



A CRITICAL REVIEW OF CONSUMER PROTECTION LAWS AND ITS RELATIONSHIP WITH BANKING PRACTICES IN PAKISTAN

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Abstract

The financial landscape of Pakistan has undergone significant transformation over the last decade, marked by rapid digitalization and an influx of diverse banking products. Consequently, the intersection of consumer protection laws and banking practices has emerged as a critical area of legal and economic scrutiny. This research article presents a critical review of consumer protection laws in Pakistan, specifically evaluating their evolution, implementation, and impact on the banking sector over the last ten years. Utilizing a qualitative doctrinal research methodology, the study investigates the trends that have either benefitted or discouraged consumers. It analyzes the complex implementation of these laws within the banking industry, particularly in light of the devolution of consumer protection to provincial jurisdictions following the 18th Constitutional Amendment, contrasted with the federal regulatory umbrella of the State Bank of Pakistan. The findings reveal a stark jurisdictional ambiguity, a prevalent culture of procedural compliance by banks rather than substantive consumer relief, and a significant disconnect between provincial consumer courts and federal banking regulators. The article concludes that while recent regulatory interventions by the State Bank have modernized the grievance redressed mechanism, the overarching legal framework remains fragmented, necessitating a harmonized and specialized financial consumer protection regime to align banking practices with the substantive rights of consumers.

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1. Introduction

The dynamics of modern banking have shifted profoundly from traditional deposit-taking and lending to complex financial intermediation, wealth management, and digital banking. In Pakistan, the banking sector serves as the primary artery of the economy, mobilizing savings and facilitating commercial activities. However, the inherent information asymmetry between financial institutions and consumers often leaves the latter vulnerable to exploitative practices, hidden charges, and mis-selling. Consumer protection, therefore, is not merely a legal formality but a fundamental economic necessity to ensure trust and stability in the financial system.

The constitutional framework of Pakistan guarantees the right to life, which has been judicially interpreted to include the right to access basic necessities, including fair financial services. Over the past decade, the legal landscape governing consumer rights has experienced seismic shifts, primarily due to the devolution of the subject of consumer protection to provinces under the 18th Constitutional Amendment of 2010. This devolution resulted in a fragmented regulatory environment where banking, a federally regulated subject, intersects with provincially governed consumer rights.

The aim of this research is to critically understand the diversity with which consumer protection laws have shaped up to provide protection to consumers, particularly within the banking sector. To achieve this aim, the study is guided by three specific objectives. First, it investigates the changes and trends in consumer protection law over the last ten years that have benefitted or discouraged consumers. Second, it analyzes the implementation of these laws within the banking industry of Pakistan. Third, it examines the intricate relationship between changing consumer protection laws and the operational practices of banks. By addressing these objectives, this article seeks to uncover the systemic vulnerabilities in Pakistan's financial consumer protection architecture and propose pathways for legal and regulatory coherence.

2. Literature Review

The theoretical foundation of consumer protection rests on the premise of market failure, particularly information asymmetry and unequal bargaining power. Akerlof famously theorized the "market for lemons," demonstrating how information asymmetry can lead to a complete market breakdown. In the context of banking, this asymmetry is acute; financial products are inherently complex, and the average consumer lacks the technical literacy to fully comprehend the underlying risks, fee structures, or contractual obligations.

Global literature emphasizes that traditional consumer protection laws are often inadequate for the financial sector. Ramsay argues that financial consumer protection requires a specialized approach, shifting from a purely adjudicative model to a regulatory one that focuses on market conduct and systemic fairness. This perspective is highly

relevant to Pakistan, where general consumer protection statutes are frequently applied to complex banking disputes.

Within the Pakistani context, academic discourse has largely focused on the inadequacies of the Islamabad Consumer Protection Act of 1995, which served as the benchmark for subsequent provincial laws. Scholars such as Khawaja and Khurshid have highlighted that while these laws provide a platform for grievance redressed, they suffer from procedural delays and a lack of specialized judicial understanding of financial instruments. Furthermore, the emergence of the State Bank of Pakistan as a proactive regulator in consumer protection has sparked debate regarding regulatory overlap. While some argue that the State Bank's Banking Consumer Protection Regulations have filled a critical void, others point out that the coexistence of provincial consumer courts and the federal Banking Mohtasib creates forum shopping and jurisdictional confusion. This literature underscores the need for an empirical and doctrinal review of how these legal frameworks practically interact with banking practices.

3. Research Methodology

This study employs a qualitative, doctrinal research methodology. Doctrinal research involves a systematic analysis of legal rules, principles, and jurisprudence. The primary data sources include statutory instruments, specifically the various provincial consumer protection acts enacted between 2015 and 2020, and the regulatory directives issued by the State Bank of Pakistan, most notably the Banking Consumer Protection Regulations of 2018 and its subsequent amendments in 2022.

