

**Enforcing Caveat
Venditor: An
Evaluation of
Consumer Dispute
Redressal
Commissions in
Karnataka**

**This report is
an independent,
non-commissioned
piece of work by
the Vidhi Centre
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legal research to
help make
better laws.**

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Introduction

Caveat Emptor to Caveat Venditor

The principle '*caveat emptor qui ignorare non debuit quod jus alienum emit* - let the buyer, who ought not to be ignorant of the amount and nature of the interest which he is about to buy, exercise proper caution'¹ (*caveat emptor*), has been part of common law since early 17th century². Under this, liability accrues to a seller only when "the defect cannot be detected by sight and is a matter of skill or collateral proof".³

In India, legislations such as the Transfer of Property Act, 1882 and the Sale of Goods Act, 1930, incorporated the principle of *caveat emptor*⁴ which required the buyers to be prudent while placing minimal responsibility on the sellers.⁵ However, as a result of sustained consumer rights movements across the globe, the maxim of *caveat emptor* has weakened over the centuries, especially the last few decades. Even though the principle continues to be a part of common law, the exceptions carved to provide social and economic justice to consumers through judgments has relegated this principle to "more of an exception than a rule".⁶ In India, this trend is seen more prominently after independence, with social and economic justice becoming entrenched in the Constitution of India.⁷

The post-independence legislations such as the Prevention of Food Adulteration Act, 1954, Drugs (Control) Act, 1950, Essential Commodities Act, 1955, Monopolies and Restrictive Trade Practices Act, 1969 and Bureau of Indian Standard Act, 1986 bear testimony to the increasing emphasis on protection of consumer rights and interests. A high-point of this trend was the enactment of Consumer Protection Act, 1986 (hereinafter referred as 'the 1986 Act'). The 1986 Act categorically aimed at balancing the power equation between the consumers and powerful merchants and businessmen,⁸ by providing a speedy, inexpensive alternative to traditional courts devoid of the procedural complexities typical of civil litigation.⁹

The 1986 Act established a hierarchical structure of adjudicating bodies with a mandate to protect consumer rights. This structure consisted of a National Commission, State Commissions and District Commissions/Fora (hereinafter collectively referred as 'Consumer Commission(s)')¹⁰ which were empowered to adjudicate disputes related to unfair trade practices, restrictive trade practices or deficiency in goods or services¹¹ purchased by the 'complainant'.¹² Unlike civil courts, here the complaint could be filed not only by the suffering consumer, but also by a voluntary consumer association on behalf of such a consumer. In addition to these adjudicatory bodies, it also established Consumer Protection Councils at national, state and district levels to protect and promote consumer rights.

¹ The phrase was first used in 1534 by Fitzherbert in relation to horse trading. Subsequently, the King's Bench upheld this principle in *Chandelor v. Lopus* (1603) 79 ER 3, putting responsibility on the buyer, especially when he does not inspect the quality of the good.

² Abdul Malek, et al., 'Doctrine of "Caveat Emptor" (Buyer be aware) in Common Law and the Doctrine of "Khiyar al aib" (Option of defect) in Islamic Law: A Comparative Study' (2014) 10 & 11 IIUC Studies 201

³ *Stuart v. Wilkins* (1778) 99 ER 15

⁴ For instance, Section 16 of the Sale of Goods Act and Section 55 of the Transfer of Property Act provide for minimal responsibility of the seller with respect to the quality and fitness of the goods and property sold.

⁵ *Ahmedabad Municipal Corporation v. Haji Abdulgafur Haji Hussenbhai* AIR 1971 SC 1201

⁶ *Harnarain Ramchandra Jaiswal v. Firm Radhakisan Narayandas* AIR 1949 Nagpur 178

⁷ The Constitution of India, art 38.

⁸ J.N. Barowalia, *Commentary on Consumer Protection Act* (4th edn., Universal Law Publishing Co 2010)

⁹ *S. K. Abdul Sarkar v. State of Orissa* CPJ II (1991)

¹⁰ Consumer Protection Act 1986, s 9.

¹¹ Consumer Protection Act 1986, s 2(c).

¹² Consumer Protection Act 1986, s 2 (b).

Strengthening Caveat Venditor: The Consumer Protection Act, 2019

'Caveat venditor' is a Latin maxim which means "Let the seller beware". Law Lexicon defines the maxim as, "If the seller wishes to secure himself from future responsibility in case the article sold should afterwards be found to be different in kind or quality from what the party supposed it to be, he must take care or provide against such responsibility by a particular agreement with the purchaser."¹³ The maxim puts greater responsibility on the seller to ensure the quality and nature of goods and services procured by the buyer.

The 1986 Act was repealed by the Consumer Protection Act, 2019 (hereinafter referred as 'the 2019 Act'), which further strengthens the concept of 'caveat venditor' by imposing additional responsibilities on manufacturers, service providers, sellers and endorsers. As per the Ministry of Consumer Affairs, Food and Public Distribution, "the act aims to ease the overall process of consumer grievance redressal"¹⁴ by strengthening the existing consumer rights institutions and imposing greater legal responsibilities upon the manufacturer, service provider and seller. It also mandates the establishment of a Central Consumer Protection Authority (hereinafter referred as 'Central Authority') and Consumer Mediation Cells. Some key amendments and salient features of the Consumer Protection Act, 2019 are given below.

Table 1: Key amendments introduced in the Consumer Protection Act, 2019.

S.No.	Provisions under the Consumer Protection Act, 1986	Amended provision under the Consumer Protection Act, 2019
1.	Pecuniary Jurisdiction of Consumer Commissions i. District Commission (Forum): <20 Lakhs ii. State Commission: >20 Lakhs, <1 Crore iii. National Commission: >1 Crore	Pecuniary Jurisdiction of Consumer Commissions i. District Commission (Forum): <1 Crore ii. State Commission: >1 Crore, <10 Crores iii. National Commission: >10 Crore
2.	Pecuniary jurisdiction- Calculated by the value of product.	Pecuniary jurisdiction- Calculated by the consideration paid by the consumer.
3.	Complaint can be filed where the i. Cause of action arises. ii. The opposite party/ies voluntarily resides or carries on business.	Complaint can be filed where the i. Cause of action arises. ii. The opposite party/ies voluntarily resides or carries on business. iii. The complainant resides or works for gain.
4.	Appeal to State Commission may be filed within 30 days of the date of order by the District Commission (Forum).	Appeal to State Commission may be filed within 45 days of the date of order by District Commission.
5.	No provision for electronic filing of complaint.	Provision for electronic filing of complaints under S. 35.
6.	No provision for hearing or examination of parties through video conferencing.	Provision for hearing or examination of parties through video conferencing under S. 38(6).
7.	Enforcement of the orders of Consumer Commissions through attachment of property and recovering the amount through land arrears.	Enforcement of orders of Consumer Commissions as per Order XXI of Code of Civil Procedure, 1908.
8.	No provision for Product Liability	Provision of Product Liability on the manufacturer, service provider and seller.
9.	No provision for mediation	Provision to establish attached mediation cell with every Consumer Commission.

¹³ Shakil Ahmad Khan, *P Ramanatha Aiyar's Advanced Law Lexicon* (5th edn, LexisNexis 2017) 781

¹⁴ Press Information Bureau, 'Landmark Consumer Protection Bill, 2019 gets Parliamentary approval' (6th August 2019) <<https://pib.gov.in/newsite/PrintRelease.aspx?relid=192499>> accessed 24 December 19

10.	No provision for establishment of a Central Authority.	Provision to establish a Central Consumer Protection Authority with executive and judicial powers to promote and protect consumer rights.
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Effective inclusion of e-commerce transactions within the consumer protection framework has been cited as one of the many justifications for the enactment of the new law.¹⁵ While such transactions were previously covered within the ambit of the 1986 law, it could not have accounted for all the unique challenges that e-consumers face today.¹⁶ A significant aspect of this inclusion is reflected in the fact that a consumer can now file a complaint against a seller at the nearest District Commission, regardless of the location of the seller. This could not have been done under the old law.

Additionally, Section 94 of the 2019 Act empowers the government to frame rules to prevent unfair trade practices in e-commerce.¹⁷ Unfair trade practices in this context include selling of counterfeit goods and services and falsely representing the standard of the goods and services.¹⁸ Multiple media reports have highlighted the worrying presence of a high percentage of counterfeit goods in online marketplaces.¹⁹

The figure below provides an overview of the 2019 Act. It maps the provisions from the Act which address the objectives of promoting and protecting consumer rights and providing an inexpensive, accessible and time bound consumer dispute redressal mechanism.

¹⁵ Standing Committee for Food, Public Distribution and Consumer Affairs, *Consumer Protection (Amendment) Bill, 2011* (LS 2012)

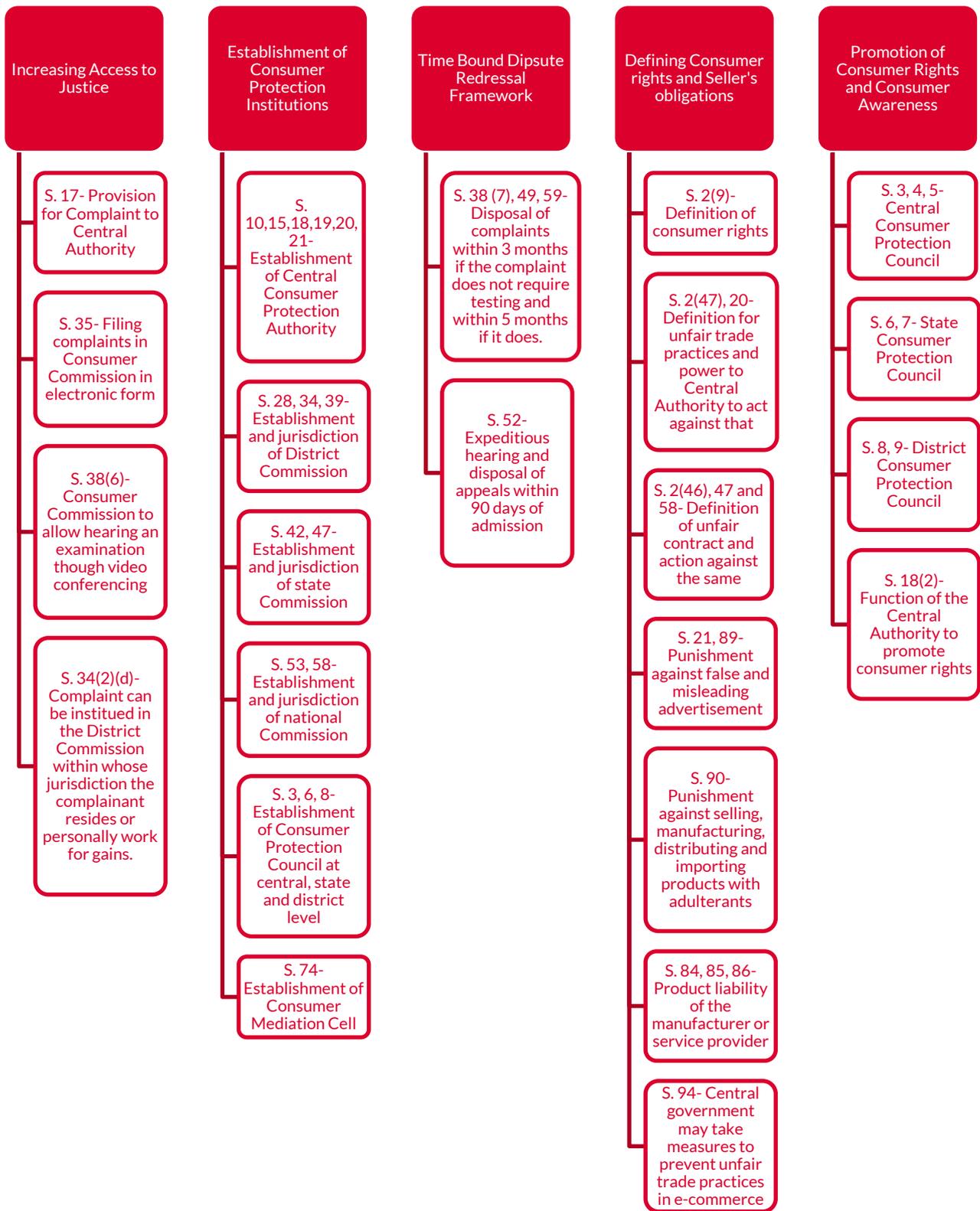
¹⁶ Akhileshwari Reddy and others, *15 Legal Reforms for a Progressive Karnataka* (Vidhi Centre for Legal Policy, 2018) 37

¹⁷ Consumer Protection Act 2019, s 101(2)(zg)

¹⁸ Consumer Protection Act 2019, s 2(47)

¹⁹ Devansh Sharma, 'Do your due diligence while shopping online: Third of ecommerce buyers get fake products' (The Economic Times, 28 December 2018) <<https://economictimes.indiatimes.com/wealth/spend/do-your-due-diligence-while-shopping-online-third-of-ecommerce-buyers-get-fake-products/articleshow/63925229.cms?from=mdr>> accessed 30 December 2019

Figure 1: An Overview of the Consumer Protection Act, 2019.



Caveat Venditor in operation: Identifying a few potential concerns in implementation of the 2019 Act

While the Act tries to accommodate the concerns of consumers in a changing marketplace, concerns regarding the structure and functioning of institutions already established under the old law and the ones that are created under the new law have not been addressed.

Increase in pecuniary jurisdiction without concomitant increase in capacity

While the pecuniary jurisdiction of the District Commissions has been increased substantially under the 2019 Act, there is no clarity on how these Commissions will be equipped to handle high value consumer claims. Increase in jurisdiction requires increased capacity and places an increased responsibility upon the members of these Commissions. The Supreme Court²⁰ while discussing the increase in pecuniary limits of the District Commissions has also observed that *this increase must be accompanied by an improvement in the quality of adjudication in the District Fora.*

Development of Digital Infrastructure

While the act enables the Consumer Commissions to allow hearing and examination through video conferencing, it is unclear as to whether requisite funds for development of digital infrastructure will be provisioned by the relevant authorities.

Blurring of Separation of Powers

Under the 2019 Act, the Central Authority has been entrusted with wide executive and judicial powers including those of inquiry and investigation. Based on such investigation, the Central Authority can also order recalling of goods, reimbursement of prices of goods or services, issue directions or penalties against false or misleading advertisements on manufacturer or endorser of such advertisement, etc.²¹

To perform quasi-judicial functions under the 2019 Act, the Central Authority is required to evaluate facts and evidences collected through investigation and hearing of parties. In *Brahm Dutt v. Union of India*,²² the Supreme Court discussed the doctrine of 'separation of powers' in a situation where advisory, regulatory as well as adjudicatory functions are to be performed by a single authority. The Court opined that, "*in such situation it might be appropriate for the respondents to consider the creation of two separate bodies, one with expertise that is advisory and regulatory and the other adjudicatory.*"²³ The Standing Committee too had warned against vesting such wide judicial powers in the Central Authority for the very same reason- blurring of the principle of separation of powers.²⁴

Inadequacy of personnel and physical infrastructure

The Justice Pasayat Committee constituted by the Supreme Court raised multiple issues with regard to the functioning of Consumer Commissions including the inadequacy of personnel and physical infrastructure.²⁵ Despite this, no changes have been made in the process for the appointment of administrative staff in the State Commission. Even though the provision for appointment of officers of the National Commission includes consultations with the President of the National Commission,²⁶ S. 33 and 46 of the 2019 Act give power to the

²⁰ *State of U.P. v. All U.P. Consumer Protection Bar Association* (2017) 1 SCC 444

²¹ Consumer Protection Act 2019, s 21.

²² *Brahm Dutt v. Union of India* AIR 2005 SC 730

²³ *ibid.*

²⁴ Standing Committee on Food, Consumer Affairs and Public Distribution, *The Consumer Protection Bill, 2015* (LS 2016)

²⁵ *State of U.P.*(n 20).

²⁶ Consumer Protection Act 2019, s 57.

state government to determine the nature and categories of staff required by District Commissions and the State Commission respectively.

In this background, we have evaluated the functioning of the Consumer Commissions in Karnataka to see if, and to what extent, the amendments in 2019 have the potential to address the concerns of consumers and strengthen the consumer dispute redressal system.

Research Methodology

Objective

This report evaluates the functioning of the Consumer Commissions against the spirit and objectives of the Consumer Protection Act, 1986. The report analyses the efficiency of these Commissions in handling consumer cases and identifies issues that compromise access to justice for litigants. The report also suggests measures to improve the case management practices at these Commissions. The successful implementation of the reforms suggested in the report will improve the effectiveness of these Commissions and make them more consumer friendly.

Scope

The report focuses on the Karnataka State Consumer Dispute Resolution Commission (hereinafter referred as the State Commission), Bangalore Urban District Commission, Bangalore Rural District Commission, Bangalore Urban I Additional District Commission, Bangalore Urban II Additional District Commission, Bangalore Urban III Additional District Commission and Bangalore Urban IV Additional District Commission, situated in Bengaluru. The report also examines the structure of these Consumer Commissions to understand their functioning.

Methodology

The researchers have adopted both quantitative and qualitative methods to analyse the functioning of the identified Consumer Commissions.

A survey of applicable law

The researchers have studied the entire gamut of laws and rules applicable to the consumer protection framework in the country in general and in the state of Karnataka in particular. In addition to the legislation, the pre-legislative history of the laws including the relevant parliamentary debates and standing committee reports have been studied to understand the reasons behind the changing legislative framework.

Interviews

The researchers have conducted extensive interviews with the administrative staff, registry officials, members and President of the State Commission and six District Commissions under the scope of this study.²⁷ Interviews with lawyers and litigants were also conducted across the Commissions in Bengaluru. This was done to incorporate stakeholders' concerns and experiences.

The interviews for State Commission was conducted on 3 September 2019, whereas the interviews at the District Commissions were conducted on 18 November and 12 December 2019. We have conducted a total of 21 interviews during this process. The interviewees included 14 administrative staff, 5 members of Registry, the Judicial Member of the Karnataka State Consumer Dispute Redressal Commission and the officer at District Collectorate handling Consumer Commission matters. We drafted customised questionnaires for the registry, administrative staff, the members and the President, which broadly included questions on:

The Members and the President	Administrative Staff	The Registry
Case Management	Recruitment and job description	Appointment and job description

²⁷ The permission to conduct the interviews was provided to the Authors graciously by Mr. Raju N., Registrar cum Administrative Officer, Karnataka State Consumer Dispute Redressal Commission, on 30th August 2019.

