

**Chapter 3****Theoretical Framework**

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**3.1 Introduction**

The aim of this chapter is to lay out significant phrases and concepts associated with the research on the grounds of academic and legal aspects. It can be tough and challenging to identify whether the products are counterfeit in the first place. The abundance of terminology and concepts that are accessible and used in describing counterfeit items emphasizes the demand for more investigation into research on counterfeiting. The literature review of prior research and study is covered in the preceding chapter. The conceptual framework employed in this study, which comprises independent factors, mediating variables, and dependent variables, is presented in this chapter. Also, an outline and conceptualization of counterfeiting practices, antecedents of attitude and purchase intention towards counterfeit products, theories associated with counterfeiting, and anti-counterfeiting movements have been explained in this part of the research.

**3.2 The Phenomena of Counterfeiting**

Every single economy in the entire world has been impacted by the threat of counterfeiting. The lives and economics of Indian residents have also been impacted, and alarmingly, the number of counterfeiting events has been rising over the past three years. Products that are counterfeit violate the intellectual property rights of the trademark holder because they bear a trademark that is similar to or nearly

identical to one that is registered to a different party (De Matos et al., 2007). Although it is methodologically difficult to quantify the monetary effects of counterfeiting, reliable research suggests that the trade in fake products presently accounts for 3.3 percent of global commerce and is growing according to the ASPA Report (2021). It is generally recognised and proven that fake goods may endanger the health and safety of customers, stifle competition, harm real manufacturers' interests and brand names, threaten employment, and lower tax revenue.

The counterfeiters either try to trick the buyer into thinking they are buying a real product or try to persuade the buyer that they could trick other people with the replica. Some knockoffs use the same components and are made in the same plant as the original, real product (Philips, 2005). Without having to invest in establishing this equity or guaranteeing the product contains the equivalent quality as the original items, the counterfeiter reaps the rewards of the equity built into the brand. The ability to distinguish between fakes and real products is so elusive that it fools not only unwary customers but even company sales personnel (Du Toit, 2011). Some consumer items, particularly those from high-end or coveted brands or those that are cheap to create and easy to copy, have been regular and popular targets of counterfeiting. The counterfeits are frequently less expensive than the real thing, the quality expectation would not be the same. Customers would be happy given that as the fundamental functional criteria are accomplished or their exposure and symbolic worth is attained (Michaelidou & Christodoulides, 2011).

However, due to recent technological advancements and an improvement in product quality, counterfeit goods are now more advantageous than legitimate ones in the marketplace. Customers may be encouraged to buy a product by being able to test it out before they buy it to determine how well it works or performs. Contrary to real products, however, counterfeit goods continue to lack guarantees, increasing the financial risks associated with purchases (Khalid & Rahman, 2015). It has been discovered that if the actual product characteristics of the genuine item and the version that is counterfeit are comparable in conformity with quality, customer purchase intention is expected to be greater. According to Chacharkar (2013), nearly one-third of buyers would knowingly buy counterfeit items regardless of the reality that selling and producing counterfeits is illegal in some nations, such as the U.S.

and the U.K. In accordance with what Kenawy (2013) reported, it's crucial to comprehend the supply side as well as the demand side of counterfeit brands in order to regulate their presence and rising prevalence. But it is more significantly noticed that the consumer hunger for counterfeit products is one of the main drivers of the presence and spike in the spread of the counterfeiting phenomena since demand is always the primary driver of a market. Thus, the present research is focused on the demand aspect of counterfeiting.

### **3.2.1 Counterfeit Products**

A term, phrase, or symbol that indicates the source or origin of a certain commodity or service offered in commerce is known as a trademark as per the International Anti-Counterfeiting Coalition (IACC). Products that have infringed the legality of the trademark are known as counterfeit products and they are the inferior copies of the real thing. In other words, an item that utilises another person's trademark without that person's consent is considered a counterfeit. The reputation of a business and its client base in the worldwide market are both harmed by counterfeiting (Monk, 2021). It impacts both businesses and customers by spreading disbelief in real goods produced by esteemed companies. Criminals who manufacture or sell counterfeits aim to gain an unfair advantage over the trademark owner's goodwill (Wall & Large, 2010). A trusted brand or product is fraudulently imitated or forged in counterfeiting, which is a severe criminal offense.

Consumers' health and safety are seriously threatened by the manufacture and illicit trade of counterfeit goods (Naim, 2005). It also has an effect on consumers' and organisations' ability to expand economically through declined sales, downtime, and replacement expenses. By limiting the entry of hazardous and dangerous counterfeit products into the market and supporting the integrity of legal trade systems, operations aimed at preventing the manufacture and dissemination of counterfeit goods assist in protecting the community's safety and the nation's security. Albeit counterfeit products are traded all over the world, the manufacture of counterfeit goods is most common in developing nations as well. In developed nations, counterfeits are produced in smaller quantities. Ultimately, the already extremely adverse potential social implications are dramatically increased by the fact

that counterfeiting is frequently associated with organized crime activity and that counterfeit goods are frequently produced in factories (Philips, 2005).

According to Jacobs et al. (2001), the four product categories most susceptible to product counterfeiting are:

- Products with well-known brand names that are highly visible, plentiful, and low tech
- Expensive, high-tech products
- Prestige goods with a high price tag
- Products with a high level of R&D, such as industrial and medicinal or pharmaceutical products.

The sorts of goods being counterfeited are diversifying, according to more recent data from various sources (Vida, 2007). It has been noted a trend away from high-end prestige goods and an increase in the variety of luxury goods that are being illegally copied. The list of all the product categories that are counterfeited has been extended to electronic gadgets, chemicals and pesticides, electrical components, aviation commodities, automobile components, agricultural supplies, sporting goods, household equipment, food, drink, and a wide range of other things.

### **3.2.2 The Concept of Deceptive and Non-deceptive Counterfeits**

Deceptive and non-deceptive counterfeiting are the two main forms of counterfeiting practices that have been the subject of the research that is now accessible in the context of counterfeiting practices. In the opinion of Eisend and Schuchert-Guler (2006), when consumers are tricked into buying a fake product while longing for buying the authentic one, they frequently become the victims of deceit. Grossman and Shapiro (1988a) refer to these purchasing transactions as deceptive counterfeiting. Amine and Magnusson (2007) found that the legal system, societal factors, and personal factors play crucial roles in the expansion and rise of counterfeit goods.

Most deceptive counterfeiting investigations concentrate on the prevalence and adverse impacts and are presented as reports and factual occurrences. Consumer behaviour research cannot be conducted in cases of deceptive counterfeiting because consumers often mistakenly purchased fake goods for real ones, making it

impossible for researchers to observe actual consumer behaviour. According to Grossman and Shapiro (1988b), deceptive counterfeit products are those products whereby the consumer struggles to examine the genuineness of the products they are buying, and whether they can easily differentiate counterfeits from authentic products. The customer cannot be held responsible for their actions since they are unable to make a demarcation between legitimate and bogus trademarks and the authenticity of the goods (Penz & Stöttinger, 2005). Deceptive counterfeiting frequently occurs in marketplaces with customers who lack sufficient knowledge about the same.

Non-deceptive counterfeit goods, in juxtaposition with deceptive counterfeit goods, are products where the consumer frequently realizes, or at the very least suspects, that what they are buying is bogus due to thorough examination, low price indications, or for the reason that genuine manufacturers signal genuineness by regulating and restricting the supply (Eisend & Schuchert-Guler, 2006; Gentry et al., 2006; Yao, 2015). The customer decides independently to buy the unlawful items even while they are aware of or suspect that they are counterfeits (Albers-Miller, 1999).

Yao (2005) found that the manufacturing of non-deceptive counterfeit products is a frequent practice in underdeveloped nations. There is a possibility that counterfeit purchasers attempt to convincingly pass off the bogus product as something authentic and thereby deliberately mislead the observers (Yoo & Lee, 2009). Accordingly, many people view counterfeiting in marketplaces for premium brands as a crime with no obvious sufferers (Cordell et al., 1996). The absence of particular regulations to tackle product counterfeiting is one factor contributing to the progress of counterfeiting activities in emerging economies (Bamossy & Scammon, 1985). Similar enforcement initiatives are also difficult to understand and navigate in industrialized countries with established laws, including the United States. Bamossy and Scammon (1985) also pointed out that these economies have a lenient stance when it comes to such unlawful acts.

Luxury brand marketplaces frequently exhibit a typical instance of non-deceptive counterfeiting (Hennigs et al., 2015; Jose Scotto et al., 2021; Nia & Zaichkowsky, 2000; Tuyet Mai & Linh, 2017; Y. Wang & Song, 2013; Wiedmann

et al., 2012). Researchers who study counterfeiting acknowledge the reality that premium counterfeit customers frequently possess sufficient proof of the brand's falsehood (Vida, 2007). Regardless of how similar the counterfeit items might appear, proof of their authenticity might be still obtained through notable disparities in prices, unlicensed distribution systems, and subpar quality of the merchandise (Eisend et al., 2017; Wilcox et al., 2009). Certain individuals, however, claimed that counterfeit premium brands provide noticeably better quality merchandise (Jiang & Cova, 2012; Jiang & Shan, 2016). Thus, it could be challenging for customers to recognize such a substantial difference in actual-life circumstances. According to Grossman and Shapiro (1988b), it is understandable that a consumer's skill and knowledge will aid them to recognize a bogus brand. However, the researchers generally conclude that the great majority of counterfeit customers consciously purchase counterfeit high-end products on the grounds of the findings and outcomes of the previous studies in the field of counterfeiting (Borekci et al., 2015; Hennigs et al., 2015; Nia & Zaichkowsky, 2000; Tuyet Mai & Linh, 2017; Y. Wang & Song, 2013). Even the statistical surveys done in many nations regarding counterfeit consumption supports this point of view.

### **3.3 Counterfeits and Infringements**

The line that separates counterfeiting and infringement is crucial. When someone who is not the owner or who is not licensed by the owner uses a mark that is identical to or deceptively comparable to the owner's trademark, it constitutes trademark infringement under section 29(1) of the Trademark Act, 1999. On the contrary, counterfeit is defined as having been produced when the original items are imitated in order to give goods of lower quality, to trick consumers, and to damage the reputation of the authentic trademark holder.

The Trademark Act of 1999 specifies the penalties for trademark infringement, which is often a civil offense. The Indian Penal Code outlines the penalties for counterfeiting, which is an unlawful act. In a trademark infringement action, it is the plaintiff's responsibility to show that the defendant used the trademark without permission. Contrarily, with a counterfeit, the sheer fact that a similar replica exists serves as sufficient evidence. To summarise, all counterfeiting

activities come under the purview of infringements, but not all infringements are treated as counterfeits. Grey markets, imitations, piracy, and counterfeiting are the four separate types of intellectual property violations that have been documented in previous investigations (Lai & Zaichkowsky, 1999; McDonald & Roberts, 1994).