Secondary data is derived from an analysis of reported judgments from provincial consumer courts, decisions rendered by the Banking Mohtasib of Pakistan, and annual reports from the State Bank regarding consumer complaints. Academic journals, legal commentaries, and reports from international financial institutions such as the World Bank and the Asian Development Bank provide contextual and comparative perspectives. The data was analyzed thematically, categorized according to the three research objectives to identify patterns, contradictions, and systemic gaps in the legal and regulatory framework.

4. Trends and Changes in Consumer Protection Law in Pakistan over the Last Decade

The last ten years represent the most transformative period for consumer protection jurisprudence in Pakistan. The trajectory of these laws reveals a dual trend: a legislative boom at the provincial level and an increasing realization at the federal level regarding the need for sector-specific regulation.

4.1. The Impact of Devolution and Provincial Legislation

Prior to 2010, the Islamabad Consumer Protection Act of 1995 was the primary legislation governing consumer rights, applicable only in the federal capital. Following the 18th Amendment, provinces were mandated to enact their own laws. Over the last decade,

this mandate was realized through the enactment of the Khyber Pakhtunkhwa Consumer Protection Act in 2015, the Sindh Consumer Protection Act in 2016, the Punjab Consumer Protection Act in 2019, and the Balochistan Consumer Protection Act in 2020.

4.2. Beneficial Trends

The most significant beneficial trend arising from these provincial laws is the broadening of the definition of a "consumer" and the expansion of "services" to explicitly include banking and financial services. For instance, the Punjab Consumer Protection Act explicitly defines services to encompass "banking, financing, insurance, and other financial services." This statutory recognition is a monumental leap from the past, where consumers had to rely on general contract law, which heavily favored the drafting party, typically the bank.

Furthermore, these laws have introduced stringent penalties for unfair trade practices, including deceptive marketing and the provision of deficient services. The introduction of product liability and the power of consumer courts to issue injunctions, order specific performance, and award compensation has theoretically empowered the consumer. The laws in Khyber Pakhtunkhwa and Punjab have also attempted to streamline the grievance redressal process by mandating the disposal of complaints within specific timeframes, aiming to prevent the bureaucratic fatigue that often deters consumers from pursuing legal action.

4.3. Discouraging Trends and Legislative Fragility

Despite these progressive steps, several trends over the last decade have inadvertently discouraged consumers. The primary discouraging factor is legislative fragmentation. Because each province drafted its own law, there is a startling lack of uniformity in penalty structures, limitation periods, and procedural rules. A banking practice deemed an unfair trade practice in Punjab might not carry the same legal consequences in Sindh. This fragmentation creates a confusing legal landscape for banks operating nationally and leaves consumers in different provinces with unequal levels of protection.

Another deeply discouraging trend is the failure of these provincial laws to keep pace with the digitalization of services. While the laws mention services broadly, they lack specific provisions addressing digital banking, mobile wallets, cyber fraud, and data privacy. In an era where Pakistani banks are aggressively pushing digital financial inclusion, the absence of a robust legal framework protecting consumers from digital vulnerabilities is a critical legislative failure.

5. Implementation of Consumer Protection Laws in the Banking Industry

The true measure of consumer protection lies not in statutory text but in its implementation. The banking industry in Pakistan presents a unique case study of implementation challenges due to the overlapping jurisdictions of provincial consumer

courts and federal regulatory bodies, primarily the State Bank of Pakistan and the Banking Mohtasib.

5.1. The Provincial Consumer Court Experience

The implementation of provincial consumer protection laws in the banking sector has been largely lackluster. While consumers technically have the right to file complaints against banks in district consumer courts, several practical barriers hinder effective implementation. First, there is a profound lack of judicial specialization. Banking disputes often involve complex questions regarding interest rate calculations, amortization schedules, and regulatory compliance. Consumer court judges, who handle a wide array of cases from defective electronics to medical malpractice, frequently lack the specialized expertise required to adjudicate intricate financial disputes effectively.

Second, banks employ highly trained legal teams that exploit procedural loopholes to delay proceedings. The threat of protracted litigation often coerces consumers into accepting unfavorable settlements. Consequently, the provincial consumer courts, despite having jurisdiction, are rarely the first choice for banking consumers.

5.2. The State Bank of Pakistan and the Banking Mohtasib

Recognizing the limitations of general consumer laws, the State Bank of Pakistan has emerged as the de facto protector of banking consumers. The implementation of the Banking Consumer Protection Regulations in 2018 marked a paradigm shift. These regulations mandated banks to establish internal complaint management units, display disclosure statements prominently, and refrain from charging fees without explicit consent.

