ISSN: 2958-2326

AJoCsOpen
Sharing Knowledge in Business

African Journal of Commercial Studies

Publisher's Home Page: https://ijcsacademia.com/

AFRICAN JOURNAL OF COMMERCIAL STUDIES

Research Paper | Peer Reviewed | Open Access

A Jurisprudential Analysis of Consumer Protection Enforcement: Integrating Behavioural Theory, Preventative Legal Paradigms, and the Natural Law–Legal Positivism Debate in Zambia

Alex Chola Kafwabulula, DBA[1], Austin Mwange, PhD[2]

[1]*PhD Candidate, University of Zambia, Institute of Distance Education, Lusaka, Zambia*
[2]*Lecturer, The University of Zambia, Graduate School of Business, Lusaka, Zambia*
* Corresponding

African Journal of Commercial Studies, 2025, 6(1), 213–220
DOI Link: https://doi.org/10.59413/ajocs/v6.i.1.20

Article Info

Volume 6, Issue 1

Publication history:
Accepted on 6 March 2025;
Published: 14 March 2025

Article DOI:
10.59413/ajocs/v6.i.1.20

Abstract

This article explores the theoretical architecture underpinning consumer protection enforcement in Zambia, with a particular focus on the integration of behavioural theory, jurisprudential traditions, and legal regulatory paradigms. Drawing on the Theory of Planned Behaviour (TPB) by Fishbein and Ajzen, the Preventative Control Paradigm, and the normative divergence between Legal Positivism and Natural Law Theory, this review interrogates the philosophical undercurrents guiding consumer protection law. A doctrinal and socio-legal methodology is employed to map the theoretical basis of consumer rights enforcement and its legal legitimacy in the Zambian context. The TPB provides a behavioural framework for understanding consumer complaint intentions and actions, while the preventative control versus reactive paradigm offers contrasting regulatory logics for consumer redress and legal intervention. The article also dissects the jurisprudential tension between positivist and natural law traditions in legitimising consumer rights and law enforcement. It concludes that Zambia's regulatory model must harmonise behavioural realism with legal idealism by integrating normative justice, social facts, and proactive governance to promote meaningful consumer welfare.

Keywords: Theory of Planned Behaviour, Preventative Control Paradigm, Legal Positivism, Natural Law, Consumer Protection, Zambia, Legal Theory, Consumer Rights Enforcement, Behavioural Law and Economics

1. Introduction

In modern regulatory states, the enforcement of consumer protection laws is not merely an exercise in administrative functionality but a reflection of deeper theoretical commitments about law, justice, and human behaviour. Zambia's statutory landscape, anchored in the Competition and Consumer Protection Act No. 24 of 2010, is grounded in international normative frameworks such as the United Nations Guidelines for Consumer Protection (UNGCP). However, the enforcement and realisation of consumer rights raise foundational theoretical questions about how law is justified, how it should be applied, and what human behaviour it must anticipate or regulate.

This article delves into the theoretical underpinnings of Zambia's consumer protection framework. The analysis is anchored on three complementary and intersecting strands of legal and behavioural theory: (i) Fishbein and Ajzen's Theory of Planned Behaviour (TPB), which provides a psychological model for predicting and understanding consumer complaint behaviour; (ii) the Preventative Control Paradigm versus Reactive Paradigm, which frames the regulatory choices confronting consumer law enforcement; and (iii) the Legal Positivism–Natural Law divide, which interrogates the legal and moral legitimacy of consumer rights and enforcement regimes.

Secondly, the article explores TPB as a predictive model for consumer complaint behaviour. It is shown that the intention to lodge a complaint or seek redress is not a mere function of legal entitlement but is influenced by attitudes, social norms, and perceived behavioural control. Thirdly, the discusses the Preventative and Reactive paradigms of enforcement, highlighting why a proactive regulatory posture may be essential in Zambia, where legal literacy and access to justice remain limited. Fourthly, it engages the enduring jurisprudential debate between legal positivism and natural law, demonstrating their relevance to consumer rights realisation, especially in socio-economically unequal societies. These theoretical perspectives collectively inform how consumer protection is conceptualised, operationalised, and ultimately delivered in practice.

