the competition issue. In accordance with Art 23(5) stipulation, since it is not explicitly given to the authority, the ministry of trade and regional trade bureaus would have the authority to take administrative measures on consumer issues.

On the other hand the adjudicative branch of the authority has a jurisdiction on both the competition and consumers civil matters. The adjudicative branch of the authority power in consumer issues is limited to the allegations that may arise in the federal cities of Ethiopia. The consumer disputes that may arise in the regions are left to the regional states platform. In addition the proclamation entitled the regions to establish regional adjudicative branch when it finds necessary. The public tribunal arrangement of the consumer disputes at the federal level is not limited to the adjudicative bench; there is also an appellate tribunal which is authorized to review the decisions of the adjudicative bench. As stated in Art. 33(3) of the TCCPP the appellate tribunal has a power to confirm, reverse or vary the decision, or remand the case, with necessary instructions, to the Authority or the adjudicative bench of the Authority, as the case may be upon examining an appeal submitted to it. With regard to the composition of judges, both the adjudicative bench and appellate tribunals has one presiding judge and two judges appointed by the prime minister.

Professional qualification, educational background and experience are the criteria's in the selection process. Even if the proclamation declares independence of judges in the adjudicative bench or appellate tribunal, the appointment of the judges by the prime minister by itself has a negative impact on the independence of the adjudicative organs of the authority. In addition, since it is within the supervision of an executive organ TCCPA its independence is again at risk. Moreover, the proclamation is declared the appellate tribunal decision as a final decision except the error of law claims to the Federal Supreme Court bench. This would affect the consumers' judicial protection right by restricting the possibility of reviewing the tribunal decision by the regular courts.

Procedurally, the proclamation referred the adjudication body to use the civil procedure rules. This is also another obstacle for the consumer, which is restoring the consumers into the regular courts long and technical procedures. The non-existence of clear rules for the conduct of the judges and other bureaucratic issues are also the main challenging in ensuring effective and efficient consumer protection under this arrangement. In addition according to Art 40 of the TCCPP parties to the dispute except the government office are expected to pay adjudication fee. This is also may discourage the consumers with a small amount of the claim. These dynamics should be considered in measuring the Ethiopian administrative approach for consumer disputes settlement at the federal level and taking experience for regions.

### **VIII. Special Consumer Court**

A special consumer court platform for consumer disputes has been the most recent development in consumer judicial protection and access to justice. The idea of a special consumer court is concerned with accommodating the merits and demerits of other pathways in consumer disputes and creating the most effective judicial protection

arrangement for the consumer.<sup>75</sup> Regular court arrangements have strengths such as clear procedures, rules of the conduct of judges and their composition process, the appellate process and other relevant things. From other informal adjudicative arrangements, it seeks to take their merits in relation to the cost and time of proceedings.<sup>76</sup> However, a special consumer court may require substantial sum of money and qualified professionals in the area.

### **2.1. Pathways for Consumer Dispute Resolution in the Amhara Regional State**

As mentioned before, according to Art 23(5), Art. 32(1) (c), and Art. 34 of the TCCPP, the consumer dispute resolution process in the regions is left to each regional state platform. The regional states have the discretion to decide whether to establish a special adjudicative body or to use the existing platform. Following this stipulation of the TCCPP, as pointed out before, the Amhara National Regional State executive branches' re-establishment proclamation has entitled the Trade and Market Development Bureau of the region to regulate the implementation of the consumer protection rules of the TCCPP in the region. Support efforts to protect consumer rights protection by establishing a procedure for resolving consumer disputes through negotiation, and creating an administrative organ to adjudicate the consumers' civil cases are among the power and functions of the Bureau under the proclamation that concerning with the creation of consumer dispute settlement outlets in the region.

Under this entitlement, the Bureau has three basic powers and functions concerning the settlement of consumer disputes, such as;

---

<sup>75</sup> Simon Carreau, Consumers and Access to Justice: One-Stop Shopping for Consumers, Final Report of the Research Project Presented to Industry Canada's Office of Consumer Affairs, Union Des Consommateurs, 2011.

