

## Determinants and Implications of Consumer Complaint Behaviour in Emerging Economies: A Legal and Empirical Critique from Zambia

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### Abstract

Understanding the behavioural intentions of consumers to lodge complaints against unfair trade practices is fundamental to effective consumer protection regimes, particularly in developing jurisdictions such as Zambia. This article investigates the determinant factors influencing consumer complaint behaviour, the prevalence and typology of consumer rights violations, the efficacy of consumer protection legislation, and the limitations of judicial enforcement mechanisms in Zambia. Adopting a doctrinal and socio-legal methodology, the article synthesises empirical literature, doctrinal analysis, and judicial precedents to establish a conceptual framework of complaint behavioural intentions. It identifies consumer rights awareness, attitudes, subjective norms, prior experiences, perceived behavioural control, personality traits, and behavioural beliefs as major determinants of complaint behaviour. Furthermore, it appraises selected case law to demonstrate structural and evidentiary constraints in judicial enforcement. The study concludes that consumer redress mechanisms in Zambia remain underutilised due to knowledge asymmetries, procedural complexity, and institutional weaknesses. It recommends a rights-based and empirically informed reform strategy to enhance the legitimacy and efficacy of Zambia's consumer protection regime.

**Keywords:** consumer protection, complaint behaviour, Zambia, perceived behavioural control, consumer awareness, product liability, unfair trade practices, judicial enforcement

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## 1. Introduction

Effective consumer protection is not merely a function of statutory design but equally a product of behavioural dynamics and institutional functionality. In jurisdictions like Zambia - where enforcement is uneven and market literacy is low—understanding why consumers complain (or fail to complain) is a legal and policy imperative. Complaint behaviour not only functions as a feedback mechanism for regulatory enforcement but also constitutes a form of participatory justice in the marketplace.

Emerging from multidisciplinary literature in marketing, law, psychology, and behavioural economics, consumer complaint intentions are shaped by numerous interrelated factors. These include awareness of consumer rights, consumer attitudes toward redress, perceived social norms, previous complaint experiences, perceived behavioural control, personal traits, and behavioural beliefs. These factors coalesce to either empower or suppress the likelihood that a consumer will actively seek redress in response to exploitative commercial practices.

In Zambia, the legal architecture for consumer protection is primarily anchored in the Competition and Consumer Protection Act No. 24 of 2010, yet redress through this mechanism remains statistically and functionally marginal. Empirical data indicates that complaint behaviour is largely inhibited by structural deficits such as low awareness, lack of procedural access, mistrust in public enforcement bodies, and social norms that discourage confrontation. The cognitive and normative pathways that lead to (or deter) complaint behaviour therefore deserve greater scholarly and policy attention.

Moreover, as unfair commercial practices proliferate—from deceptive advertising to product misrepresentation—consumer vulnerability increases in the absence of proactive complaint behaviour. Despite the presence of global and regional consumer protection norms, Zambia’s judicial responses have reflected evidentiary rigidity and statutory conservatism, particularly in the domain of product liability. This is most evident in key cases such as *Michael Chilufya Sata MP v. Bottlers Zambia Ltd*, where formalistic interpretations of tort and statutory breach obscured substantive consumer rights.

This article bridges the empirical and legal dimensions of consumer complaint behaviour in Zambia. It critiques the status quo through a conceptual framework integrating both behavioural determinants and systemic failures in enforcement. Furthermore, it calls for the reconceptualisation of consumer protection as a rights-based legal domain deserving of constitutional attention and empirical recalibration.

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## 2. Determinant factors for complaint behavioural intentions of consumers

Consumer complaint intentions and behavior regarding unfair trade practices are influenced by several interrelated factors including consumer rights awareness, personality traits, consumer attitudes and prior experiences.

### 2.1. Consumer rights awareness

Consumer rights awareness is a key factor for complaint intentions and behaviours of consumers. Research consistently shows that consumer rights awareness significantly influences complaint intention and behaviour. Consumers with higher knowledge of their rights and consumer protection agencies are more likely to complain and seek redress (Zhao & Othman, 2010; Kim & Lee, 2016). According to Makanyeza, Sivotwa, and Jaiyeoba (2021), consumer rights awareness is part of the broader concept of consumerism. Consumerism is also known as consumer protection, consumer movement, or consumer activism.<sup>1</sup> It is considered a major political force in most parts of the world and refers to the activities of various role players to protect the fundamental rights of consumers (Makanyeza *et al.*, 2021).

Consumerism is a concept in marketing that refers to the actions taken by consumers and their representatives, businesses, governments, and other organized groups to protect consumer rights (Bello *et al.*, 2016). Generally speaking, consumer awareness refers to the level of knowledge and understanding of one’s rights in the marketplace by individual consumers (Makanyeza *et al.*, 2021). Bello *et al.* (2016) argue that consumer awareness is the most critical factor in consumerism because it enables consumers to make informed purchasing decisions. It also gives consumers the power to pressure companies to produce quality products (Bello *et al.*, 2016; Makanyeza *et al.*, 2021).