The implementation mechanism relies heavily on the Office of the Banking Mohtasib, an alternative dispute resolution body. When a consumer exhausts a bank's internal complaint mechanism, they can approach the Banking Mohtasib, which employs banking experts to mediate and investigate the dispute. This specialized implementation mechanism has proven far more effective than provincial courts in securing tangible relief for consumers, such as the reversal of unauthorized electronic transactions or the refunding of hidden charges.

However, the implementation of State Bank regulations suffers from a regulatory limitation: the Banking Mohtasib can only recommend compensation and issue directives; it lacks the punitive powers of a consumer court to impose heavy fines or criminal penalties for systemic non-compliance by banks. Thus, while the State Bank ensures faster, expert-driven dispute resolution, it lacks the deterrent teeth required to punish egregiously exploitative banking practices.

6. The Relationship between Changing Consumer Protection Laws and Banking Practices

The relationship between evolving legal frameworks and banking practices in Pakistan is characterized by a continuous cycle of regulatory pushback and institutional

adaptation. Changing laws have undeniably altered how banks operate, though the depth of this change is often limited to procedural compliance rather than a fundamental shift in corporate culture.

6.1. Shifts in Transparency and Disclosure Practices

The most visible impact of consumer protection laws on banking practices is observed in the area of transparency. Prior to the strict enforcement of the Banking Consumer Protection Regulations, it was a common practice for banks to embed hidden charges within the fine print of account opening documents or loan agreements. The changing legal landscape, coupled with the threat of regulatory fines by the State Bank, has forced banks to overhaul their disclosure practices.

Banks now practice what is termed as "tick-box compliance." Account opening forms and loan agreements have been redesigned to explicitly list all potential charges, and consumers are often required to sign separate declarations acknowledging these fees. While this practice aligns with the legal requirement of informed consent, the critical review reveals a superficial relationship: banks have changed the format of disclosure without necessarily simplifying the language. The contracts remain heavily laden with legal jargon, meaning the practice of transparency exists on paper, but the substantive reality of consumer comprehension remains largely unaltered.

6.2. Adaptation of Grievance Redressed Mechanisms

Banking practices have also transformed significantly in response to laws demanding accessible grievance redressal. Ten years ago, resolving a banking dispute required a consumer to physically visit a branch and navigate a bureaucratic maze. Today, driven by State Bank directives, all major banks have implemented centralized customer complaint management systems, complete with toll-free numbers, dedicated email portals, and tracking numbers.

This represents a positive relationship between law and practice. The legal mandate forced banks to institutionalize complaint handling, treating it as a measurable operational metric. However, this relationship also has a dark side. Because banks are required to resolve complaints within a stipulated timeframe to avoid regulatory censure, there is an institutional tendency to close complaints superficially. For example, in cases of fraudulent mobile banking transactions, banks often practice "temporary relief" by reversing the transaction to close the complaint within the deadline, only to debit the consumer's account again weeks later through a different internal adjustment. This highlights how banking practices adapt to circumvent the spirit of the law while technically adhering to its procedural requirements.

6.3. Impact on Product Design and Marketing

Changing consumer protection laws have begun to influence how banks design and market their products. The legal prohibition against deceptive marketing has forced banks

to moderate their advertising claims. For instance, the aggressive marketing of "free" credit cards or "zero-cost" digital wallets has been curtailed, as banks are now legally required to disclose the ancillary costs associated with these products.

Furthermore, the legal scrutiny regarding mis-selling has altered sales practices, particularly in the selling of third-party products like insurance alongside loans. The State Bank's strict guidelines requiring banks to record explicit verbal consent for the sale of insurance have forced banks to overhaul their telemarketing and branch sales protocols. While this has reduced the blatant mis-selling of products, banks have simultaneously developed more subtle, albeit legally ambiguous, marketing strategies to bundle services, demonstrating a constant cat-and-mouse dynamic between legal regulation and banking innovation.

6.4. The Compliance Cost versus Consumer Benefit Paradigm

A critical aspect of the relationship between law and banking practice is the economic impact of compliance. The implementation of robust consumer protection mechanisms requires significant investment in technology, human resources, and legal compliance. In Pakistan, banks inevitably pass these compliance costs onto consumers. This creates a paradoxical situation where laws designed to protect consumers financially inadvertently contribute to the rising cost of banking services. The introduction of minimum balance requirements and the phasing out of free checking accounts are indirect consequences of the rising cost of regulatory compliance, blurring the line between consumer protection and consumer burden.

7. Challenges and Gaps in the Current Framework

The critical review of the last ten years exposes several deep-rooted challenges in the relationship between consumer protection laws and banking practices in Pakistan.