2. Literature Review

2.1. Theoretical Framework

Recognizing that research requires a theoretical framework (Blaikie & Priest, 2019), in this article a theoretical framework is taken to mean theories expressed by experts that can hold or support the research (Kivunja, 2018; Imenda, 2014) as well as general humanities and social science into which this researcher has planned to bride the research.

However, within the realm of consumer protection law, there are competing theories to support the purposes of enforcement. One school of thought believes that the enforcement of consumer protection laws should be aimed at justice and addressing inequalities, while another school of thought believes that the enforcement of consumer protection laws should focus on the delivery of effective services. and effective solutions in market transactions. Although the two theories can often coexist harmoniously, Scott (2018) believes that the differences in the theories illustrate underlying tensions within the field of consumer protection enforcement. In addition, there seem to be two main schools of thought surrounding the realization of consumer rights, namely the "preventive control paradigm" and the "reactive paradigm".[1]

In this study, more than one theory was used. The theoretical framework in this study serves different purposes as follows:

To ground the study (law of nature or natural law rights and Marxist Legal Theory),

For data collection (phenomenology),

For data analysis and interpretation of findings (phenomenology, natural law and natural rights),

For the development of a framework (natural law and natural rights, critical emancipation theory, justice theories and pragmatism).

Being a socio-legal mixed methods study as such, no single theory could be used to justify reality affirmation. In this section, the researcher discusses the essential theoretical assumptions linked to the study. The main theoretical lens of the study is the TPB, the preventative control paradigm, reactive paradigm, legal positivism and natural law theories.

Fishbein and Ajzen's (1980) Theory of planned behaviour

In explanatory research or research on cassation, we ought to remember that a scientific theory is needed in that it provides a unifying framework that can explain a large class of empirical data. A scientific theory like the one we are presenting below – theory of planned behaviour (TPB) is capable of making predictions that can be tested on the intentions. As of April 2020, theory of planned behaviour has been subject to empirical scrutiny in more than 4,200 papers referenced in the Web of Science bibliographic database, rendering it one of the most applied theories in the social and behavioural sciences. TPB is one of the commonly used theories which is used to investigate the consumer complaint behavioural intentions. Below in Table 2.1 are some of the selected studies on consumer protection that have employed the TPB.

Table 2.1: Consumer protection studies using TPB

Author(s)	Study
Procter *et al.*[2]	The authors employed the TPB together with the TRA in order to understand use of consumer protection tools among gambling customers. The study validated the TPB establishing that past behaviour is a significant predictor of intention, and intention representing a significant predictor of future behaviour. The study concluded that the TPB and TRA appear to be suitable theoretical models to understand behaviour towards consumer protection.

[1] ibid

[2] Procter, Lindsey, Douglas J. Angus, Alex Blaszczynski, and Sally M. Gainsbury. "Understanding use of consumer protection tools among Internet gambling customers: Utility of the Theory of Planned Behavior and Theory of Reasoned Action." *Addictive behaviors* 99 (2019): 106050.

Zhao and Orthman[3]	The authors also found that the TPB was useful in predicting Malaysian consumers' complaint intentions and behaviours.
Hsiao[4]	The study applied the TPB and established that the theory was useful in predicting online consumer complaint behavioural intentions, perceived behavioural control being a key factor.

As can be seen from the evidence in Table 2.1, the TPB is a powerful and commonly used tool that is widely used to assess, model, and investigate people's behavior in relation to specific activities, products, or services. TPB explains how an individual behaves in certain situations and how individuals behave in a particular way. The following constructs are evaluated in the study: (1) behavioural beliefs, (ii) attitudes towards normative behaviour (iii) Perceived behavioural control and (vi) intentions. The TPB can be diagrammatically illustrated as shown in Figure 2.1.