<sup>76</sup> Id.

supporting those entities that are working for consumers' rights protection, establishing a negotiation platform for consumer dispute resolution, and creating a public tribunal, like in case of the federal arrangement, for a consumer civil case dispute. According to this proclamation, the intended approaches for consumer dispute settlement in the region are negotiation at the first stage and administrative (public) arbitration for claims. This approach to the region is a combination of ADR and public authorities from those pathways the writer mentioned in the previous section. The proclamation does not say anything about the establishment of consumer arbitration, online dispute resolution, Mediation or conciliation centers, special consumer court, small claim court for consumers and others platforms in the region. Nevertheless, until the author has completed this work, no administrative, judicial bodies have been established in the region to adjudicate the consumers civil disputes. Therefore, the only choice for consumers in the Amhara Regional State to bring their claims before or after the negotiation is the traditional regular court arrangements. Under the regular court arrangement, since there is no special bench for consumer disputes; it would share all circumstances of the adjudication process with other civil matters.

Since the enactment of the 1995 FDRE constitution, regular courts have been established at both federal and regional levels. The jurisdiction of these two tiers of the court is limited to matters that may arise in their area. In both jurisdictions, there is a supreme court, high court, and first instance court arrangements. In addition to these three regional administrative arrangements, there are also city court and Kebele Social Court arrangements. City court arrangements are created to adjudicate city administration-related civil matters and to reduce the case flows of the Woreda courts. The Kebele social courts are comparable to small claim court pathways in other jurisdictions. The Kebele social court and city court arrangements are still subject to

constitutionality debate. Regardless of this fact, Kebele social courts and city courts are actively working in different regional and city administrations in the country including in the Amhara Regional State.

Similar to the FDRE Constitution, the Amhara Regional State revised constitution also stated various social and economic rights of citizens and established judicial protection arrangements for their enforcement. Art. 37 of the revised constitution recognizes the right to access to justice in a manner similar to the FDRE constitution. It also recognizes independent courts and other competent bodies as pathways to implementing this right. According to Art 46(3), Art 66(1) of the same statute a judicial power of the region is vested only in the courts. Art. 64 prohibits the establishment of special or ad-hoc courts that take the judicial power of the regular courts or institutions legally empowered to exercise judicial functions and that do not follow legally established procedures.

Even though, the customary and religious courts are remaining functional as per Art 34(5) and Art 65 of the constitution, this constitution recognized three categories of courts in different level: Supreme Court, High Court and first instance courts. The Supreme Court is the highest judicial body in the region, and the First Instance Court is the lowest judicial body in the region. The Amhara Regional State Courts establishment proclamation also acknowledges these three categories of courts and determined their jurisdiction.<sup>77</sup> Circuit courts at all levels are also recognized in this proclamation in order to make the courts accessible to the public and effective. According to Art.13 of this proclamation, the judicial power of the courts of the

---

<sup>77</sup> A Revised the Amhara National Regional State Courts' Establishment Proclamation, 2015, Zikre Hlg, Proclamation No.223/2015, 20th Year, No. 4.[here in after The ANRS Courts Establishment Proclamation].



region is in such indicated regional matters directly or by appeal, as provided Art.80 of the FDRE constitution; as well in Art.66 and Art.67 of the constitution of the region except cases that are clearly and specifically stipulated under the jurisdiction of the courts of the federal government.

These three categories of courts have both civil and criminal jurisdiction. The civil jurisdiction of the three categories of courts in the region is stated in the proclamation from two perspectives: subject matters that have pecuniary value and non-pecuniary subject matters. The pecuniary subject matters are also further categorized into suits concerning movables and immovable. Each court level has criminal and civil divisions. According to Art 19(2) of the courts establishment proclamation of the region, courts have discretion to organize more divisions/benches for particular cases to make judicial activity accessible and effective. Accordingly, in practice, the civil division of the Woreda Courts has a family, labor and other civil matters benches. Furthermore, the Supreme Court of the region has a cassation division, which is empowered by the constitution to see and correct the legal errors in the final judgments of courts in the region.

In addition to these three categories of court structures in the region, there is also the Kebele Social Court and a city court arrangement in the region. The Kebele social courts in the region are established at the Kebele level and have jurisdiction to adjudicate civil suits not exceeding 15,000ETB for movables and suits not exceeding 25,000ETB for the immovable.<sup>78</sup> Whereas city courts are established in the three cities of the region such as; Gondar, Bahir Dar, and Dessie city administrations to adjudicate urban cases pursuant to Gondar, Bahir Dar and Dessie city administration regulations. The urban cases

---

<sup>78</sup> A Revised Social Courts Establishment and Determination of their Powers and Duties Proclamation of the ANRS, 2017, Zikre Hig, Proclamation No. 246/2017, 21th Year, No. 26.[ Here in After the Revised Social Courts Establishment Proclamation]

are limited to those that facilitate the work of the city administration. Most civil cases, including consumer disputes are out of the jurisdiction of the city courts in the region.