Delays and pendency	Working conditions and job satisfaction	Access to justice
Access to justice	Skills and knowledge training	

Case Data Analysis

A thorough analyses of case data and details of case proceedings has been undertaken to understand the flow of cases in the State Commission and District Commissions located in Bengaluru. The case data from CONFONET²⁸ for all the cases filed in the period of five years, 2013 to 2017 has been analysed to identify the filing, disposal and pendency trends in these Commissions.

This five-year data recorded as on 31 July 2018 has been analysed to study the functioning of the identified Commissions. Further, the monthly statistics and quarterly reports as provided by the State Commission has been studied for broader understanding of filing and disposal trends. In this study, we focus on the Consumer Cases (CC) and Execution Applications (EA) in the District Commissions and Consumer Cases (CC), Execution Applications (EA) and First Appeals (FA) in the State Commission. These case types constitute the majority of petitions filed in the Consumer Commissions.

Further, to provide an overview of the overall functioning of the State Commission and the District Commissions, monthly statistics reports, as received from the State Commission for July 2019, have been analysed. Through these analyses, the report sheds light on the functioning of the Consumer Commissions and recommends measures to improve their efficiency.

²⁸ 'Computerisation and Computer Networking of Consumer Forums in Country' <<http://confonet.nic.in>> accessed 24 December 2019.

Consumer Protection Landscape in Karnataka

Structure of Consumer Protection Institutions

The Consumer Protection Act, 1986 established two sets of institutions to promote and protect the rights of consumers. Chapter II of the 1986 Act provides for the structure and functions of the Consumer Protection Councils at central, state and district levels, while Chapter III provides for the establishment of Consumer Dispute Redressal Agencies. It contains detailed provisions regarding the establishment and functioning of a three-tier quasi-judicial structure at district, state and central levels.

The 2019 Act brought functional changes to these existing institutions and provides for establishment of a Central Consumer Protection Authority and Consumer Mediation Cell.

As per Chapter III of the 2019 Act, the functions of Central Authority include regulating the matters of violation of consumer rights, unfair trade practices and false or misleading advertisement, and promoting, protecting and enforcing rights of consumers. The Consumer Mediation Cell is proposed to be attached to the commissions at every tier for settlement of disputes through mediation.

Consumer Protection Councils

The 1986 Act had established a three-tier structure in the form of Consumer Protection Councils (hereinafter referred as “the Councils”).

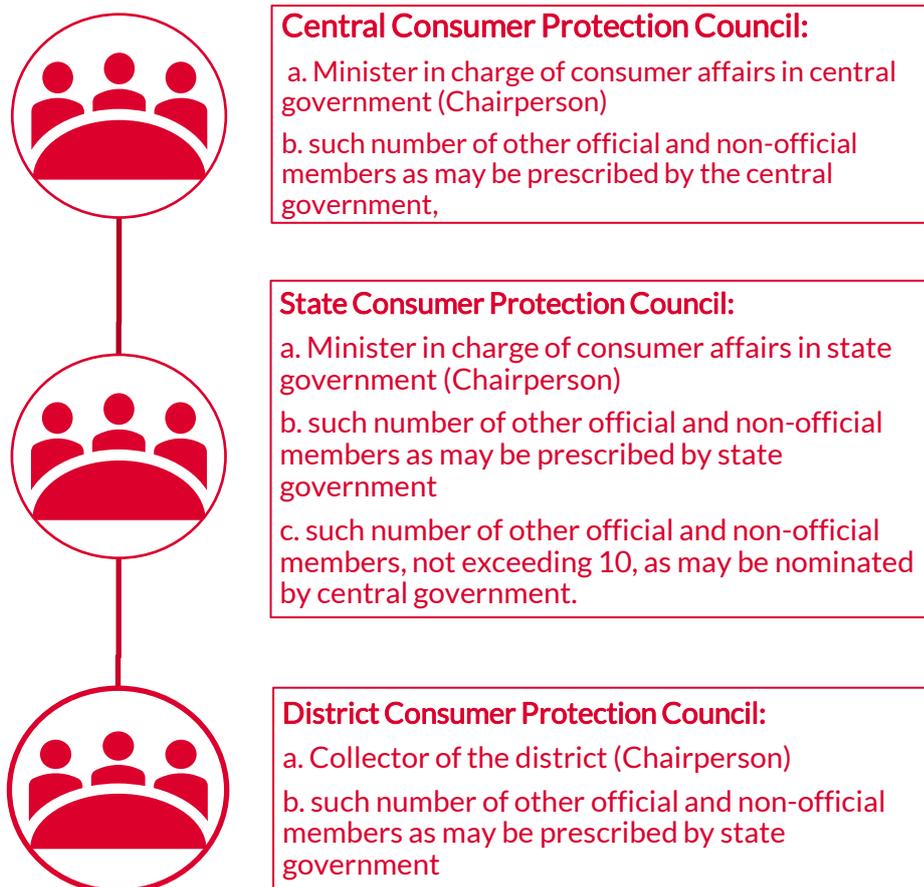
The Standing Committee for Food, Public Distribution and Consumer Affairs (2012-12) in their report on the Consumer Protection Amendment Bill, 2011, had raised concerns regarding the effectiveness of these councils. The report stated that the committee was “*dismayed to find that the National level Central Consumer Protection Council met only thrice in last five years.*” and also that, “*in many of the States these councils have not been created and even if created their meetings could not be held regularly. The Committee felt that if these councils do not meet at regular intervals, the very purpose of their constitution is defeated.*”²⁹ In fact, even the Supreme Court of India, in recognition of these failings, had directed these Councils to hold regular meetings and establish working groups to address specific issues concerning consumers.³⁰

The structure of the Consumer Protection Councils is depicted below.

²⁹ Standing Committee for Food, Public Distribution and Consumer Affairs, *Consumer Protection (Amendment) Bill, 2011*, (LS 2012)

³⁰ *Mumbai Grahak Panchayat. v. State of Maharashtra* (2017) SCC OnLine Bom 726

Figure 2: The Structure of the Consumer Protection Councils.



Under the Consumer Protection Act, 2019, the Councils have been reduced to mere advisory bodies due to the creation of the Central Authority which is vested with wider powers to protect consumers and promote their rights. However, it is unclear how the existing issues with regard to the functioning of these Councils will be corrected by establishing a new authority.

Consumer Dispute Redressal Agencies

The 1986 Act has established a three-tier adjudicatory structure for inexpensive, time-bound and speedy disposal of consumer disputes. The 2019 Act introduced some functional and jurisdictional changes to the Consumer Commissions, but the structure remains the same.

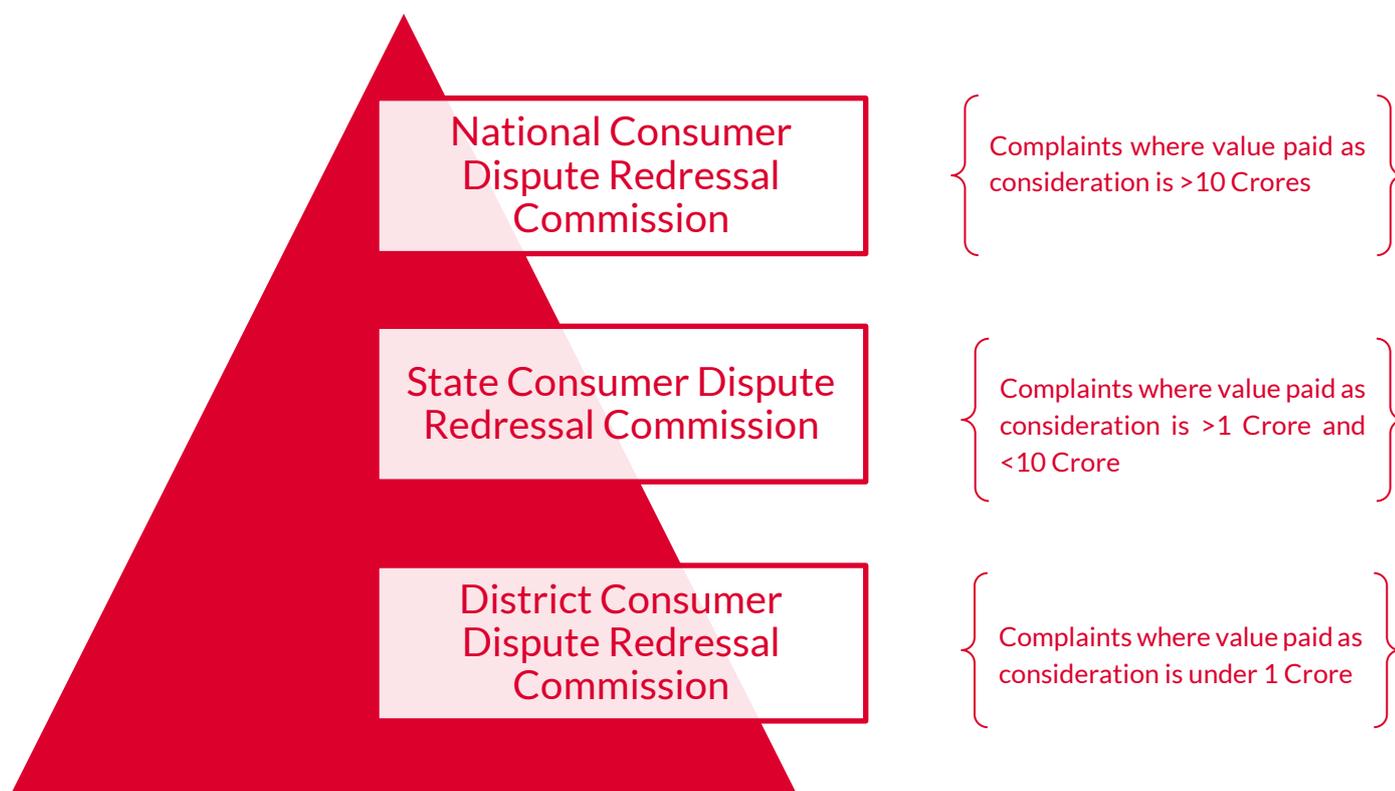


Figure 3: Consumer Dispute Redressal Agencies.

Along with the original jurisdiction mentioned in the figure above, the National Commission and State Consumer Commissions can also hear complaints regarding unfair contracts.³¹ Further, the National Commission has jurisdiction to entertain appeals from State Commissions and the Central Authority and State Commission may entertain appeals from the District Commissions located in their respective states.

The city of Bengaluru is divided between Bangalore Urban and Bangalore Rural administrative districts. Considering the heavy inflow of cases in Bangalore Urban District, the state government has established four additional District Commissions to address consumer disputes. Hence, there are a total of six District Commissions in the city. The District Commission for Bangalore Rural district has been merged with the Bangalore Urban I additional District Commission and the same bench handles complaints from both the district jurisdictions.

Overview of the Members

The 1986 Act provides for the establishment of the District Commissions³² which shall consist of a President and two members, one of whom shall be a woman³³ and a State Commission³⁴, which shall have a minimum of three members including the President, with at least one of the three being a woman.³⁵

The composition of the Consumer Commissions in Bengaluru as on 31 August 2019 is provided below.

Table 2: The composition of Karnataka State Consumer Dispute Redressal Commission and District Commissions (District Fora) located in Bengaluru as on 31 August 2019.

³¹ Consumer Protection Act 2019, ss 47, 58

³² Consumer Protection Act 1986, s 9.

³³ Consumer Protection Act 1986, s 10.

³⁴ *ibid.*

³⁵ Consumer Protection Act 1986, s 16.

Consumer Commission	President	Member	Lady Member
Karnataka State Consumer Dispute Redressal Commission			
Bangalore Urban District Commission			
Bangalore Rural & Urban I Addn. District Commission			
Bangalore Urban II Addn. District Commission			
Bangalore Urban III Addn. District Commission			
Bangalore Urban IV Addn. District Commission			
Filled Position		Total Sanctioned Strength: 18 Total Vacancies: 08 Percentage of vacancy: 44.44% Number of Lady Members: 02 out of 06 (66.67% vacancy)	
Vacant Position			

The table above shows high vacancies in Consumer Commissions across Bengaluru. Three out of the six Commissions analysed are operating with only one Member. Only Bangalore Urban IV Additional District Commission is operating with a full quorum. Further, the 66 per cent vacancy in the position for ‘Lady Members’ across the Commissions in Bengaluru raises further concerns over the implementation of the provisions of the Act. Analysis of District Commissions across Karnataka indicates 43 per cent overall vacancy in adjudicatory positions and 53.1 per cent vacancy in the position of ‘Lady Member’. High vacancy figures compromise the effective functioning of these Commissions; this issue has been explored in the next chapter.

The 2019 Act has increased the minimum number of members in a State Commission from three (including President) to five.³⁶ It further allows the Central Government to prescribe an upper limit for the Members for District Commissions.³⁷ The number of members in District Commission was restricted to three (including the President) under the 1986 Act.

³⁶ Consumer Protection Act 2019, s 42(3).

³⁷ Consumer Protection Act 2019, s 28.

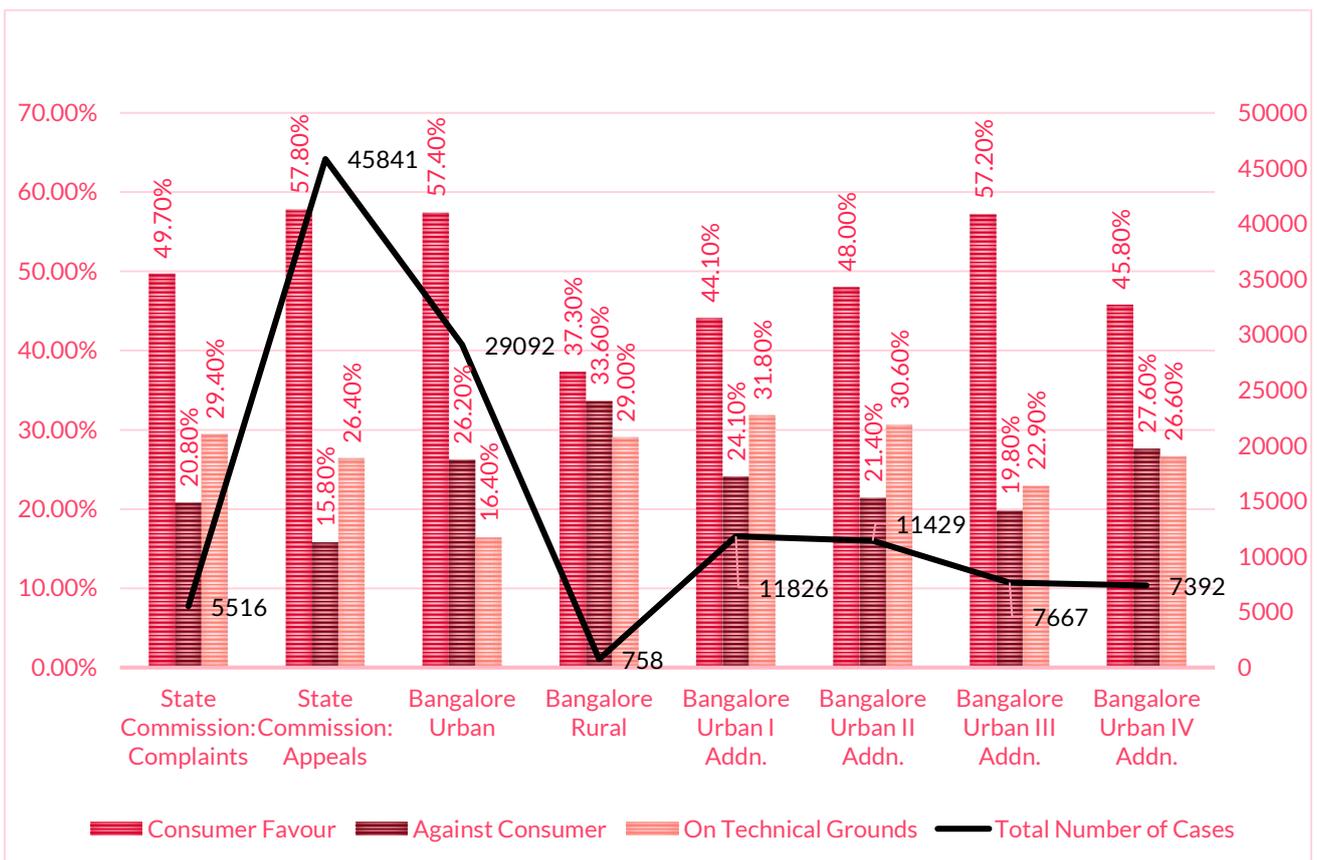
Case Data Analysis

Case data analysis provides a concrete standpoint for the evaluation of the Consumer Commissions. It studies the implementation of the law to assess whether the objectives enshrined in the 1986 Act are achieved in practice. Consumer Commissions were instituted to provide inexpensive, time bound and accessible mechanism for the consumers to resolve their grievances. The extensive case data study helps us identify issues in the functioning of Commissions and provide targeted solutions to such issues.

Orders in favour of the consumers

An overview of the orders passed by the Karnataka State Consumer Dispute Redressal Commission and the District Commissions located in Bengaluru shows consumers have a high success rate at these forums.

Figure 4: Nature of disposal for cases disposed/dismisssed since establishment of Consumer Commissions till July 2019.



Consumer Commissions across the city display a trend of disposing cases in favour of the consumers. Overall, the success rate of complaints filed in State Commission or District Commission in Bengaluru is 51.8 per cent, while the decisions against the consumers are at an average of 24.3 per cent and those dismissed on ‘technical grounds’ are an average of 23.9 per cent. For appeals filed in the State Commission, the success rate of complainants is 57.8 per cent, while 15.8 per cent of the decisions were against the consumers. Dismissal on “technical grounds” averages at 26.4 per cent for complaints filed in State and District Commissions and 15.8 per cent for the appeals in State Commission respectively.

Dismissal due to technical grounds refers to the cases dismissed due to procedural errors and other technicalities such as the party not filing rejoinder etc. High percentage of dismissals due to technical grounds disregard the purpose for which the Consumer Commissions were established.³⁸

Workload Distribution

Table 3: Overall filing, disposal and pendency of applications till July 2019.