### **3.3.1 Contrasting Counterfeiting with Piracy, Imitation, and Grey Marketing**

The term counterfeiting may be the most often used in the body of research on intellectual property violations. It is frequently used synonymously with phrases like imitation, piracy, and knockoffs (Ang et al., 2001; Eisend & Schuchert-Guler, 2006; Wee et al., 1995). Counterfeiting is not the same as that of piracy, imitations, or grey market goods but certain similarities in these terminologies confuse people and hence are used interchangeably. Hence, it is vital to draw attention to the narrow yet significant distinctions between counterfeiting and other similar types of intellectual property infringements in order to have a comprehensive understanding of it. The explanation given below depicts the differentiations between these terms:

#### ➤ **Counterfeiting**

Manufacturing and selling fake trademarked goods without the authorization or permission of the brand owner is known as counterfeiting. Counterfeiting refers to the illicit production of identical replicas of legitimate brands (Phau & Teah, 2009). Grossman and Shapiro (1988a) explained the practice of counterfeiting as the violation of lawfully registered trademarks. These products are sometimes hard to distinguish, which is the reason why they first go unreported in the market. The term counterfeit goods refer to duplicates or imitations of a commodity that are meant to be mistaken for the real deal in order to intentionally deceive a consumer. Consumers are frequently offered fake brands without being informed of their falsity (Lai & Zaichkowsky, 1999; McDonald & Roberts, 1994). However, it is said that consumers deliberately purchase counterfeits in particular consumption scenarios, such as those involving counterfeit premium or luxury brands (Nia & Zaichkowsky, 2000; Y. Wang & Song, 2013). Easily defined, counterfeit goods are copycat items that are produced at a lower level and marketed under the label and trademarks of a different manufacturer without the consent of the legitimate owner of the trademark.

➤ **Piracy**

The products that are utilized, copied, passed on, or offered for sale without the owner's consent frequently include films, music, literature, or other original works of art. Copyrighted materials such as literary works, software, and content for entertainment are frequently violated in the course of piracy (Cheung & Prendergast, 2006; Chow, 2000; Deng et al., 1996). Thus, piracy is the unlicensed reproduction and illegal use of creative works and media including music, software, books, photographs, and movies. It represents a violation of copyright and associated rights. In the opinion of Lai and Zaichkowsky (1999), consumers frequently buy pirated products like video games, CDs, and computer software knowing that they are pirated versions.

➤ **Imitation or Replica**

Imitation products are the products that are thought to be genuine replicas since they lack the hallmark of the trademarked item. Producing looks-a-likes and sound-alikes of widely recognized brands in the market is known as brand imitation, often known as knock-offs (Nia & Zaichkowsky, 2000). Even though imitations are not intended to be perfect replicas of original brands, they are frequently mistaken for them because of how they resemble them in terms of branding, design, and shape (Lai & Zaichkowsky, 1999; McDonald & Roberts, 1994). In other words, even while a replica may have the same features and functionality as a popular branded product, it typically has a distinct symbol or emblem that is apparently identical to the well-known brand. Thus, they are not treated as blatantly unlawful and strictly prohibited.

In the words of McDonald and Roberts (1994), by copying the brand features, imitators mislead customers into purchasing items that are designed to be identical to well-known brands, ending up in breach of a firm's trademark. Producing counterfeit goods takes place with the intention of tricking others into thinking that they are authentic but in reality they are fake whereas imitation products are not misrepresented as the genuine article. They are regarded to be basically exact replicas of the branded products instead. Counterfeit items are ridiculed by law enforcement and are consequently forbidden in many nations. Imitation items, however, are typically not first seen as illicit. In addition to bearing



the identical trademark of the real product, counterfeit products also replicate its labeling and containerization, which is another distinction between replicas and counterfeit items. On the other hand, imitation products have an individual trademark or design that only vaguely resembles a prominent brand. Lai and Zaichkowsky (1999) opined that due to the fact that imitation may be deceptive and difficult to detect while still being harmful to legitimate companies, imitation makers frequently get off with their fraudulent practices.

### ➤ **Grey Marketing**

According to McDonald and Roberts (1994), grey markets refer to the selling of production surpluses by contract manufacturers in violation of manufacturing agreements. Grey markets are created by a company's legal business partners who decide to distribute production excess through illegal channels (Gentry et al., 2006; Huang et al., 2004). It entails lawfully acquiring merchandise in one place or via one channel of distribution and reselling it in a different marketplace. In other words, it is the legitimate import of products via an unlawful sales and distribution channel. Unauthorized dealers control these markets and they rob the business from genuine manufacturers and authorized dealers (Maqsood & Soomro, 2021).

Profits and brand perception are highly affected by the presence of grey markets. Grey goods are authentic products that are made by a legitimate organization but are distributed through illegal methods. Even if these products are legal, it's always an intelligent decision to exercise caution. Grey market vendors generally provide commodities that have been rejected as a result of damage, malfunction, or of quality concerns, it may also be a recalled merchandise. Many incidents by well-known multinational companies faced the issue of recalling their products from the markets. In short, grey marketplaces provide genuine goods via illegal means.

## **3.4 The Emergence and Prevalence of Counterfeit Markets**

The market for counterfeit products is expanding, and there are many explanations suggested for this emergence (Chaudhry & Zimmerman, 2009; Jacobs et al., 2001). The global spread of counterfeit products is being fuelled by seven key

factors. These include low-cost high technology that yields low investment and high profits, globalization and lower trade barriers, consumer complicity, expanded channels and markets, strong global brands, weak international and national enforcement, and high tariffs and taxes (Chaudhry & Zimmerman, 2009). These critical factors are explained in detail below:

**a) Low-cost high technology that yields low investment and high profits**

All typical expenses associated with producing and promoting a product, such as research and development, marketing, quality assurance, statutory minimum wages, and warranty assistance, are avoided by counterfeiters. According to Chaudhry and Zimmerman (2009), duplicating has endless advantages since there are no start-up costs and greatly reduced overhead costs. With high-tech machinery that is readily available and reasonably priced, numerous products may be manufactured. Holograms and other complex authentic identifying signs are now easier for counterfeiters to replicate.

These days, counterfeiting has crept into the internet economy and a counterfeiter may find a lot of sources for manufacturing tools by searching the internet. We frequently come across fraudulent websites and social networking links that offer enticing discounts on various things. According to the INTA (2021), there are several reasons criminals stick to selling counterfeit goods online. They may even conceal their IP addresses while remaining anonymous online. The internet enables counterfeiters to market their goods to customers worldwide beyond the purview of the law of the land (Karote, 2022). It is hard to trace them or their trading channels as well. This makes the counterfeiters enjoy all the opportunities of staying anonymous throughout unless they are caught.

The legal commodities are produced during the day under contract for brand owners, and when the factory has officially closed, either high-quality overruns or low-quality imitations are produced. Even though they are impossible to identify from genuine items, these so-called "third shift" products ultimately fall within the definition of counterfeit products. Thus, the products that involve low-cost and high technology results in low investment and high-profit paves the way for huge growth for the counterfeit market.

**b) Globalisation and lower trade barriers**

The expansion of free trade zones around the globe is another reason why counterfeiting is increasing globally. It is very hard to seize fake goods due to the huge amount of shipments in many nations (Jacobs et al., 2001). According to OECD (2009) report, open ports and free trade zones are enticing counterfeiters. The unrestricted movement of monetary resources between the nations across borders has benefited the counterfeiters given that it is very simple for counterfeiters to shift investments and operations from one nation to another and to conceal earnings from counterfeiting activities. In the vast majority of nations, exchange restrictions have been scaled back or abandoned. Tax benefits and other exemptions are offered in free trade zones, which serve to strengthen the financial system of the nation that hosts the zone. But the few inspections and convenient transportation options in these zones contribute to an increase in counterfeiting and piracy.

**c) Consumer complicity**

There is a pile of evidence to support the claim that customers are too eager to buy counterfeit goods even when they are aware of their inferior quality. According to Tom et al. (1998), consumers purchase counterfeit goods for a number of reasons, such as the belief that they are superior to the genuine article, support for the market as a means of demonstrating anti-big-business attitudes, and carelessness towards the constitutional safeguards of intellectual property, etc. The fact that there exists a sizable market for counterfeits is one of the primary drivers of their emergence. Millions of people are greatly affected by the growth in luxury brand value, and the only way they can afford it is to purchase a bogus luxury item that satisfies their addiction to expensive items while still being reasonably priced. Compared to those who unintentionally purchase counterfeit goods, there are significantly more people buying them intentionally. In addition, compared to authentic items, counterfeits offer distributors and merchants large profit margins. All these lead to a proliferated market for counterfeit products.

**d) Expanded channels and markets**

Manufacturers have expanded into areas that they were impossible to reach just a few years ago due to the expansion of global trade. In nations like China and

India, the rise of the wealthy class has opened up vast new markets for goods with well-known international labels. The key distribution routes that are readily accessible for counterfeiters to reach consumers are traditional retail stores, unofficial ones like "flea markets," street sellers, clandestine outlets, and the internet (Olsen & Granzin, 1993). Even though it is challenging for counterfeiters to achieve any significant market share at reputable retail establishments, research indicates that the trade of goods through this channel is escalating. Through unofficial channels is another typical strategy for facilitating the sale of bogus goods.

Nowadays, almost any kind of goods can be purchased online, and buyers are increasingly trusting this channel. "Canyouseethedifference.com" is one blatant website that advertises replicas for sale (Chaudhry & Zimmerman, 2009). The chance for counterfeit goods on the internet is tremendous. A maker of bogus products can advertise through this channel to a practically limitless global audience. The internet drew the counterfeiters' attention due to five main attractions:

- Anonymity: The counterfeiters may easily hide their genuine identity to reduce the chance of being caught.
- Flexibility: It is simple for counterfeiters to set up an internet presence, which they can then quickly remove or relocate to areas with passive IPR enforcement.
- Market size – It is exceedingly challenging for intellectual property rights holders and law enforcement agents to track down and initiate measures against counterfeiters due to the overwhelming quantity of online stores.
- Market reach - 24 x 7 access to a large worldwide customer base is made possible for the counterfeiters and that too at a low cost.
- Imitation - With the help of easily retrievable software and impressions on the internet, counterfeiters may easily build "clone" websites that resemble or replicates the legitimate websites of trademark owners.

The extreme complexity of supply chains has made it much simpler for counterfeiters to pass off copies of genuine items and sell them in the market in the case of car or aviation components, health and beauty products, medications, and even clothes (Jacobs et al., 2001).

**e) Strong global brands**

Globalization has enabled the creation of international brands. These brands have grown widely recognized among consumers in Shanghai, London, Mumbai, and Moscow (Sutherlin, 2009). Numerous individuals are more familiar with the brands' names than at any stage in past decades because of the huge sums that manufacturers have spent marketing them globally. Nowadays, people purchase luxury brands as a means of showing their desirability and establishing their personality (Stravinskiene et al., 2013). Luxury fashion companies are becoming more and more popular around the world, which gives them societal relevance and the ability to let people exhibit particular characteristics via the things they spend money on.

Juggessur and Cohen (2009) have rightly observed that by portraying themselves at the pinnacle of aesthetics, craftsmanship, status, and trends, fashion brands add value to their products. For highlighting one's individuality and for connecting with particular communities, people may be wearing particular brands. Counterfeits advocate for customers to associate themselves with superior bodies. As stated earlier, individuals desire popular brands, yet many find it difficult to pay for genuine goods. This has given birth to vendors or counterfeiters that meet the demand for items with established brands at significantly reduced rates (Chaudhry & Zimmerman, 2009).

**f) Weak international and national enforcement**

Counterfeiting has evolved into a minimal market entry technique as a result of poor implementation of domestic as well as international intellectual property regulations. The NAFTA pact, the WTO's agreement on TRIPS, and the European Union's Scrivener laws are all global initiatives designed to promote intellectual property rights protection. According to Lea (2008), the formation of the TRIPS agreement marked the start of several international problems with intellectual property rights. In accordance with the US, many developing countries were failing to implement the agreement's provisions, which led to the theft, piracy, counterfeiting, and infringement of their intellectual property (Chaudhry &

Zimmerman, 2009). According to Sutherlin (2009), India and China have long been recognized as the most serious violators of intellectual property rights on the earth.