Accordingly, the formal court structures for the adjudication of consumer disputes are include the regular court structures from Woreda Court to cassation benches and the Kebele Social Court arrangements in the region. In some cases, as Murado Abdu indicated in his article, the Federal Supreme Court cassation bench may have a cassation over cassation power over regional matters including the consumer dispute.<sup>79</sup> After establishing these judicial arrangements of the consumer dispute resolution in the region, the task of the writer in the coming sections of the study will be testing their competency and practical problems in ensuring cheap, fast and effective judicial protection for the consumers.

## **2.2. The Competency of the Available Pathways of Consumer Disputes Resolution in the Amhara Regional State**

The existence of pathways for consumer dispute resolution in certain jurisdictions is a step toward ensuring consumers' judicial protection rights. Furthermore, competency in the available pathways should be tested using the commonly used judicial protection criteria. As stated in the earlier discussions, the most commonly known criteria for measuring the competency of judicial protection arrangements, in particular the consumer redress system, accessibility, independence, fairness, accountability, efficiency, and effectiveness are included<sup>80</sup> Based on these criteria, in this section, the author tested the

---

<sup>79</sup> Muradu Abdo, 'Review of Decisions of State Courts Over State Matters by the Federal Supreme Court', *Mizzan Law Review*, Vol. 1, No. 1, 2007, pp. 60-74.

<sup>80</sup> The UNCTAD Conference Notes, and Howells and James, *Litigation in the Consumer Interest*.

consumers' dispute resolution pathways in the Amhara National Regional State (the regular court arrangements including the Kebele Social Courts) as follows.

### **I. Independence**

The independence of the judiciary is one of the most crucial characteristics of a competent consumer dispute settlement pathway. Judiciary independence requires institutional arrangements to be in place to guarantee the independence of the decision-making body and the impartiality of the decision.<sup>81</sup> In other words, these prerequisites refer to the necessity of both personal and institutional independence in the judiciary to achieve a fairer outcome at the final stage. The judiciary as an institution should be free from the influence of the parties in dispute settlement, and there should be a separation of power with the administrative bodies of the government. Institutional independence refers to the administrative and financial independence of the scheme. The parties should have no role in both the decision-making process of the judiciary and the administration of the scheme to guarantee institutional independence throughout the process of dispute settlement. In addition, to guarantee its institutional independence, a judicial body should not be received any financial or technical support from a party to the dispute.<sup>82</sup>

As far as law is concerned, the revised constitution of the Amhara National Regional State, after declaring the establishment of an independent judicial organ in the region, has recognized the independence of any level of courts from any interference or influence of any governmental body, official, or any other sources.<sup>83</sup> Furthermore, the revised constitution clearly stated that judicial powers are vested exclusively in the courts of the region and any special or adhoc courts, which take

---

<sup>81</sup> Howells James, *Litigation in the Consumer Interest*, pp. 12-15.

<sup>82</sup> *Id.*

<sup>83</sup> The Amhara National Regional State Revised Constitution, Art 64-69.

the judicial powers away from the regular courts or institutions legally empowered to exercise a judicial function and which do not follow legally established procedures, shall not be established.<sup>84</sup> Stirring on to financial and administrative independence, the revised constitution also declares upon the Regional Supreme Court the power to draw up and submit to the Regional Council the budget of the regional courts. Upon approval of the budget by the council, the regional Supreme Court will administer the details.<sup>85</sup> Through these constitutional stipulations, we can conclude that institutional independence of the judiciary is constitutionally enshrined in the region. However, according to Tegaye Gedion, the constitutional guarantee of the court's independence in Ethiopia as a whole is not free from a limitation.<sup>86</sup> He mentioned the controversy on the power of courts in constitutional interpretation and the non-existence of a clear rule on the judicial review of other legally empowered institution's decision as obstacles of the judicial bodies' independence in the country. These limitations can also be equally mentioned as legal limitations of the regular court's independence in the regions.

