



AN ANALYSIS OF THE LEGISLATIVE FRAMEWORK FOR E-COMMERCE LAW IN BANGLADESH



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INTRODUCTION

The law relating to contracts in Bangladesh is contained in the Contract Act, 1872 which was passed by the British Government about 150 years ago. However, as a comparatively new and fast-growing mechanism to execute modern contract over the internet, E-commerce has started to raise question and disputes among individuals in home and abroad. In Bangladesh there is "National Digital Commerce Policy 2018" which is the primary legal provision to regulate E-commerce. The first ever legislation relating to e-commerce was the passing of the Information and Communication Technology Act 2006. The objective of this legislation was to facilitate E-commerce and also to eliminate barriers to electronic commerce resulting from uncertainties over writing and signature requirements only. However, the government needs to make a realistic and time relevant approach in legislating a modern commercial law covering e-commerce in Bangladesh not only aiding the domestic law but also for strengthening the cross border commercial relationship.



PROBLEM STATEMENT

In today's world, e-commerce has become very common in virtual consumer contracts. Proper legislations must be in place to ensure that this comparatively new module of business is properly regulated and there is trust and confidence in the mind of the online consumers and mass people at large. Contract Act, 1872 has no provisions relating to an electronic contract or e-commerce in Bangladesh. Since the concept e-commerce is relatively new itself, adequate work in the area may not have been done academically. As such, since there is inadequacy in legal provision in governing contracts for the protection of virtual consumers on virtual platform, it is high time for the law-makers to adjust and amend the current laws by legislating legal framework on e-commerce law so that the protection of any individual such as consumer, vendor and every possible stakeholder home and abroad can be ensured to encourage a risk free environment for day to day electronic business and thereby ensure a sustainable commercial environment in the virtual world.

RESEARCH OBJECTIVES

Disputes on virtual platforms in commercial transactions over the internet are emerging in Bangladesh. Although Bangladesh embarked into e-commerce years ago, however, judiciary of the country has not yet experienced much disputes addressing e-commerce until recent days. Against this backdrop, focusing on the need for a comprehensive e-commerce law in Bangladesh, it is now necessary to have a contemporary e-commerce law in Bangladesh addressing all related issues in protecting and developing trust in e-commerce industry of Bangladesh by assessing the laws of neighboring countries where there is legal framework on e-commerce law. Hence, a comprehensive legal framework should be considered one of the most essential and value-bearing components of e-commerce industry. As such, the objective of the study is to examine, investigate and assess the laws relating to e-commerce in Bangladesh and make proper recommendations and suggestions to improve the legislative framework of e-commerce law in Bangladesh.



RESEARCH METHODOLOGY

The method used to gather information for this research was through the use of the library and internet. The research used doctrinal analysis supported by comparative and empirical methods. Legal documents, case law, scholarly journals was the key components of the study. The primary focus was given on Bangladeshi legislation, supplemented by comparative study of Malaysia's Electronic Commerce Act 2006.

DATA COLLECTION METHOD

Basic emphasis was given on the qualitative data in analysing and writing the report. As such, the present study was a qualitative as well as descriptive study. Both primary and secondary sources of data was collected to conduct the research. The primary source of data includes but not limited to legislation, case law, judicial decisions, international law and customs. On the other hand, books, journals, periodicals, business reports, dissertations, reports, reports of dailies and different recognized web sites etc. was used as the sources of secondary data.



SIGNIFICANCE OF STUDY

The government should try to ensure good governance in E-commerce platforms which is widely possible only through strengthening the regulatory frameworks on E-commerce. The research shall have some policy impact. As a scholarly research work and being a new academic endeavour, copy of this research can be shared with policy and law makers in various level of the government such as Ministry of Commerce, Ministry of Law, Justice & Parliamentary Affairs as well to the Federation of Bangladesh Chambers of Commerce and Industry (FBCCI), the Dhaka Chamber of Commerce & Industry (DCCI) and E-commerce Association of Bangladesh (E-CAB) so that it is useful for academic purpose and policy dialogue. The research shall play a significant role in future for introducing a modern and equipped E-commerce law in Bangladesh.



Source: Bangladesh Competition Commission

RESEARCH FINDINGS

> E-Commerce Consumer Protection: Dedicated Legislation:

A comprehensive law should be developed that gives clear rights to consumers and clear obligations on the businesses that are making online transactions. It should have provisions that is obligatory upon the sellers to disclose their identity, product authenticity, return/refund timelines, and consumer grievance mechanisms.

> **Digital Dispute Resolution Authority:** Establish a special tribunal or an online arbitration mechanism to dispose of consumer complaints quickly and efficiently which will enable online lodging of complaints and the submission of digital evidence in order to reduce barriers to justice.

> **Data Protection and Cybersecurity Act:** Setting up a data protection mechanism aiming to legally regulate the conduct of e-commerce companies in dealing with personal data. Minimum cyber security standards should be enforced on all digital businesses so that consumer data will be protected.

> **Registration and Regulation of All E-Commerce Activities:** All digital sellers need to register with a central e-commerce authority including E-commerce operators. Standardize digital licensing and have digital platforms connected with the national tax system for transparency.

> **Public Awareness Programs and Digital Literacy:** To elaborate and educate consumers about their rights, how to check online sellers, and the ways of filing complaints. Should rather stress safe online shopping practices and awareness of fraud tricks.

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