Although there are a variety of national legislation and international treaties in place to safeguard intellectual property rights, Chaudhry and Walsh (1996) contend that legal remedies available to the scapegoats of counterfeited or unlicensed items have generally been unsatisfactory. The existence of a market for counterfeit goods harms consumers, home and host nations, major and small intellectual property owners, and related wholesalers and merchants. Plenty of proof suggesting that terrorist and organized crime networks are funding their operations through the sales of counterfeit goods. The governments of various nations must enact strict intellectual property rules and should provide their regulators with cutting-edge tools for keeping an eye on supply chains. The lack of these two processes may be a contributing factor in the booming counterfeit industry. In the opinion of Chaudhry et al. (2009), strict intellectual property rules will reduce the likelihood of IPR breaches and stop the practice of counterfeiting.

#### **g) High tariffs and taxes**

As the businesses have increased as a result of the removal of trade barriers, it has become easier for counterfeit goods to be produced in one country and exported to another. High levies and tariffs can also provide avenues for counterfeiters, despite the fact that this may seem absurd. Customers who purchase products may be aware that these items are on the market and have a strong desire to get them. Where governments have artificially restricted pricing or imposed import taxes on certain products, counterfeiters may enter the market to meet demand by providing inferior or even hazardous goods at low costs. In 11 developing countries, the cumulative total taxes and tariffs on retail pharmaceutical supplements in 2003 ranged from 24 percent in Mexico to 55 percent in India, according to Chaudhry and Zimmerman (2009). The identical rationale may be employed with all kinds of branded items, where intensive marketing and prominent storefronts generate demand but exorbitant costs dissuade most buyers. Thus, counterfeit goods are a major issue in many high-tariff nations.

All of these factors contributed to the development and growing prominence of counterfeit goods and their marketplaces, and one significant additional factor is the underutilization of anti-counterfeiting technologies. The implementation of anti-counterfeiting technologies is treated with disdain by numerous enterprises, who fail to consider counterfeiting cautiously (Butticè et al., 2020). The truth is that replication ravages their company from one end to the other like malignancy, and its financial consequences turn out to be devastating at times. It's definitely the time for business entities to make use of anti-counterfeiting techniques to prevent replicators from stealing their earnings. Enterprises can combat the potential threat of counterfeiting practices if they have a solid awareness of all these causes.

### **3.5 Theories and Models Pertinent to the Context of Counterfeit Products**

The increasing demand for counterfeit goods is vital to investigate, as counterfeiting practices are on the rise around the world. It is also important to identify the factors that contribute to Keralites procuring counterfeit goods. The purchase behaviour of customers, processes of the counterfeit trade, and the economic and social impacts of counterfeiting have been extensively studied in theoretical and empirical literature. Reviewing the same is essential to comprehend the demand for counterfeit goods. Theoretical reviews are classified into two sections: the first section deals with the theories of consumer behaviour and the second section deals with the ethical, social, personality, and anticipated utility aspects of counterfeit products. The Theory of Reasoned Action and the Theory of Planned Behaviour serve as the fundamental theoretical foundations for counterfeit literature. However, an inevitable amount of counterfeit research has also employed the Cognitive Dissonance Theory and Social Learning Theory accompanied by the SOR model as well (Samaddar & Menon, 2020).

#### **3.5.1 Consumer Behaviour Theories**

Consumer behaviour includes many surprising elements since the human mind has numerous interacting neural networks and the way customers choose between various items involves a fascinating diversity of variables (Kotler et al., 2002). Consumer behaviour is the conduct that consumers exhibit when they hunt for, acquire, employ, assess, and discard goods and services that they believe will meet

their expectations (Assael, 1995). The Assael model constructed four distinct decision-making processes, including inertia, brand loyalty, complicated decision-making, and constrained decision-making. It is a component of human behaviour that is associated with people's choices and actions when using and buying products. Baker (1991) expressed consumer behaviour as people's direct involvement in obtaining and using goods and services that are for monetary gain. Following are some of the theories in connection with the consumption of counterfeit products:

### **3.5.1.1 The Theory of Reasoned Action (TRA) and The Theory of Planned Behaviour (TPB) in the Context of Counterfeit Products**

Cognitive theories like the Theory of Reasoned Action which was developed by Fishbein and Ajzen (1975) and its subsequent follow-up, the Theory of Planned Behaviour by Ajzen (1985, 1991), provided a conceptual framework for comprehending how people behave in particular circumstances. For an explanation of consumer attitudes, the planned behaviour theory was discussed. According to these theories, a customer's purchasing behaviour is influenced by their attitude towards the goods being purchased as well as their intend to buy the same. The Theory of Planned Behaviour (TPB) is a well-researched paradigm that has been successful in predicting and explaining behaviours across a range of disciplines, including understanding why people act unethically (Tuyet Mai & Linh, 2017).

In order to systematise prior research and incorporate new elements, such as psychographic and demographic drivers, (Penz & Stöttinger, 2005) turned to TPB for advice. According to Ajzen (1991), The Theory of Planned Behaviour (TPB) argues, in essence, that behaviour is governed by the intention to engage in it, which is determined by the attitude towards the activity, the subjective norm, as well as the perceived behavioural control. In order to better predict conduct, attitudes towards behaviour are used rather than attitudes towards things such as attitudes towards a counterfeit item.

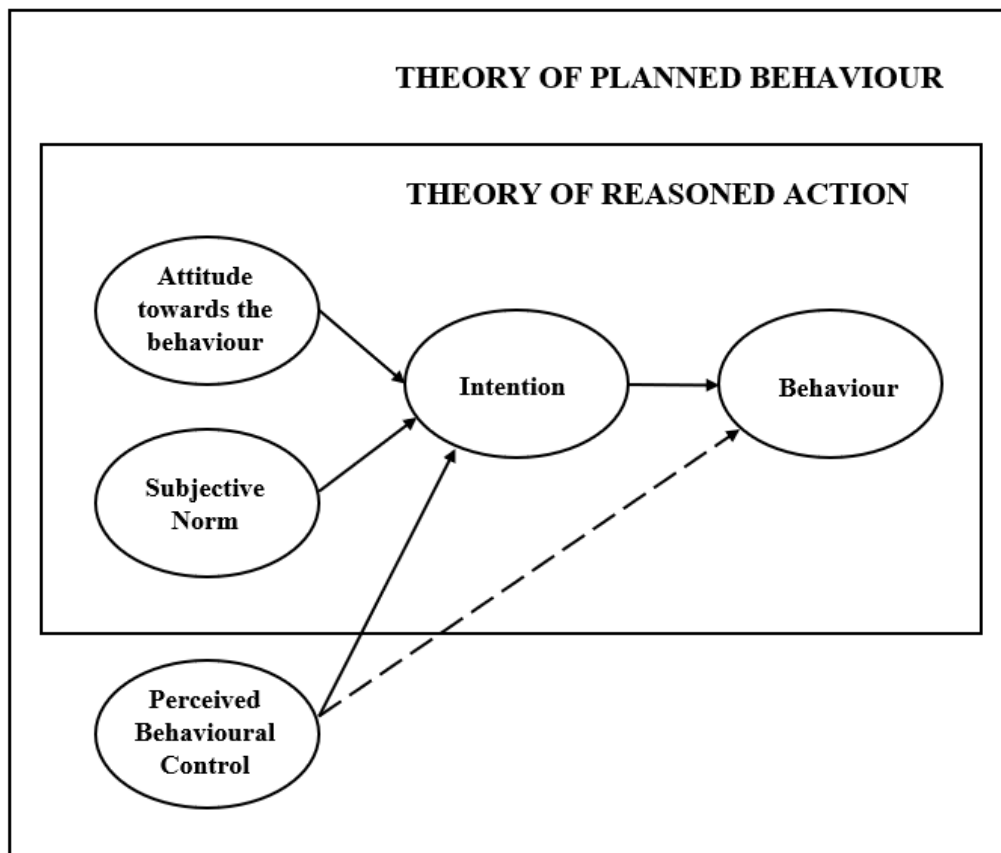
TPB also takes into account how much control a person has over their own behaviour and explains how that impact works. TPB is considered to be more relevant than the Theory of Reasoned Action in the case of behaviours that are challenging to carry out. The decision to buy counterfeits appears to be challenging because of the great desire to indulge and the enormous price benefits of imitation



goods over genuine goods sometimes. The idea was employed by Penz and Stöttinger (2008) in the area of consumer behaviour toward counterfeit goods as a useful tool for the development of models. The main component of the TPB is behavioural intention, often known as the choice to act in a certain manner, and it is a powerful predictor of actual action (Mbura et al., 2020). Phau and Teah (2009) claimed that purchasing intention influences purchase behaviour, which in turn influences attitudes. Nawi et al. (2017) emphasized that understanding the customer's attitudes towards a given behaviour and intention is crucial to comprehend the customer's behaviour.

**Figure 3.1**

**The Theory of Planned Behaviour and The Theory of Reasoned Action**



Source: Ajzen (1991)

TPB is a psychological theory that has gained a lot of support from researchers that study consumer behaviour. The TPB renders the assertions that (a) the best way to anticipate personal behaviour is to recognize the intention; (b) the

intentions are explained by individual assessments of performing behaviour and by their concerns regarding society; and (c) the external factors only shows the indirect effects on behaviour that could represent moderator, mediator, and model components. Abraham and Sheeran (2003) cited these points in their discussion of TPB. Tseng et al. (2021) employed the TPB in their research work as the theoretical foundation to evaluate customers' decision-making process while purchasing counterfeit outdoor items in the market for outdoor recreation.

By the Theory of Planned Behavior, three factors—behavioral beliefs, normative beliefs, and control beliefs—influence human behaviour (Ajzen, 1991). Behavioral opinions are those regarding the likely consequences of behaviour and assessments of those consequences. Normative beliefs are those regarding the normative expectations of people and the drive to meet these expectations (Ajzen, 1985). Control beliefs are those regarding factors that may facilitate the behaviour. Behavioral beliefs result in positive or negative attitudes toward the behavior, normative beliefs in social constraints or subjective norms, and control beliefs in perceived behavioural control, in their respective categories (Ajzen, 1985). The degree to which the attitude and subjective norm are positive, along with the individual's intention to engage in the behaviour in issue, increases its likelihood of happening. People are expected to carry out their intentions when the chance presents itself if they have adequate control over their behaviour (Bupalan et al., 2019; Patiro & Sihombing, 2014). As per the findings of Budiman (2012), the level of the abilities, competences, and other requirements required to carry out the decided behaviour was referred to as the real behavioural control, which had an impact on the behaviour in addition to the attitude, subjective norm, and behavioural management.

Previous research has identified various reasons as the main drivers of purchase intention for counterfeit luxury items, including personal, social, economic, and demographic aspects (Ang et al., 2001). Jose Scotto et al. (2021) mentioned that a consumer's decision to buy a counterfeit product is influenced by personal and societal variables, which helps in explaining why people choose to buy knockoffs of premium brands. The main determinant of intentional actions is one's attitude towards utilizing knockoffs of expensive brands (Riquelme et al., 2012). The

attributes of fake goods influence customers' purchasing decisions favourably (Purwanto et al., 2019). According to Yoo & Lee (2009), customers who prioritize hedonic benefits above utilitarian ones are more likely to accept counterfeit goods. Therefore, it is believed that these two benefits are predecessors for plans to buy counterfeit goods. The willingness to acquire counterfeit products has occasionally been used as a stand-in for actually making the purchase (Khan et al., 2017). Basu et al. (2015) investigated human behaviour from the viewpoints of marketing, sociology, and psychology. The TPB provides examples of the motivations underlying voluntary behaviours like the procurement of fake goods. TPB aids in drawing a connection between consumer spending patterns and the prevalence of counterfeit goods.