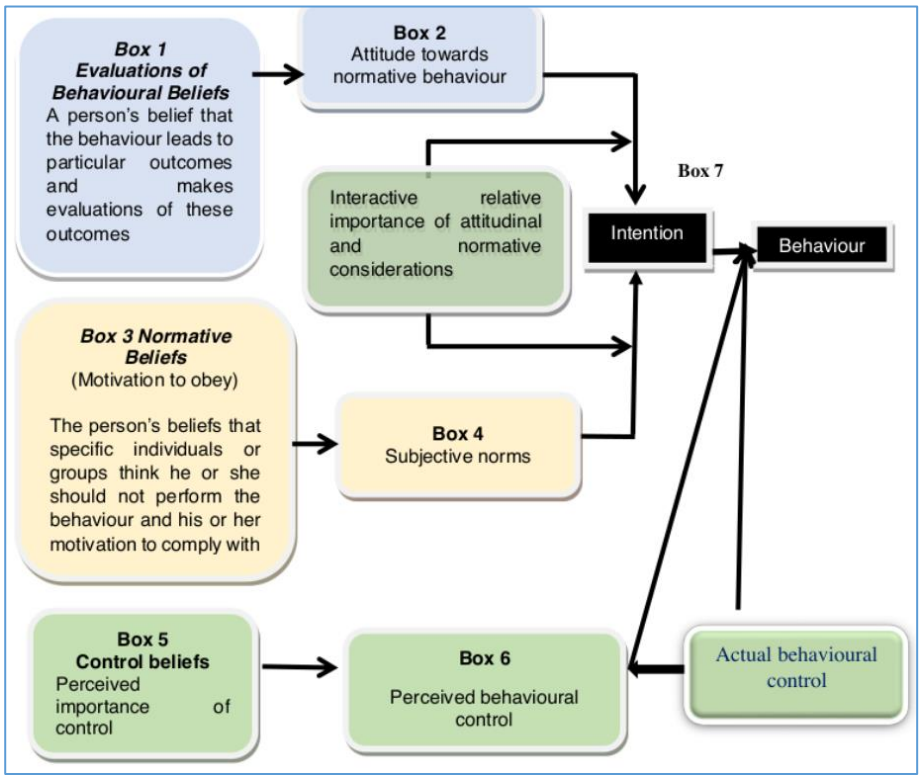

Figure 2.1: Model from theory of Planned Behaviour

According to the TPB (Figure 2.1), human behavior is guided by three considerations: beliefs about the likely consequences of behavior (Behavioral Beliefs Box 1), beliefs about the normative expectations of others (Normative Beliefs Box 3), and beliefs about the likely consequences of promoting or the presence of factors that hinder behavioral performance (Control Beliefs Box 5). The TPB postulates that every person makes evaluations of what they believe of possible outcomes or actions (Box 1). These beliefs are an interplay of attitude they have or would have towards normative behaviour (Box 2) subjective norms (Box 3), and perceived behavioural control (Box 4) predict intentions, and actual behaviour along with perceived behavioural control predicts actual behaviour. Furthermore, TPB based on the expectancy-value model further posits that the development of attitudes, subjective norms, and perceived behavioral control involves the interaction between underlying salient beliefs and the subjective value or relevance that individuals attach to these beliefs.

In their respective aggregates, behavioral beliefs produce favorable or unfavorable attitudes toward behavior; normative beliefs produce perceived social pressure or subjective norms; and control beliefs produce perceived behavioral control or self-efficacy. The effects of attitudes toward the behavior (e.g., having multiple sex partners) and subjective norms about intentions were moderated by perceived behavioral control. In general, the more favorable the attitudes and subjective norms, the greater the perceived control, and the stronger a person's intention to perform the relevant behavior. Finally, given a sufficient degree of actual control over behavior, people will carry out their intentions when the opportunity arises. Therefore, intention is assumed to be the direct antecedent of behavior. If perceived behavioral control is real, it can serve as a proxy for actual control and help predict related behavior.

Attitude is conceptualized as a multidimensional construct consisting of cognition, emotion, and conation. The cognitive component reflects a person's information and opinions about a specific attitude object (in this study, the attitude object

[3] Zhao, Wenjie, and Md Nor Othman. "Predicting and explaining complaint intention and behaviour of Malaysian consumers: an application of the planned behaviour theory." In *International Marketing*, pp. 229-252. Emerald Group Publishing Limited, 2011.
[4] Hsiao, Chun-Hua. "Predicting online consumer complaints in Northern Taiwan." *African Journal of Business Management* 5, no. 13 (2011): 5281-5291.

had multiple sexual partners), the affective response is related to feelings about the object, and the intentional response is related to behavioral tendencies and commitments (Ajzen, 2012). Globally, attitude refers to the degree of positive or negative evaluation of behavioral performance. Attitude reflects a person's belief about a behavior and the importance that person places on the consequences of performing that behavior.