In relation to the Kebele social court arrangements at the Kebele levels of the region, based on the revised constitution direction, the revised social court establishment proclamation No. 246/2017 stipulated that the judges of social court shall carry out their tasks free from the influence of any party; they shall not be directed either by other internal or external body influence without the law or local tradition and culture.<sup>87</sup> While it does not say nothing about what should be followed when there is a discrepancy between the law, local

---

<sup>84</sup> Id. Art 64(2) and 66.

<sup>85</sup> Id. Art 67(6).

<sup>86</sup> Tegaye G. Hailu, *Amharic book on the Ethiopian Courts Civil Jurisdiction*, Mega Printing PLC, 2019, pp. 27-34.

<sup>87</sup> The Revised Social Courts Establishment Proclamation, Art 16.

tradition and culture, and this may create uncertainty on the rules of the game in the system. In effect, it may significantly affect the independence of this pathway in the region. In particular, when consumers make small claims, the difficulty in choosing between these three categories of rules may intensify, and the final remark of judges on the controversy may endanger consumers' interest. Finally, this system may lose credibility from consumers. In relation to the budgetary issues also the proclamation has followed a loose approach. The Kebele offices take a responsibility to cover the costs of the Kebele Social Court.<sup>88</sup> The judicial powers of the Kebele Social Courts in the proclamation are more than enough at the Kebele level, and even if it is insignificant in amount, a parallel rule should be set with the judicial arrangement at the Woreda and above levels in the region to ensure their financial or administrative independence. Consequently, their budget should be decided at least by the respective Kebele councils and administered by themselves, not by executives.

With regard to the personal independence of the decision-maker, the principle of independence requires; the judicial appointment should be undertaken without the companies saying, the appointment of the decision-maker should be for a period of time sufficient to ensure independence, the decision maker should not be liable to be relieved of his duties without just cause and he should not be working for professional associations for a definite period of time. The Amhara Regional State first revised its constitution to declare the personal independence of judges and consequently mentioned the instruments to guarantee this principle, such as being solely guided by laws in making a decision, not removed from the tenure before the retirement age subject to exceptional circumstances,<sup>89</sup> and the appointment of

---

<sup>88</sup> Id Article 31.

<sup>89</sup> According to Art 66(4) of the ANRS revised constitution violation of disciplinary rules, gross incompetency, inefficiency and illness are the only grounds to remove the judges in the region from their tenure before their retirement age upon the

judges through a final saying of the state council. In this regard, the constitution has created a strong approach that can increase the personal independence of judges in the region. When we look at the Kebele Social Court situation from this perspective, we can face a different kind of condition. Only the appointment approach is set parallel to the regular court judge nomination approach, in which the Kebele Council is empowered to make a final statement on it. In other cases, judges are not expected to base their decisions solely on law. Cultural rules and local traditions can also be used by judges to make judgments.

The grounds for removal of judges from their tenure are also poorly constructed in the proclamation. The lists in the proclamation are difficult to consider illustrative or exhaustive. The most important grounds listed for a regular court judge's removal, such as incompetency, violation of disciplinary rules, and inefficiency, are not included in the proclamation lists.<sup>90</sup> These gaps in the Kebele Social Court framework may significantly affect consumers' judicial protection rights in the region when potential disputes are taken before it based on its pecuniary jurisdiction as provided in the establishment proclamation.

Furthermore, the principle of independence requires the decision-maker to possess the abilities, experience, and competence required,

---

judicial administration commission decision and approval of the state council by the majority vote.

<sup>90</sup> Art 17 Removal from Social Court Judge

A judge of a social court may be discharged from his judiciary on the following reasons;

1. When the kebele council decides by majority vote based on the opinion collected from the residents to discharge him from the judicial power;
2. When the judge is sentenced in a criminal case;
3. When the judge submits request for resignation on his own will;
4. When the judge changes his kebele residence where he was elected;
5. When the judge dies.