### **3.5.1.2 The Theory of Buyer Behaviour in the Context of Counterfeit Products**

According to the Howard and Sheth (1969) model of consumer behaviour or the theory of buyer behaviour, the decision-making process throughout the buying process is extremely systematic and reasonable. In this concept, clients adhere to a "problem-solving" hat at each stop, with many factors affecting the path of the journey.

There are three consecutive layers of decision-making in this model:

- **Extensive Problem-Solving:** It's a stage of comprehensive problem-solving. At this point, clients are unaware of the brands they may choose from or the products they are looking for. To locate an appropriate product, they are diligently solving problems.
- **Limited Problem-Solving:** With more information at hand, customers are taking their time and starting to weigh their options.
- **Habitual Response Behaviour:** Consumers are well-aware of their options and are familiar with their preferred brands. Consequently, people are aware of where to go each time they make a purchase.

Many researchers and academicians agree that this model is the most reliable construct for explaining consumer behaviour. The theory revealed four essential elements: hypothetical constructions; stimulation; response; and external factors.

The goal is to give a thorough understanding of the purchasing decision-making process. The approach highlights high-quality goods and services as well as a welcoming business environment. Purchaser incentives provide stimuli and stimulate replacements for activities with the goal of gratifying their drives through learning components. According to Justin et al. (2021), counterfeiting consumption was explained on the basis of stimulating or driving factors, both internal and external and how the customers are responding to their cues in concluding a purchase decision towards counterfeit products. Further it was pointed out the influence of group factors on purchase intention towards counterfeit products mediated by the attitude of Chinese consumers towards fake goods based on the model developed using the Howard and Sheth (1969) theory of consumer behaviour, combined and connected with the Utility Theory and the Theory of Planned Behaviour.

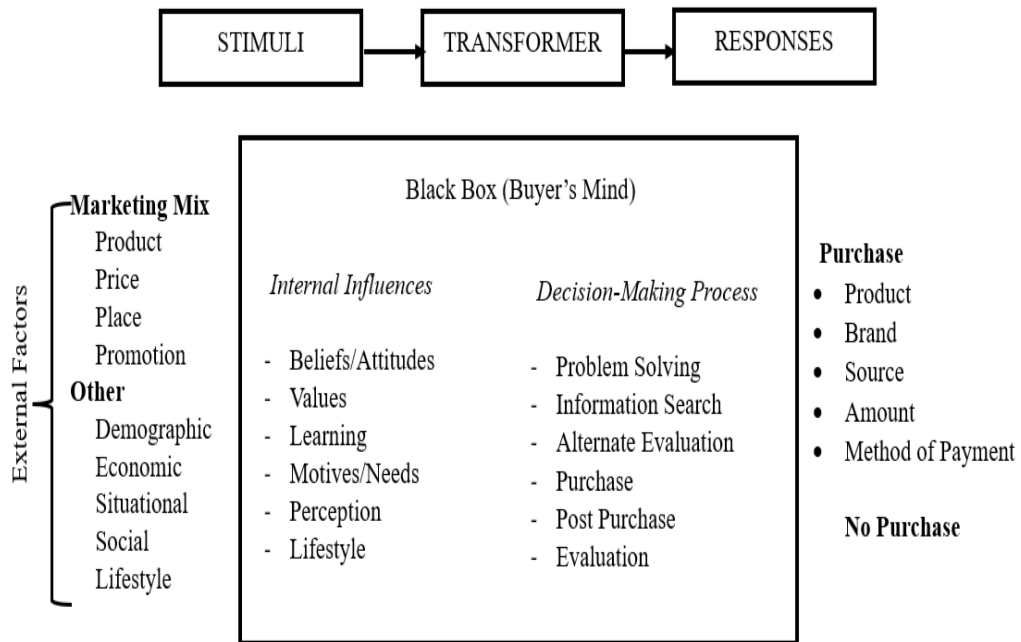
### **3.5.1.3 Black Box or Stimulus-Response Model in the Context of Counterfeit Products**

According to the Black Box concept, also known as the Stimulus-Response model, consumers are independent thinkers who analyse both internal and external inputs before making judgements about what to buy. In the world of marketing, customers enter the "Black Box" and create a selection of options before making a purchase (Kotler, 1997).

Marketers need to comprehend the "Black Box" and create plans for reacting to inputs. The black box model shows how a customer behaves in response to stimuli with regard to decision-making, consumer attributes, and consumer reactions. The behaviourism theory, which the black box model is linked to, holds that consumers lack insight into their own thought processes and relationships with stimuli. Environmental cues are primarily influenced by the social, economic, and cultural aspects of a particular civilization.

To get the appropriate reaction, businesses might modify the marketing stimulus. The environment determines demographic, economic, situational, social, and lifestyle elements, which are mainly outside the control of businesses and customers. Thus, a thorough understanding of motives or stimuli that favour customers towards counterfeit products will be advantageous for manufacturers and marketers to plan accordingly to save authentic products and their owners.

**Figure 3.2**  
**Black Box Model**



*Source: Kotler et al. (2004)*

### 3.5.1.4 The Bandwagon Effect in The Theory of Consumer Demand in the Context of Counterfeit Products

Consumers' desire to buy counterfeit products may be explained by the bandwagon effect in the Theory of Consumer Demand as proposed by Leibenstein (1950). The bandwagon effect is the propensity for people to adopt particular behaviours, styles, or attitudes merely because others are doing so. According to earlier research on the idea of consumer demand, people buy things to either fit in with their social circle or to keep their exclusivity from other people. Leibenstein (1950) categorised consumer demand for goods into functional and non-functional needs. In contrast to non-functional demands, which indicate increased demand as a result of reasons apart from the qualities and intrinsic features of commodities, functional needs demonstrate the presence of demand as a result of the fundamental characteristics of commodities. The lack of functional demand demonstrated that consumer interest in those commodity goods is mostly dependent on the likelihood that others are also buying and using the same goods. In other words, people may choose to purchase a product due to its widespread appeal or in an effort to elevate

their social standing. If such branded products are not affordable, people compensate the same by purchasing counterfeit versions of the branded products as per the opinion of Kenawy (2013).

### **3.5.2 Theories on ethical, cognitive, social, personality, and anticipated utility aspects of counterfeit products**

Certain theories and factual points describe the ethical, social, and personality elements that are closely associated in the context of counterfeiting along with the aspect of anticipated utilities or benefits from the purchase and consumption of counterfeit merchandise. Certain researchers have modified and combined the existing theories and models of Ivan Pavlov's Stimulus-Response Model, EDM Theory, Goal Theory, and Skinner's Behavioral Modification Model etc. for facilitating the development of a blanket set of tactful strategies to face and alleviate the impact of counterfeit consumption (Mburu et al., 2018). The following are some of such theories that are applicable in the counterfeiting context:

#### **3.5.2.1 The Ethical Decision-Making Theory (EDM) in the Context of Counterfeit Products**

Ferrell and Gresham (1985) established the EDM theory. Due to its ability to examine and forecast ethical behavior, it is often utilized to anticipate conduct for research involving counterfeit goods. According to EDM theory, a person's choice about an ethical or immoral matter is influenced by three factors: personal characteristics, close relationships, and opportunity. Individual characteristics such as knowledge, values, and beliefs are all associated with education, attitude, and intention. These metrics were discovered to be relevant in the context of ethical decision-making for the explanation of behavioural intention. The Theory of Planned Behavior and Ethical Decision Making (EDM) theory has been relied upon as a theoretical framework by Mbura et al. (2020). An intriguing connection that exists between customers' intentions to purchase counterfeit goods is the way that unethical corporate practices and profit-driven motivations have a direct impact on consumers' ethical judgments. In contrast to non-purchasers, counterfeit purchasers, for instance, had more unfavourable opinions on company ethics.

Moreover, if consumers believe that businesses disregard ethical standards to be competitive and profitable, they may transgress ethical norms in exchange

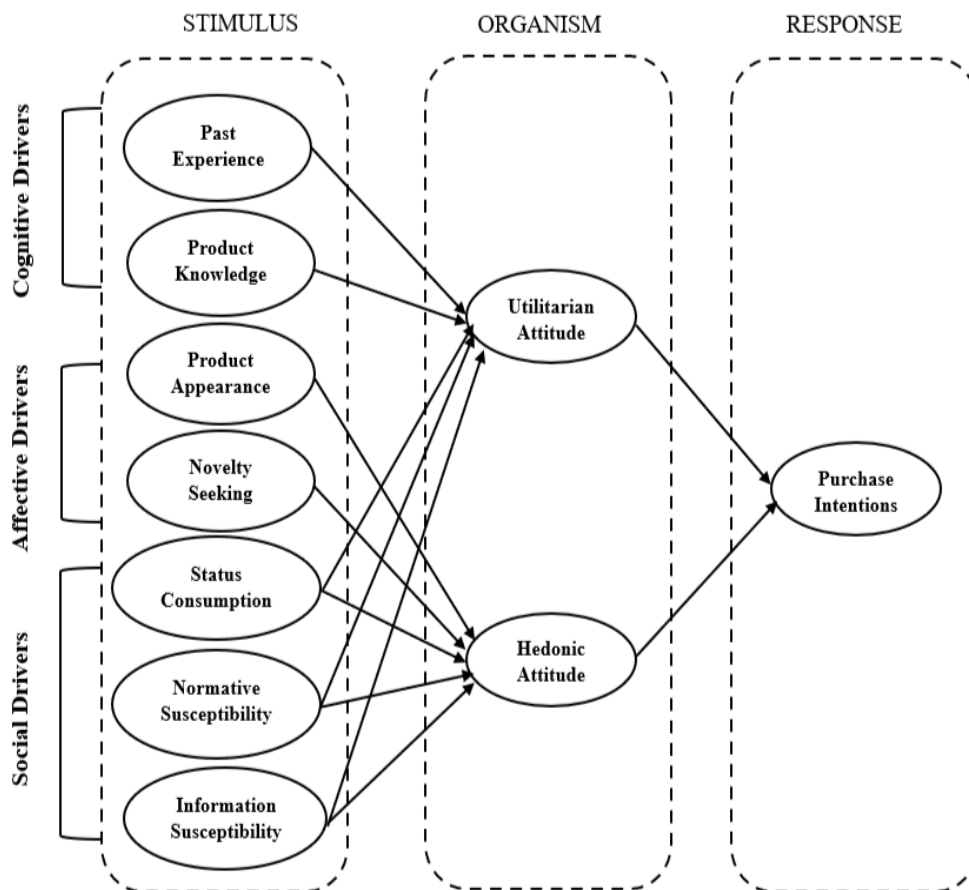
situations to advance their interests. In that instance, customers frequently excuse the abuse of businesses by claiming that they are to blame for it since they defraud clients. In other words, loyal customers are more forgiving while perceived harm is minimal, but when perceived pain and injustice mount, they become more dissatisfied, which leads to a drop in moral behaviour.

### 3.5.2.2 Stimulus-Organism-Response (SOR) Model in the Context of Counterfeit Products

The SOR or Stimulus-Organism-Response (SOR) model was propounded by Mehrabian and Russell (1974) and it provides a better analysis of consumer behaviour from the aspects of cognitive, affective, and social drivers. Along with the TPB theory of Fishbein and Ajzen (1975), a modified version of the SOR model has been undertaken by the researcher.

**Figure 3.3**

### Stimulus-Organism-Response (SOR) Model



Source: Mehrabian and Russell (1974)

There are three elements in the SOR model namely Stimulus, Organism, and Response and the general assumption regarding the SOR model is that the element of the organism reacts or responds to the stimulants that mainly puts its pressures from outside. Consumers' perspectives on the different aspects of counterfeit products are taken in the role of stimulus, the attitude towards counterfeit products (ATCP) has been considered as the organism and the purchase intention towards counterfeit products has been taken as the response in the modified SOR model by the researcher. Many studies used the SOR model in explaining factors contributing towards attitude creation leading to intention. The Stimulus-Response Model or black-box model was also applied to explain the stimulating role of social factors (Junejo et al., 2020).