Consumer Commissions	Filing	Disposal	Pendency
State Commission			
State Commission – Complaints	7622	5516	2106
State Commission – Appeals	54168	45841	8327
State Commission – Total	61790	51357	10433
District Commission			
Bangalore Urban	29776	29092	684
Bangalore Rural	769	758	11
Bangalore Urban I Addn.	12247	11826	421
Bangalore Urban II Addn.	11838	11429	409
Bangalore Urban III Addn.	8292	7667	625
Bangalore Urban IV Addn.	7996	7392	604
District Commission – Total	70918	68164	2754

The table above highlights the overall number of filings, disposals and pendency in the Consumer Commissions from their establishment till July 2019. The high inflow of cases in the State Commission and its limited capacity resulted in the pendency figures for the State Commission rising to 10433 cases pending as on 31 July 2019, most of which were Appeals.

Although the Bangalore Urban and four additional District Commissions have the same bench strength, filing numbers show irregular distribution of workload between them. In the five-year period from 2013 to 2017, the Bangalore Urban District Commission and Bangalore Rural and Urban I Additional District Commission dealt with 1.5 times the number of cases filed in Bangalore Urban II Additional District Commission and Bangalore Urban IV Additional District Commission.

Figure 5: Cases filed in District Commission located in Bengaluru between 2013 and 2017.



Filing Analysis

An evaluation of the filings in the form of complaints and appeals provides an understanding of the quantity, type and nature of disputes that reach the Consumer Commissions. It provides an estimate of the expected workload

³⁸ *Vibha Bakshi v. Gruhashilp Constructions* (2019) 6 SCC 489

per year and assists in devising resource management strategy to address concerns ailing the Consumer Commissions.

Complaints filed by ‘party in-person’

The statement of object and reasons of the Consumer Protection Act, 1986 states that the Act seeks to promote and protect consumers’ right to be heard and right to seek redressal, in a cost-effective manner. To further this objective, consumers are allowed to approach the Commissions in-person and file complaints, doing away with the need for representation through advocates (authorized agents).³⁹

Rule 7 of the Karnataka Consumer Protection Rules, 1988 states “Every appeal preferred under section 15 (of the 1986 Act) shall be presented by the appellant or his authorized agent to the State Commission in person or be sent by registered post addressed to the Commission.”⁴⁰ Further, The Consumer Protection Regulations, 2005 mandate the Consumer Commissions to give “proper respect and courtesy to party appearing in person” and forbid them to “insist upon parties to engage advocates”.⁴¹

In *C. Venkatachalam v. Ajitkumar C. Shah*, the Supreme Court discussed the legislative intent to allow a party to appear personally or through an agent as opposed to through an advocate. In respect of the rule allowing such representation, the court observed that such a rule prevents the consumers from being burdened with intricate procedures and heavy professional fees, and often the disputes under the 1986 Act involve claims for small amounts of money which makes engagement of advocates economically unviable.⁴² While the Act allows for the complainants to appear in person, our study indicates that not many consumers were utilising this option.

Table 4: Number of complaints with party in-person appearance between 2013 and 2017.

Year	Bengaluru Urban	Bengaluru Rural & Urban I Addn.	Bengaluru Urban II Addn.	Bengaluru Urban III Addn.	Bengaluru Urban IV Addn.	State Commission-Appeals	State Commission-Complaints
2013	93	2	36	0	124	14	6
2014	123	23	63	7	76	78	15
2015	188	113	117	7	54	44	19
2016	136	7	73	0	3	55	20
2017	69	18	70	26	48	81	22

There has been high variation in the frequency of in-person filings across the years. The irregularities in the case data entry for the District Commissions might be a reason for the same. A significant number of the case entries in the District Commissions do not provide details as to whether the complaint was filed in-person or not. However, the issue was less prominent in the cases filed in the State Commission.

Out of 12145 complaints filed across District Commissions in Bengaluru between the period of 2013 and 2017 only 1476 (12.2 per cent) complaints were represented by party in-person. In the same period, out of 13109 appeals and complaints filed in the State Commission, only 354 (2.7 per cent) were represented by party in-person.

³⁹ Consumer Protection Act 1986, s 12; Consumer Protection Act 2019, s 36.

⁴⁰ Karnataka Consumer Protection Rules, 1988, r 7.

⁴¹ Consumer Protection Regulations 2005, rr 26(3), 26(4).

⁴² *C. Venkatachalam v. Ajitkumar C. Shah* (2011) 12 SCC 497

The data shows heavy dependency on advocates and agents by the consumers. Such dependency intensifies in State Commission, indicating that consumers tend to prefer advocates and agents in high value disputes.

The Consumer Protection Regulations, 2005 issued by the National Consumer Dispute Redressal Commission provide for arrangements to make Consumer Commissions friendly for the consumers. To ensure that the complainants are at ease in the Commissions, the rules indicate that the dais for the bench should be less than 30 cm in height.⁴³ However, the arrangement of Consumer Commissions situated in Bengaluru mimics the arrangement of a court hall, keeping the ‘intimidating aura’ of traditional courtrooms intact and making it difficult for consumers to approach the Consumer Commissions on their own.

Even though the 1986 Act and rules framed under the Act allowed consumers to avail their rights without involvement of advocates, the Consumer Commissions have certainly failed to build confidence in consumers to represent their own cases.

District-wise filing of appeals

A study on the number of appeals filed per district has helped us to understand the extent of access to the State Commission from districts across Karnataka. This data was analysed to determine whether proximity to the State Commission is a factor in exercising the right of appeal given under the 1986 Act.

Figure 6: The number of appeals filed from the District Commissions in Bengaluru.

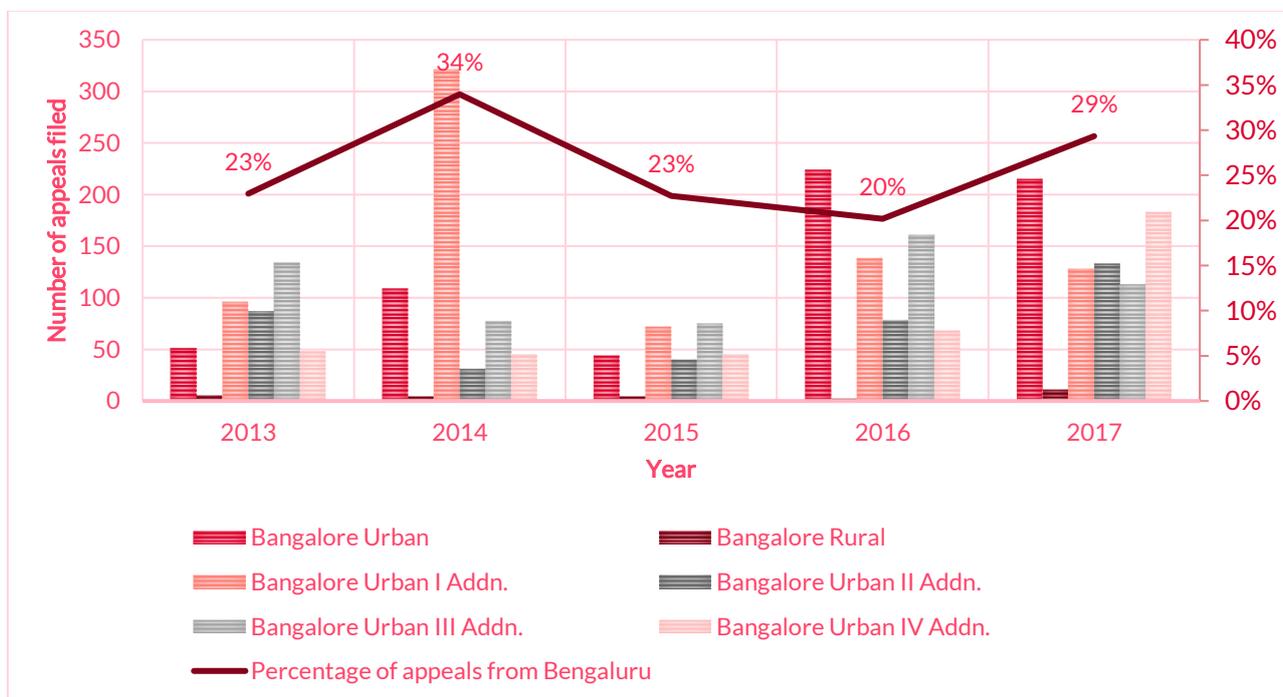
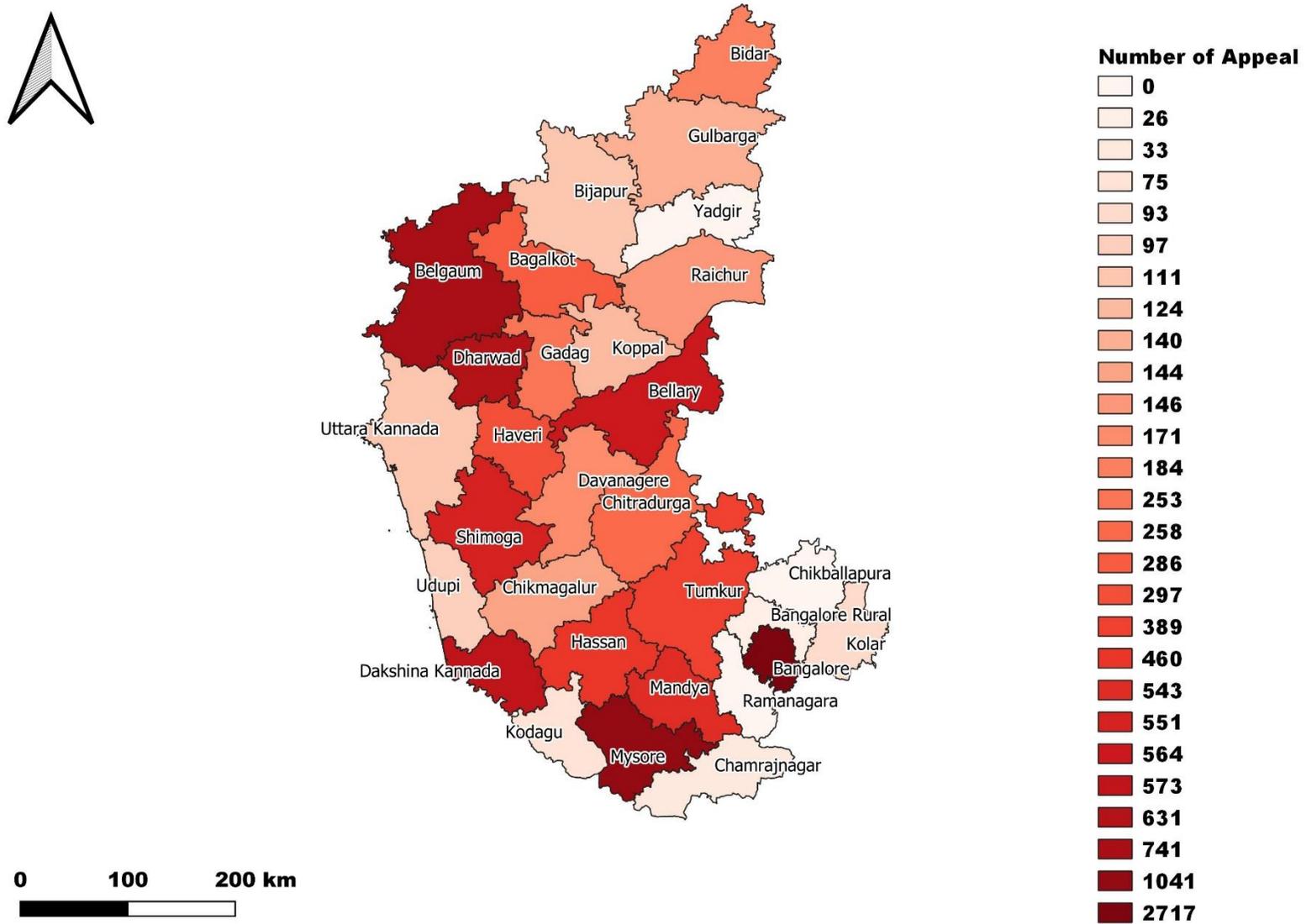


Figure 6 shows a rise in the number of appeals at the State Commission in Bengaluru. Over a course of five years, the number of appeals from the six District Commissions in Bengaluru have increased by 86 per cent (421 to 723 appeals), as against a 46 per cent increase (1,834 to 2,669 appeals) in the overall number of appeals filed in the State Commission. Between 2013 and 2017, more than one-fourth of the appeals filed in the State Commission (25.41 per cent) were from the District Commissions located in Bengaluru. The heat map below shows the number of appeals filed in the State Commission between 2013 and 2017, from districts across Karnataka.

⁴³ Consumer Protection Regulation 2005, reg 3

Figure 7: District-wise number of appeals filed in Karnataka State Consumer Dispute Redressal Commission from 2013 to 2017.



The figure above highlights the number of appeals from districts across Karnataka between 2013 and 2017. The location of appellate body in Bangalore has indeed benefitted parties in Bengaluru and nearby districts to approach the State Commission. The appeals from districts located near Bengaluru, such as Mandya, Hassan, Tumkur (Tumkuru) and Mysore (Mysuru) are substantially higher than districts in the north like Bijapur (Vijayapura) and Gulbarga (Kalaburagi).

The distance to the appellate Commission plays an important role in access to justice. Factors such as travel cost, travel time, difficulty in approaching lawyers from Bangalore, the cost of hiring legal services in Bengaluru, etc. disincentivise parties from other districts to approach the State Commission.

Disposal Analysis

The Consumer Protection Regulations, 2005 require a Consumer Commission to dispose at least 75 to 100 cases per month.⁴⁴ However, in comparison to the number of cases being filed per month in the State Commission, which is approximately 225, a target of 75-100 disposals is simply not enough. Therefore, the regulations need to be amended to accommodate the growing caseload. This sub-section analyses the disposal of complaints and appeals filed in the State Commission and District Commissions across Bengaluru. The aim is to arrive at an ideal number of disposals that these Commissions should target, based on a scientific case-data analysis, and thereafter identify the gap in capacity to fulfil such targets.

Disposals exceed timelines contemplated in the Act

The 1986 Act envisages a time-bound disposal of disputes. It states that both the State Commission and the District Commissions should dispose complaints filed before them, within “*three months from the date of receipt of notice by the respondent party where the complaint does not require an analysis or testing of commodities, and within five months where the complaint requires such testing*”.⁴⁵ The Act also provides for expeditious hearing of appeals and prescribes a timeline of 90 days for disposal of appeals. However, the Commissions seldom adhere to these provisions.

Out of all the cases disposed since establishment of Consumer Commissions till July 2019, 66.4 per cent of complaints and appeals filed in the State Commission and 65.3 per cent of the complaints filed in District Commissions located in Bengaluru took more than five months for their disposal.

Case disposal likely in the first two years of filing

To highlight the time it takes for disposal of a complaint, we studied the five years’ filings and disposal figures at the Consumer Commissions in Bengaluru between 2013 and 2017.

⁴⁴ Consumer Protection Regulations 2005, r 19(1).

⁴⁵ Consumer Protection Act 1986, ss 13(3A), 18.

Figure 8: Year-wise disposal of cases filed in Consumer Commissions.



The figure above displays the percentage of total number of cases disposed, which have been categorised by the year since the filing of the case. The graph shows that most disposals occurred in the first two years of filing of the case. The graph indicates that 70 to 85 per cent of the total number of disposals in the five-year analysis period (2013 to 2017) happened in the first two years.

The numbers in the State Commission highlight that even though disposal of appeals is most likely to take place in the first year of filing itself, complaints however are more likely to be disposed of in the second year after the filing. A comparison of disposal of appeals and complaints in the State Commission highlights that complaints take significantly more time for disposal than appeals. Against 56.0 per cent of appeals, only 14.7 per cent of complaints are disposed in first year of filing. One of the reasons for such trend might be the high number of pending appeals in the State Commission leading to prioritisation of appeals over complaints.

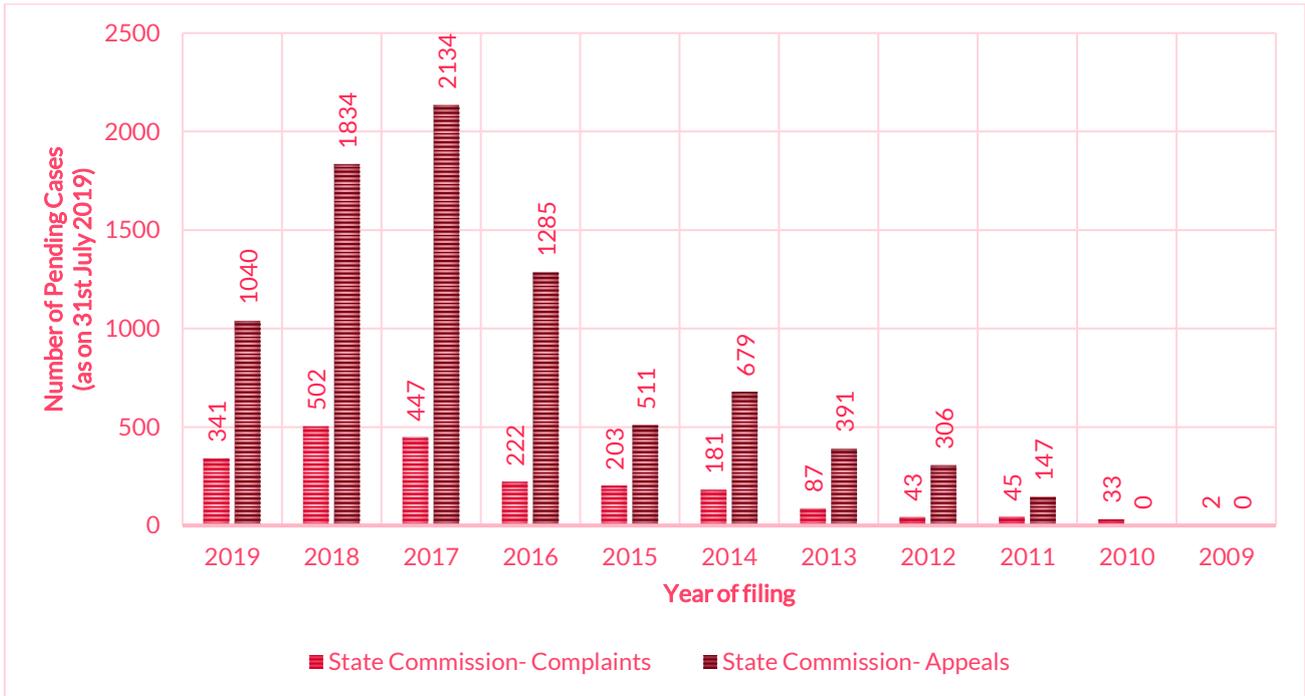
Pendency Analysis

This sub-section analyses the cases pending in the Consumer Commissions of the state and the six District Commissions located across Bengaluru. The section studies pendency percentage of cases after every year since their filing and analyses the Backlog Creation Rate (BCR) and Pendency Clearance Time (PCT) for the Consumer Commissions. This analysis provides a comprehensive picture of the pending complaints and appeals at the Commissions.