particularly in the field of law, to perform this function. In ordinary courts in the region, holding a first degree in law is a primary requirement for a judge. There are also age- and other disciplinary requirements to be a judge in the region. To be a Woreda judge in the region, successfully graduating from a law, and completing the judicial training provided by the justice institute of the region are standard in relation to academic qualification. Experience in different positions in the highest courts is required. Even though consumer law is not included in the curriculum of undergraduate courses in law schools and there is no separate module for it at the time of judicial training, judges with a first degree in law and those not specialized in the consumer protection related area of laws may be challenged in applying the consumer protection law rules in their daily tasks of resolving consumer disputes. In addition to this, consumer disputes must have interdisciplinary knowledge, including economics, accounting, financing and other related filed of studies. Therefore, the qualification requirements for nominating regular court judge in the region are not sufficient in the consumers' dispute settlement perspective. To fill these gaps, intensive training should be provided to each judge in relation to consumer protection laws and interrelated disciplinarians. Such an arrangement may create by either of the concerned bodies in the region.<sup>91</sup> When we look the Kebele Social Courts from this perception we could observe an exceedingly funny occasion. For those judges who are empowered to adjudicate pecuniary matters up to 15,000 ETB and 25,000 ETB, their establishment proclamation sets the ability to write and read as the only qualification requirements to be appointed as a judge.<sup>92</sup> In particular, where a consumer cases are brought to this bench, we can imagine how they could be adjudicated the dispute. They had no capability to interpret consumer protection laws contained in different

---

<sup>91</sup> Universities, Justice Bureau, Trade Bureau and other governmental or NGOs may host this program.

<sup>92</sup> The Revised Social Courts Establishment Proclamation, Art 15.

legal instruments of Ethiopia and set out the dispute based on their findings.

## **II. Accessibility**

Accessibility of the dispute settlement pathways can be envisaged in terms of their physical accessibility, cheapness and ease of use, as well as the availability of legal information or education on how to exhaust existing pathways.<sup>93</sup> The judicial body should be as physically accessible to the beneficiaries as possible. Physical accessibility has both a cost and psychological commitment implication for beneficiaries of the available arrangements. If the place of adjudication is very far from the place of residence of the consumer, who has a claim against a business person, he would be discouraged to go through the system of adjudication in fear of the high cost of transportation and loss of his commitment to seek justice due to the long distant walking necessity.<sup>94</sup> Physical accessibility is not enough by itself. In addition to making the system physically accessible for the consumers, the responsible organ should work to make the system too cheaply for the beneficiaries and ease the process of use.<sup>95</sup> The cost of legal advice, the cost of representation, court fees, and other direct or indirect litigation expenses should be reduced. If the cost of litigation is very high, the available judiciary arrangements will not be accessible to the beneficiaries. In most consumer cases, the number of claims is too small, requiring a system.

---

<sup>93</sup> Bedner A. and Vel, J.A.C., 'An Analytical Framework for Empirical Research on Access to Justice', *Law, Social Justice & Global Development Journal (LGD)*, 2010, pp.14-18 Available at [http://www.go.warwick.ac.uk/elj/lgd/2010\\_1/bedner\\_vel](http://www.go.warwick.ac.uk/elj/lgd/2010_1/bedner_vel).

<sup>94</sup> Id.

<sup>95</sup> Id.



To ease the use of the system, the redress procedure should be well publicized, there should be appropriate assistance to the disadvantaged complaints, able to make an oral presentation of the claim even though the system requires written complaints; conciliation, mediation and negotiation should be used to attempt to settle complaints, and a legalistic and adversarial approach should be discouraged. In addition, providing consumers with legal information or education is a benchmark that they can use to use the dispute settlement system without difficulty. The government and other responsible bodies (i.e., NGOs) should have built a system of consumer education.<sup>96</sup> In this system, consumers should learn about the content of their rights and how they can claim their rights. A judicial arrangement for dispute settlement without a consumer education system is meaningless. To use the system of judicial protection without difficulty, the consumer should first have enough knowledge about his/her rights and the available remedies of its violation. In terms of accessibility, ADR and small claim courts are more preferable than other systems of adjudication in terms of accessibility.

Accessibility of the available pathways to consumer dispute settlement in the Amhara Region is diverse. Concerning their physical accessibility, both the revised constitution of the region and the revised court establishment proclamation declare the establishment of Woreda courts, High courts, and Supreme courts at the Woreda, Zone, and regional administration levels of the region, respectively. To reduce the difficulties of beneficiaries in accessing court services on normal platforms, a circuit court arrangement is recognized by the proclamation.<sup>97</sup> In addition, a Supreme Court branch is being established in some capital cities of zonal administrations. In the

---

<sup>96</sup> Id.