Subjective norms (Box 4) are a person's perception of the social expectations of engaging in a particular behavior. Subjective norms are influenced by one's normative beliefs and personal motivations for compliance. Normative beliefs involve the likelihood that significant others will approve or disapprove of a behavior, whereas compliance motivation is the assessment of the importance of gaining approval from significant others (Ajzen, 2012).

Perceived behavioural control (Box 6) reflects a person's beliefs as to how easy/difficult it will be to perform the behaviour. The salient beliefs underlying the formation of this concept are control beliefs, which involve the person's perceptions of resources versus barriers for engaging in the behaviour. These beliefs in Box 1 are combined with the perceived importance of control inherent of power of each control factor to facilitate/impede the behaviour to form the overall perceived behavioural control which may lead to an actual behaviour (to have or not have more than one sexual partner). Behavioural intention (Box 7), which is the motivational factors that influence behaviour. The stronger the intention to engage in a given behaviour, the more likely it is to perform that behaviour.

Preventative Control Paradigm versus Reactive Paradigm

Scott (2018) believes that there are two main schools of thought surrounding the realization of consumer protection rights, namely the "preventive control paradigm" and the "reactive paradigm". The preventative control paradigm (PCP) speaks to a proactive approach in terms of which active steps are taken to prevent the occurrence of violations of consumer rights.[5] This paradigm emphasizes the proactive measures necessary to mitigate potential harms faced by consumers (Naude, 2010).[6] The PCP according to Forsström *et al.*[7] advocates for implementation of strategies and tools which prevent issues before they arise rather than solely relying on post-hoc remedies.[8] In contrast, the reactive paradigm envisions an immunity that, as the term implies, responds to situations where consumer rights are violated (Scott, 2018). According to Naude (2010), many consumer's protection legal systems recognize the need for effective preventive measures or the proactive control paradigm against unfair terms for consumers. However, the preventive control paradigm is critical because there are some restrictions on trying personal contracts through the courts.[9]

Furthermore, Naudé (2010) believes that the PCP is even more important in developing countries, where there are large numbers of poor, vulnerable consumers who simply cannot afford to seek compensation from courts and are unlikely to understand their rights even if the process before the establishment of special courts is more affordable.[10] Unfair contract terms legislation must therefore provide for procedural enforcement mechanisms aimed at achieving preventive controls without relying on judicial control of specific individual contracts.[11]

In this regard, consumer organizations and administrative supervisory authorities should be given preventive powers to enforce the prohibition of unfair terms without involving any individual consumer proceedings. These can be termed actions of collective interest rather than actions by consumer organizations on behalf of specific consumers (Scott, 2018). Furthermore, all other provisions in unfair contract terms legislation must be oriented towards the preventive control paradigm (Naude, 2010). UK experience in preventive controls on unfair contract terms has been hailed by the European Commission as a success story in the fight against unfair terms.[12]

Legal positivism versus natural law theory

Looking at the nature of the concept of human rights and its objectives, it can be said that its historical roots go back to ancient times, either through the opinions of thinkers and theories of philosophers, or through various important milestones in human history reflected in separate laws or charters (such as the Laws of Hammurabi and Magna Carta) which later became one of the important foundations for building the theory of human rights. In this case, it is important to see human rights as a product of the development movement as a whole of humanity. With all the suffering that comes with it, and to distance ourselves from the idea that it is a Western idea given to the world. This leads us to examine two theories of 'natural law', namely: i) the natural law theory of morality, or what is right and wrong, and ii) the natural law theory of positive law (legal positivism), or what is legal and illegal. It is said that the two theories are independent of each other: it is

[5] Scott, Colin. "Enforcing consumer protection laws." In Handbook of Research on International Consumer Law, Second Edition, pp. 466-490. Edward Elgar Publishing, 2018.

[6] Naude, Tjakie. "Enforcement procedures in respect of the consumer's right to fair, reasonable and just contract terms under the Consumer Protection Act in comparative perspective." *South African Law Journal* 127, no. 3 (2010): 515-547.