Furthermore, Bello *et al.* (2020) argue that consumers with a higher level of knowledge about rights will be better able to make evaluative judgments about companies, their products/services, and their practices. Consumer rights awareness also enables consumers to seek redress when they are dissatisfied (Makanyeza *et al.*, 2021). When consumers are not aware of their rights, they are less likely to seek redress when they are dissatisfied (Donoghue *et al.*, 2015; Ibarra & Revilla, 2014). Consumers who understand their rights can take action against unfair business practices (Bello *et al.*, 2016; Donoghue *et al.*, 2015). Ishak and Zabil (2012) found a positive correlation between consumer rights awareness and consumer actions in compliance with regulations in certain situations. More so, Kim and Lee (2016) analyzed the effects of consumer awareness on consumers’ intention towards complaining in Korea and found low intentions of complaining behavior due to lack of customer rights awareness. The research by Zhao and Orthman<sup>2</sup> which employed structural equation modelling revealed that the consumer complaint intentions are significantly predicted by knowledge of consumer rights.

Vijayanand and Ravi (2024) also found that heightened awareness correlates positively with favorable consumer behaviors, which can extend to reporting unfair trade practices. Educated consumers tend to exhibit higher engagement levels based on their understanding of rights, indicating that enhancing consumer education could bolster complaint intentions against unfair trade scenarios. Overall, consumer rights awareness is crucial for effective consumer behaviour, as unawareness of consumer rights can lead to ignorance and reduced capacity to protect consumers against seller exploitation (Ishak & Zabil, 2012).

### 2.2. Consumer attitudes

Generally speaking, attitudes toward a behaviour influence the intention to respond and the ultimate decision to take

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<sup>1</sup>Howells, Geraint and Stephen Weatherill. *Consumer Protection Law*. Routledge, 2017.

<sup>2</sup> Zhao, Wenjie, and Md Nor Othman. "The influence of knowledge of consumer protection and perception of marketing factors on consumer complaint behaviour: A study of Malaysian consumers." *OIDA International Journal of Sustainable Development* 1, no. 9 (2010): 27-35.

action.<sup>3</sup> Consumer attitude represents the overall evaluation of an object, which can be a product, service or brand, and is an important predictor of behavioral intention (Makanyeza *et al.*, 2021). Studies have found that attitudes towards complaining play a significant role in defining and shaping consumer complaint behaviour and intentions. Zhao and Othman (2011) found that positive attitudes towards complaining increase complaint intention but not necessarily complaint behaviour among Malaysian consumers. Shagagi *et al.* (2023) also revealed that attitudes towards complaining were significant predictors for customer complaint intentions in Saudi Arabia.

The study by Kanjoo *et al.*<sup>4</sup> which evaluated the determinants for customer's complaint intentions in Pakistan's retail sector found that attitudes towards complaining have significant effects on complaint intentions of consumers. Badghish<sup>5</sup> investigated factors influencing consumer's complaint intentions among online shoppers in Saudi Arabia and found that attitudes towards complaining significantly predicted consumer complaint intentions. In another study, Mukhtiar *et al.*<sup>6</sup> showed that the attitudes towards complaining have significant positive effects on consumer complaint intentions.

### 2.3. Subjective norms

Research indicates that subjective norms or social norms or social influence significantly influence consumer complaint intentions. Berry *et al.* (2018) highlighted that social dimension such as sociability shape consumers' responses to service failures. In particular, those with high sociability are more likely to engage in active complaint channels. The study by Rehman *et al.*<sup>7</sup> in the context of Pakistan found that subjective norms have significant effects on complaining intentions. Burucuoğlu and Yetkin<sup>8</sup> concluded that subjective norms significantly impacts consumer intentions to complain.

### 2.4. Prior complaint experiences

The literature review suggests that past experiences or previous complaint experiences influence the formation of complaint behavior. Rizwan *et al.* (2013) emphasized the role of prior experiences and perceived controllability in shaping complaint intentions. According to Rizwan *et al.* (2013), consumers with positive past interactions are more inclined to voice their grievances about unfair trade practices. Inexperienced consumers are more vulnerable to being sold poor quality products and to illegitimate sales and less likely to report unfair business practices. Equally, Rehman *et al.*<sup>9</sup> in the context of Pakistan found that prior experience is a significant antecedent for complaining intentions. Kanjoo *et al.*<sup>10</sup> which evaluated the determinants for customer's complaint intentions in Pakistan's retail sector also found that prior experience of complaining has significant effects on complaint intentions of consumers.

Similarly, Jin<sup>11</sup> further stated that more prior experience implies knowledge and communication skills gained through similar complaint scenarios that customers have experienced before, thus increasing confidence in making complaints. On the other hand, negative past experiences may have a negative impact on customer complaint behavior. Badghish and Shagagi<sup>12</sup> investigated factors influencing consumer's complaint intentions among online shoppers in Saudi Arabia and found that prior experience significantly predicted consumer complaint intentions. Bijmolt *et al.*<sup>13</sup> proposed that prior complaint experience increases customers' intent to make a complaint, demonstrating a direct correlation between prior complaint experience and intent to file a complaint.

### 2.5. Perceived behavioral control

<sup>3</sup>Kanjoo, Manzoor, Muhammad Ahsan Nawaz, and Muhammad Aftab Ali. "Determinants of Customer Complaint Intention: A Study in the Context of Pakistani Retail Market." *International Journal of Learning and Development*, Vol. 3, No. 6 (2013): 139-152.

<sup>4</sup> Kanjoo, Manzoor, Muhammad Ahsan Nawaz, and Muhammad Aftab Ali. "Determinants affecting customer's complaint intention A study in the context of Pakistans retail market." *International Journal of Learning & Development* 3, no. 6 (2013): 139-152.