<sup>97</sup> The ANRS Revised Constitution, Art 67 and The Revised Courts Establishment Proclamation, Art 3 and Art 21(4).

regular court arrangements for consumer dispute settlement in the region, consumers' accessibility difficulties can be increased when the case approaches the highest level of court arrangements. Kebele social court arrangements are more physically accessible to consumers than regular court arrangements, although they are working only for a limited period of time in a week. This limitation of the Kebele Social Courts in terms of working days results from the non-existence of a system of recruiting judges for regular tenure. Judges in the Kebele social court are accessible to litigants only for two or three working days since it is unremunerated service and they may have other personal works to lead their life.

Consumers may incur direct and indirect costs in court proceedings. Direct costs include representation, document preparation, court fees, and reparation costs if the plaintiff loses court. Indirect costs include transportation, accommodation, and other expenses due to litigation. The existence of these cost modalities in the arrangements may greatly discourage consumers from making a commitment to provide a claim before the claim has been made. Concerning indirect costs, correcting physical accessibility problems is important and attempting to adjudicate cases within a short period. Direct costs, in particular representation and document preparation costs, can also be reduced through the provision of a free legal aid service. The Kebele social courts are, again, more accessible in terms of settlement costs for settlement of consumer disputes than the other regional arrangements. In the Kebele Social Courts, there is no court fee; representation by the attorneys is not expected; statement of claims and statement of defenses can be provided orally or in a less formal written document, and because the place of adjudication is not very far from the place of residence, transportation and accommodation costs may not be an issue.

### **III. Accountability**

Accountability is all about creating a system to publicly account for the judiciary's operations by publishing determinations and specifying liabilities for violations of duty without affecting the independence scheme. Individuals who participate in the decision-making process should be liable for the infringement of their legal responsibility regarding justice. Accountability schemes are crucial to guarantee the independence and impartiality of the judiciary, which agrees with the moral requirements. Without an accountability procedure, it is difficult for an individual to be sure of independence and fairness when making decisions. Even in systems with strong accountability schemes, it is too difficult to control the unduly acts of the judiciaries.<sup>98</sup>

According to Art 12(1) and (3) of the revised constitution of the Amhara Regional State the conducts of the regional state shall be transparent and any public official or an elected representative shall be accountable for any failure in official duties. Accordingly, the judges in the judicial framework are also subject to this constitutional accountability principle. As I mentioned before, judges are expected to undertake their duties as per the professional or disciplinary standards that are stipulated in the revised constitution and relevant proclamations. If the judges are failing to undertake their duties properly, they may face administrative, criminal or civil liabilities. The administrative measures may range from a preliminary warning up to removal from the tenure. The judiciary administrative council is empowered by the constitution to administer this process and the final saying is for the state council.<sup>99</sup> The civil liabilities of judges are in principle left within the structure of the government obligations. However, after compensating the claimant the government may

---

<sup>98</sup> Howells and James, *Litigation in the Consumer Interest*, pp. 25-26.

<sup>99</sup> The ANRS Revised Constitution, Art 69.

request the judge to replace it. This approach has an importance to guarantee the judges independent by reducing unnecessary claims and equally to create the opportunity for the injured individual to be compensated without affecting the judicial independence. This immunity protection is not always working. According to Art 2126(2) of the civil code this protection of the employee is working only for the professional faults. With regard to the criminal liability, according to Art 59 of the criminal code of Ethiopia, likewise of other public officials if the judges committed a crime either intentionally or negligently the principle of independence wouldn't shield him/her from a criminal liability.

#### **IV. Efficiency**

In addition to independence, accountability, and other criteria, a certain judicial arrangement to be considered as a competent pathway for consumer dispute settlement should be efficient. An efficient system is one that works productively with minimal wasted effort or expense.<sup>100</sup> In other words, a system can be considered efficient if it ensures a speedy, stream-lined, and simplified process and regular review of its performance under scrutiny by outside observers. Furthermore, an efficient judicial arrangement has a system for tracking complaints, timely notifying the parties' progress and provision for regular monitoring. Public authorities, such as ombudsmen and administrative tribunals are better off in satisfying these requirements compared with the other pathways.