[7] Forsström, David, Jessika Spångberg, Agneta Petterson, Agneta Brolund, and Jenny Odeberg. "A systematic review of educational programs and consumer protection measures for gambling: An extension of previous reviews." *Addiction Research & Theory* 29, no. 5 (2021): 398-412.

[8] ibid

[9] ibid

[10] ibid

[11] Naude, Tjakie. "Unfair contract terms legislation: the implications of why we need it for its formulation and application." *Stellenbosch Law Review* 17, no. 3 (2006): 361-385.

[12] ibid

perfectly consistent to accept one but reject the other.

Legal positivists and natural law theorists have a special conception of law and morality that differs from later positivists. Contemporary positivists generally reject the Bentham-Austin idea that law should be understood as a set of imperatives. And some (but not all) later positivists seem to regard moral judgments as unjustified, thus departing from the Bentham-Austin view that good moral principles can be identified and that such principles can provide the basis for criticism and reform of legal reasoning institutions. Whatever one thinks of their specific theories, the foundational work of these two authors has had a profound impact on the way we think about law. The richness, originality, and thoroughness of their contributions set new standards for legal theory. As a result, their specific views have provided a starting point for later developments.[13]

Legal positivism

This section deals with this aspect because legal positivism is a proposition that holds that (i) the existence and content of law depend on facts and human behavior, expressed in intentions, and not on its merits. and (ii) there is no fixed relationship between law and morality – more precisely, the existence and content of law do not depend on its merits or demerits (for example, whether or not it conforms to the ideals of justice, democracy, or morality).[14] In this connection, the English jurist John Austin (1790–1859) formulated this principle as follows:

"The existence of law is one thing; its virtues and vices are another. Whether there is a law or not is one question; whether the law meets its supposed standards or not is another question".

Positivist ideas were first systematically developed by Jeremy Bentham (1748-1832) and John Austin[15]. The positivist position does not say that the benefits of laws (such as competition and consumer protection) are, like other laws, incomprehensible, unimportant, or irrelevant to the philosophy of law. Legal positivism says that it does not determine whether there is a law or a legal system. Whether a society has a legal system depends on the existence of a particular governing structure, not on the extent to which it conforms to ideals of justice, democracy, or the rule of law.

Which laws apply in this system depends on which social norms officials consider authoritative; for example, regulations, court decisions, or social customs. For example, the fact that a consumer protection policy is fair, reasonable, effective or expedient is never sufficient reason to think that it is a genuine law, and the fact that it is unjust, unwise, inefficient or unwise is never sufficient reason to think that it is. Good reason for the law. To doubt it. According to positivism, law is a matter of established things (commands, decisions, enforcement, tolerance, etc.).

Legal positivism refers to a school of thought that holds that the source of law is social facts (Durkheim). Social facts are real things that constrain individuals and groups in society.[16]Therefore, in every society, sources of law such as business competition and consumer protection arise from empirical facts that emerge from case law and from social rules that are part of the normative system. This is the thesis of the positivist sources of law and is shown in Figure 2.3 below.

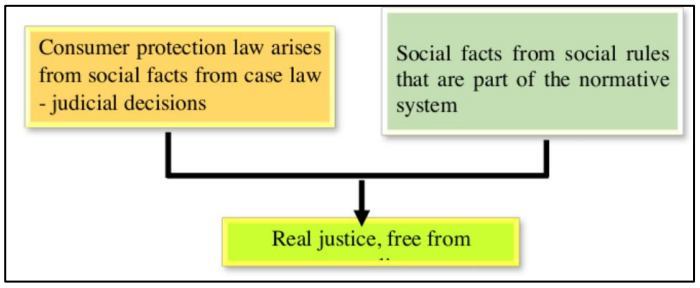

Figure 2.3: Diagram of assumptions of legal positivism

Contemporary positivists believe that the source theorem places emphasis on the rulings of courts and statutes. Laws are born from politically powerful parties. The content of the laws made is derived from social rules that have a relevant context and offer rewards and sanctions. The law itself emerges from a normative system in a society.[17] A law is said to emanate from its source if its existence and content can be known only by reference to social facts, without any judgment being involved.[18]. Two significant differences are worth noting. In a sense, as Raz said[19] to illustrate, a proposition is not simply a negative statement about facts that are not essential to establishing the existence and content of the law (i.e., a moral argument). In contrast, a proposition is a positive statement about "the facts that make [the law] valid and that identify its content"[20], in other words, the source, such as (but not limited to) statute, precedent, or custom. In line with the "social fact

[13] Hart, Herbert Lionel Adolphus. *Essays on Bentham: Jurisprudence and political philosophy*. OUP Oxford, 1982.