Age of Pending cases

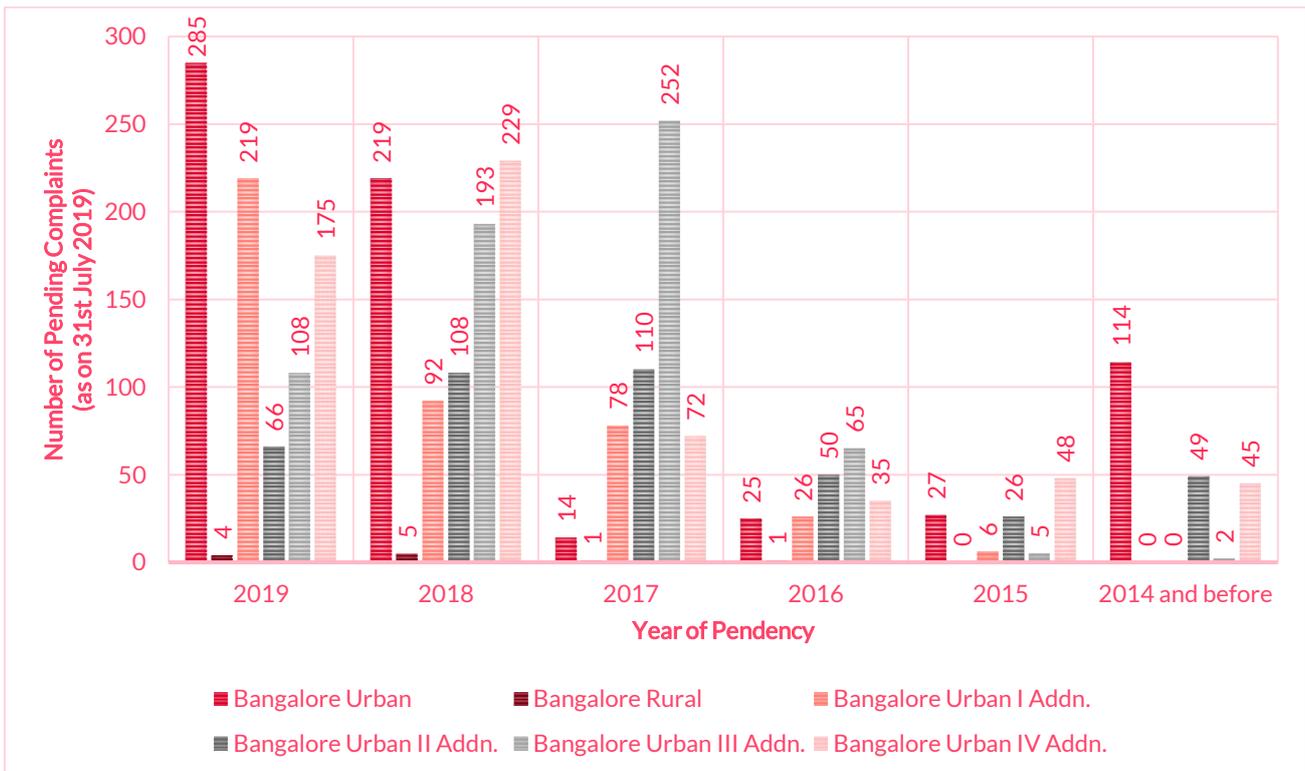
As per the statistics report prepared by the State Commission, as on July 2019, a total of 10,433 complaints and appeals were pending in the State Commission. The study of these pending appeals and complaints filed in State Commission based on their year of filing shows the extent to which these cases have been delayed and are practically stuck in the system.

Figure 9: Pending complaints and appeals in Karnataka State Consumer Dispute Redressal Commission categorised based on the year of filing (as on 31 July 2019).



The figure above indicates that 64.3 per cent of pending cases are those which were filed before 2018. A total of 5,463 appeals and 1,263 complaints have been pending for more than one and a half years.

Figure 10: Pending complaints in District Commissions categorised by the year of filing (as on 31 July 2019).



The graph above shows that even though the pendency in District Commissions is low when compared to the State Commission, the age of pending cases is still concerning. Out of 2,754 complaints pending in the Consumer Commissions in Bengaluru, 1,051 (38.2 per cent) complaints were filed before 2018.

Pendency Percentage

We studied the case data from 2013 to 2015, to analyse the pendency percentage of the total cases filed after every year of filing. As per the 1986 Act, all complaints filed should be disposed within 3 to 5 months from the date of receipt of notice by the respondent party. Further, S. 19A provides for the disposal of appeals within ninety days of admission. However, data indicates that these timelines are not being adhered to in practice.

Figure 11: Year wise pendency percentage of the cases filed in 2013.

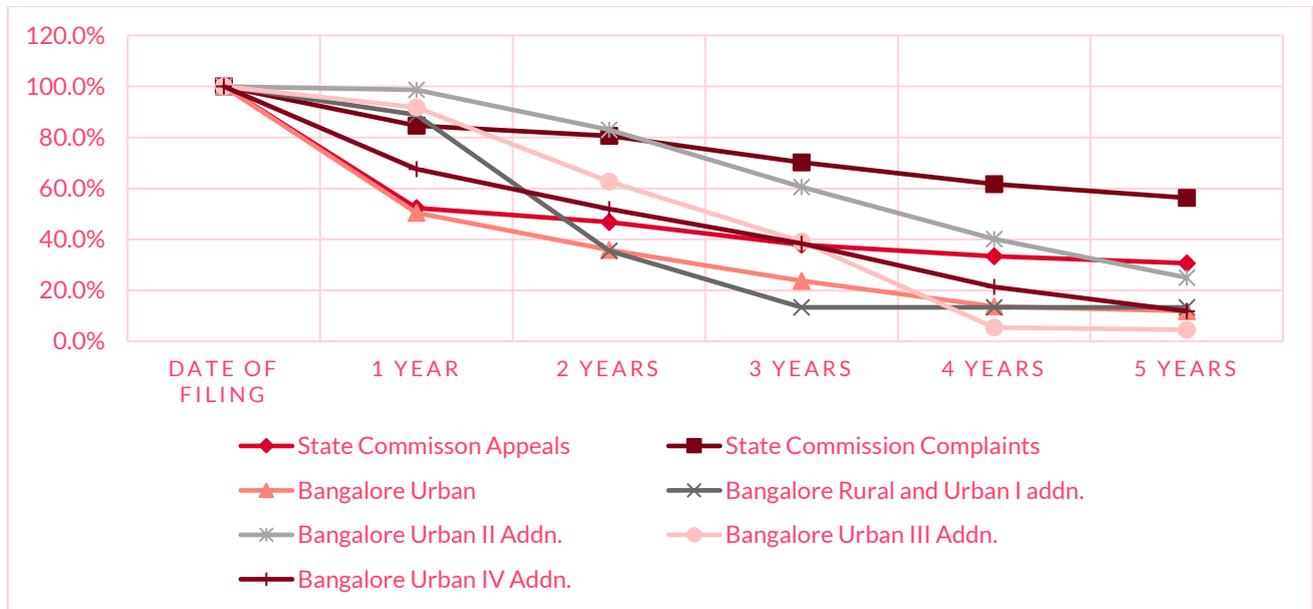


Figure 12: Year wise pendency percentage of the cases filed in 2014.

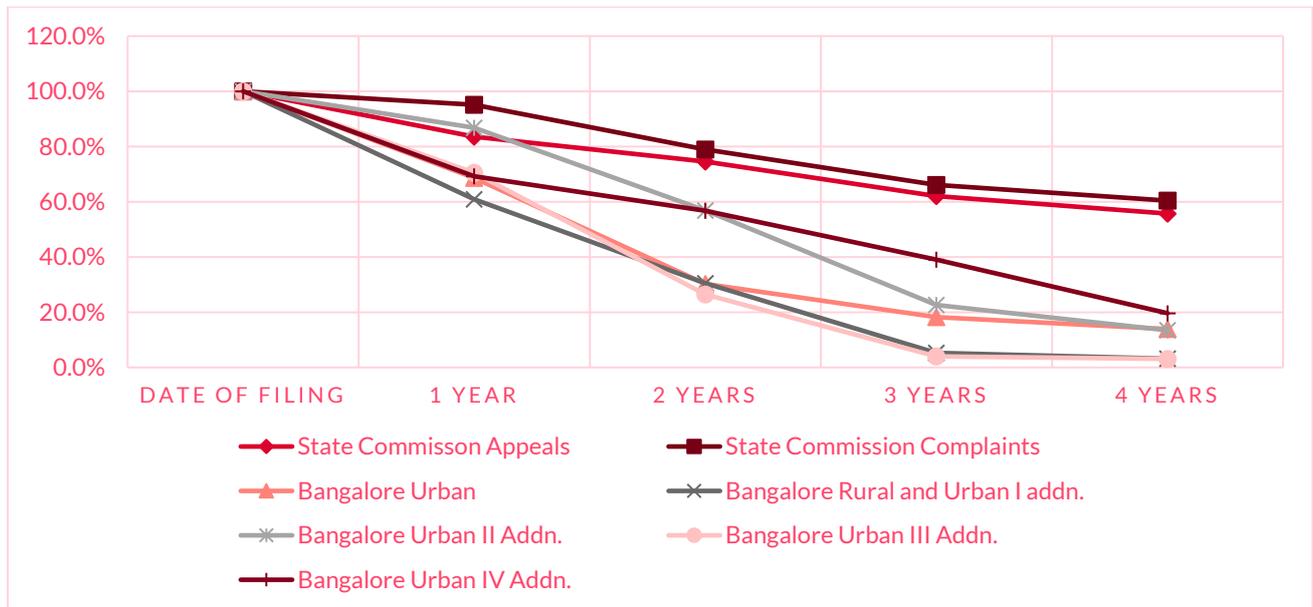
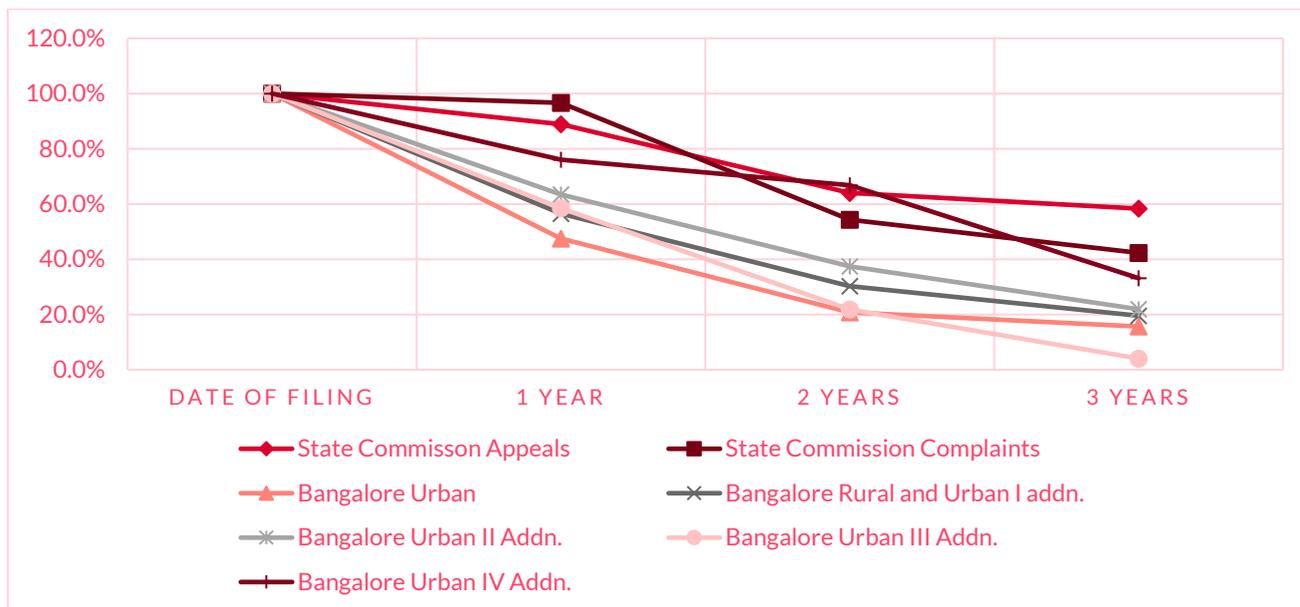


Figure 13: Year wise pendency percentage of the cases filed in 2015.



The graphs above show a year-wise drop in the pendency of cases filed in 2013, 2014 and 2015 respectively. The figures indicate high pendency numbers across the Consumer Commissions even after two years of filing. Consistently, the State Commission’s performance is worse than the six District Commissions. In the case of the cases filed in 2013, even after five years, 56.3 per cent of the complaints and 30.7 per cent of the appeals have remained pending at the State Commission.

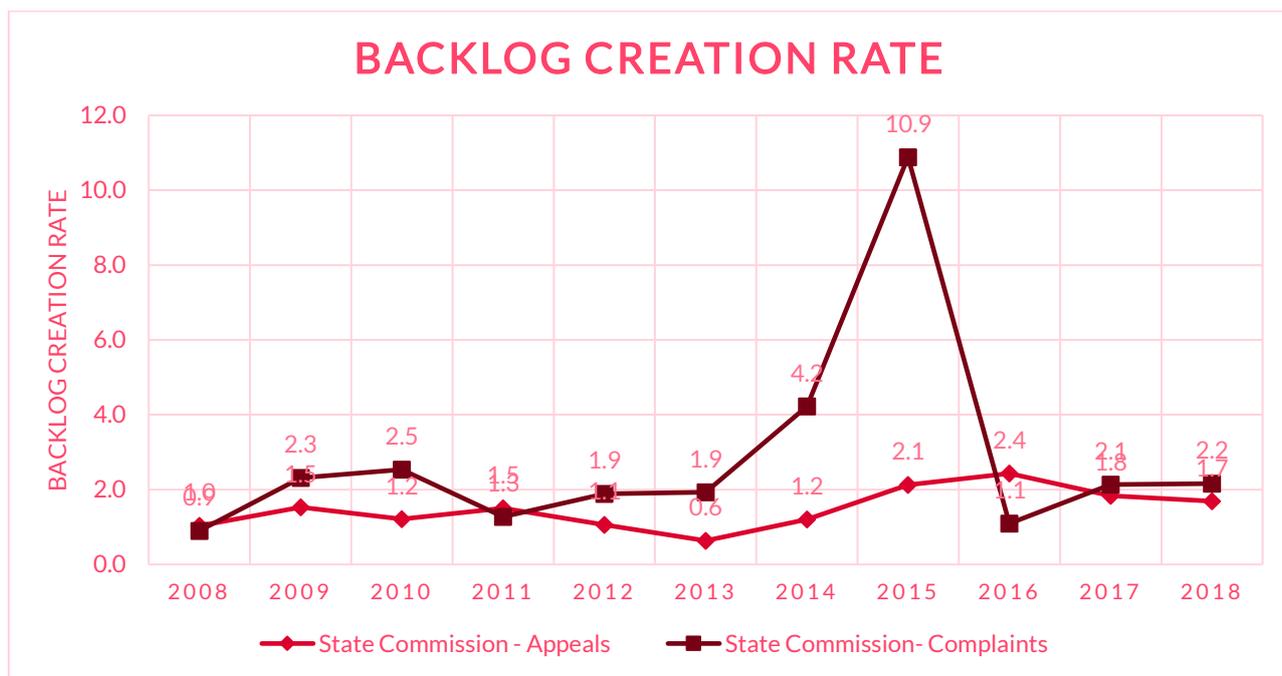
Further, in the cases filed from 2013 to 2015 analysed above, the pendency curves for Bangalore Urban, Bangalore Urban III Addn. and Bangalore Rural and Urban I Addn. show a comparatively better rate of disposal of cases over years. Analysis of cases filed in 2014 and 2015 at the Bangalore Urban III Addn. District Commission indicate that more than 95 per cent of the cases which were filed were disposed within the third year of filing.

Backlog Creation Rate

Backlog Creation Rate is a ratio of the number of cases filed to the number of cases disposed in any particular year.⁴⁶ BCR above 1 indicates that the number of cases filed is more than the number of cases disposed. On the other hand, BCR below 1 indicates that the Commission has been able to handle the fresh filings efficiently and the number of disposals in a year are more than the number of cases filed; indicating greater likelihood of backlog clearance. We analysed the BCR for the State Commission in order to understand the high pendency figures and the factors leading to the same.

⁴⁶ Law Commission of India, *Arrears and Backlog: Creating Additional Judicial (wo)manpower* (Law Com No 245, 2014) 13 <<http://lawcommissionofindia.nic.in/reports/Report245.pdf>> accessed 20 September 2020

Figure 14: Backlog Creation Rate for Karnataka State Consumer Dispute Redressal Commission.