<sup>5</sup> Badghish, Saeed, and Alaa Shagagi. "Factors Influencing Consumer Complaint Intentions: Saudi Online Shopping." *International Journal of Business and Management* 18, no. 4 (2023): 69.

<sup>6</sup> Mukhtiar, Kamran, Nafees Asmat, Muhammad Arshad, Muhammad Aftab Ali, Hammad Ali Lodhi, and Ather Waqas. "Complaint intentions of consumers of Pakistan restaurant industry." *International Journal of Learning and Development* 3, no. 6 (2013): 153-166.

<sup>7</sup> Rehman, Abdur, Basit Saeed, Hina Kanwal, Muhammad Rizwan, Muhammad Rehan, and Shoaib Hassan. "Determinants of Consumer Complaining Behavior: A study based on telecommunication firms of Pakistan." *International Journal of Learning & Development* 3, no. 6 (2013): 106-120.

<sup>8</sup> Burucuoğlu, Murat, and Yetkin Bulut. "Evaluation of Complaint Intention Through Theory of Planned Behaviour." *Pazarlama ve Pazarlama Araştırmaları Dergisi* 9, no. 18 (2016): 15-29.

<sup>9</sup> Rehman, Abdur, Basit Saeed, Hina Kanwal, Muhammad Rizwan, Muhammad Rehan, and Shoaib Hassan. "Determinants of Consumer Complaining Behavior: A study based on telecommunication firms of Pakistan." *International Journal of Learning & Development* 3, no. 6 (2013): 106-120.

<sup>10</sup> Kanjoo, Manzoor, Muhammad Ahsan Nawaz, and Muhammad Aftab Ali. "Determinants affecting customer's complaint intention A study in the context of Pakistans retail market." *International Journal of Learning & Development* 3, no. 6 (2013): 139-152.

<sup>11</sup> Jin, LiYin. "Determinants of customers' complaint intention: Empirical study in the context of China's retail industry." *Nankai Business Review International* 1, no. 1 (2010): 87-99.

<sup>12</sup> Badghish, Saeed, and Alaa Shagagi. "Factors Influencing Consumer Complaint Intentions: Saudi Online Shopping." *International Journal of Business and Management* 18, no. 4 (2023): 69.

<sup>13</sup> HA Bijmolt, Tammo, Eelko KRE Huizingh, and Adriana Krawczyk. "Effects of complaint behaviour and service recovery satisfaction on consumer intentions to repurchase on the internet." *Internet Research* 24, no. 5 (2014): 608-628.

Factors such as perceived behavioral control (PBC) have been consistently found to predict complaint intentions across various contexts (Ependi & Riyanta, 2020; Özdemir *et al.*, 2015; Sallaberry *et al.*, 2024). Burucuoğlu and Yetkin<sup>14</sup> concluded that perceived behavioral control impacts consumer intention to complain. Similarly, Riyanta<sup>15</sup> found that perceived behavioral control determines customer complaint intentions. More recently, Sallaberry *et al.* (2024) employing the PLS-SEM technique found that PBC influences customer complaint intentions.

## 2.6. Personal traits

Several research studies have reported that customer complaints about unfair trade practices are associated with demographic traits such as gender, income level, age, religion and educational attainment. Badghish<sup>16</sup> cited that educational attainment is an important determinant shared by complainers where customers with higher levels of education are more likely than those with lower levels of education to file complaints.

## 2.7. Behavioural beliefs

Studies have shown that behavioural beliefs significantly predict customer complaint intentions and behaviours. Behavioural research shows that consumers will choose not to resort to justice when the costs of seeking justice exceed the benefits of seeking redress. Instead, they exit the issuance market and look for other options. In other words, they do not correct their purchasing experience or rebuild positive rational expectations. They retain negative experiences, undermine their confidence in the market and consumer protection system, spread the word about the experience, and encourage others to exit the system, thereby affecting the development of the consumer protection system. The research by Sallaberry *et al.* (2024) also found that behavioural beliefs influence customer complaint intentions. Zhao and Orthman (2010) also found that behavioural beliefs have significant influence on customer complaint intentions.

## 3. Consumer rights

### 3.1. Prevalence of consumer rights violations

There are numerous consumer rights violations that have been shown in research. Most of the common possible violations identified are characterized by strong interactions with consumer behavior. This means that certain actions or series of actions performed by consumers provide conditions for entrepreneurs to take advantage of it and mislead buyers. Some common consumer rights violations in commercial transactions include:

- Deceptive advertising: Misleading or false claims about a product's features, benefits, or performance.
- Misrepresentation of product quality: Selling products that do not meet the advertised standards or are defective.
- Failure to disclose material information: Not providing consumers with essential information about a product or service, such as its ingredients, safety risks, or warranty terms.
- Unfair or deceptive trade practices: Engaging in practices that are likely to mislead, deceive, or harm consumers.
- Billing errors: Charging consumers for products or services they did not receive or for an incorrect amount.
- Lack of adequate refund or return policies: Making it difficult or impossible for consumers to return or exchange products.
- Unauthorized charges: Charging consumers for products or services without their consent.
- Failure to honor warranties: Refusing to honor a warranty or providing inadequate repairs or replacements.
- Privacy violations: Collecting, using, or sharing consumers' personal information without their consent or in violation of privacy laws.
- Discrimination: Refusing to serve or providing inferior service to consumers based on their race, gender, age, or other protected characteristics.