In relation to efficiency, there is a huge problem with consumer dispute settlement arrangements in the region. Due to the duplication of cases and time-consuming procedures in the region, speedy adjudication of cases is not expected. It may take a significant period

---

<sup>100</sup> Howells and James, *Litigation in the Consumer Interest*, pp.26.

of time to begin providing a first instance claim before a competent judiciary arrangement; however, it may take a significant period of time until enforcement. It may take time to comply with each relevant rule in the civil procedure code of Ethiopia. In addition to the time-taking procedure, the available pathways for consumer disputes in the region are not subject to public scrutiny. In this region, there is no system for examining public opinion on the activities of courts and improving their failures. Problems of accessibility and independence affect court efficiency. In terms of procedure and time of adjudication, Kebele Social Court arrangements are more advantageous than regular court arrangements because they can use a simplified procedure throughout their adjudications. However, as I mentioned, the limited number of working days is another challenge to its efficiency. Moreover, because it is not their regular tenure, the judges of Kebele Social Courts may give less attention for its efficiency as well.

## **V. Effectiveness and fairness**

Effectiveness refers to the act of producing a desired or intended result. It is closely related to the efficiency principle, but the former focuses on the operation of the scheme and the latter focuses on the final result (the capacity of the scheme to deliver the intended results). On the task of dispute settlement the final intended result in one or another way is always to deliver justice. In the work of measuring the effectiveness of a given judicial arrangement, we may use different criteria, including the capacity of the scheme to cover a wide range of consumer disputes, the fairness of the decisions, the enforcement frameworks of the decision, and the possibility of an appeal for further judicial review.<sup>101</sup> Fairness is an independent standard for measuring

---

<sup>101</sup> Garth Bryant G. and Cappelletti Mauro, 'Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective', *Articles by Maurer Faculty, Paper* 1142, 1978, Available at <http://www.repository.law.indiana.edu/facpub/1142>.

the performance of the available pathway of dispute settlement. In spite of this fact, the writer preferred to discuss it within effectiveness criteria because fairness is the pillar component of effectiveness, as I previously pointed out.

In the Amhara Region, even though there are no specific adjudicative bodies for consumer disputes, the available pathways are left to all forms of consumer disputes irrespective of the nature of the dispute as far as it is a justiciable matter. In both the ordinary court and the Kebele Social Court arrangements the consumer cases are within the broad category of civil matters and they are treated likewise of other civil disputes in the jurisdiction. However, this approach of treating consumer disputes with other civil matters and treating equally with others has its own impact on the effectiveness of the system. Because, as I mentioned before, consumer disputes are special in their nature and they are a result of day to day transaction of the societies they may require a more speedy trial than the others. If the adjudicative bodies treated them equally with the other and adjourned the case for a long period of time, even if the final judgment is just in its merit, it may not be satisfied the claimant since the time is going up. In addition, the approach has an impact in the number of consumer case to be adjudicated in a given bench. This may encourage consumers not to take the cases before the available pathways and tries to resolve the dispute through informal outlets as these institutions are physically accessible, cheaper and speedier. According to Kokebe W. Jemaneh, “Informal outlets/customary dispute resolution mechanisms have the potential to conflict with constitutional and human rights provisions and do not necessarily result in justice that upholds universally cherished human values[emphasis added].”<sup>102</sup> In effect, the

---

<sup>102</sup> Kokebe W. Jemaneh, ‘Reconsidering Access to Justice in Ethiopia: Towards A Human Rights-Based Approach’, In *Access to Justice in Ethiopia: Towards an Inventory of Issue*, Centre for Human Right, Addis Abeba University, 2014, p. 10.

consumers' judicial protection right would be at risk. Under this circumstance, it is difficult to conclude that consumer dispute settlement pathways in the region are covering a wide range of disputes even though it opens the door for all forms of disputes.

The fairness criteria of a judicial protection competency are requiring the system must produce decisions which are fair and seen to be fair by observing the principle of procedural fairness. The decision maker should consider only the information provided before it and the specific legal criteria upon which its decision is based on the decision making process. The decision should be based on fairness, reasonable approaches, good practices/precedents, and relevant laws. Procedurally, due process or natural justice requirements should be observed. The decisions must be free from personal biases and other unduly practices. In addition, the equality of parties before the court and public hearings are also important to guarantee fairness in the adjudication of consumer disputes. In general, as far as the fairness of the decision concerned, we have to consider at least the following three elements. These are included, giving equal opportunities for the disputing parties to present their factual and legal arguments; the adjudicators should have an objective position and avoiding any bias, and supporting the decisions with sufficient reasons. To fulfil these conditions the courts should equally invite the parties for a hearing. After the invitation of the parties, the court should allow the parties to the dispute to have an equal opportunity to present their arguments and evidence. Again throughout the hearing process the court should treat the parties equally irrespective of their status or other scenarios. Finally, the decision should be reasoned out by the parties' arguments and relevant laws in the area.