The most glaring challenge is jurisdictional overlap and conflict. When a consumer falls victim to a banking fraud, they are caught between two parallel systems: the provincial consumer court and the federal Banking Mohtasib. The provincial laws do not explicitly oust the jurisdiction of the federal regulator, leading to forum shopping and conflicting jurisprudence. A consumer might obtain a favorable order from a consumer court, which the bank then appeals, while simultaneously the Banking Mohtasib might be mediating the same dispute. This duality wastes judicial and regulatory resources and exhausts the consumer.

Secondly, there is a severe deficit in consumer financial literacy. Consumer protection laws, whether provincial or federal, operate on the assumption of an informed consumer who can identify a violation of their rights. In Pakistan, a large segment of the banking population lacks basic financial literacy. They are unaware of the Banking Mohtasib's existence, let alone the provisions of provincial consumer protection acts.

Consequently, exploitative banking practices thrive not necessarily because the laws are weak, but because the consumers are disempowered.

Lastly, the regulatory framework fails to address the systemic risks posed by digital banking adequately. While traditional banking disputes (e.g., unauthorized debits, clearing delays) have established redressal pathways, the law is struggling to keep pace with sophisticated cybercrimes, phishing, and unauthorized access to digital wallets. The current legal framework treats these issues under the general ambit of deficiency in service, failing to recognize the unique nature of digital financial vulnerabilities where the consumer's negligence is often presumed by the bank without due investigative process.

8. Recommendations

To bridge the gap between the intent of consumer protection laws and the reality of banking practices in Pakistan, several structural and legislative interventions are required.

First, there must be legislative harmonization. The federal government, in consultation with provincial assemblies, should enact a unified Financial Consumer Protection Framework. Instead of subjecting banking consumers to general provincial laws, a specialized federal statute, perhaps integrated into the State Bank of Pakistan Act, should be promulgated. This would eliminate jurisdictional conflicts and establish a singular, specialized legal standard for banking services across the country.

Second, the enforcement capabilities of the State Bank of Pakistan must be enhanced. The Banking Mohtasib should be granted quasi-judicial punitive powers. Currently, the inability to levy substantial fines for systemic non-compliance allows banks to treat consumer protection violations as a minor cost of doing business. Empowering the regulator to impose heavy financial penalties for repeated malpractices would force a shift from procedural compliance to substantive cultural change within banking institutions.

Third, plain language mandates must be enforced. The relationship between banking practices and consumer protection will remain superficial until the language of banking contracts is demystified. The State Bank should mandate a "Plain English" standard for all retail banking agreements, ensuring that the average consumer can genuinely understand the terms and conditions, fee structures, and liability clauses without requiring legal counsel.

Fourth, the state must launch a comprehensive, nationwide Financial Literacy Initiative, integrated into the formal education curriculum and public awareness campaigns. An empowered consumer is the most effective regulatory tool. If consumers are educated about their rights regarding digital fraud, hidden charges, and the mechanisms for grievance redressal, banks will be compelled to adopt fair practices organically, driven by market forces rather than just regulatory fear.

Finally, the legal framework must be updated to explicitly address digital and cyber-financial crimes. The burden of proof in cases of unauthorized digital transactions must be legislatively balanced. Banks should be legally required to demonstrate that their security systems were not compromised and that the customer acted with gross negligence before holding the consumer liable for digital financial losses.

9. Conclusion

The evolution of consumer protection laws in Pakistan over the last decade reflects a sincere, albeit fragmented, legislative effort to empower the consumer against powerful corporate entities. The transition from a singular, outdated federal act to dynamic provincial laws, coupled with aggressive regulatory interventions by the State Bank of Pakistan, has undeniably reshaped the landscape. Banking practices have been forced to become more transparent, grievance redressal mechanisms have been institutionalized, and the blatant mis-selling of financial products has been curtailed.

However, a critical review reveals that this relationship remains strained and superficial. The implementation of general consumer protection laws in the specialized banking sector has been largely ineffective due to a lack of judicial expertise and procedural hurdles. Conversely, while the State Bank's specialized regulations have achieved better practical outcomes, they are constrained by a lack of punitive authority and are often undermined by the banking sector's sophisticated adaptation strategies which is shifting from non-compliance to tick-box compliance.

The fundamental disconnect stems from the jurisdictional chaos created by constitutional devolution and the failure of the legal framework to adapt to the rapid digitalization of banking. True consumer protection in the banking sector cannot be achieved through a patchwork of general laws and soft regulatory guidelines. It requires a unified, specialized legal framework that recognizes the unique vulnerabilities of financial consumers, equips the regulator with adequate enforcement tools, and prioritizes substantive fairness over procedural formalities. Until such coherence is achieved, the relationship between consumer protection laws and banking practices in Pakistan will continue to be characterized by legal ambiguity and institutional friction, leaving the Pakistani banking consumer in a paradoxical state of being legally protected but practically vulnerable.

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