The prevalence of some of the violations is serious. Common violations include providing inaccurate product information, compromising safety standards, and exploiting consumers' lack of awareness. To address these issues, researchers suggest strengthening consumer protection laws, improving enforcement mechanisms, and enhancing consumer education and awareness (Alam & Haq, 2016; Shaheen, 2020). Alam and Haq<sup>17</sup> found that consumer rights in Bangladesh were frequently violated due to lack of awareness, lack of cooperation and weak enforcement of laws.

According to Horner and Swarbrooke (2020), the possibility to mislead consumers is prevalent in all the consumer decision-

<sup>14</sup> Burucuoğlu, Murat, and Yetkin Bulut. "Evaluation of Complaint Intention Through Theory of Planned Behaviour." *Pazarlama ve Pazarlama Araştırmaları Dergisi* 9, no. 18 (2016): 15-29.

<sup>15</sup> Riyanta, Wawan. "The Effect Of Attitude And Perception Of Customer Complain Intention In Yogyakarta Station Operation Vi Yogyakarta." *Jurnal Perkeretaapian Indonesia (Indonesian Railway Journal)* 4, no. 1 (2020).

<sup>16</sup> Badghish, Saeed, and Alaa Shagagi. "Factors Influencing Consumer Complaint Intentions: Saudi Online Shopping." *International Journal of Business and Management* 18, no. 4 (2023): 69.

<sup>17</sup> Alam, Shafiqul, and Md Mahbulul Haq. "Consumers Rights and Unprecedented Mechanism of Violation and Protection: Bangladesh Perspective."

making stages as summarised in Table 1.

**Table 1: Consumer violation rights and consumer decision making process**

Stage of consumer decision-making process	Possible violations of consumer rights	Prevalence of consumer rights violations (%)
Problem/need Recognition	Misleading commercial practice Aggressive commercial practice	47% 19%
Information search	Product/ service not presented not in official language Misleading advertising Misleading information Inaccurate or incomplete information about goods or services	5% 48% 25% 6%
Initial information	Product/ service not presented not in official language Product characteristics do not exist as specified Exceptional characteristics are assigned to products although not scientifically proven Inappropriate product labelling Failure to specify place of origin or manufacturing method Failure to specify all the product components Concealed information about product side effects and safety Type, characteristics, identity, composition, shelf/best before term, quantity, handling, method, consumption method and storage conditions inaccurately specified	3% 13% 7% 4% 13% 21% 8% 4%
Evaluation of alternatives	No possibility to compare product prices, weight, etc.	11%
Purchase	Direct persuasions by sellers Psychological pressure to purchase Price discrimination	3% 1% 2%
Post-purchasing Response	Lack of product awareness Failure to inform conditions of recovering money for defective product or service It is failed to inform about cooling-off period Damage for losses not compensated Mistrust of consumer protection institutions	36% 78% 80% 58% 69%

Source: Horner and Swarbrooke (2020)

The violations summarised in Table 2 can occur in various commercial transactions, including online purchases, in-store transactions, and services provided by businesses.<sup>18</sup> The following section presents a summary of some of the evidence of consumer protection rights violations drawing case studies across the globe particularly from Africa:

**Table 2: Consumer violation rights cases**

Case	Country	Sector	Case Summary	UTP	Judgement
<i>Mr. Nicholas v. African Salihya</i>	Kenya	Transport	The complainant (Mr. Nicholas) alleged that the respondent (African Salihya) had overcharged for parcels ferried from China	Unconscionable conduct due to overcharging	Dismissed due to lack of sufficient evidence
<i>Ms. Ann v. Wrigley EA Company</i>	Kenya	Retail	The complainant (Ms. Ann) alleged that chewing the gum she purchased from Wrigley EA company resulted in mouth ulcers due to chemical composition	False or Misleading Representation	Dismissed due to lack of sufficient evidence

<sup>18</sup> Zitkus, Leonas, and Neringa Puskoriute. "CONSUMER BEHAVIOUR AND ITS INFLUENCE ON CONSUMER RIGHTS VIOLATIONS." *European integration studies* 7 (2013).

			used in producing the chewing gum.		
<i>Institute of Customer Service Kenya v. Unicode Computers</i>	Kenya	Retail	The complainant (ICS) alleged that they acquired a faulty Lenovo laptop from the respondent (Unicode Computers) promised to replace the laptop with brand new laptop but this was not done as promised.	Misleading or false representation	Dismissed as complainant failed to provide requisite evidence that is receipt of purchase
<i>Vukani Colimear Muthaki v Avura Executive Auto</i>	South Africa	Retail	Vukani Colimear Muthaki (the complainant) purchased a pre-owned Mazda vehicle from Avura Executive Auto for ZAR288 577.50. The applicant (NCC) alleges that the vehicle presented had problems and became inoperable within the first 2 days of 28 days of the sale. Vukani Colimear Muthaki therefore informed the seller of the vehicle's condition and requested vehicle repair, but the seller denied any liabilities and maintained that the vehicle was sold without any defects.	Misleading or false representation	The respondent was ordered to refund Vukani, ZAR31 088.28 within 30 business days

### 3.2. Effectiveness of consumer protection legislation

The effectiveness of consumer protection laws is a multifaceted issue that has attracted considerable academic interest. In Commonwealth countries, consumer rights are often treated as breaches of contractual or tortious obligations and are enforced. In most cases, attention has focused on tortious rather than contractual actions. This decision is based on the fact that in most cases, tort (negligence) offers a real alternative to the plaintiff who has no contractual relationship with the person being sued, to sue the manufacturer instead. However, several decided cases have shown that the ability of consumers to avail themselves of this option is severely limited by the burden of proof imposed by law. To succeed, the consumer must discharge this burden by establishing the three elements of negligence, namely: that the manufacturer owed him/her a duty of care, that this duty had been breached, and that he or she suffered consequential damages as a result of breathing.