[14]Gardner, J. (2001). Legal positivism: 5 1/2 myths. American Journal of Jurisprudence 46: 199–227.

[15]Finnis, J. (1996). Truth in Legal Positivism. in Robert P. George, ed., Legal Autonomy: Essays on Legal Positivism (Oxford: Clarendon Press), 205.

[16]Greenberg, M. (2004). How Facts Make Law. Legal Theory, 10(3): 157–198

[17] Gardner, J. (2001). Legal positivism: 5½ myths. American Journal of Jurisprudence, 46(1): 199–227.

[18]EPD - Ethics in the Public Domain (1994): Essays on Legal and Political Morality. Oxford: Clarendon Press.

[19]Raz, J. (1970). Legal System Concept. 2nd edition. Oxford: Clarendon Press.

[20]Legal Authority (1979). Essays on Law and Morality. 2nd edition. Oxford. University of Oxford

thesis," positivists also argue that legal norms emerge from other social facts that produce norms (i.e., acts, deeds, publications, inscriptions, confessions, etc.) that presuppose the existence of those specified facts. The existence of a legal system is a matter of social fact.[21].

Legal positivism developed as part of the philosophy of Thomas Hobbes, Jeremy Bentham and John Austin. Legal positivism was reaffirmed in the 20th century by legal philosophers such as Hans Kelsen, H.L.A. Hart and Joseph Raz. Legal positivism states that whether a given rule is a law, which gives rise to a legal obligation to obey it, depends on its source. Valid laws are only rules that originate from certain people.[22]Indonesian:[23]in accordance with certain procedures imposed by society. A regulation can be a valid and real law, even if it is very unfair, such as the law on public order. According to Hert[24], a contemporary legal positivist, the essence of legal positivism is based on the 'separation thesis'.[25]The separation thesis states that having a legal right to do something (to put it on a container) does not imply that you have a moral right to do it, but having a legal justification for doing something (to sue the manufacturer in court or to replace a defective product) does not imply that you have a moral justification. To know what your legal rights are, you have to look at what laws society has or should have, not at what is morally good or right. This is a premise put forward by legal theorists, such as writers like Hart[26]. This was the starting point for the incorporation of the Charter of Rights into the Zambian Constitution on socio-economic rights and the enactment of the CPA to operationalise the declarations in the Charter of Rights.

Theory of natural law

In this section, 'natural law theory' should be taken as shorthand for natural law theory insofar as it concerns law and is a theory about law. This focus has an important incidental effect, in that it may overlook many historically important differences among natural law theorists, differences that have more to do with the foundations of normativity than with the nature and function ("concept") of positive law.[27]Natural law theory is unified by what Mark Murphy calls the natural law thesis.

Thomas Aquinas' theory of natural law recognizes four sources of law outside of human creation, and these four sources are eternal law, natural law, human law, and divine law. Thomas Aquinas recognized four main types of law: eternal law, natural law, human law, and divine law. The last three laws are all dependent on the first law, but in different ways. If we were to rank them in a hierarchy, the eternal law would be at the top, then the natural law, and then the human law. Divine law does not conflict with natural law, but it reaches man through a different route, namely revelation. In order to fully understand Thomas Aquinas' theory of law and to appreciate this study for its focus on consumer protection law, it is important to understand not only the essence of each type of law of the four legal categories, but also the relationships between them. One way to understand this somewhat difficult discussion of the different types of law is to ask the following five questions for each type of law:

- Who made it?
- To whom is it addressed or to whom is it bound?
- What is the purpose of this?
- How is it spread? And
- Is that a common-sense command?

In this way, we can apply the conditions of valid law proposed by Thomas Aquinas to better understand why the various types of law discussed here are in fact law. Ways to understand these four laws and how they relate to each other are explained in the following paragraphs.