Both the regular courts and the Kebele Social Courts in the Amhara Regional State are also obliged to comply with these three conditions in the revised constitution and in their respective establishment proclamation. The civil procedure code of Ethiopia is the supportive

rule to properly undertake their tasks. Before starting the hearing of the case the courts should summon the defendant<sup>103</sup> and at the time of hearing they should be given equal chance to present their arguments. In addition, in all stages of the dispute settlement the judges should treat the parties equally. For instance amendment of claims as per Art 91, representation as per Art 38 and the ff., and other opportunities should be provided equally, when the circumstances so require. To avoid the conflict of interest problem, the CPC and the revised ANRS court establishment proclamation are further designed a change of venue or withdrawal of judge's procedure. Finally, the courts shall contain the point for determinations, the decision thereon, and the reason for such decision. Furthermore, the decision should be supported by the pertinent legal stipulation.

The CPC further provided procedures for review of judgment and enforcement of court decisions.<sup>104</sup> Review of judgment by the court of rendition, opposition of judgments, appeal and cassation review are the three available remedies for review of court judgment in different conditions. Consumers may also use one of these remedies against the judgment of the court as well. After the court rendered a judgment at the given point of dispute the debtor of the dispute is expected to perform his debt voluntarily. If the debtor of the judgment is not voluntary to perform his obligations in the judgment the CPC has also provided a clear procedure for enforcement of judgment.<sup>105</sup> To make the execution practicable the court may deliver different decree and orders, including the attachment and sale of the debtor's property.

---

<sup>103</sup> The CPC Art 111-121

<sup>104</sup> The CPC Art 6, 329, 358 and 418.

<sup>105</sup> The CPC Art 6, 329, 358 and 418.



## **Conclusion**

A robust consumer judicial protection framework is certainly crucial for promoting a fair and efficient marketplace that upholds the interests of both businesses and consumers, thereby contributing to the overall economic and social development of the country. Ethiopia has made significant progress in establishing a legal framework to safeguard consumer judicial protection rights. The Trade Competition and Consumer Protection Proclamation (TCCPP) represent a significant step forward in this regard. However, the current system faces several limitations that hinder its effectiveness in protecting consumers.

The framework for judicial protection of consumers in the ANRS faces significant challenges that undermine its fairness, accessibility, and effectiveness. The substantive aspect of consumer judicial protection is hindered by the lack of explicit recognition of consumer rights in the constitution and other legislations. This absence creates a gap in ensuring access to justice because consumer rights are not clearly defined as fundamental rights.

Additionally, the fragmented nature of consumer protection laws, spread across various legal instruments such as the FDRE Constitution, the civil code, the TCCPP, and other legal codes, complicates the legal landscape. This dispersion makes it difficult for consumers and legal practitioners to navigate the system, thereby affecting the accessibility and practicability of these laws. On the procedural front, the existing court system, including Kebele Social Courts, is inadequate in terms of independence, accessibility, efficiency, accountability, fairness, and effectiveness. The lack of specialized training for judges in consumer law, combined with the loosely constructed rules of Kebele Social Courts, undermines the competence and independence of the judiciary. Furthermore, the

limited working days of these courts and the high costs of litigation pose significant barriers to accessing justice.

The efficiency of the judicial system is further compromised by the duplication of cases, lengthy procedures, and the absence of public scrutiny. These issues collectively hinder the delivery of timely and effective justice for consumers. Moreover, practical problems such as social stigma, low legal awareness, lack of knowledge about the legal system, budget constraints, and corruption exacerbate the situation. These factors contribute to a lack of trust in the judicial system and deter consumers from seeking legal redress. To address these challenges, a multifaceted approach is required. Structural changes, such as the establishment of specialized consumer courts and the development of a comprehensive consumer protection code, are essential. These measures would ensure that consumer disputes are handled with the specialized attention they require and provide a clear legal framework for consumer rights.

By implementing these recommendations, the ANRS can build a more robust and effective system that safeguards consumer rights and ensures fair, cheap, and effective consumer justice. This comprehensive approach will not only address the current shortcomings but also lay the foundation for a more equitable and accessible judicial system for consumers in the region.