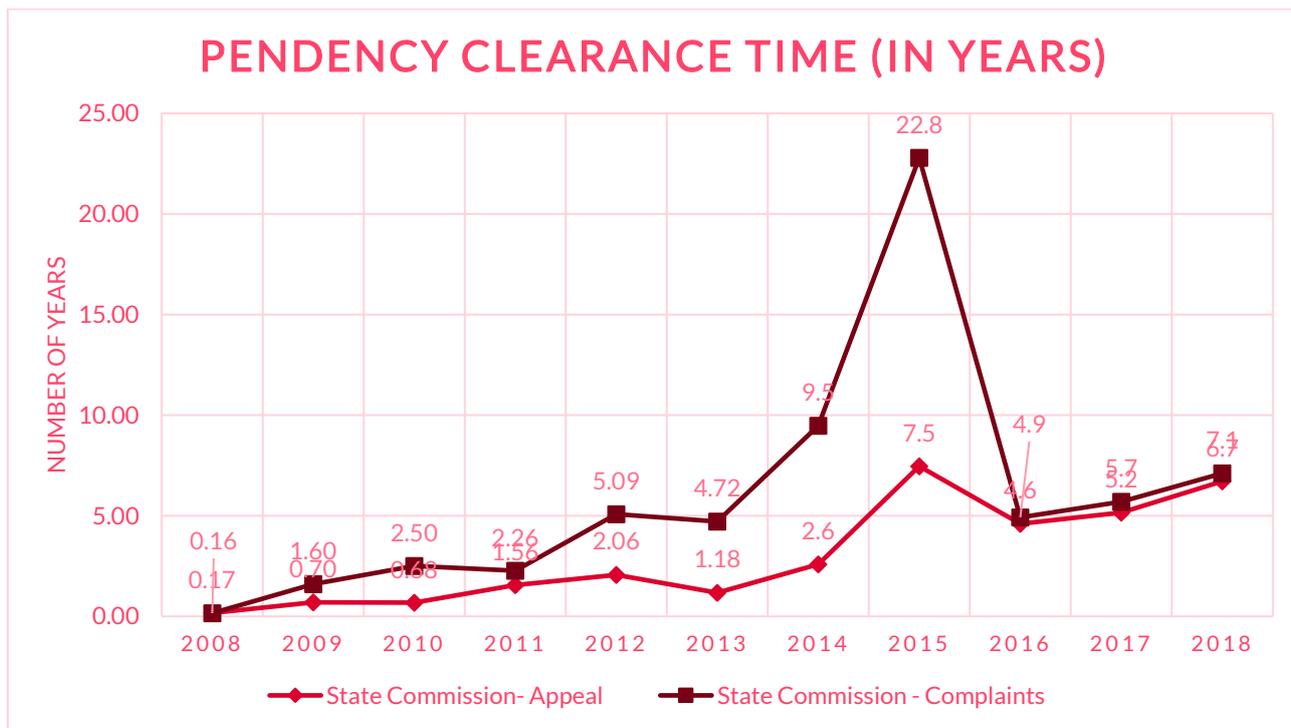
The figure indicates that the State Commission has been disposing lesser cases than the number of cases filed, thereby increasing the backlog of cases pending with the Commission. Except in 2008 and 2013, the BCR for the appeals filed in the State Commission remained significantly above 1. The rate rose beyond 2 from 2015 and 2016, indicating that more than twice the number of appeals were filed in comparison to the number of appeals disposed in those years.

Further, the BCR for complaints raises some serious concerns. For most part of the last decade, the BCR for the complaints has remained above 2, adding a significant number of complaints to the backlog. In 2014, the number of complaints filed in the State Commission was more than 4 times the number of complaints disposed; the ratio increased to more than 10 in the following year, 2015. The data analysis above indicates a serious lack of capacity in the State Commission to deal with its caseload, resulting in extreme delay and increasing backlog of cases.

Pendency Clearance Time

Pendency Clearance Time (PCT) refers to the time that will be taken by a court or a tribunal to clear all the pending cases, if no new cases were to be filed. It is calculated by dividing the pendency at the end of the year by the disposal in that year. Pendency clearance time provides an understanding of how the court deals with the already existing backlog of cases. An analysis of the backlog of cases in the State Commission indicates that there is a requirement of additional resources to ease the backlog burden on the State Commission.

Figure 15: Pendency Clearance Time for the State Commission.



The graph above highlights the rise in pendency at the State Commission in the last decade.

The PCT has increased from less than 0.2 to around 7 in a period of 10 years. The constant rise in PCT is a worrying trend, as it indicates the lack of capacity in the State Commission to handle the already existing backlog, while adding additional cases to the backlog year after year.

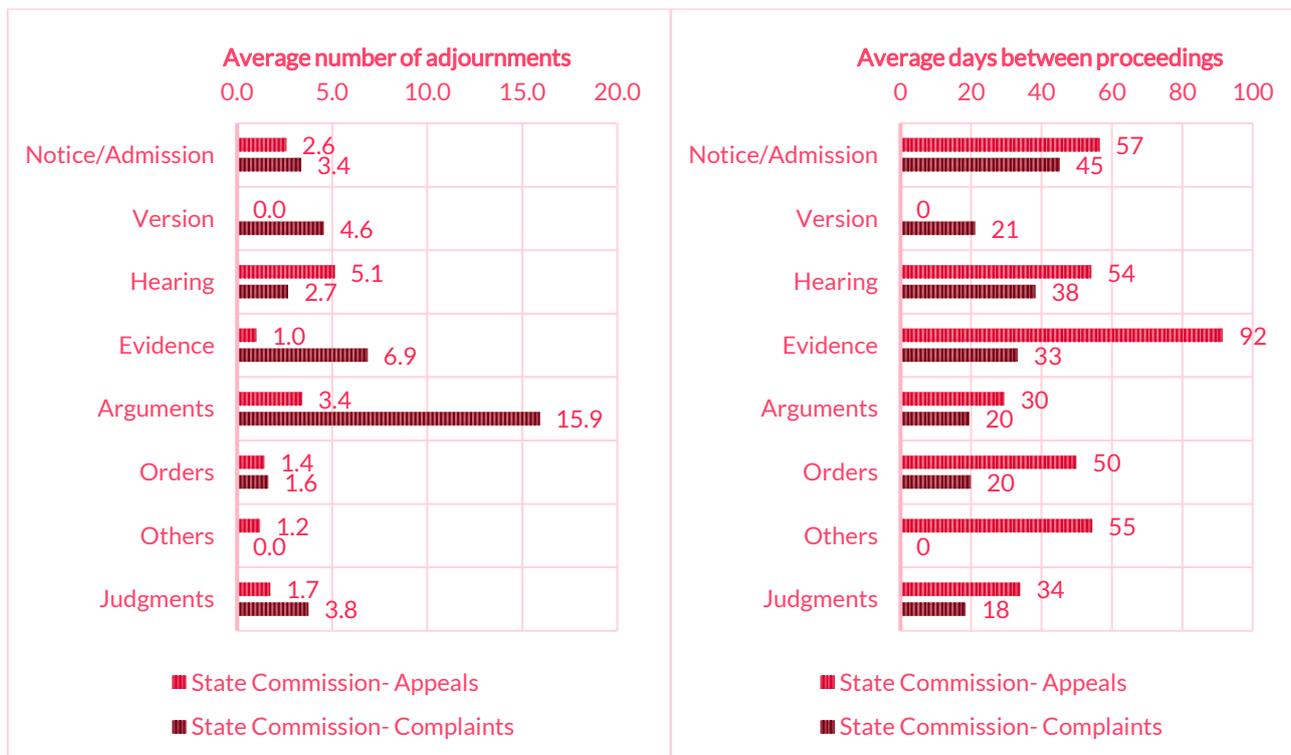
Considering the pendency and disposal of cases in the year 2018, it will take more than 6 years for the State Commission to dispose of all the pending appeals and more than 7 years to dispose all the pending complaints if no new appeals and complaints were to be filed. Such high PCT indicates that the State Commission is in dire need of additional resources – both in terms of infrastructure and personnel, to bring down the pendency figures.

Stage-wise adjournment analysis

The Consumer Protection Act, 1986 provides that no adjournments shall be ordinarily granted unless a sufficient cause is shown by the parties.⁴⁷ It also provides that the reasons for adjournments should be recorded in writing for both complaints and appeal hearings. We studied the adjournments granted in cases filed between 2013 and 2017 that were disposed of by 31 July 2018 to see if these provisions are being implemented. In addition, we also computed the number of days between the hearings at the same stage to understand the lifecycle of the cases filed at the District Commissions across Bengaluru and the State Commission.

⁴⁷ The Consumer Protection Act, 1986, ss 13(3A) & 19A.

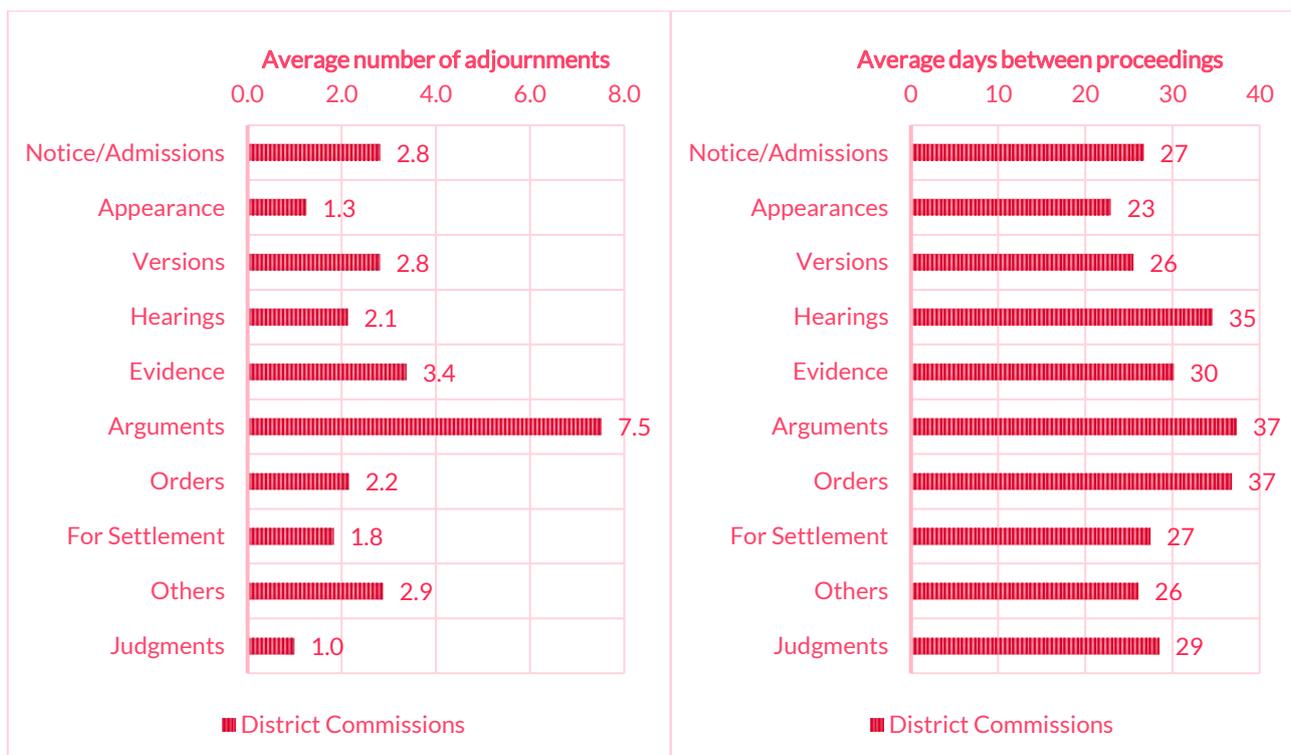
Figure 16: Average number of adjournments per stage (left) and average days between hearings per stage (right) at the Karnataka State Consumer Dispute Redressal Commission.



The figure above indicates that the arguments and evidence stages witness the highest number of adjournments in the complaint proceedings in the State Commission. The average of 15.9 adjournments at the arguments stage and 6.9 adjournments at the evidence stage highlights the reasons behind slow disposals of complaints in the State Commission. The average number of adjournments granted in appeals is lesser than in complaints. In appeals, the arguments and hearing stages account for most of the adjournments with an average of 3.4 and 5.1 adjournments per case.

However, even though the number of adjournments is lesser for the appeal proceedings, the time taken to complete each stage raises concerns. The analysis indicates that on an average, around three months are spent between each hearing in the evidence stage. The days spent between the hearings exceed six weeks for all the stages, except for the arguments stage. Further, for complaints, the State Commission spends more than six weeks on an average between the proceedings at the notice/admission stage.

Figure 17: Average number of adjournments per stage (left) and average days between hearings per stage (right) for the six District Commissions located in Bengaluru.



The figure above shows the average life cycle of a consumer complaint filed before the District Commissions located in Bengaluru. In the District Commissions, the arguments stage witnesses most of the adjournments, with 7.5 adjournments per case. Further, the interval between two proceedings across the stages averages between three to six weeks. The analysis shows that arguments and orders proceedings take the greatest number of days between two proceedings, averaging at 37 days.

Our data shows that 421 complaints and 131 appeals filed between 2013 and 2017 in the District Commissions and the State Commission situated in Bengaluru, witnessed 300 or more days between two proceedings. The Commissions need to introspect to understand the reason for such time taken between proceedings, leading to extraordinary delays.

Category-wise case analysis

This section contains an analysis of the subject matter of disputes filed before the Commissions, to understand their impact on the disposal and pendency trends. The categories analysed include disputes concerning insurance, housing, banking, road transport, airlines, telecom, postal, electricity, medical and defective household goods.

Category wise filing of complaints and appeals

Analysis of the complaints and appeals filed per category revealed that housing, insurance and banking disputes were the most litigious categories across Commissions. We analysed the complaints filed since the establishment of these respective Commissions till 31 July 2019 to calculate the percentage breakup of the filings per category.

Figure 18: Percentage of complaints and appeals filed under Housing, Insurance and Banking (since the establishment of the Commissions till July 2019).

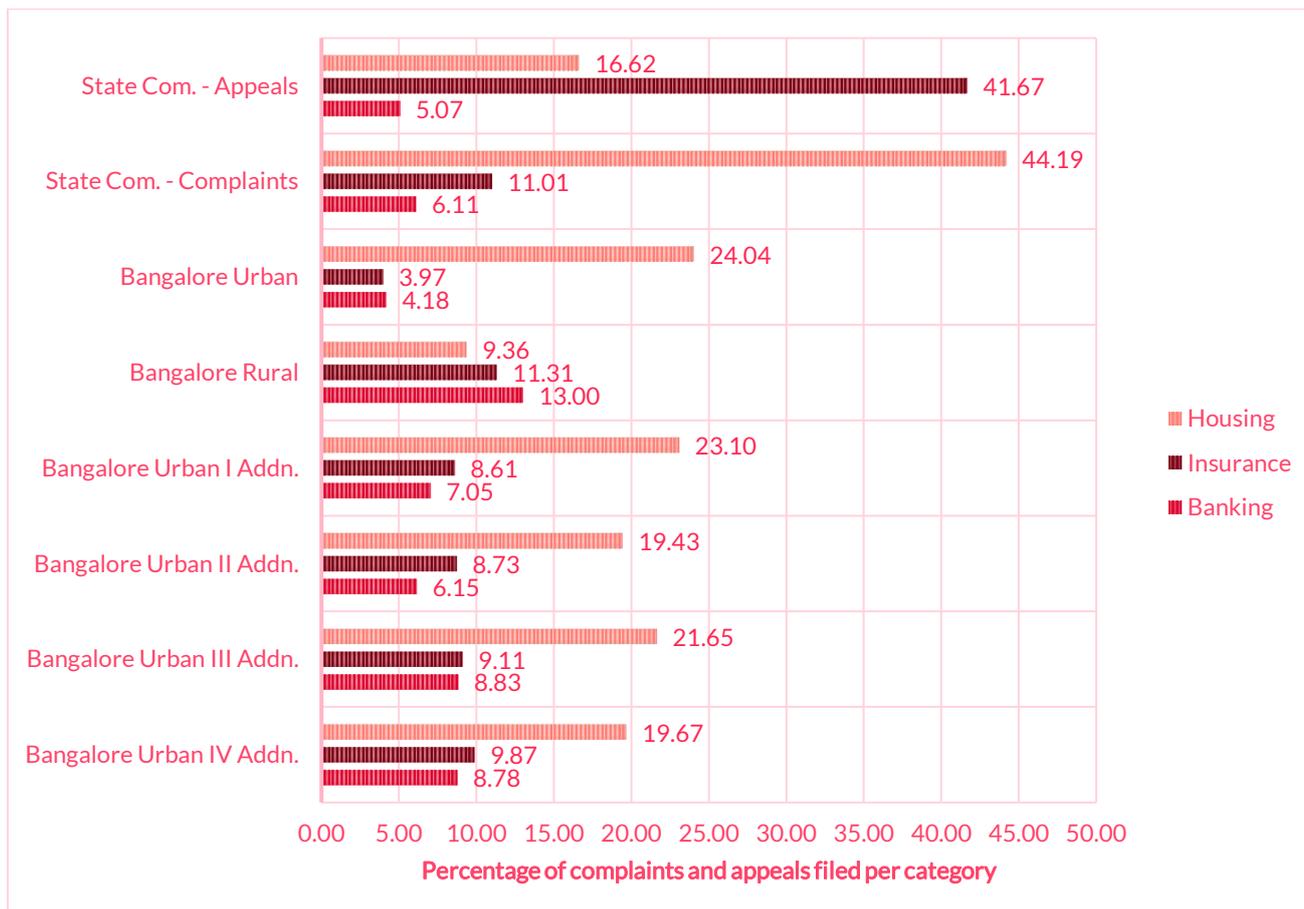


Figure 18 displays the heavy concentration of housing, insurance and banking disputes across all the District Commissions and the State Commission. Further analysis shows that one out of every five complaints filed before the respective Commissions relates to housing sector. The rapid urbanization of the city has led to a massive expansion of housing sector.⁴⁸ Such expansion might have contributed to an increase in housing disputes.

On the other hand, the State Commission has been clogged by insurance disputes, with the same comprising of 41.7 per cent of the total appeals filed.

For each of the three categories of disputes highlighted in the graph, the central government has provided for sector-specific dispute resolution mechanism. The RERA Tribunal,⁴⁹ Insurance Ombudsman,⁵⁰ and Banking Ombudsman⁵¹ have been instituted with the objective of addressing consumer disputes in housing, insurance and banking sectors respectively. Even though the RERA Tribunal has been set up recently, the Banking Ombudsman and Insurance Ombudsman were established in 1996 and 1999 respectively. However, due to inefficiency and frequent vacancies,⁵² these dispute resolution fora have failed to attract consumer confidence, resulting in consumers preferring Consumer Commissions for dispute resolution.

⁴⁸ Gita Aravanmudan, 'Evolution of Bangalore: From Garden City to Silicon Valley, how immigrants made the city their own' (*FirstPost*, 28 July 2019) <<https://www.firstpost.com/living/evolution-of-bangalore-from-garden-city-to-silicon-valley-how-immigrants-made-the-city-their-own-7050821.html>> accessed 24 December 2019.