Eternal Law *(Lex Eterna)*

The eternal law proceeds from the starting point of eternity. Laws that need not change. The eternal law is identical with the mind of God as seen by God Himself. This law can be called a law because God stands as ruler in the universe that He has created in the society that He leads. When God's reason is considered as God Himself understands it, namely in its unchangeable and eternal nature (q91, a1), then this law takes the position of eternal law. According to Thomas Aquinas, what is meant by 'Eternal Law' is God's rational purpose and plan for everything.

Eternal laws are nothing but the dictates of practical reason, emanating from the rulers who govern a perfect society. Now it is evident that this world is governed by divine providence that the whole society of the universe is governed by divine reason. Therefore, the idea of the government of all things in God, the Ruler of the universe, has the nature of law. And since the conception of divine reason concerning all things is not bound by time, but is eternal, such a law must be called eternal, according to Proverbs 8:23.

Recognizing that the Eternal Law is part of God's spirit, the Eternal Law has always existed and will always exist in the

[21]Christiano, T. and S. Sciaraffa. 2003. Legal positivism and the nature of legal obligations. Law and Philosophy 22: 487–512.
[22]Austin, J. (1995). Jurisprudential Territory Defined. Austin, Ed. Cambridge: Cambridge University Press: 155-157.
[23]It was political superiors who gave orders for positive law (see Austin)
[24]Christiano, T. and S. Sciaraffa. (2003). Legal positivism and the nature of legal obligations. Law and Philosophy 22: 487–512
[25]Greenberg, M. (2004). How Facts Become Law. Legal Theory. 10(3): 157–198
[26]Hart, H.L.A. 1983b. Positivism and the Separation of Law and Morality. In H.L.A. Hart, Essays on Jurisprudence and Philosophy, 49–87. Oxford: Clarendon
[27]Crowe, J. (2019). Natural Law and the Nature of Law, Cambridge and New York, Cambridge University Press

natural life of living beings. The Eternal Law is not just something that God decided to write down at some point. Thomas Aquinas argued that everything has a purpose and follows a plan. Examples from Genesis 1:26-27 and Genesis 2:18 will suffice. The plan or purpose of marriage according to God is that men and women can unite and be saved from their sins (the sins of adultery and fornication). When a man and woman are united in holy matrimony, they commit themselves to God's plan of salvation for their lives. This plan includes raising children in a godly home and helping each other stay on the path to salvation. Men could create additional laws to this "main law" to prohibit all other forms of marriage (see Penal Code 87 (Articles 155 and 157).

He was, like Aristotle, a teleologist (the Greek term 'telos' refers to what we call the true purpose, goal, aim/or ultimate function of an object). All we can say is that if something fulfils its purpose/plan - namely God's purpose - it is following the Eternal Law.[28].

Human rights (Lex Humana)

Thomas Aquinas also introduced what he called the Laws of Man, which gave rise to what he called the "Secondary Orders." Human law, according to Aquinas, originated with men or civil governments and proceeded from natural law, and is in his eyes the most unjust law that has ever existed. Aquinas' philosophy, as we might expect given his debt to Aristotle, is imbued with a sense of teleology. Human law, said Aquinas, is concerned with the suppression of evil. However, law is not required to suppress all crime. Law is made for the average man, who is far from perfect in his virtues.

Law is directed at the more serious crimes that the majority can avoid, namely, crimes that harm other people, such as murder, theft, and the like. One might think here that he would define human law as what we sometimes call positive law, the law that is actually established and enforced in our human communities. In reality, however, human law is only consistent with what is called positive law, namely written law and applicable law. These laws may include things like: "A person or business entity may not charge consumers more than the price listed or displayed on a product or service."[29]Such secondary rules are not produced by our minds, but imposed by government, groups, associations, society, and so on. However, it is not always morally acceptable to follow secondary regulations. These regulations are only morally acceptable if they are in accordance with the laws of nature.

3. Conclusion

The realisation of consumer rights in Zambia must be situated within a broader theoretical and jurisprudential framework that takes seriously both human agency and the philosophical nature of legal obligations. Fishbein and Ajzen's Theory of Planned Behaviour (TPB) reminds us that consumers are not always rational legal actors; their complaint intentions are shaped by behavioural beliefs, subjective norms, and perceived control—factors often overlooked in doctrinal analyses. Consequently, behavioural theory is indispensable in designing responsive consumer protection systems.