### **3.5.2.3 The Theory of Utilitarianism in the Context of Counterfeit Products**

The utilitarian theory of morality holds that any activity that would leave you miserable or harm another person is unacceptable. The general advancement of society would be promoted by a utilitarian ideology when utilised to guide social, economic, or political decisions. Customers tend to see counterfeiting favourably when they perceive it as having a high social value of diffusion and as a means of battling against large businesses, as was predicted. Customers who view counterfeiting as immoral and detrimental to society, on the other hand, will have a negative opinion of it (Kwong et al., 2003).

### **3.5.2.4 The Appraisal Theory in the Context of Counterfeit Products**

The appraisal theory states that a person's emotions may be used to encourage them towards one behaviour over another (Johnson & Stewart, 2005). Kim et al. (2009) made a remark that customers should be less likely to purchase counterfeit goods if they have negative feelings about them. They would act morally in accordance with this responsible behaviour (Kim & Johnson, 2014). Some customers, however, do not feel awful enough to quit purchasing counterfeit goods given the enormity of the market for them. Some consumers may believe that purchasing counterfeit goods is not a negative thing because it is considered as usual as stated in the study by Zampetakis (2014). Others may agree that purchasing fakes



is wrong, but because emotions have two different aspects such as valence and intensity, they may not feel strong enough to prevent them from doing so.

Consumers weigh the positive and negative aspects of a scenario concurrently, as demonstrated by Kim and Johnson (2014) and Zampetakis (2014), and this battle between the two is common when purchasing knockoffs of luxury brands. Both optimistic and adverse emotions are brought out by counterfeit goods. The satisfaction of receiving a good bargain by purchasing a brand at a lower cost may give rise to pleasure. The same people may feel uncomfortable emotions like shame and remorse, which have frequently been noted as unfavourable emotions associated with purchasing fakes (Zampetakis, 2014). Marticotte and Arcand (2017) found out that the contrast between real and counterfeit products, which affects the intention to purchase, is probably what causes mixed feelings.

### **3.5.2.5 The Social Identity Theory (SIT) in the Context of Counterfeit Products**

Social identity theory was developed from a series of studies, frequently called minimal-group studies, conducted by the British social psychologist Taifel and Turner (1979). According to them, social behaviour is determined by the character and motivations of the person as an individual as well as by the person's group membership. In short, it is the study of the interplay between personal and social identities. The goal of social identity theory was to define and forecast the situations in which people perceive themselves as either individuals or members of groups. The identity or recognition from the society or the group of people one individual belongs to matters as per the social identity theory.

People frequently have a more favourable perception of members within their internal group than of those in the outgroup (Hickman & Ward, 2007). This can be accomplished by minimizing incorrect data about the ingroup or by portraying others in an unfavourable condition as per the recommendations of Grohs et al. (2015). Even though the original and counterfeit items might not be marketed to the same audience, the counterfeit can be mistaken for the real thing (Field et al., 2008). Given its illicit status, the counterfeit version poses a particularly dangerous threat from the perspective of the genuine brand. The theory also considers the consequences of personal and social identities on individual perceptions and group behaviour.

### **3.5.2.6 The Theory of Social Control in the Context of Counterfeit Products**

According to the theory of social control, people pick up meanings that support or discourage deviant behaviour and categorise an act's commission as proper or wrong in the context of the organisations they belong to. In essence, friends and family members may support or oppose the purchase of counterfeit goods, which might influence a person's decision. Dootson (2014) in his research commented that the social learning theories buffer the influence of social structure on a person's propensity for crime or norm violations. According to Fejes (2017), people pick up meanings that support or discourage deviant behaviour and categorize an act's commission as proper or improper in the context of the organizations they belong to. In essence, friends and family members may support or oppose the purchase of counterfeit goods, which might influence a person's decision.

Business ethics represent business conduct norms, whereas consumer ethics reflect consumer behaviour norms. According to the theory of social control, taking advantage of the socialisation and learning processes helps people develop self-control and lessens their propensity to engage in antisocial behaviour. Norms are guidelines or standards that govern what people ought to or ought not to think about, say, or perform, and how they should or not behave under given circumstances within a given culture (Dootson, 2014).

Behavioural practises by consumers which breach the accepted conventions of behaviour in consumption contexts is the meaning of consumer misbehaviour. Fullerton and Punj (1997) discovered over 35 different categories of consumer misbehaviour, including the deliberate purchasing of counterfeit products. Individuals acquire their society's views, values, and norms through socialisation; insufficient socialisation is one cause of norm transgression.

According to the concept of social control, internalisation of norms is one way society promotes conformity with norms. Even if no one observes the breach, internalisation of norms causes emotions of remorse or disgrace when an accepted behaviour is broken. Individuals acquire standards of behaviour in trading environments, such as an equitable exchange of funds for goods, among other norms. Some consumer behaviours are discouraged by internalised ethical attitudes and ideas. Everyone, however, does not experience socialisation in the same way,

resulting in varying degrees of norm internalisation and norm deviation (Fullerton & Punj, 1997). As a result, the theory of social control postulates that a culture views a certain behaviour as normative or as a violation of a norm for instance, counterfeit goods violate a fair exchange of money for goods.

Norm violation is viewed by the theory as one of six phases. The six phases of social control as they relate to consumer behaviour are shown in the following hypothetical scenario: (i) norms—standards of behaviour in situations of exchange (e.g., fair exchange of money for a product); (ii) norm violation which has been treated as a deviant behaviour (e.g., consumer purchases counterfeits); (iii) recognition of breach of norms (e.g., consumer is seen buying a counterfeit product from an unauthorised vendor); (iv) reports of norm infractions (e.g., consumer boasts to her peers that he or she grabbed a counterfeit version of a branded product); and (v) Reactions to violations—penalties (i.e., incentives or reprimands) and (vi) application of sanctions (e.g., consumer's companions express favourable or adverse reactions when they notice a counterfeit version with the consumer) (Dootson, 2014). What constitutes consumer misbehaviour varies between countries due to differences in values and conventions (Lee & Workman, 2011). Fullerton and Punj (1997) mentioned in their study that the three kinds of variables that affect consumer behaviour when they buy counterfeit goods are product, individual, and culture.

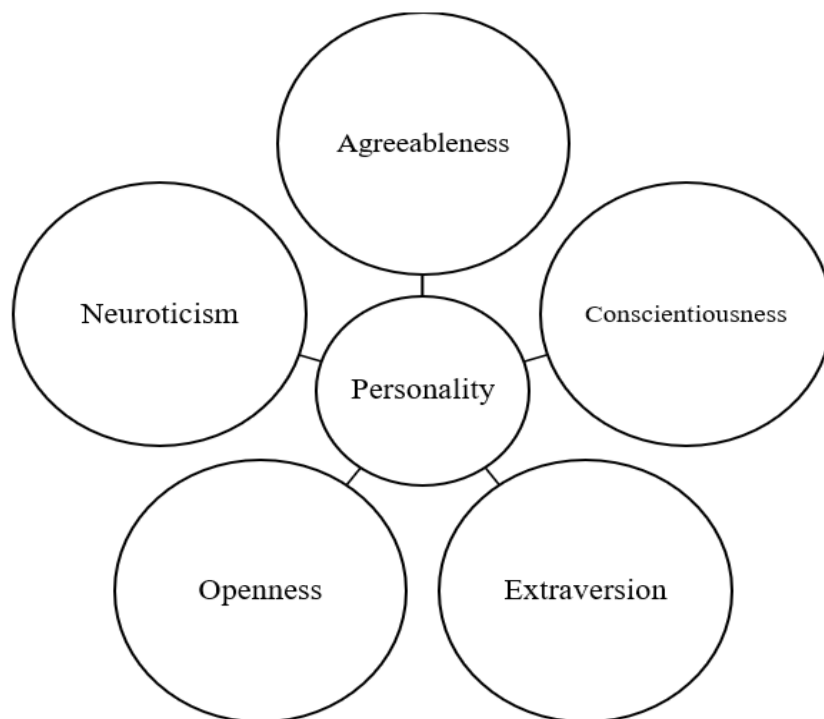
### **3.5.2.7 The Five-Factor Model or The Big Five Model of Personality in the Context of Counterfeit Products**

The Five-Factor Model (FFM), created by Costa and McCrae (1976), categorises personality traits into five general categories. It is commonly known as The Big Five Model of Personality and is the most helpful paradigm in comprehending personality characteristics in the field of marketing that has been validated by many scholars (Ozer & Benet-Martínez, 2006). According to this model, personality may be reduced to five main characteristics, denoted by the abbreviation CANOE or OCEAN. Conscientiousness, Agreeableness, Neuroticism, Openness, and Extroversion are five significant personality traits that are examined in this approach.

The majority of the researchers have concluded that these five personality traits have a significant impact on consumer behaviour, decision-making, and

ultimately buying behaviour. Unlike previous characteristic theories that categorise people as either introverts or extroverts, the Big Five Model states that each personality attribute exists on a continuum.

**Figure 3.4**  
**The Five-Factor Model**



*Source: Costa and McCrae (1976)*

Ang et al. (2001) portrayed that customers with weaker principles of ethics will feel less guilty about acquiring counterfeit items. They discovered that personality traits like mindfulness and honesty influence the buying of counterfeit items. Jiang et al. (2018) demonstrated the importance of ethical predecessors in the purchase of counterfeit products. As a result, the research of personality factors related to the attitude towards purchasing counterfeit products can aid in the concentration on commercials against counterfeit goods, recognition of contemplated customer segments for intercessions, and formulation of statutes (Babamiri et al., 2020).

### **3.5.2.8 The Theory of Cognitive Dissonance (CDT) in the Context of Counterfeit Products**

Festinger's Cognitive Dissonance Theory postulates that when people have contradictory behaviours and beliefs, an uneasy tension will arise, and they will be

driven to alter their behaviours or beliefs in order to ease the tension (Festinger, 1957). Counterfeit purchases are a consumer behaviour that frequently involves cognitive dissonance. When a customer purchases counterfeit goods, there are two separate notions to consider: deceptive, or when the consumer purchases counterfeit goods without realising it since they are identical to genuine branded goods, and non-deceptive, or when the consumer can tell the difference between the two. Consumption acts as a means of social status struggle in addition to meeting basic requirements.