Consumer protection legislation, while well-intentioned, often fails to achieve its desired outcomes and may even harm consumers.<sup>19</sup> The effectiveness of such laws is hindered by various factors, including the complexity of the legislative process and the influence of diverse motives according to Becher<sup>20</sup>. Courts also struggle with enforcing consumer protection laws particularly regarding ex officio application.<sup>21</sup>

Worse still, consumers are often faced with the defence of a 'foolproof' production system and the lack of connection between the conduct complained of and the alleged injury or damage. Moreover, most of the consumer rights violated by manufacturers of goods and services can be properly placed in the realm of human rights. Some of these rights have been established and guaranteed in the constitutions of various countries. The argument of this section is therefore that consumer

<sup>19</sup> Becher, Samuel. "The Puzzle of Effective Consumer Protection Legislation: Challenges, Key Lessons and Design Principles." *The Law and Economics of Regulation* (2020): 73-99.

<sup>20</sup> *ibid*

<sup>21</sup> Mišćenić, Emilia. *The Effectiveness of Judicial Enforcement of the EU Consumer Protection Law*. Springer International Publishing, 2020.

rights are enforceable as fundamental rights. In *Ransome Kuti v. Attorney General of the Federation*, 20, the Supreme Court of Nigeria held as follows:

*“A fundamental right is a right which stands above the ordinary laws of the land and which is antecedent to the political society. It is a precondition to a civilized existence... the entrenchment of a right in the constitution does not create rights where none existed before, rather it is merely intended to protect existing rights from subsequent legislative interference and to enable their assertion against arbitrary, oppressive and illegal execution action.”*

Thus, in Nigeria, for example, any consumer whose rights have been violated, such as consuming unsafe and dangerous products, can seek redress through enforcement of their human rights to life, health, safety and welfare. This is achieved through the Fundamental Rights (Enforcement Procedure) Rules 2009 and Section 46 of the Constitution, which provides that any person (including a consumer) whose fundamental rights contained in Chapter IV of the Constitution have been, are being or are likely to be violated in any state may apply to the High Court of that state for redress. However, this is not the case in Zambia.

Studies have shown that in most developing economies, consumer protection legislation lacks effectiveness. For instance, Bello, Aduke and Danjuma<sup>22</sup> concluded that enactment of CPA 2004 in Nigeria had not enhanced consumer protection. Kyomugisha<sup>23</sup> also found that consumer protection laws in Uganda were not effective in enhancing consumer protection. In the context of India, the studies by Anand<sup>24</sup> and Kumari<sup>25</sup> also revealed ineffectiveness of the CPA in securing consumer rights. In the same vein, it was found that effectiveness of consumer protection legislation in Serbia was questionable despite frequent legislative reforms.<sup>26</sup> However, Dutta<sup>27</sup> found that the CPA in India had been effective in advancing fair trade practices and protecting consumer rights, though the redressal procedure was found time-consuming. On the other hand, Mubiana<sup>28</sup>, argued that the Zambian CCPA had not provided adequate consumer protection despite reforms and enhancements as evident from the increasing number of consumer complaint cases.

### 3.3. Selected Judicial Decisions

In Zambia, there are limited cases on consumer protection. Perhaps this has to do with awareness and the legal costs involved in litigation. However, in other states, there are a large number of judicial decisions. Enforcement of consumer rights in Zambia occurs at two levels: first, at a purely private self-help level, where aggrieved consumers are free to invoke common law or statutory principles, such as those relating to tort law or sale of goods law, to seek private civil remedies. Second, at a public level, public agencies are empowered to take steps to protect consumers. Remedies here can be either civil or criminal.<sup>29</sup>

Consumer protection cases may involve product or service liability. Such cases may also involve all areas that affect the interests and well-being of consumers, taking the broad concept of the consumer into account. It is not possible to cover all areas in a review involving a paper. Therefore, this review is limited to product liability. Service liability and other incidental issues of consumer protection are not within the scope of the review. But decided cases show that the plaintiff's ability to avail of this option is severely limited by the burden of proof imposed by law. To succeed, the plaintiff must discharge this burden by proving the three elements of negligence, namely, duty of care, breach of duty, and consequential damages. Plaintiffs often face both the "foolproof" production system defense and the lack of connection between the conduct complained of and the alleged injury or damage. Attention is focused on cases involving these elements, as follows.

#### *Cases that rely on a foolproof production system*

A common practice adopted by Nigerian manufacturers to absolve themselves of liability is to use a foolproof production

<sup>22</sup> Bello, Kamarudeen Babatunde, Jamila Bisi Aduke Suleiman, and Ibrahim Danjuma. "Perspectives on Consumerism and Consumer Protection Act in Nigeria." *Perspectives* 4, no. 10 (2012).