⁴⁹ Real Estate (Regulation and Development) Act 2016, s 71.

⁵⁰ Insurance Ombudsman Rules 2017.

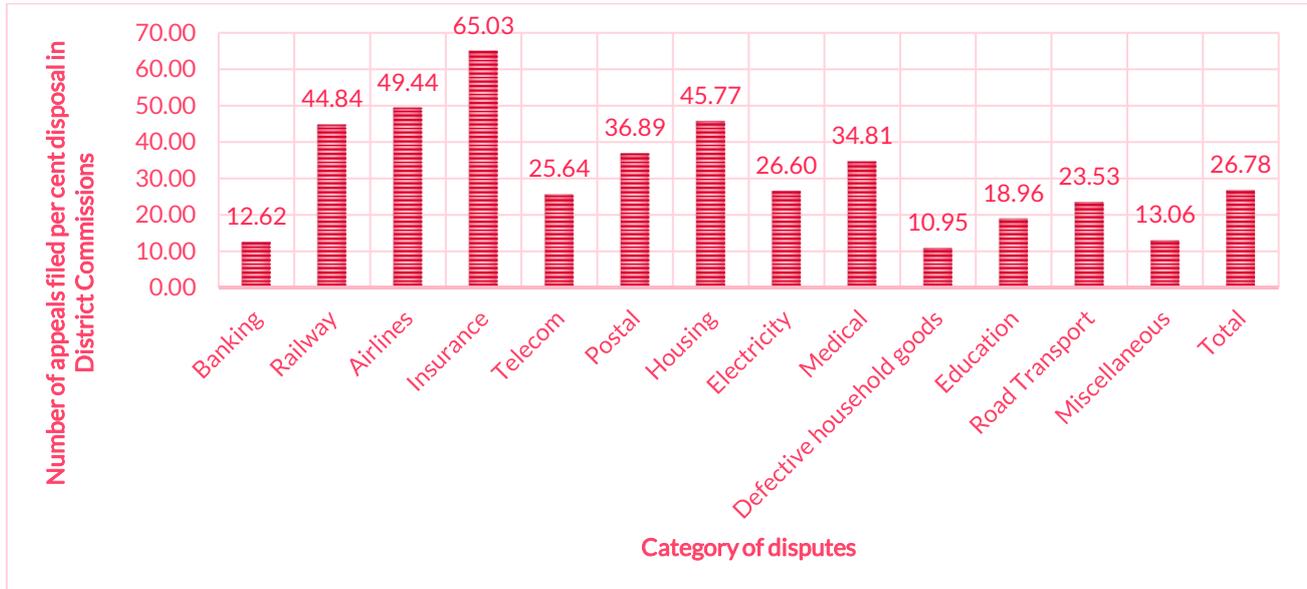
⁵¹ Banking Ombudsman Scheme 2009.

⁵² Aditya Ranjan, 'Modi govt's FDI push won't cover up inefficiency in insurance sector - or help consumers' (*The Print*, 13 September 2019) <<https://theprint.in/opinion/modi-govt-s-fdi-push-wont-cover-up-inefficiency-in-insurance-sector-or-help-consumers/290812/>> accessed 10 December 2019; Sucheta Dalal, 'Banking Ombudsman is not working' (*Moneylife*, 18 February 2014) <<https://www.moneylife.in/article/banking-ombudsman-is-not-working/36391.html>> accessed 10 December 2019

Frequency of appeal

We analysed the filing of appeals per category against the total number of cases disposed per category by District Commissions across Karnataka till 31st July 2019. To understand the frequency of appeals, we studied the number of appeals filed per hundred disposals in the District Commissions for respective categories.

Figure 19: Number of appeals filed per cent disposal in District Commissions.



The figure above shows a category-wise trend in filing of appeal by the aggrieved party. On an average, 27 out of every 100 disposed complaints in District Commissions of Karnataka are filed as appeals at the State Commission. However, the variation in some categories of disputes raises concerns. Categories like insurance, housing, airline and railway disputes show a significant increase in frequency of appeal. Three out of every four insurance disputes decided by District Commissions have been challenged before the State Commission. Domination of small number of firms in insurance and airline sector already make consumer protection a pressing issue.⁵³ High frequency of appeals raises questions regarding protection of consumer rights and the access to justice for consumers are often going up against corporates who are better equipped to deal with the costs involved.

The data collected by State Commission provides an insight into the consumer protection issues in various sectors.

However, a large number of complaints remain unclassified (classified as 'miscellaneous'). 50.12 per cent of the total number of complaints filed in the District Commissions have been classified as miscellaneous. Even though the data collection is better in the State Commission, about one-fourth of the complaints and appeals that are filed are classified as miscellaneous. This highlights the need to rethink the manner in which cases are categorised under different subject matters.

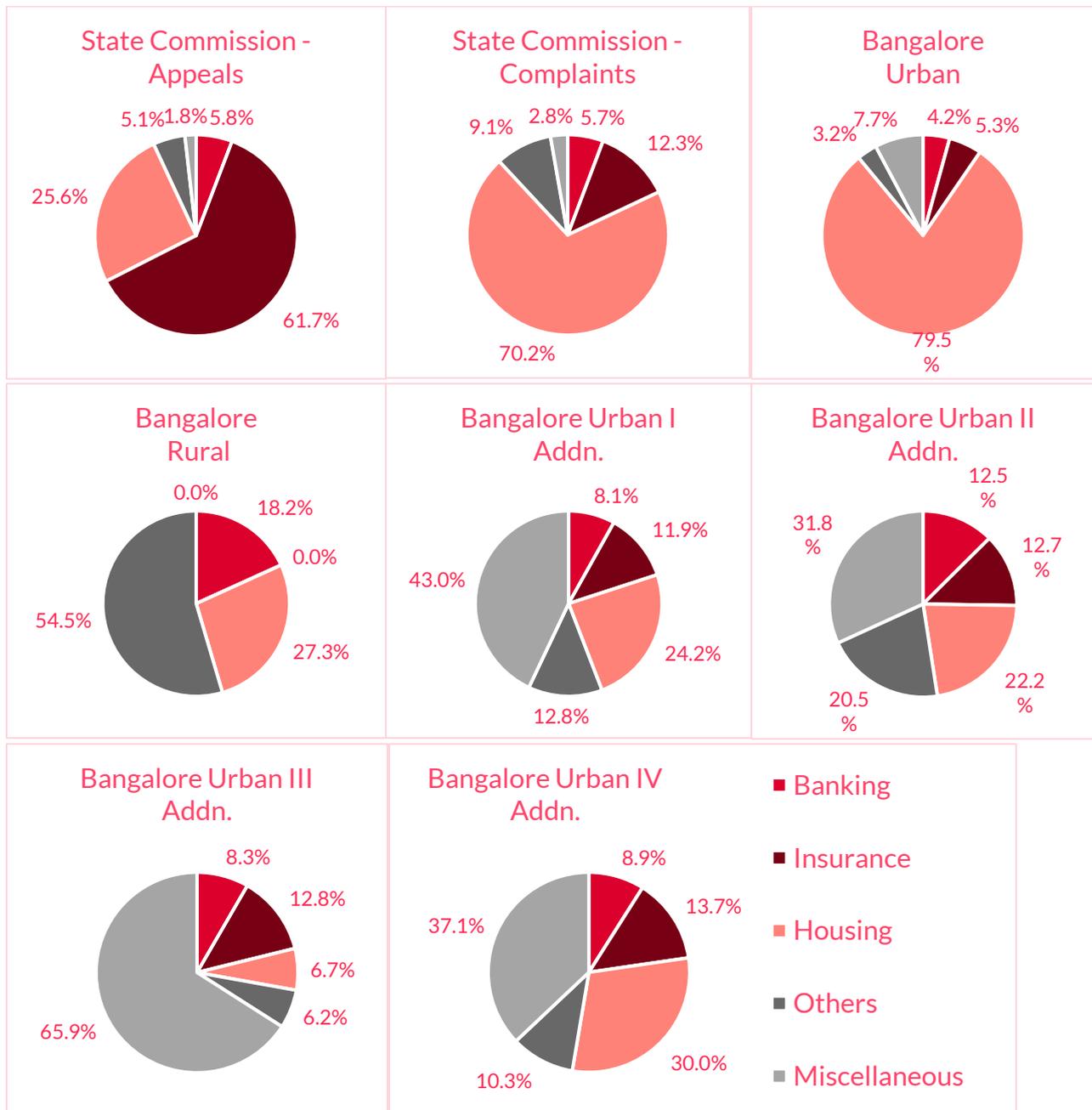
Information regarding the number and nature of disputes will equip these Commissions to deal with their existing workload and plan strategically for the future. Given the high volume of cases being categorised under miscellaneous category, it is important that the administration personnel reconsider the nomenclature of different case categories. Additionally, the staff in-charge of such categorisation should be given required training to avoid losing granular information related to the cases.

⁵³ Director General of Civil Aviation, Domestic Traffic Report (November 2019) 5; Insurance Regulatory and Development Authority of India, Annual Report (2018-2019) 10

Pendency per category

We further analysed the pendency percentage of the complaints and appeals filed per category as on July 2019. This analysis provides the category-wise breakup of the pendency numbers in the Consumer Commissions and ascertains whether a particular category requires special attention to bring down backlog.

Figure 20: Category-wise percentage of pending complaints and appeals in Consumer Commissions (as on July 2019).



The figure above highlights the category of disputes that constitute a large part of the pendency in the Consumer Commissions under study. Across the Commissions, banking, insurance and housing disputes constitute most of the pending complaints and appeals. Insurance disputes constitute 61.7 per cent of all the appeals filed at the State Commission. On the other hand, housing dispute comprises of 70.2 per cent of all the complaints filed in the State Commission. Also, 79.5 per cent of the pending complaints at the Bangalore Urban District Commission are housing disputes.

The high incidence of cases related to insurance, banking and housing disputes, shows that in the absence of effective industry specific dispute resolution mechanisms, such complaints are finding their way to the Consumer

Commissions. On the other hand, lack of capacity in the Consumer Commissions is further exacerbating problem, which is having a cascading effect on other categories of disputes.

Execution Applications

The 1986 Act provides for the enforcement of orders under S. 25 and 27. It gives the Commissions the power to recover the decree amount from the land arrears of the judgment-debtor⁵⁴ and imposes penalty on the judgment-debtor in case of defaults.⁵⁵ We studied the execution applications filed in the Consumer Commissions in Bengaluru and the State Commission between 2013 and 2017. Over the period of five years, there has been an exponential rise in the number of execution applications filed per year.

Figure 21: Number of Execution Applications filed per year in the State Commission and District Commissions located in Bengaluru.



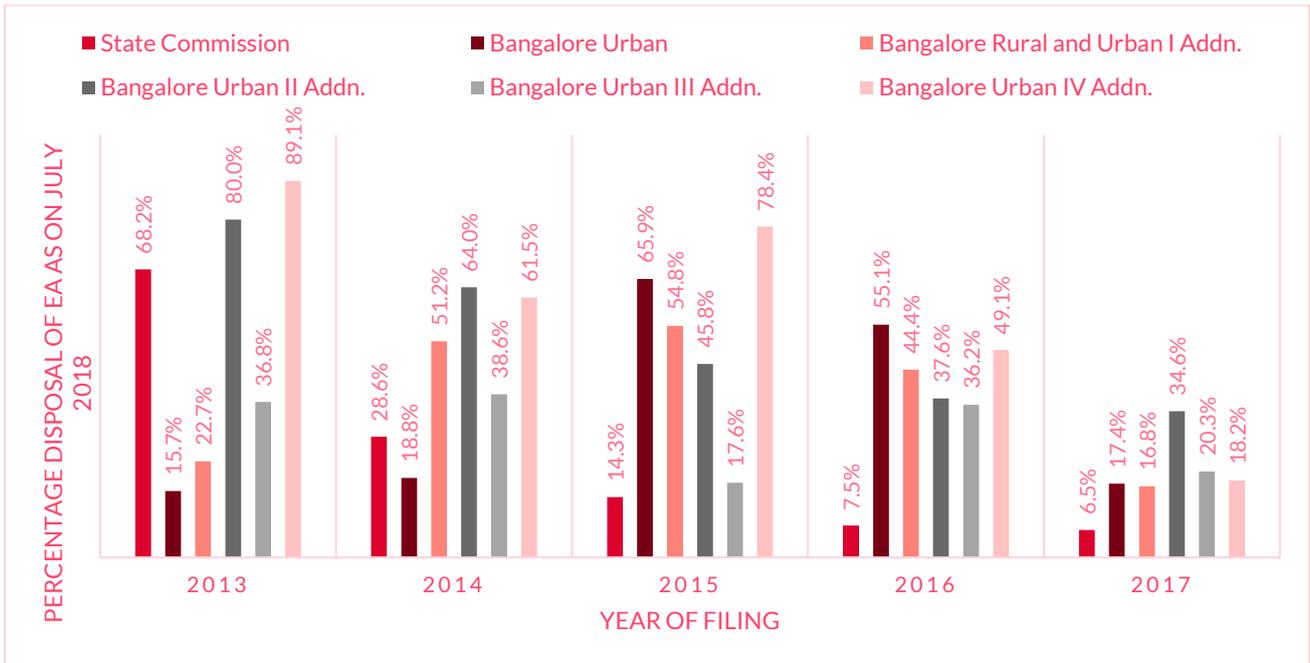
The figure above points to a 287 per cent rise in the filing of execution applications (EA) in Consumer Commissions across Bengaluru (six District Commissions and the State Commission) from 2013 to 2017.

During this period, 2,426 EAs have been filed in six District Commissions located across Bengaluru and the State Commission. Out of these 2,426 applications, only 844 were disposed as on July 2018. The slow disposal rate in the enforcement of orders further delays justice to the parties involved. The figure below highlights the disposal of EAs in each District Commission and the State Commission.

⁵⁴ Consumer Commission Act 1986, s 25.

⁵⁵ Consumer Commission Act 1986, s. 27.

Figure 22: Percentage disposal of Execution Applications as on July 2018.



The graph above highlights low disposal rates of EAs across the Consumer Commissions analysed. Further analysis shows that out of 288 EAs filed across six District Commissions in 2013, only 124 (43.1 per cent) applications were disposed as on July 2018. A disposal rate of less than 50 per cent after five years of filing, displays the inefficiency of the Commission to enforce the orders passed by them. This leads to legal proceedings lasting for years and contributing to the burden on these forums.

The delay in disposal of EAs further compromises the rights of the decree holder who has already contested a long complaint proceeding to attain a favourable order. Such delay in enforcement erodes the confidence that a consumer has in these fora. Consequently, years of pendency in enforcement will impact the outlook of consumers with respect to these dispute redressal mechanisms.

KEY TAKEAWAYS:

- Between 2013 and 2017, the Bangalore Urban District Commission and Bangalore Rural & Urban I Additional District Commission dealt with 1.5 times the number of cases filed in Bangalore Urban II Additional District Commission and Bangalore Urban IV Additional District Commission.
- In the State and District Commissions located in Bengaluru, only 7.2 per cent of disputes filed between 2013 and 2017 were represented by party in-person. Dependence on advocates intensifies in the State Commission when compared to the District Commissions.
- Between 2013 and 2017, 25.41 per cent of the appeals filed in the State Commission were from the District Commissions located in Bengaluru.
- Considering the pendency and disposal of cases in the year 2018, it will take more than 6 years for the State Commission to dispose of all the pending appeals and more than 7 years to dispose all the pending complaints if no new appeals and complaints were to be filed.
- Adjournments of complaint proceedings are the highest at the argument stage. On average a complaint gets adjourned at the arguments stage 15.9 times in State Commission and 7.5 times in the District Commission.
- In the year 2013, out of the 288 Execution Applications filed in the Consumer Commissions situated in Bengaluru, only 124 (43.1 per cent) were disposed by July 2018.
- Amongst the cases filed at Consumer Commissions situated in Bengaluru most disputes relate to housing, insurance and banking.

Enforcement of Orders

The power of Consumer Commissions to enforce orders is provided under S. 25 and S. 27 of the Consumer Protection Act, 1986. As discussed earlier, the number of execution applications in Consumer Commissions across Bengaluru has increased exponentially between 2013 and 2017. Most of these applications were filed in District Commissions and concerns low cost disputes. This section attempts to unravel the process of enforcement of orders through an Execution Application. An understanding of the process will help us to simplify the enforcement procedure and prevent consumers from another cumbersome process after years of litigation.

Process of Enforcement

The process of enforcement of order involves three different authorities,

- (i) **the Consumer Commission**
 - a. issues summons and warrants for appearance of the judgment-debtor,
 - b. issues “Non-Satisfactory Certificate” to the District Collector for recovery of the amount due as per the order, as arrears to the land revenue as per S.25 of the Consumer Protection Act, 1986,
 - c. punishes for non-compliance with orders of the Commission as per S.27 of the Consumer Protection Act, 1986.
- (ii) **the Police** executes the warrants issued by the Consumer Commission. The correspondence from the Consumer Commission goes directly to the Police Commissionerate. The Commissionerate then forwards the file and assigns the task to the concerned Police Station.
- (iii) **the District Administration** executes the certificate for recovery of amount. On receipt of the certificate, the District Collectorate forwards the office memorandum to the concerned Talukdar under whose jurisdiction the property is located. The Talukdar then collects the amount as arrears to the land revenue.

The efficient working and co-ordination between these three authorities is quintessential for the existing system to ultimately deliver justice to consumer in a convenient manner. However, the interviews revealed that the coordination between authorities is an issue given the capacity constraints in the different bodies. This results in high pendency of execution applications and ultimately delays justice delivery.