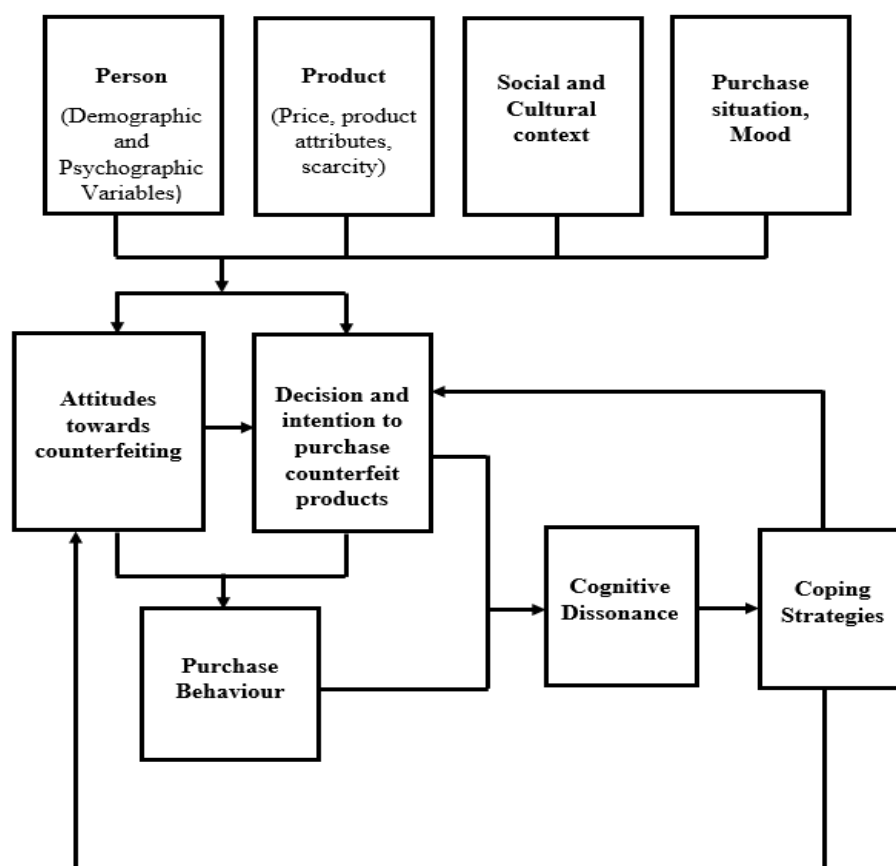
Higher socio-economic status has numerous advantages and people who wanted to have high social standing but were unable to may hence feel dissonant. They attempt to maintain a favourable self-concept in social comparison, but their behaviours do not help them rise to a better standing, which leads to this dissonance. They can enhance their performance and prepare the way for a better rank to ease this unpleasant tension, but most individuals would choose the simpler route of overindulging in expensive goods while demonstrating their ability to purchase them. People that consume expensive, well-known brands would feel satisfied since they would feel better about themselves in a comparison with others.

According to Li (2020), people frequently make justifications in an effort to lessen the impact of their own actions stating everyone purchases fraudulent goods. Some other customers defend their actions by reinterpreting the non-choosing options and believing that the genuine goods are too much expensive and are not worth it, while some consumers assign a more positive consequence to counterfeit buys, such as counterfeits that can benefit the economy of the nation. Finally, it's important to note that consumers who willingly buy counterfeit goods do so with the intention of seeming as though they can afford branded or luxury goods so they may feel superior to other people in public. It also depicts social and economic inequality across the board. According to previous studies, those who are better able to justify their odd behaviour are also more likely to buy knockoff products (Vida, 2007). Denying that a concrete victim is connected to the behaviour is one justification used by customers to justify purchasing items illegally. Some customers could find it difficult to identify organisational victims as victims, especially merchants and brand owners (Carpenter & Lear, 2011).

A person's attitudes towards counterfeiting, as well as verdicts and motives to buy counterfeits, are influenced by factors related to the person (e.g., socio-economic factors, psychographic variables like readiness to take possible dangers), the product (specifically the price, product characteristics like fashion ability, brand distinctiveness, and unavailability), the cultural and social environment, as well as the circumstances. The factors have an impact on behaviours and intentions of customers by way of attitudes about counterfeiting.

**Figure 3.5**

**The Theory of Cognitive Dissonance**



*Source: Eisend and Schuchert-Guler (2006)*

According to Festinger's dissonance theory, the concept addresses the discrepancies between views and purchasing decisions or behaviour that are unique to counterfeit goods and brands and result in cognitive dissonance and the same concept has been developed and modelled by Eisend and Schuchert-Guler (2006). Consumers employ coping mechanisms to lessen the feeling of dissonance and in

the case of high-priced items the coping mechanism would be the purchase of counterfeit products.

### **3.5.2.9 Self-Concept Theory in the Context of Counterfeit Products**

According to Sirgy (1982), self-concept theory has been explained as an individual's ideas and feelings about his relatedness to an object that are considered as a whole. Consumers that place a greater focus on their looks and care about winning the favour of others frequently purchase branded goods. According to Phau et al. (2009), consumers are driven by a desire to astound others with their capacity to pay exceptionally high costs. However, consumers who want to impress others but who are unable to afford such exorbitant costs sometimes turn to counterfeits since they provide them a chance to be someone they are not (Borekci et al., 2015). Malik et al. (2020) evaluated the elements of self-concept in their research work along with an examination of individual traits and the consumption of counterfeit products in the context of an emerging market and found that the independent self-construct affecting purchase intention was not shown to have a substantial direct influence.

### **3.5.2.10 The Self-Image Congruence Model in the Context of Counterfeit Products**

Self-congruity is a cognitive procedure that results in how consumers relate their impression of a brand image particularly, brand personality or brand-user image to their own ideal self. According to the self-congruity theory, customers relate the image they have of themselves to the image of what they are buying. As a result, individuals are likely to favour a product with a comparable image to their own. Consumers, according to the self-image congruence paradigm, seek congruence between product features and their perception of themselves (Graeff, 1996), and they want to be in an environment where their real self-image fits their pertinent version of themselves as per the findings of Higgins (1987).

In today's world, brands serve as symbols, allowing customers to articulate their identity and engage more easily with others who share their interests. They tend to select and purchase things that have features that are similar to their own in order to impress significant others and demonstrate their individuality via the product

image. According to Triandewi and Tjiptono (2013), original luxury items carry an aura of exclusivity, affluence, prestige, and high social position, which may lead self-image-conscious buyers to buy originals. Many researchers reported a detrimental influence of self-image on counterfeit buying intention.

### **3.5.2.11 The Utility Theory in the Context of Counterfeit Products**

Thaler (1985) in his utility theory, discussed two types of utility acts in the context of consumer purchases such as acquisition utility, which points to the financial terms of the purchase like profit or loss; and transaction utility, which demonstrates the emotional terms of the purchase like pleasure or pain, along with the terms of the financial transaction. People are impacted by the product's underlying desire for fulfilment, which makes them more likely to be value-conscious than reward eagerness (Lichtenstein & Burton, 1989). The utility hypothesis is very similar to the counterfeit theory, which holds that the primary driver of the purchase of counterfeit items is perceived quality at a low price. Despite having the lowest quality, counterfeit items offer adequate value for the money (Wilcox et al., 2009). The key justification for buying counterfeits is the reduction of the risk associated with acquiring costly genuine items because the price of reproductions is a fraction of the price of an authentic product (Tom et al., 1998).

## **3.6 The Repercussions of Counterfeiting Practices**

Counterfeiting results in substitutes that place lives in danger, including defective automobile components, potentially hazardous and unsafe medicines, erroneous medical equipment and surgical instruments, harmful children's products including illicit nourishment products for babies, and many more. According to Bian and Veloutsou (2007), counterfeiting is viewed as a political, economic, and social issue. In the opinion of Berman (2008), the absence of expenditures associated with the promotion, trademark licensing, R&D, engineering and designing expenses, quality oversight, test marketing, pilot advertising, client service, reclamation of warranties, or recalls of products gives counterfeiters an undeserved benefit. The intangible harm to the reputation of authentic company brands is the risk that is most frequently emphasized (Hidayat, 2008). Although many people may not consider the trivial money that huge businesses are losing as a result of counterfeiters and their



associates, there are many ramifications that have an influence on the overall society (ASPA Report, 2019). Socio-economic repercussions, consequences that are faced by rights holders, impacts on customers, and adverse effects on the government are the main outcomes of counterfeiting operations (OECD, 2007). A burgeoning counterfeit business is accompanied by job losses, tax income losses for the government, considerable safety concerns, and other adverse consequences (OECD/EUIPO, 2022). The usage or consumption of counterfeit products produces hazardous and harmful consequences on users and its impact goes beyond economic downturn. Several research works have been carried out throwing light on the economic effects, cognitive influence, consumer image, social effects, and health impact of counterfeit products (Mburu et al., 2018).

Mangalasserri et al. (2022) made a remark on how fake goods affect a premium brand's reputation. The value of the authentic brand would be driving the demand for counterfeit items. The creation and sale of fake and counterfeit goods have grown so pervasive that no customer can be certain of the originality of the product he or she has purchased due to the lack of awareness among customers, inadequate regulation, and swift advances in technology. Many people today have been deceived into perceiving that the goods they purchase are authentic when in fact they are counterfeits. These bogus products have seriously impeded the expansion of the consumer goods industry and damaged the confidence and credibility among consumers. However, Randhawa et al. (2015) examined the negative side effects of close connections of consumers with the brands and the psychology behind consumers' attraction towards counterfeit luxury brands. Previous research works on non-deceptive counterfeiting revealed three reasons such as price affordability or product features, social and cultural influencing factors and socio-economic status of the consumers accounts for the proliferation of counterfeit consumption.

The question of where the proceeds from the sales of counterfeit goods flow is an additional concern that has lately started to crop up. According to the studies of Furnham and Valgeirsson (2007) and Marticotte and Arcand (2017), the sale of counterfeit goods facilitates funding and supports the activities of terrorists and criminal groups. This is an accelerating and alarming concern, particularly when

counterfeits are harder to spot since the involvement of the internet in counterfeiting transactions made it so easy (Berman, 2008; Mavlanova & Fich, 2010). Counterfeiters are becoming more cunning and are coming up with new techniques to evade detection as the counterfeit sector grows stronger and anti-counterfeit organizations strengthen regulations.

The long-term impact of selling counterfeit goods ends up in harmful effects on producers, merchants, and trademark owners financially and reputationally, and it erodes customer faith in real items (OECD/EUIPO, 2019). Although counterfeiting affects legitimate producers and customers, it can also have wider socio-economic impacts (Di Liddo, 2017). The principal effects of counterfeiting on pertinent parties are mentioned below:

### **3.6.1 Economic Consequences**

A nation's convenient access to counterfeit goods would alert watchful customers throughout the world to the product functionality of that specific product and related goods made in that country. The commercial and trading climate of the economy would eventually change as a result. Since many counterfeit goods are produced in China, the majority of the developed and developing nations are currently paying close attention to the products imported from China. Additionally, counterfeiting has a significant negative influence on employment in all countries. According to several studies, piracy and counterfeiting kill countless employment opportunities each year (OECD, 2009). Therefore, if piracy and counterfeiting could be completely eliminated or severely reduced, an equivalent volume of career possibilities could be produced all over the world. The following are the economic consequences of counterfeiting practices and consumption of counterfeit products:

#### **➤ Growth and Innovation Issues**

Through the creation and exploitation of concepts for novel goods and procedures, innovation has been widely acknowledged as one of the primary forces behind economic progress (Salixova, 2021). These concepts are safeguarded by innovators via patents, copyrights, design rights, and trademarks. The motivation to create novel concepts and products would decrease without sufficient safeguarding

of the rights to intellectual property (OECD, 2007). For those industries where the cost of research and development to produce new goods is high relative to the cost of manufacturing the end products, the risks are perceived as being particularly significant. Therefore, counterfeiting may have significant negative consequences on innovation and, ultimately, advancement, to a level that they retard innovators' efforts.

➤ **Illegal Activities**

The financial benefits are transferred through counterfeiting practices to the parties who are frequently involved in a range of illicit activities, such as tax deception, money laundering, and illicit trade in drugs. In the words of Naim (2005), it may be anticipated that a significant amount of the revenues are ultimately utilized to finance more criminal activities in an unscrupulous and structured way.

➤ **Environmental Issues**

The increasing number of confiscated products raises environmental concerns because the destruction of the same may be an expensive procedure that generates a lot of garbage. The use of subpar counterfeit goods can have a negative impact on the environment. A good example is the chemical business, which has incidents where the usage of counterfeit chemical fertilizers gravely damaged the environment. Examples listed include the extensive harvest devastations in China, Russia, Ukraine, and Italy (Chaudhry & Zimmerman, 2009).