<sup>23</sup> Kyomugisha, Kurusumu. "The effectiveness of consumer protection in Uganda area of study Kampala." PhD diss., Kampala international University, School of Law, 2013.

<sup>24</sup> Anand, P. A. "Effectiveness of Consumer Protection Act in Securing Consumer Rights: An Empirical Prospective." *Journal of Cardiovascular Disease Research* 12, no. 4 (2021): 1-8.

<sup>25</sup> Kumari, K. "Effectiveness of Consumer Protection Laws In, India". *International Journal of Science and Research* 12 no. 11 (2023): 1582-1588.

<sup>26</sup> Karanikić Mirić, Marija. "ZAKONODAVNA HIPERAKTIVNOST I DELOTVORNA ZAŠTITA POTROŠAČA (Legislative Hyperactivity and Effective Consumer Protection)." *Perspektive implementacije evropskih standarda u pravni sistem Srbije, knjiga XI (Perspectives of Implementation of European Standards in the Serbian Legal System, Volume 11)*, Pravni fakultet Univerziteta u Beogradu, Beograd (2021).

<sup>27</sup> DUTTA, B. M. *People's Perception for Consumer Protection Act in India: A Quantitative Investigation*.

<sup>28</sup> Mubiana, Mubiana. "Consumer contracts under the Zambian Law: Does the legislation Provide Adequate Consumer Protection." *International Journal of Research and Innovation in Social Science* 6, no. 4 (2022): 179-196.

<sup>29</sup>Appeal No.: 179/2015 SCZ/8/261/2015

system as a defence. This is one of the challenges plaintiffs have to face in product liability cases. The following cases show the judiciary's attitude towards this defence.

*Onyejekwe v. Nigerian Breweries Limited*<sup>30</sup>

In the relatively early case of *Onyejekwe v. Nigerian Breweries Ltd*, the plaintiff claimed special and general damages in the amount of £10,000 (ten thousand pounds sterling) from the defendant because the defendant's negligence caused him to become ill after he drank a bottle of Star beer brewed and bottled by the defendant. The plaintiff alleged that foreign matter was found in the bottle of beer he drank and in other bottles of beer which could not have been there but for the defendant's negligence. In its defence, the defendant offered evidence of the brewing process, from the initial mixing of malt, hops, sugar and water, to the corking of the beer and packing it into cartons ready for marketing.

The evidence showed that the bottles were washed at various stages using a highly concentrated caustic soda solution and other chemicals, and that the filling and sealing of the bottles was done through a mechanical process and was checked by a team of inspectors at different checkpoints. Commenting on the testimony of the defendant witness Anyah,

*J. says:*

*I believe the testimony of this witness, DWI, that the beer and the bottles were thoroughly pasteurized and sterilized before leaving the factory, under which circumstances no organisms would be found in the bottles unless they were subsequently tampered with.*

The plaintiff therefore lost the case.

**Cases based on causation**

Another burden on the consumer is to prove that the negligent conduct complained of was the cause of his damages. Some cases that illustrate this are discussed below.

***Nigeria Gbekeji Bottling Company***<sup>31</sup>

In this case, the appellant and some of his guests at his wedding anniversary party began to defecate and vomit after drinking some Harp beer brewed and bottled by Guinness (Nig) Ltd. They were taken to hospital where they were treated by a doctor for five days. The doctor gave evidence. His findings were that the people he treated that evening had gastroenteritis, which he explained as food poisoning. The food and drinks consumed at the party were sent to the hospital. The doctor did not examine the food but saw some sediment in two of the opened bottles of Harp beer and in a third bottle that was unopened, so the three bottles were sent for analysis. The report showed that the sediment in the beer contained algae and was therefore unwholesome and unfit for human consumption. The government analyst who prepared the report gave evidence. The analysis was carried out on the unopened bottles as they would not accept opened bottles.

The evidence provided by the defendant through its experts focused on the beer brewing process and how impurities are removed before and after bottling. However, rather than focusing on a foolproof system, the court based its decision on the question of whether the defendant's actions caused the damage complained of. The court held that there was no proper connection between the unopened bottle of beer analyzed and the other two bottles of beer that had been opened and consumed.

This decision exposes the precarious position of plaintiffs in product liability cases. As noted above, the government analyst refused to analyze the opened bottles of beer on policy grounds. On the other hand, both the trial court and the appellate court refused to admit the results of the analysis of the unopened bottles of beer because there was no proper connection between the injuries suffered by the plaintiff and the unopened bottles of beer. The appellate court noted that the partially consumed beer was not analyzed, so the nature of the sediment at issue could not be known. It further noted that the bottle that the analysis found to contain the toxic sediment was not consumed by the appellant because the bottle was not opened prior to analysis. The court concluded that the appellant had clearly failed to connect himself to the three bottles of beer in the lawsuit, "Exhibits K-K2."

With all due respect, this approach limits the plaintiff's freedom to present supporting evidence. The results would be better if the bottles and samples in question were analyzed from the same source. As the appellant's counsel in this case put it, "On the face of probability, appellant's injuries must have been caused by sediment in another bottle of beer of similar nature to that in the unopened bottle in 'Exhibit A.'"