Furthermore, the Preventative Control Paradigm (PCP), as contrasted with the Reactive Paradigm, underscores the normative importance of proactive legal enforcement, particularly in developing jurisdictions like Zambia. The PCP offers a model that seeks to prevent harm before it arises, especially in contexts where the judiciary may be inaccessible to the average consumer due to cost, complexity, or capacity.

Finally, the jurisprudential debate between Legal Positivism and Natural Law is not merely academic. It determines whether consumer protection is seen as a contingent policy tool or a manifestation of deeper moral and human rights obligations. While positivism provides the legal architecture for enforceability, natural law infuses it with moral legitimacy and social purpose. For Zambia, this means that consumer protection law must be both positively enacted and normatively justified—anchored in social facts but also aligned with moral reasoning about justice and human dignity.

In conclusion, Zambia must pursue a hybrid enforcement regime that blends behavioural realism with normative jurisprudence. Only then can consumer law be truly effective—not just as a legislative mechanism, but as a living, responsive, and just system that safeguards the dignity and economic welfare of the Zambian consumer.

Conflict of Interest

The authors declare that they have no conflicting interests

Funding

This study did not receive any specific grant from funding agencies in the public, commercial, or nonprofit sectors.

Ethical considerations

The article followed all ethical standards appropriate for this kind of research.

References

[28]From Susan Dimock, "St. Thomas Aquinas: Law for the Common Good" Copyright © Susan Dimock, 2001; All rights reserved. Quotation from St. Thomas Aquinas taken from Summa Theologica I–II, part one of volume two.

[29]Law number 24 of 2010. Article 51. (1) It is prohibited for any person or business entity to charge fees to consumers. more than the price stated or displayed on a product or service

Ajzen I, The Theory of Planned Behaviour (Organizational Behavior and Human Decision Processes, 1991).

Ajzen I, Constructing a TPB Questionnaire: Conceptual and Methodological Considerations (University of Massachusetts, 2012).

Austin J, The Province of Jurisprudence Determined (1832).

Bentham J, An Introduction to the Principles of Morals and Legislation (Clarendon Press 1789).

Fishbein M and Ajzen I, Understanding Attitudes and Predicting Social Behavior (Prentice-Hall 1980).

Forsström R and others, 'Proactive Consumer Protection through Preventive Controls' (2018) 13 Journal of European Consumer Law 102.

Hart HLA, The Concept of Law (2nd edn, Oxford University Press 1994).

Hsiao K-L, 'Predicting Consumer Complaint Behaviour in Online Contexts: A TPB Perspective' (2014) International Journal of Information Management 34(4): 448–456.

Imenda S, 'Is there a conceptual difference between theoretical and conceptual frameworks?' (2014) 2(2) Journal of Social Sciences 185.

Joseph Raz, The Authority of Law: Essays on Law and Morality (Oxford University Press 1979).

Kelsen H, Pure Theory of Law (2nd edn, University of California Press 1967).

Kivunja C, 'Distinguishing between Theory, Theoretical Framework, and Conceptual Framework: A Systematic Review' (2018) 5(6) International Journal of Higher Education 44.

Mark C Murphy, Natural Law in Jurisprudence and Politics (Cambridge University Press 2006).

Naudé T, 'Enforcement procedures to prevent unfair contract terms in consumer contracts' in Reforming Consumer Protection in South Africa (Juta Law 2010).

Procter L and others, 'Gambling and Consumer Protection: Applying the TPB and TRA' (2013) 18 Addictive Behaviors 1375.

Scott C, 'Preventive Versus Reactive Enforcement Paradigms in Consumer Law: A Normative Analysis' (2018) 32 European Journal of Consumer Law 111.

Thomas Aquinas, Summa Theologica (translated by Fathers of the English Dominican Province, Benziger Bros 1947), Part I–II, Question 91.

Zhao R and Orthman T, 'A Theory of Planned Behaviour-Based Investigation into Consumer Complaint Intentions in Malaysia' (2015) Asian Journal of Business Research 5(2): 19–34.