➤ **Loss of Employment Opportunities**

The economy as a whole and the affected industries are both impacted by counterfeiting activities. Jobs from copyright holders to violators are transforming the economy. The change has repercussions for employee welfare because working conditions are frequently far worse in covertly operated illegal enterprises than in well-known businesses that appreciate their employees more and follow health, safety, and other statutory norms (Kenawy, 2013). Numerous analyses have been conducted at each level of the industries for examining the loss of employment opportunities which have ended up as a result of counterfeiting

practices, or in reverse, the employment possibilities that would be generated if infringement levels dwindled.

➤ **Issues in Trade and Commerce**

Econometric analysis was used to look at the connections between counterfeiting and its impact on the intensity and mechanism of worldwide trade (X. Zhang et al., 2012). Although there was no correlation in the results for trade volumes, there were hints that counterfeit products affected the sorts of commodities that were imported and exported. The countries with relatively high counterfeiting rates were inclined to send overseas fewer items where risks to health and safety could be crucial.

### **3.6.2 Consequences Faced by the Manufacturers or Rights Holders**

The majority of legitimate businesses that produce and sell original items are the main targets of counterfeiters. Losses to them are extremely destructive, especially in terms of decreased sales and earnings. The long-term issues include future sales being lost from customers who purchase low-quality counterfeit items and place the real product with the same level of subpar quality. It also has a detrimental effect on the brand's reputation and the value of the company. Hence for the protection of the brand and the manufacturers, additional expenditures need to be incurred.

➤ **Diminished Sales Volume and Price**

The market share of the person who holds the rights is reduced as a result of counterfeit goods driving legitimate products off the market and driving prices down. In the case of products that violate trademark and copyright laws, a diminished market share consists of two factors: (i) sales lost to customers who mistakenly buy an unauthorized item for the real deal, and (ii) revenue lost due to customers who purposefully choose a cheaper counterfeit item over the real thing (Gul et al., 2020).

➤ **Damage to Brand Value and Firm Reputation**

Long-term use of counterfeit goods may harm a company's reputation and brand image. Customers who considered that they were purchasing a genuine

product when they actually purchased a fake, are likely to hold the producer of the original item accountable if the counterfeit one does not live up to expectations (Zhang et al., 2012a). This situation will lead to an erosion of credibility and goodwill. Consumers may be hesitant to purchase another product from a company and may express discontent to other potential customers if they are unaware that they were duped.

As Hien and Trang (2015) rightly mentioned, the prevalence of high-priced items' counterfeit counterparts may reduce conventional buyers' desire for the original products. Responses from customers of various industrial sectors such as the technological devices, pharmaceutical industries, electronic gadgets, information technology components, computer and related devices, electrical devices, food and beverage, high-end goods, sporting goods, automobile accessories and components, surgical and medical equipment, and textile units, etc. mirrored these impacts in their answers to the survey carried out by OECD on the basis of various industrial segments.

➤ **Loss of Royalties**

The monetary reward that IPR owners get in exchange for allowing other parties to use their rights is known as royalties. These profits are taken away from the rights holders or manufacturers due to the violation of intellectual property rights (OECD, 2007).

➤ **Low Profitability Rates for Investments**

The prevalence of counterfeiting may make it less profitable for some businesses to make investments in the creation of novel goods and strategies since the trick behind the novelty element is easily tracked down by the counterfeiters. The element of innovation is highly questioned by the prevalence of counterfeit products.

➤ **Additional Expenditures for Combating Counterfeiting**

Intellectual property owners spend money on numerous types of expenses to stop the manufacturing and selling of counterfeit products. It should be highlighted that while these expenses are remedial in the natural sense, they cannot be termed

pure societal loss because they do not result in better products, product innovation, or other improvements.

➤ **Reduced Scope of Operations**

Every aspect of a company's operations can be impacted by counterfeiting practices. The OECD industry survey's respondents cited situations in which diminished profitability and reductions in their brand equity have forced businesses to go out of business or cut down their activities (OECD, 2009).

### **3.6.3 Social Consequences**

Counterfeiters aren't really concerned with the effectiveness, safety, or quality of their goods. The likelihood of unfavourable consequences on consumers is increased as a result. Counterfeit goods pose notable safety hazards to consumers (Lewis, 2009). Most of the time, the safety rules and technical requirements that apply to genuine goods are ignored while designing and producing counterfeit goods. The use of false safety markings, which are meant to deceive benevolent purchasers into believing that the things they are buying are safe by frequently disguising this issue. This is a topic that is regularly addressed in the OECD investigations (OECD, 2007, 2009; OECD/EUIPO, 2019). Health and safety issues would be a problem for customers who purchase counterfeit goods, whether they do so consciously or inadvertently. Customers typically buy counterfeit and bogus goods for a number of reasons, including affordability, the chance to use comparatively less expensive goods without bothering them being destroyed, an opportunity to stay up-to-date, the potential to gain status in society attributed to a brand, etc. He seldom realizes that, once he buys a counterfeit item of inferior quality, he is more susceptible to putting his own life and safety, as well as the health and safety of his dependents, in jeopardy because many of these items are produced using risky, untested, or subpar substances and materials (Waziri, 2011). It is undeniable that customers do initially profit financially from such purchases, but the long-term adverse effects would typically outweigh the minimal positive effects of counterfeiting.

According to the findings from the reports of Organisation for Economic Corporation and Development, the four industries that are most frequently affected

by counterfeit items in terms of health and safety are automotive components, pharmaceutical products, electrical elements, and the food and beverage sector. Troublesome replacement components with fake brand names from reputable manufacturers have been found in the automobile industry. Among the goods that have been counterfeited are brake pads, hydraulic hoses, engine and chassis supplies, suspension and steering parts, and airbag devices. These devices' shortcomings significantly compromise the safety of automobiles at times. Pharmaceutical items that violate trademarks may contain legitimate substances in the wrong proportions or be put together erroneously. On top of that, non-active or even hazardous compounds might be included in the medicines. The majority of people who buy fake medications are probably utterly ignorant about the fact that they are being harmed (World Health Organization, 1999). Frude et al. (2020) conducted an investigation on the seizure of steroids and found out that the usage of counterfeit or tainted products threw a risk to the general public's health. People who used counterfeit Anabolic-Androgenic Steroids and other performance and appearance enhancers for non-medical reasons claims that they suffered negative effects as a result.

It has been discovered that counterfeit circuit breakers are either inaccurately configured or made of inferior components in the industry for electrical elements. Electric shocks and short circuit incidents have claimed the lives of people as a result of these flaws. Only a few individuals would purposefully buy fake food goods in the food and beverage industry because of possible health hazards, among other reasons. These dangers might range from minor discomfort to life-threatening diseases and even life. This has been observed with disappointingly processed raw spirits and bogus infant formula, as was mentioned in the sectoral evaluation done by the OECD/EUIPO (2019).

#### **3.6.4 Consequences Suffered by the Government**

Governments and the private sector have recently given increasingly significant importance to their safeguarding of IPRs. Governments came to an agreement on a multilateral scale to create a framework for identifying and protecting IPRs in both domestic and international environments. Additionally, governments have been collaborating with multinational corporations like the World Intellectual Property Organisation (WIPO), Interpol, and the World Customs

Organisation (WCO) to strengthen surveillance (OECD, 2007). In order to provide more efficient global solutions, counterfeiting concerns are also being discussed in the framework of the G8 summit conferences. All countries continue to struggle with counterfeiting regardless of these attempts (BASCAP, 2009).

➤ **Loss of Tax Returns**

Tax returns or revenues from legitimate manufacturers have been reported as more successful than those from counterfeiters. Corporate taxation on earnings, sales tax, value-added duties, excise duties, tariffs on imports, and social insurance expenditures are only a few examples of prospective losses (Gul et al., 2020). In industries like alcoholic beverages and tobacco, where excise duties are steep and the trafficking of counterfeit goods to get over those levies is common, revenue losses tend to be more severe.

➤ **Additional Cost of Anti-Counterfeiting Efforts**

Governments incur expenditures relating to customs, allied law enforcement organizations, and the financial backing needed to handle legal processes as a result of counterfeiting. Hien and Trang (2015) in their research mentioned that managing and getting rid of confiscated things comes at a significant expense. Furthermore, governments frequently invest funds in programs designed to address counterfeiting, which includes promoting awareness of the issue nationally as well as internationally and collaborating with other governing bodies to strengthen regulatory administration (Waziri, 2011).

Governments frequently foot the bill for mitigating the effects of counterfeiting on the safety and well-being of the general public. Through corruption or swindling of public authorities, criminal networks occasionally try to lessen the disruption of their supply chains and the possibility that they will be held accountable for their illegal actions. These kinds of behaviours harm society as a whole by decreasing the efficacy of public institutions (BASCAP, 2009).

### **3.7 Combating the Counterfeit Menace – International and National Strategies**

With the unravelling of international boundaries, advancing technology that is nowadays accessible to the average person, and ubiquitous globalization, the counterfeit market has experienced a great upsurge in the current economic climate.



Regarding the demand aspect, the longing of consumers to purchase branded goods at affordable rates has in some way encouraged the advancement of the industry of counterfeiting. The volume of counterfeiting has increased enormously as a result of all these variables (Budiman, 2012). In almost all the significant segments of the economy and industrial areas, counterfeiters have been successful to establish a stronghold. It is imperative to examine how each country defines what counts as a counterfeit good since legislation pertaining to counterfeit products is examined holistically from an international and national viewpoint. Thus, the international and national strategies to combat the counterfeit menace are described in the following points.

### **3.7.1 International Framework for Anti-Counterfeiting Efforts**

Numerous legal frameworks are in place to safeguard the rights to intellectual property. The World Trade Organisation (WTO), founded in 1995, and the World Intellectual Property Organisation (WIPO), founded in 1967, are the two most well-known international organizations that deal with the violation of IPR and the issue of counterfeiting practices. The production, importing, exporting, shipment, and marketing and selling of consumables that are not legitimate but are intended and promoted so that they look equivalent to original items with the objective to entice the customers into deeming that the products are original is known as counterfeiting in the context of international marketing. This interpretation of a counterfeit product that is generally accepted can potentially be found in the TRIPs Agreement. This agreement, a key component of the WTO, was developed to establish guidelines for the protection of property rights in intellectual property (Cateora et al., 2013). The TRIPS Agreement must be followed by all WTO members.

Counterfeiting is a widespread outbreak all over the world, harming companies and the global financial system, threatening capital investments in research and inventiveness, ruining the brand image and corporate reputation of well-known brands, and posing potential threats to the well-being and security of customers. The International Chamber of Commerce (ICC) has a global network of nearly 6 million commercial enterprises, chambers of commerce, and corporate

collaborations spread over approximately more than 130 nations. National committees from throughout the world communicate corporate goals to the ICC International Headquarters in Paris. In order to formulate the ICC viewpoint on particular business challenges, more than 2,000 professionals from ICC member firms contribute their knowledge and experience. The UN, the WTO, the G20, and numerous additional multinational organizations including both global and region-specific, are kept informed of the outlook of the global industry.

With the goal to increase the public's knowledge regarding the detrimental social and economic consequences of counterfeiting, the ICC established Business Action to Stop Counterfeiting and Piracy (BASCAP) in 2005. BASCAP was established with the purpose to connect and mobilize businesses spanning industries, domains, and national boundaries in the battle to oppose counterfeiting; strengthening the words and approaches of businesses to government authorities, the general population, and media outlets; and increasing consciousness and comprehension of counterfeiting operations and the economic and social consequences. The development of solutions to stop infringement has been the major focus of anti-counterfeiting efforts (BASCAP, 2007). It intends to join forces with companies so that they can fight counterfeiting practices with greater effectiveness. Among its initiatives is the development of forums for the exchange of knowledge about the levels of counterfeiting in various markets and industries, as well as knowledge regarding appropriate brand protection strategies. It is also meant to give individuals or organizations better information about the steps being implemented to deal with the problems. Studies are also being conducted to develop better tools for assessing the level of counterfeiting in various economic systems. Initiatives are performed to inform governments and the public about the social and economic repercussions of counterfeiting (BASCAP and INTA, 2017).