*Michael Chilufya Sata MP v. Bottlers Zambia Limited*<sup>32</sup>

Brief Notes on this case based on the law of torts – negligence – damages for personal injury – damages for consequential loss – breach of statutory duty in the manufacture and bottling of beverages – whether damages can be recovered under section 3(b) of the Food and Drugs Act, Chapter 303 for breach of statutory duty – manufacturing liability. The desk note is that the appellant purchased a case of Sprite, a soft drink, from a retailer. The drink was manufactured and bottled by the defendant company. The appellant and his children drank some of the drink. Before opening it, the appellant and his children found a dead cockroach in one of the bottles containing the drink. The bottle was not opened and therefore the

<sup>30</sup>CI, OSISWA and CA (2014). Study on the status of consumer protection in Nigeria: A review of consumer protection in the telecommunications sector in Nigeria.

<sup>31</sup>CI, OSISWA and CA (2014). Study on the Status of Consumer Protection in Nigeria: A Review of Consumer Protection in the Telecommunications Sector in Nigeria

<sup>32</sup>2003 SCZ No. 1) [2003] ZMSC 5

drink was not consumed.

The appellant then filed a suit in the High Court against the defendant company, alleging that he and his children suffered personal injury and nausea from the dead cockroaches in the bottle. In the suit, the appellant sought damages for personal injury, breach of statutory duty under Section 3(b) of the Food and Drugs Act, Chapter 303, and other relief. The High Court ruled in favor of the defendant company. Dissatisfied with the judgment of the lower court, the appellant filed an appeal.

On appeal, the case was dismissed. The court stated:

.... There is no doubt that the bottle of Sprite produced by the lower court was adulterated as it contained a dead cockroach. Section 3(b) of the Food and Drugs Act provides that it is a criminal offence to sell any food or drink which is contaminated with foreign matter. The penalty for violation of this section is set out in section 31(2) of the Act and for the first offence is a fine not exceeding one thousand penalty points or imprisonment for a term not exceeding three months or both. It can therefore be seen that the only remedy for violation of section 3(b) of the Food and Drugs Act is criminal sanctions and there is no provision for recovery of damages by civil action. As the author of Charlesworth on Negligence puts it at para 1104, "Where a statute provides for the penalty for violation of the provision but is silent as to any remedy for damages under civil law, it may be initially assumed that the remedy provided by the criminal law is the only remedy." Furthermore, the author goes on to state that unless the statute or regulation provides otherwise, the plaintiff must prove on the balance of probabilities that the breach of duty caused or substantially contributed to his damages. In other words, negligence is actionable only if actual damages are proved, there is no right of action for nominal damages. As Lord Reading said in *E. SUFFOLK RIVERS CATCHMENT BOARD VS KENT*, 1941 AC 74, "negligence is actionable in itself, damages are not actionable in themselves; the two must coexist." The appellant was not injured or damaged by the adulterated drink because he did not drink any drink at all. KAWIMBE, the doctor called by the appellant in the lower court, also admitted that the appellant and his children were "nauseated" by the sight of the dead cockroaches in an unopened bottle of Sprite, and the doctor did not prescribe any treatment. Grounds 2 and 3 are also unsustainable and if we dismiss the appeal and award costs, costs should be assessed in the absence of agreement.

#### 4. Conceptual Framework

According to Varpio et al. (2022), the relationship between the independent and dependent variables constitutes the conceptual framework. It includes any additional variable that might have an impact on the relationship, in this case the moderating variable, as well as the anticipated association between the dependent variable and the independent variable (Varpio et al., 2022). Based on research hypotheses, research objectives and theory, the conceptual framework for the study was developed and is presented in Figure 2.1.

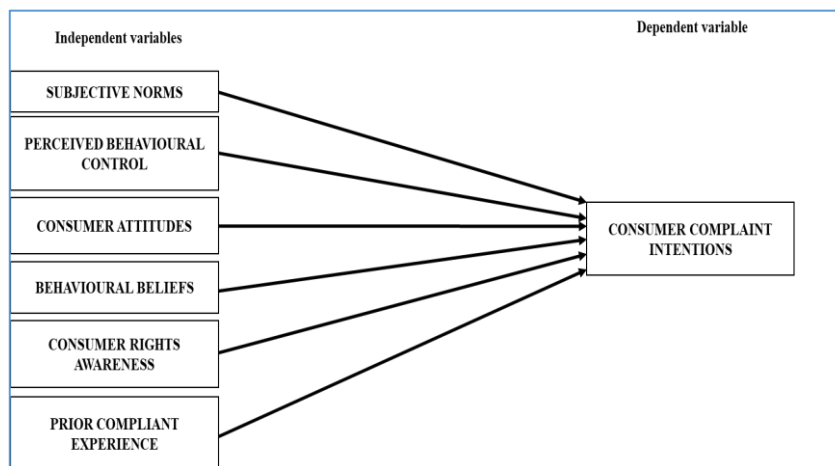


Figure 6.1: Conceptual framework for the study

##### Justification of the Conceptual Framework

A conceptual framework is the intellectual scaffold that connects the theoretical assumptions of a study to its empirical design. In the context of consumer protection and complaint behaviour, the framework serves as a blueprint that illustrates how specific variables - grounded in behavioural and legal theory - interact to influence a consumer's decision to seek legal redress. It is not merely a diagrammatic representation but a normative construct shaped by jurisprudential principles, behavioural economics, and socio-legal inquiry.