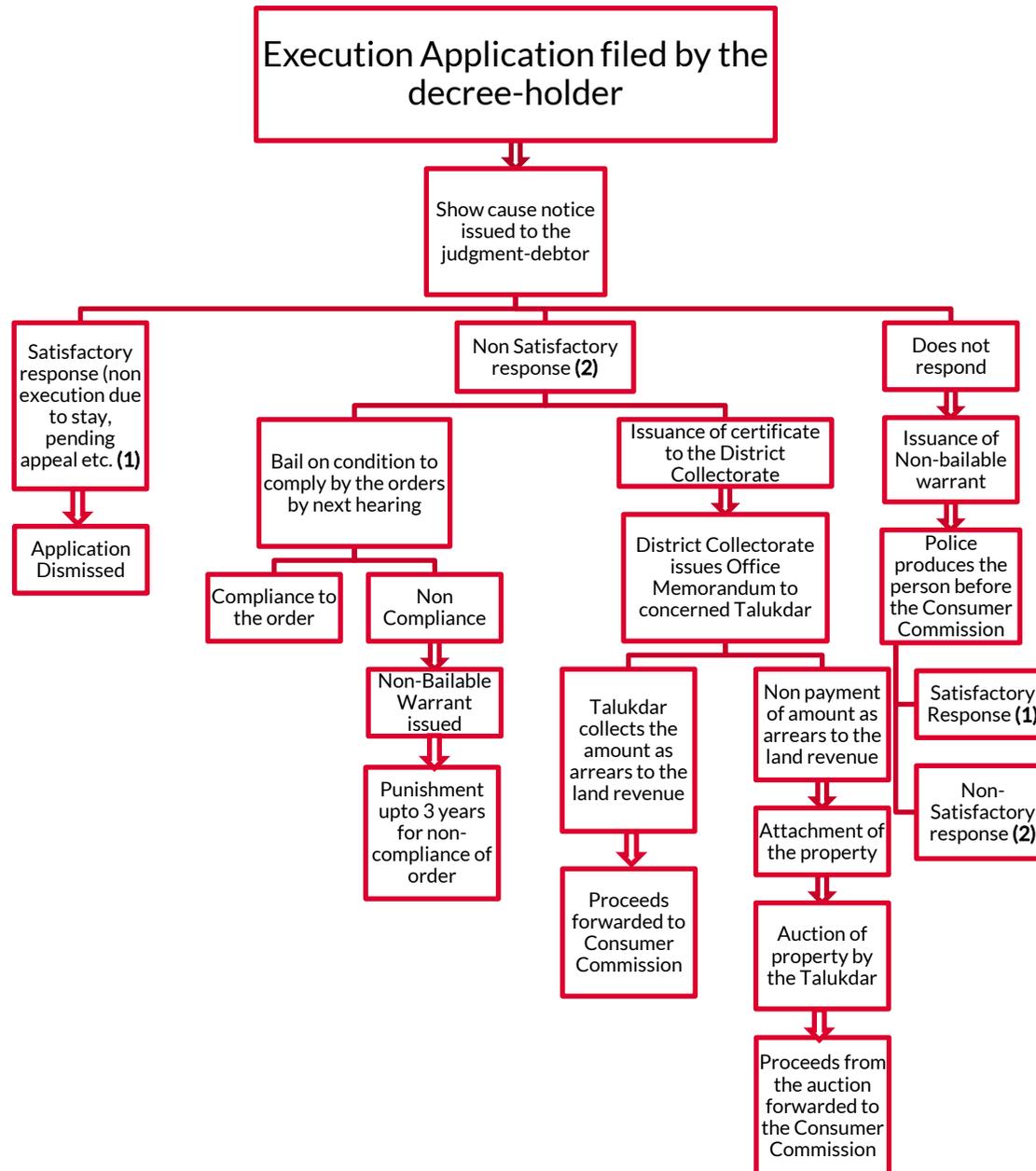
The Consumer Protection Act, 2019 has changed the procedure for enforcement of orders. As per the 2019 Act, Consumer Commissions have the same powers as vested in civil courts under Order XXI of the Code of Civil Procedure, 1908.⁵⁶ However, these changes do not address the major factors behind the inordinate delays in enforcement of orders, i.e., the concerns regarding co-ordination and capacity with the authorities. In Civil Courts, a dedicated staff including nazirs and bailiffs are responsible for execution of powers as per Order XXI of the Code of Civil Procedure.⁵⁷ However, no such provision for dedicated staff is provided under the 2019 Act to efficiently execute the extended enforcement powers. Further, the introduction of civil court procedures will lead to an increase in intricate procedures.

The flow chart given below explains the enforcement process followed by the Consumer Commission after the execution application is filed (as it existed before the 2019 amendments). It remains to be seen whether expanding powers of these Commissions will ensure timely enforcement of orders.

⁵⁶ Consumer Protection Act 2019, s 71.

⁵⁷ Delhi High Court Rules, vol 1 ch 12 <http://delhihighcourt.nic.in/writereaddata/upload/courtrules/courtrulefile_e6va2gcv.pdf> accessed 20 September 2020

Figure 23: Enforcement Process post filing of Execution Application



Administration of the Consumer Commissions

The President and members of the Consumer Commissions are entrusted with the adjudicatory function to provide time-bound and accessible justice to the consumers. To complement efficient justice delivery, the administrative staff provides essential functions, such as case load management, scheduling, inspection of District Commissions, preparation of accounts, taking dictations etc.

Administrative staff contributes significantly to the efficient working of the Commission. They assist all the key stakeholders, such as parties to the dispute, lawyers and judges. In fact, Justice (Retd.) Madan Lokur referred to court staff and registry as “*the backbone of the system*”, whereby the “*efficiency of a Court depends upon them (administrative staff), much more than anyone would care to admit.*”⁵⁸

Recruitment and functions of the Administrative Staff

The Karnataka Consumer Protection (State Commission and District Forum) (Cadre and Recruitment) Rules, 2003, govern the recruitment of administrative staff in the Consumer Commissions across the state of Karnataka. The rules also specify the minimum qualification for the positions as well as the number of posts.

The appointments for most of the administrative positions in Consumer Commissions across Karnataka are made through the Karnataka Public Service Commission. However, stenographers and typists are appointed by the President of the State Commission as per the rules. The rules also provide for promotion through the ranks. The details of recruitment and functions of the administrative staff at Consumer Commissions in Karnataka are provided in Annexure I.

Strength of Administrative Staff

As on 31 August 2019, 90 per cent of the sanctioned strength in the State Commission and 84 per cent of the sanctioned strength in the Consumer Commissions located in Bengaluru were filled. Although, vacancies in the administrative staff positions are not alarming, the registry and administrative staff were of the view that the determined sanctioned strength is not enough to meet the demands of the system. The interviews underscored the need for more stenographers and typists for District Commissions in Bengaluru.

Interestingly, the sanctioned strength of administrative staff differs across the Additional District Commissions. Even though all the Additional District Forums have the same bench strength, the sanctioned strength of administrative staff is 8 in Bangalore Urban II Additional District Commissions and 11 in Bangalore Urban III Additional and Bangalore Urban IV Additional District Commissions.

The responses from the administrative staff emphasised on the lack of capacity which make functioning of the Commission difficult, especially when some officers are on leave. The details of the strength of administrative staff in the Consumer Commissions located in Bengaluru is provided in Annexure II.

Listing of the stage of proceedings

During the case-data analysis of the State Commission and the six District Commissions located in Bengaluru, we have identified irregularities in terminology used for listing of the stage of proceedings for complaints and appeals.

⁵⁸ Justice Madan B. Lokur, ‘Case Management and Court Administration’ (Law Commission of India International Conference on ADR and Case Management, New Delhi, May 2003) <http://lawcommissionofindia.nic.in/adr_conf/Justice_Lokur.pdf> accessed 24 December 2019

Analysis of five-year case-data from 2013 to 2017 across the Consumer Commissions located in Bengaluru identified 102 different terminologies used for listing of the stage of proceeding.

Such irregularities and lack of uniform listing practices across the Consumer Commissions complicates the proceedings for a lay person. Inclusion of intricate terminologies and proceedings compel consumers to engage advocates in the dispute resolution process which ultimately increases the cost of dispute resolution.

Further, the irregularities in listing of stages of proceedings create administrative hurdles. Use of multiple terms for the same function makes it hard to ascertain the time required by the Consumer Commission for each stage of the case. Such analysis is essential for better structuring of the cause list and to ensure that listed matters are not adjourned because of lack of time.

Role of Advocates in Consumer Commissions

The 1986 Act allows the parties to represent themselves or engage the services of an advocate. However, the involvement of advocates in dispute resolution process results in greater reliance on intricate procedures and heavy professional fee, making the dispute resolution process time-consuming and expensive for the parties. The involvement of advocates in the process has a circular effect which in turn disincentivises the consumers from approaching Consumer Commissions for dispute resolution.

Even though the Consumer Protection Regulations provide that Consumer Commission shall not insist upon parties to engage advocates,⁵⁹ the present structure heavily incentivises the involvement of advocates in the dispute redressal process. Often, in cases of consumer disputes, the opposite party is a corporate firm with a legal team to handle disputes. Further, the Consumer Commissions are headed by a judicial officer, and members from judicial background are well-acquainted and comfortable with the conventional court procedures. Even though the 1986 Act provides for appointment of members from non-judicial background,⁶⁰ such appointments are seldom made. These factors have resulted in a scenario where working of the Consumer Commissions increasingly resembles conventional court processes. This not only defeats the purpose of the Act, it also disadvantages consumers who come from low income backgrounds.

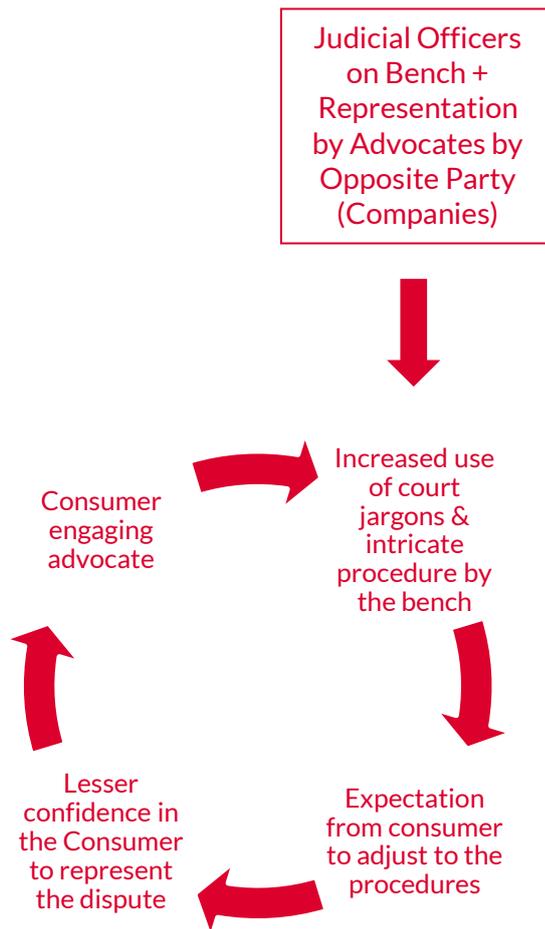
A study by Robert Moog found that the involvement of advocates in consumer dispute extends the duration of the case in a Consumer Commission.⁶¹ Further, he noticed no variation in the success rate of complaints when comparing complaints represented by the party in-person to representation through an advocate.

⁵⁹ Consumer Protection Regulations 2005, ss 26(3), 26(4).

⁶⁰ Consumer Protection Act 1986, s 10.

⁶¹ Robert MOOG, 'The View from Inside India's Consumer Fora: Empowering the Few' (2015) 2 AJLS 1

Figure 24: The vicious cycle of diminishing consumer autonomy in disputes.



Insights from the Interviews

The interviews of registry officials and the administrative staff of the State and District Commissions located in Bengaluru were conducted in two phases. The first set of interviews conducted in September, 2019 covered the administration of the State Commissions. The next set of interviews conducted in November-December, 2019 covered the Bengaluru District Commissions’ administration. We interviewed 14 members of administrative staff at different positions and 5 registry officials across the State and District Commissions.

Insights and concerns raised in these interviews are summarised below.

	<i>Present Situation</i>	<i>Interviewee's Concerns and Suggestions</i>
<i>Infrastructural requirements</i>	<p>The State Commission and District Commissions located in Bengaluru are functioning from rented buildings.</p> <p>The Karnataka State Consumer Dispute Redressal Commission is situated in Basava Bhawan in Vasanth Nagar, Bengaluru. The District Commissions are situated at two separate locations in Bengaluru. Bengaluru Urban District Commission is in Cauvery Bhawan while four additional branches of Bengaluru Urban District Commission and Bangalore Rural District Commission are in TTMC Building in Shanthinagar, Bengaluru.</p> <p>Adequate digital infrastructure, including computer systems and internet connection is available in the State Commission and the District Commissions in Bengaluru.</p>	<p>Major infrastructural concerns highlighted in interviews were:</p> <p><i>Karnataka State Consumer Dispute Redressal Commission:</i></p> <p>Cleanliness and pest control in record room and pending section of the State Commission is required.</p> <p><i>District Commissions:</i></p> <p>Requirement of a dedicated building with adequate physical infrastructure and cupboards for functions of the District Commissions.</p>
<i>Training the Administrative Staff</i>	<p>The administrative staff of the Consumer Commissions handles the functioning of the quasi-judicial body.</p> <p>Most of these staff are appointed through the Karnataka Public Service Commission and have no prior knowledge regarding the functioning of the Consumer Commissions. Interviews highlighted an absence of pre or post appointment training and orientation programme for the staff.</p>	<p>Suggestions from the staff includes:</p> <ol style="list-style-type: none"> 1. Pre-appointment training and orientation regarding the functioning of Consumer Commissions. 2. Refresher training in fixed intervals for the existing staff. 3. Training after promotion to a new position.

<p>Filing and distribution of complaints in Bangalore Urban District</p>	<p>All the disputes from Bengaluru Urban district are filed at Bangalore Urban District Commission premises located in Cauvery Bhawan, Bengaluru. These complaints are then distributed between the five District Commissions established for the district. The distribution of cases is done by the President of the Bengaluru Urban District Commission.</p> <p>The interviews of the administrative staff highlighted lack of scientific process for distribution of cases. The cases are generally distributed based on the week of filing. Sometimes, based on advocate's request a case is allotted to a specific District Commission for the convenience of parties to the dispute.</p>	<p>The distribution of complaints should be streamlined through rules to ensure that work is equally distributed between the District Commissions.</p>
<p>Co-ordination between Consumer Commissions and Police</p>	<p>The Consumer Commissions are provided with the powers of a civil court to summon and enforce the attendance of any defendant or witness. Such power is exercised by issuing warrants that are executed by the Police Department.</p> <p>The warrant of arrest issued by the Consumer Commission goes to the Police Commissionerate, who then forwards the same to the concerned police station. It is then the responsibility of the concerned police station to locate the person and serve the warrant.</p>	<p>The process of correspondence between the Consumer Commission and the concerned Police Station takes around 15 to 20 days.</p> <p>Further, often the police station is unable to locate the person. Such delay in producing the person before the Commission delays the entire dispute resolution process.</p>
<p>Co-ordination between Consumer Commissions and District Collectorate</p>	<p>District administration plays an important role in assisting the Consumer Commissions to enforce their orders. When the judgment-debtor fails to comply with the order, the Consumer Commission may issue a certificate to the District Collector to recover the amount as arrears to the land revenue.</p> <p>The District Collectorate then forwards the application to the Talukdar to recover the amount as arrears to the land revenue or in certain cases, attach the property for execution of the order.</p>	<p>The Consumer Commissions' is heavily dependency on the District Administration for execution of their orders. This dependence and internal functioning of the District Collectorate makes it difficult for the decree holders to monitor the enforcement process.</p> <p>Further, the District Administration, already burdened by other functions, often neglects this function which results in the delays.</p>

Table 5: Insights from Interviews.

Conclusion and Recommendations

The report analyses the overall functioning of the Consumer Commissions located in Bengaluru to highlight specific issues concerning their efficiency. Based on the analysis in the report, we suggest the following measures be adopted to improve the effectiveness of the Consumer Commissions in Bengaluru:

Improving the functioning of the Consumer Commissions

Dedicated days in State and District Commissions for specific dispute category

The category-wise filing and pending cases show that certain disputes clog the dispute redressal system more than others. The numbers reflect that three out of every five appeals pending in the State Commission are insurance disputes. Further, housing disputes constitute 22.18 per cent of the complaints filed and 34.97 per cent of the complaints pending in the District Commission.

To streamline the process of dispute resolution, it should be ensured that the existing capacity is used efficiently, specific days should be allotted for hearing of a specific category of disputes. Such practices will also help the advocates and consumers appearing in such disputes, as it will simplify the procedure.

Prioritisation of disposal of complaints in State Commission

Analysis of disposal trends reveal that appeals are disposed of faster than complaints in the State Commission. More than 85 per cent of the complaints remain pending even after first year of filing in the State Commission. In comparison, only 44 per cent of the appeals remain pending after one year of filing. The adjournment analysis highlights that the average number of adjournments granted in complaints is significantly more than in appeal. More adjournments in complaint proceedings may be a reason for slow disposal rate.

Considering this trend, the disposal of complaints should be prioritised by the State Commission to increase the disposal rate of complaints and to eliminate pendency.

Limiting adjournments

The study of case proceedings revealed that there are, on average, 15.9 adjournments at during arguments in the appeals filed at the State Commission and 7.5 adjournments during arguments in complaints being heard in the District Commissions. Adjournments unnecessarily prolongate the proceedings and should only be issued when necessary.

Our study of cases filed between 2013 and 2017 identified 421 complaints and 131 appeals with a delay of more than 300 days between two proceedings. In depth analysis of these cases will provide reasons for such delays or if the delay was reflected due to faulty data entry. The Consumer Commissions should ensure that not more than 50 days pass between two proceedings for each case. Further, if this is due to faulty data entry, the data entry operator should be trained and monitored to provide right data which will help accurate analysis of the functioning of Consumer Commissions.

Imposing penalty on adjournments: The Supreme Court in *Dr. J.J. Merchant v. Shrinath Chaturvedi* discussed the delays caused by adjournments in Consumer Commissions. The court opined, *"In any case, for*

avoiding the delay the District Forum or Commissions can evolve a procedure of levying heavy cost where adjournment is sought by a party on one or the other ground. This would have its own impact on disposing the complaints, appeals or revisions within the stipulated or reasonable time.”⁶²

Enforcing heavy cost on adjournments may present desired results. However, it might also adversely affect a consumer who seeks an adjournment for unavoidable reasons. Hence, the Consumer Commissions should take into account the reasons and financial capacity of parties while deciding upon the penalty for adjournments.

Written orders for adjournments: At the time of issuing adjournments, the cause for the adjournments must be provided in the order itself. The reason for adjournment should qualify as a sufficient cause mentioned under the 2019 Act. Such a practice will act as a check on frivolously granted adjournments.

Prioritising disposal of old disputes

The statistics as recorded on 31 July 2019 point out that 2034 appeals, 594 complaints filed on or before 2015 are pending with the State Commission and 332 complaints filed on or before 2015 are pending with the District Commissions located in Bengaluru. Such high pendency figures affect the public perception of the consumer dispute redressal structures.