Over 7,000 trademark owners and specialists from over 190 countries constitute the International Trademark Association (INTA). As a membership organization with a non-profit mission, INTA handles trademarks and other associated intellectual property concerns to safeguard consumers as well as the government system (De Barnier, 2014). Since its inception in 1878, INTA has

pioneered worldwide IPR research, development of policies, and imparting knowledge on IPR (INTA, 2021).

Another non-profit organisation called the International Anti-Counterfeiting Coalition (IACC) was founded in 1979 to combat product counterfeiting. The IACC focused on the theoretical concerns of intellectual property protection. All forms of IPR that belong to its members, including copyrights, trademarks, and patents, have been incorporated into the membership and enforcement priorities of the IACC (Waziri, 2011). The IACC advocates several policy efforts both domestically and internationally, giving intellectual property owners the opportunity to participate in the creation of laws, rules, and global treaties. Additionally, it offers members the chance to get trained with law enforcement experts all across the globe. These initiatives have the same goal of promoting efficient and dissuasive execution of intellectual property laws, particularly in the fight against counterfeiting.

In order to promote global commerce and economic growth, the Organisation for Economic Co-operation and Development (OECD) was established in 1961. A global economy that is based on innovation faces significant obstacles from the illegal trade in fake goods. It hinders economic progress, presents serious risks to the well-being of individuals and the community, supports organized criminal activities, weakens competent public administration, weakens the public confidence in the government, and can eventually represent a challenge to democratic and political equilibrium. The OECD and the EU Intellectual Property Office (EUIPO) have respectively been gathering data on various facets of this risk. A series of reports, OECD (2007, 2009); OECD/EUIPO (2019, 2021, 2022) have been released on account of the same.

As per the latest report of OECD/EUIPO (2022) exhibiting the seizure statistics, between 2017 and 2019, there were more than 400,000 product seizures globally in categories of potentially hazardous goods. The deadly counterfeits that were confiscated were headed for approximately 150 economies and came from more than 190 different nations. The items of footwear, apparel, luxury goods, and electronic appliances experienced the most seizures among the harmful fakes intercepted from 2017 to 2019. Pharmaceuticals, optical and medical equipment,

spare parts, and other products were also offered for sale in the counterfeit markets (OECD/EUIPO, 2022).

International rules for protecting intellectual property rights have been developed through a multilateral agreement known as the Anti-Counterfeiting Trade Agreement (ACTA). The goal of ACTA is to create a global legal structure that can address issues like online copyright violations, marketing and sale of counterfeit products, and related problems. A number of nations, including Mexico, Australia, Japan, Singapore, Morocco, Canada, New Zealand, South Korea, and all twenty-two member states of the EU have signed the treaty. This is a kick-off in terms of creating a universal framework for handling the concerns associated with online counterfeit goods.

The above explained are the international organisations and associations that function restlessly to eradicate counterfeiting practices from the global market which is flooded with counterfeiters and counterfeit products.

### **3.7.2 Legal Framework for Anti-Counterfeiting in India**

India's plot of economic progress has drawn curiosity all over the world, creating new difficulties and obstacles for the home economy. The authenticity and credibility of genuine brands are tarnished by illegal and counterfeit merchandise, thus damaging the reputation of the individual or the corporation that owns it. This has an adverse effect on the customers by way of threats to their health and safety in addition to ruined business and earnings for the original manufacturer. The accessibility of branded goods to customers has increased in India as a result of globalization. Brands are also aggressive in securing IPR protection, such as registering their trademark, slogan, copyright, etc., to safeguard the goodwill attached to their products. The issue of counterfeit goods entering the supply chains triggers not only violation but also the dilution of an organization's reputation. Multiple remedies are offered under different intellectual property legislation to address the issue of counterfeiting.

There is no special legislation pertaining to counterfeiting in India's legal system, although there are statutory, civil, criminal, and administrative remedies that consist of recommendations in The Trademarks Act 1999; The Copyright Act 1957;

The Patents Act 1970; The Designs Act, 2000; The Customs Act 1962; The Drugs and Cosmetics Act 1940; The Prevention of Food Adulteration Act 1954; The Consumer Protection Act 1986; The Intellectual Property Rights (Imported Goods) Enforcement Rules 2007; The Contract Act 1872; Bureau of Indian Standards Act, 1986; Indian Penal code 1860; Information Technology Act 2000; Food Safety and Standards Act 2006; and Prevention of Money Laundering Act 2002 (Agrawal & Khan, 2021). Before taking any legal action for violations of the Trademarks Act, the justice system needs to consult with the registrar of trademarks, which occasionally causes a delay in the process. Stakeholders shall have discussions to come up with a workable solution to this dilemma.

The Customs Act of 1962, as well as the 2007 Rules for the Enforcement of Intellectual Property Rights on Imported Goods, forbid the importation of illicit goods (Agrawal & Khan, 2021). Rights holders frequently complain that the regulations do not allow for the suspension of the export of bogus goods. The parent Customs Act, however, forbids even their shipment, so a person who experiences injustice can ask Customs to halt the export. The distinction in the context of exports entails that the authentic producers are obliged to inform them beforehand of such shipments. All IP legislation includes legal remedies in the form of restraining orders, financial compensation, and account rendition. A civil proceeding is started by bringing a case before the district or the appellate court with territorial authority. In situations where counterfeiting is the challenge, Indian courts have considerable experience with intellectual property rules and will even issue ex-parte injunctions upon the receipt of an allegation. The provisional reliefs that are made available to right claimants as civil measures are the orders of Anton Piller, John Doe, and Mareva injunctions (Alexander, 1997).

Anton Piller rules that the rights holder may request the ex-parte employment of commissioners to examine the defendant's places of business in order to discover and confiscate counterfeit products. The commodities are given back to the accused with the assurance that they would be kept securely until further court instructions. The court can assign commissioners and grant them the power to visit, search, and effectuate seizures on the property of any identified or anonymous defendants through a special order known as a "John Doe" order. When it is impossible to pin

down every single counterfeiter or when they function out of transient locations, this type of response is most successful. In some circumstances, an injunction may be issued against the perpetrators to block their financial affairs until subsequent court instructions and such injunctions are known as Mareva injunctions (Agrawal & Khan, 2021; Alexander, 1997). The Code of Civil Procedure from 1908 governs how civil proceedings are handled. As per the present state of affairs, courts are using summary judgments more frequently in matters involving intellectual property. Anti-counterfeit litigation is perhaps the greatest situation that uses summary judgment, particularly in Anton Piller's cases were successful because of its very nature (Agrawal & Khan, 2021).

Cybersquatting is another trademark infringement and it is the practice of acquiring, utilizing, or trading in a domain name on the internet with the aim of making money from the reputation of another person's brand (Karote, 2022). Customers were found to be capable of creating top-notch copies of intellectual property that use digital technology as a consequence of the swift advancement of technology (Lalović et al., 2012). In order to trick customers into buying counterfeit items, skilled counterfeiters frequently register domain addresses and create websites that utilize, or strikingly mimic, the names and logos of well-known companies. Anyone who thinks that a domain name which is registered in the .IN Registry violates their legal rights or interests may file a complaint with the .IN Registry as per the INDRP Policy (Aggarwal & Bainwala, 2021). One of India's leading dairy companies, Amul had revenue for the fiscal year 2019–2020 of more than 5.28 billion US Dollars i.e., 38,550 crore Indian rupees. The firm became a victim of cybersquatting after someone bought the domains and built fake websites. According to IPC section 415, counterfeiting is a kind of cheating and as per IPC section 417, anyone who is convicted of deceiving faces sentence of imprisonment for a duration that might last up to one year, as well as a fine or both (Agrawal & Khan, 2021).

In the cases of Cadbury India Ltd. and Ors. v. Neeraj Food Products, Montblanc Simplo GmbH v. Gaurav Bhatia & Ors, and Nike Innovate C.V. v. Ashok Kumar, the various judicial systems issued significant court orders and injunctions. Numerous courts have ruled that in the context of counterfeiting, the plaintiff who

owns the original trademark is entitled to payment for damages, the dismantling of counterfeit products, the freezing of the financial assets and affairs of the counterfeiters, etc. Since these products not only result in a loss for the original producer but also for the government considering less revenue in taxes has been collected, a harsher approach to address the counterfeiting issue ought to be implemented.

### **3.7.3 Organizational Facilitations for Anti-Counterfeiting in India**

In 1920, the Associated Chambers of Commerce & Industry of India (ASSOCHAM) was established with the target of developing and establishing India as one of the leading economies and thus it played a vital and crucial role in the economic history of the nation. As per the report of ASSOCHAM (2015), utilizing its global network of 4,50,000 plus representatives, it contributes useful knowledge to accelerate the Indian economy. It has more than 400 organizations, coalitions, and provincial chambers under its umbrella in addition to a significant presence in states and major cities throughout the world. It acts as a bridge between corporations and the government in line with the goal of building a future for the industrial units in India. It is a flexible and forward-thinking organization that is driving several efforts to increase the Indian industry's worldwide competitiveness. According to a recent report published by ASSOCHAM (2015), between 60 and 70 percent of nutritional supplements supplied throughout India are false, counterfeit, unlicensed, and unauthorized.

Another oldest and biggest apex business organization in India is the Federation of Indian Chambers of Commerce and Industry (FICCI), which was founded in 1927. It represents the voice of industry and commerce in India. Its history is intricately entwined with India's fight for independence, industrial development, and its establishment as one of the leading economies in the world. FICCI continues to propel this historical trend by promoting discussion, communicating the opinions of the corporate sector, and forming strategies (FICCI, 2012). In order to address these concerns, FICCI created the Committee Against Smuggling and Counterfeiting Activities Destroying the Economy (CASCADE) in January 2011. CASCADE aims to conduct consumer awareness campaigns

throughout India about the effects of using illegal, and counterfeit goods (FICCI CASCADE Annual Report, 2021).

Prominent international organizations like the Eurasian Group, the Financial Action Task Force, Interpol, and the Asia Pacific Group have recognized and embraced India as a member (FICCI, 2021). The Central Bureau of Investigation in India has included a session on intellectual property in its conference, and Interpol has collaborated on offering training sessions that have garnered enthusiastic support from trade associations and business groups on combating illicit global commercial transactions. The ICC's BASCAP and INTA have been working together to promote the significance of anti-counterfeiting measures and the rendering of the same effectively. Several public and private entities in India have also been associated with the aforementioned organizations for ensuring the efficient enforcement of anti-counterfeiting strategies (FICCI CASCADE Annual Report, 2021).

These are the national-level legal provisions and organizational setups that operate in a solid and incessant way to eliminate the presence and consequences of counterfeit products from the Indian market which is drenched in illicit and counterfeit operations.

### **3.8 Conclusion**

The third chapter discussed numerous theories and models linked to counterfeits, the consequences of counterfeiting practices, the legal framework in the setting of counterfeits, and other related topics that aided in the development of the theoretical foundation for the current study. The chapter discussed a detailed account of the theories and models used in the context of counterfeiting, as well as the motivations behind customer attitudes and purchase intentions towards non-deceptive counterfeits, as well as reviewing the vast arena of analytical studies associated with it in the realm of consumer behaviour, which calls for deeper probing into the aspect. Various theories and models offered insights into customer perceptions and motives pertaining to counterfeits.