##### 4.1. Theoretical Foundations

This framework is rooted in Ajzen's Theory of Planned Behaviour (TPB), which posits that individual behavioural intentions are shaped by attitudes, subjective norms, and perceived behavioural control. These constructs have been widely validated across disciplines to predict complaint behaviour and legal mobilisation. In legal research, especially within consumer law, such a model supports the recognition that the presence of legal rights is insufficient unless potential claimants (i.e.,

consumers) are both aware of and psychologically prepared to act upon them.

Varpio et al. (2022) conceptualise a framework as a matrix of variables - independent, dependent, and moderating - interconnected through theoretical and empirical assumptions. The framework in this study thus operationalises how consumer complaint behaviour is functionally dependent upon a constellation of interrelated variables, situated within Zambia's consumer protection legal regime.

## 4.2. Explanation of Variables

### Independent Variables

These are variables presumed to influence or predict the outcome. In the context of this study, they are grounded in behavioural, legal, and socio-psychological factors that determine whether or not a consumer will engage in complaint behaviour. These include:

#### (a) Consumer Awareness of Rights

Awareness serves as a cognitive precondition to complaint initiation. Without knowledge of one's entitlements under the Competition and Consumer Protection Act No. 24 of 2010, consumers lack the capacity to assess legal violations or recognise redress mechanisms.

#### (b) Attitudes Toward Complaint Behaviour

This variable captures the consumer's evaluative judgment regarding the usefulness, risks, or rewards of engaging with legal or regulatory mechanisms. Attitudes may be shaped by past experiences, cultural beliefs, or perceived efficacy of the institutions.

#### (c) Subjective Norms

Normative social pressure can either suppress or reinforce legal complaint behaviour. In some communities, social expectations may discourage confrontation or legal claims against businesses, especially where such actions are viewed as culturally disruptive or futile.

#### (d) Perceived Behavioural Control

This refers to the consumer's belief in their capacity to execute the complaint action successfully. It includes perceptions of procedural complexity, access to enforcement bodies, and anticipated institutional response.

#### (e) Past Experience and Personality Traits

Prior success or failure in lodging complaints, as well as inherent personality dimensions such as assertiveness or legal consciousness, can condition a consumer's future behaviour. These traits function as behavioural predispositions that influence responsiveness to unfair trade practices.

## 4.3. Dependent Variable: Consumer Complaint Behaviour

The dependent variable is the actual or intended complaint behaviour - the decision to seek redress through formal or informal legal channels. It is the legal outcome of the interaction between the consumer and the institutional environment. Complaint behaviour reflects the consumer's mobilisation of legal norms, and thus constitutes the empirical test of the effectiveness of the statutory regime.

In legal terms, this variable is significant not only for its behavioural content but also as a proxy for access to justice and rule of law realisation. If complaint behaviour is low, it may indicate systemic failures in legal empowerment, procedural accessibility, or trust in the legal system.

## 4.4. Moderating Variables

Moderators affect the strength or direction of the relationship between the independent and dependent variables. In this framework, key moderating variables include:

#### (a) Effectiveness of Enforcement Institutions

Institutions such as the Competition and Consumer Protection Commission (CCPC) and the judiciary can either facilitate or frustrate consumer action depending on their accessibility, responsiveness, and procedural efficiency.

#### (b) Socio-Economic Status

Income, education, and employment status may constrain or enable a consumer's capacity to act on legal awareness. Marginalised populations may be more exposed to exploitation yet less likely to seek redress due to financial or informational constraints.

#### (c) Legal Culture and Trust in the System

Where the general perception of the legal system is sceptical or adversarial, even highly aware and motivated consumers may refrain from legal mobilisation. Trust is thus a moderating filter between knowledge and action.

### Normative and Empirical Value of the Framework

The significance of the conceptual framework extends beyond academic illustration—it provides a diagnostic tool for policymakers and legal institutions. By understanding which variables most strongly influence complaint behaviour, regulatory reforms can be more targeted. For example, if perceived behavioural control proves to be the strongest determinant, then policy interventions must focus on simplifying complaint procedures and demystifying the law.

Furthermore, the framework supports a normative claim: that consumer law should be informed not merely by rules but by behavioural insights. The effectiveness of Zambia's consumer protection regime will remain theoretical unless it is mapped

onto actual consumer conduct, shaped by psychological, social, and legal determinants.

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## 5. Conclusion

Consumer complaint behaviour in Zambia is profoundly shaped by both internal determinants - such as awareness, attitudes, and beliefs - and external systemic constraints including legal complexity, judicial inertia, and institutional fragility. While the Competition and Consumer Protection Act No. 24 of 2010 provides the legislative foundation, it does not sufficiently stimulate active consumer participation, largely due to socio-legal barriers and normative disincentives.

The analysis presented in this article demonstrates that empowering consumers requires more than statutory rights; it demands legal literacy, accessible mechanisms, and trust in judicial processes. It further reveals that existing product liability jurisprudence, though cautiously developing, remains hamstrung by evidentiary and procedural barriers that favour manufacturers over aggrieved consumers.

A transformative path forward must begin with reorienting the consumer protection regime toward a rights-based approach that recognises complaint behaviour as a participatory act of economic justice. This entails judicial activism, educational interventions, digital complaint infrastructure, and harmonisation with international standards. More critically, it calls for constitutional recognition of consumer rights within the broader framework of socio-economic justice, which would provide the normative force necessary to anchor complaint behaviour in legal consciousness.

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## Conflict of Interest

The authors declare that they have no conflicting interests

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## Ethical considerations

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

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