Cases pending beyond four years should be prioritised to ensure that interests of consumers who have been awaiting justice for so long are protected.

Distribution of cases between Bangalore Urban Additional District Commissions

The structure of five District Commissions in Bangalore urban district provides for filing of complaints at one place, Bangalore Urban District Commission at Cauvery Bhawan. The complaints are then distributed amongst five District Commissions by the President, Bangalore Urban District Commission. There are no rules or guidelines to inform this process of work allocation.

The study of cases filed between 2013 and 2017 complaints are unevenly distributed between the District Commissions. This has resulted in a situation where Bangalore Urban District Commission and Bangalore Rural and Urban I Additional District Commissions handle 50 per cent more disputes in comparison to Bangalore Urban II Additional District Commission and Bangalore Urban IV Additional District Commission. The distribution of complaints should be streamlined through rules, to ensure that work is equally distributed between the five District Commissions.

Organising trainings for Administrative Staff

The interview of administrative staff across the Consumer Commission highlighted the requirement for training to make them better equipped to handle the administration of the quasi-judicial body. The interviews suggested that pre-appointment training, orientation and training after promotion to a new position should be organised for the administrative staff. Further, regular refresher trainings for the existing staff members should also be organised.

The administrative staff must be trained to aid and assist the consumers approaching the Commissions and to adopt consumer-friendly procedures in their functioning.

Increasing Access to Justice

Consumer Friendly Procedure

These Commissions were established with the objective of providing accessible and speedy dispute resolution structures for consumers. However, as we discussed earlier, the structure today is dominated by advocates and

⁶² *Dr. J.J. Merchant v. Shrinath Chaturvedi*(2002) 6 SCC 365

procedures mirror the ones in regular courts. This has resulted in single digit in-person filing of complaints and appeals.

In order to allow consumer participation in the process, we should reduce the hurdles in terms of procedural and structural requirements. The procedure of filing complaints should be simplified, and the procedural requirements should be distributed as hand-outs, displayed on a board and the website of the Consumer Commission.

Consumer assistance kiosks should be setup in each Commission, to provide necessary assistance and instructions to the consumers approaching the Commission. The kiosk should be tasked with handing out relevant material to consumers. Such small steps will help in building an accessible institution to serve consumers' interests.

Specific recommendations for the Consumer Commission to ensure consumer friendly procedures are provided in the text box below-

Table 6: Specific Recommendations for the Consumer Commission.

FOUR DO'S AND ONE DON'T- ENCOURAGING CONSUMERS TO ACCESS AND RECLAIM CONSUMER COMMISSIONS:	
DO'S	
1.	Create and maintain websites for District Commissions, with necessary information regarding the Consumer Commission, its functions and the details of case status for the complaints.
2.	Providing a simplified template for filing complaints on the website of Consumer Commissions and allowing e-filing of the complaints.
3.	Upload a Standard Operating Procedure for the complainants in the Consumer Commissions to guide them through the process of dispute resolution.
4.	Increasing the compensation provided to the consumers to provide for the economic cost incurred during representation of the dispute.
DON'T	
1.	Do not apply intricate procedures and court terminology in the dispute redressal process in the Consumer Commissions.

Establishment of Regional Benches for Karnataka State Consumer Dispute Redressal Commission

The State Commission had a total of 10,433 complaints and appeals pending as on 31 July 2019. The steady inflow of cases and the limited capacity with KSCDRC have increased the pendency five-fold over past ten years - from 2,148 appeals and complaints pending in 2009 to 10,433 in July 2019. Currently, Karnataka has the third highest number of pending consumer cases in the State Commissions after Uttar Pradesh (25,500) and Maharashtra (18,408).⁶³

Out of the pending cases, 64.5 percent are cases that were filed on or before 2017. Considering the pendency and disposal of cases in the year 2018, it will take more than 6 years and 8 months for the State Commission to dispose all the pending appeals and more than 7 years to dispose all the pending complaints, if no new cases were to be filed. With the resources and capacity available with the Karnataka State Commission, the current pendency will

⁶³ Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, *Annual Report (2018-19)* 43

be difficult to clear. It is suggested that personnel and physical infrastructure of the State Commission be significantly augmented to assist in timely disposal of cases at the Commission.

Further, a single bench of State Commission in Bengaluru creates hardships for the consumers from distant parts of Karnataka to approach the dispute redressal Commission. This is evident from the fact that lesser number of appeals are filed from northern districts of Karnataka, such as Gulbarga (140) and Bijapur (111).

An analysis of district-wise filing of appeals between 2013 to 2017 shows that the maximum number of appeals arise from the districts of Mysore (Mysuru), Bengaluru, Belgaum (Belgavi), Dharwad, Dakshina Kannada, Bellary (Ballari), Shimoga (Shivamogga) and Mandya.

To encourage consumers in far off districts to exercise their appellatory rights under the Act, it is recommended that five additional circuit benches be set up across Karnataka, in districts that have the highest concentration of appeals over the last five years. Further, by having a geographic and cluster-based distribution of cases, convenience to the appellants would be drastically improved, thereby reducing costs and ensuring speedier and more effective justice. **Hence, it is recommended that Circuit Benches be set up in Mysore (Mysuru), Shimoga (Shivamogga), Belgaum (Belgavi) and Bellary (Ballari).**

Some states have already established circuit benches given their size for eg. Rajasthan (which has 4 Circuit Benches in the districts of Bikaner, Jodhpur, Kota and Udaipur), Maharashtra (which has 6 Circuit Benches in Aurangabad, Kolhapur, Nagpur, Nasik, Pune and Amaravati), West Bengal (which has two Circuit Benches in Siliguri and Asansol), and Tamil Nadu (which has one Circuit Bench at Madurai).

In Karnataka, over 13,819 appeals and complaints have been filed over the last five years (2014 to 2018). With the number of appeals staying constant, adding 5 circuit benches in Karnataka would give approximately 2,764 cases per circuit bench, and an additional 400 appeals per bench per year, going forward. This will reduce the burden on the KSCDRC drastically and will provide a reprieve to Karnataka's consumers.

Online Dispute Resolution

The 2019 Act provides for the use of technology in the functioning of Consumer Commissions. The 2019 Act endorses e-filing⁶⁴ and hearing and examination through video conferencing⁶⁵ to make the process of dispute resolution convenient for the consumers. Further, the Act also provides for establishment of Consumer Mediation Cell in every Commission to adopt Alternate Dispute Resolution mechanisms for consumer disputes.⁶⁶

Implementation of these steps across the country will encourage consumers to engage with dispute resolution mechanisms and reduce the existing barriers to approach the Consumer Commissions. Integrating technology in the functioning of Consumer Commissions will take us a step closer to Online Dispute Resolution (hereinafter referred as "ODR") for consumer disputes in the country.

Many countries and jurisdictions are transitioning towards online dispute resolution for contract disputes, landlord/tenant matters, and disputes related to e-commerce transactions. Along with reducing the workload from the clogged conventional court structure, ODR offers an inexpensive and easily accessible dispute resolution mechanism for the parties involved. It also provides a dispute redressal mechanism without the legal intricacies, court charges and jurisdictional restrictions.

Recognising the potential of ODR, European Commission has established an ODR platform for all e-commerce related disputes.⁶⁷ All the e-commerce entities in Europe are required to provide a link to the ODR platform on their website. The consumers can use this link to register complaint against the seller or service provider. The

⁶⁴ Consumer Protection Act 2019, s 35(2).

⁶⁵ Consumer Protection Act 2019, s 38(6).

⁶⁶ Consumer Protection Act 2019, s 74.

⁶⁷ Council Regulation (EC) 2006/2004 and Directive 2009/22/EC of 21 May 2013 on online dispute resolution for consumer disputes and amending [2013] OJ L 165/1 <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0524&from=EN>> accessed 20 September 2020

platform offers the consumer an option to resolve their grievance directly against the seller on the platform or to file a complaint with ODR bodies listed on the platform. In case parties fail to settle their dispute through ODR, the consumer is guided to file the grievance before traditional dispute resolution bodies to obtain redress.

Similar initiatives have been undertaken in South Korea⁶⁸ provide for mediation between consumers and sellers or service providers through e-mails and videoconferencing. The process of submission of relevant documents and evidence is carried out on online platforms to assist the parties and accelerate dispute resolution process.

As discussed earlier, housing, banking and insurance disputes that constitute a large part of the pendency in the Consumer Commissions under study. These are one of the most suitable dispute categories for resolution through ODR. Integration of ODR processes into consumer dispute redressal framework will enable efficient and cost-effective resolution of these disputes which will in-turn reduce the case load on the Consumer Commissions.

The 2019 Act empowers the National Commission to formulate regulations to determine the manner in which the mediation may be conducted in the Consumer Mediation Cells.⁶⁹ Consumer Protection (Mediation) Regulations, 2020 should be amended to provide for online filing and an online dispute resolution procedure for consumer disputes. The introduction of ODR in consumer dispute redressal will lead to increased access to justice for consumers and help fulfil the objective of the Act to provide inexpensive and speedy dispute resolution for the consumers.

Increasing Capacity of Consumer Commissions

Appointing Bailiffs for Consumer Commissions

Under the current structure, the Consumer Commissions depend on the District Collectorate and Police Commissionerate in Bengaluru to execute warrants and attach property. As per the amendments under the Consumer Protection Act, 2019, Consumer Commissions are provided with the powers of a Civil Court under Order XXI of the Civil Procedure Code, 1908 to execute their orders. The Commissions are currently understaffed, and this is compromising their ability to meaningfully exercise their widened powers.

The State Government should appoint bailiffs for the Consumer Commissions with the power to execute warrant of attachment, arrests, delivery of possession and for other such processes under the Act. This will reduce the dependence on the District Administration and Police Commissionerate for execution of their orders. It will further save the time spent corresponding between the offices.

Dedicated physical infrastructure for Consumer Commissions

At present, the Consumer Commissions located in Bengaluru are functioning from rented spaces. These rented spaces in Cauvery Bhawan, where Bangalore Urban District Commission is located, and TTMC Building, Shantinagar, where Bangalore Rural and Urban I Additional, Urban II Additional, Urban III Additional and Urban IV Additional District Commissions are located, are inadequate for a quasi-judicial body. Due to shortage of space, the Bangalore Water Supply and Sewerage Board (BWSSB) has been asking Bangalore Urban District Commission to vacate Cauvery Bhawan.⁷⁰ In addition to lack of storage space for records, documents and files, the record room and office spaces are infested by rats and pests.

⁶⁸ Framework Act on Electronic Documents and Transaction 1999, ch 6 (ROK)

⁶⁹ Consumer Protection Act 2019, s 103(h).

⁷⁰ Umesh Yadav, 'Karnataka's state consumer courts cry for infrastructure' (*Economic Times*, 06 June 2017) <<https://economictimes.indiatimes.com/industry/miscellaneous/karnatakas-state-consumer-courts-cry-for-infrastructure/articleshow/59013738.cms?from=mdr>> accessed 20 December 2019

Dedicated spaces shall be developed, with adequate spaces for files and documents, an extensive library, waiting area, administrative offices, and consumer assistance kiosks, to establish model Consumer Commissions in Bengaluru.

Table 7: Actionable Tasks and Implementing Authorities.

The colour scheme identifies short-term (red), medium-term (rose) and long-term (grey) actionable tasks. Short-term tasks may be implemented within 6 months, medium-term tasks may be implemented within 12 months, and long-term tasks within two years.

S. No.	Actionable Tasks	Implementing Authority	Priority
1.	Dedicated days for specific dispute categories	President of the State Commission and District Commission by instruction issued to the Bench Clerk	Medium
2.	Prioritising disposal of old disputes	President of the State Commission and District Commission by instruction issued to the Bench Clerk	High
3.	Limiting adjournments	State Commission, S.70(2), 38(7), The Consumer Protection Act, 2019	High
4.	Uniform listing for stage of proceedings	State Commission, S.70(2), The Consumer Protection Act, 2019	Medium
5.	Even distribution of complaints between District Commissions in Bangalore Urban district	Presidents of Bangalore Urban District Commission and four Additional District Commissions and Filing Clerk, Bangalore Urban District Commission.	Medium
6.	Organising trainings for Administrative Staff	State Government, S. 102(2)(i), (m), Consumer Protection Act, 2019	Medium
7.	Consumer Assistance Kiosks	State Government, S. 33, S. 46, Consumer Protection Act, 2019	Medium
8.	Consumer friendly filing procedure	State Commission, S.70(2), Consumer Protection Act, 2019	High
9.	Appointing Bailiffs for Consumer Commissions	State Government, S. 33, S. 46, Consumer Protection Act, 2019	High
10.	Providing dedicated physical infrastructure	State Government, S.28 and S.42, Consumer Protection Act, 2019	Medium
11.	Establishing regional benches for the State Commission	State Government, S. 42(2), Consumer Protection Act, 2019	Low
12.	Online Dispute Resolution	National Consumer Dispute Redressal Commission, S. 103(1)(h), Consumer Protection Act, 2019	High

Annexure I

Recruitment and functions of the Administrative Staff at Consumer Commissions in Karnataka. ⁷¹

Appointing Authority	Administrative Officer	Method of Recruitment	Function
Karnataka Public Service Commission	Registrar-cum-Administrative Officer	Deputation of an officer in the cadre of Civil Judge (Senior Division).	<ol style="list-style-type: none"> 1. Drawing and disbursing officer in State Commission. 2. Carry and act upon the direction of the President of State Commission.
	Assistant Registrar-cum-Assistant Administrative Officer	<ol style="list-style-type: none"> 1. Promotion from Sheristedar. 2. Deputation of an officer in the equivalent cadre from any State Civil Service, High Court of Karnataka or Karnataka Administrative Tribunal. 	<ol style="list-style-type: none"> 1. Drawing and disbursing officer in District Commissions. 2. Carry and act upon the direction of the President of State Commission/ District Commission.
	Private Secretary cum Judgement Writer	<ol style="list-style-type: none"> 1. Promotion from the cadre of Stenographer, 2. Deputation from the equivalent cadre in High Court of Karnataka or Karnataka Administrative Tribunal. 	<ol style="list-style-type: none"> 1. To take dictation from the President of the State Commission. 2. To attend all personal work of President of the State Commission.
	Account Superintendent	Deputation of an officer in the equivalent cadre from any State Accounts Department.	Head of account wing at State Commission. Prepare plan and non-plan proposals, off take and allotment of budget to the District Commissions.
	Sheristedar	<ol style="list-style-type: none"> 1. Promotion from Stenographer and First Division Assistant in the ratio of 2:1. 2. Deputation from the equivalent cadre in any State Civil Services or High Court of Karnataka or Karnataka Administrative Tribunal. 	<ol style="list-style-type: none"> 1. Work as a manager of officers. 2. Sheristedar of State Commission also assists the Selection Committee under S. 10(1)(A) and S. 16(1)(A) of C. P. Act, 1986.
	First Division Assistant	<ol style="list-style-type: none"> 1. 50 per cent by direct recruitment in accordance with Karnataka Civil Services (Recruitment to Ministerial Posts) Rules, 1978. 	They discharge the duties of the Bench Clerk, Pending Clerk and any other work as and when entrusted. In State Commission, they also work as Record

⁷¹ Karnataka Consumer Protection (State Commission and District Forum) (Cadre and Recruitment) Rules 2003; *Citizen Charter under Right to Information Act* (Karnataka Consumer Disputes Redressal State Commission & District Forum Services, 2016) 88

		2. 50 per cent by promotion from Second Division Assistant.	Keeper under the supervision of Sheristedar.
	Second Divisional Assistant	1. 66 per cent by direct recruitment in accordance with Karnataka Civil Services (Recruitment to Ministerial Posts) Rules, 1978. 2. 33 per cent transfer from cadre of Driver and by promotion from the cadre in Group D Service.	They discharge the duties of inward and outward, indexing of disposed files, record keeper and librarian. They also collect copying fees and issue copies to the concerned parties.
President, Karnataka State Consumer Dispute Redressal Commission	Stenographer	1. 90 per cent by direct recruitment. 2. 10 per cent by promotion from the cadre of typist.	They discharge the duties of taking dictation of judgements at court hall and chambers of the President and Members.
	Typist	By direct recruitment.	They prepare notices, letters and perform other typing works as per the directions.
	Driver	By direct recruitment, in accordance with the Karnataka Civil Services (Direct Recruitment by Competitive Examination) (General) Rules, 2001.	They discharge the duty of driving vehicle for the President and Registrar of the State Commission and the District Forums where vehicles are available.
	Peons	By direct recruitment, in accordance with the Karnataka Civil Services (Direct Recruitment by Competitive Examination) (General) Rules, 2001.	Peons are attached to the Court halls and different sections and also work as night watchman.

Annexure II

Strength of Administrative Staff in Consumer Commissions located in Bengaluru⁷²

Position	State Commission			Bangalore Urban			Bangalore Rural and Urban I Addn.			Bangalore Urban II Addn.			Bangalore Urban III Addn.			Bangalore Urban IV Addn.		
	Sanc.	Filled	Vacant	Sanc.	Filled	Vacant	Sanc.	Filled	Vacant	Sanc.	Filled	Vacant	Sanc.	Filled	Vacant	Sanc.	Filled	Vacant
Registrar	1	1	0															
Assistant Registrar	1	1	0	1	1	0	1	1	0	1	1	0	1	1	0	1	1	0
P.S. cum Judgment Writer	1	1	0															
Account Superintendent	1	0	1															
Sheristedar	2	2	0	1	1	0	1	1	0	1	1	0	1	1	0	1	1	0
Stenographer	6	6	0	2	2	0	2	2	0	2	2	0	2	1	1	2	1	1
First Division Assistant	6	5	1	1	1	0	1	1	0	1	0	1	1	1	0	1	0	1
Second Division Assistant	5	5	0	2	2	0	1	1	0				2	1	1	2	2	0
Typist	2	2	0	1	0	1							1	0	1	1	0	1
Driver	2	2	0	1	1	0	1	0	1									
Peon	9	8	1	3	3	0	3	2	1	3	3	0	3	3	0	3	3	0
TOTAL	36	33	3	12	11	1	10	8	0	8	7	1	11	8	3	11	8	3

⁷² Document from Karnataka State Consumer Dispute Redressal Commission to author (03 September 2019)

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