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E-commerce Security in Bangladesh against Online Fraud and Cyber Crimes: Legal Protections and Policy Recommendations

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Abstract: In this era of modern technology, online shopping has opened new doors of opportunity and E-commerce has become the new normal for many people. Because there is so much money involved in e-commerce transactions, fraudsters are attracted to them, therefore having an effective regulatory framework is crucial. Apart from the general statutes, the Bangladesh government has enacted the National Digital Commerce Policy, still, an effective e-commerce regulatory framework has not been established. This paper has analyzed the existing legal framework of Bangladesh against Ecommerce fraud and has provided recommendations for Creating an E-commerce Friendly Environment.

Keywords: Online shopping, E-commerce fraud, Cyber Security, E-commerce friendly environment

1. Introduction

Man has been conducting business since the dawn of civilization. Today's world moves at an alarming rate. People may have money, but they may not have the time to shop. As a result, entrepreneurs took a risk and developed the concept of online shopping (Fahri & Omar, 2001). Online shopping, sometimes referred to as e-shopping, is a kind of electronic commerce that enables customers to purchase goods or services directly from a seller using a computer browser (Block, Yves & Arie, 1996). One of the fastest-growing phenomena in the globe is online buying. Online businesses are also rapidly expanding in Bangladesh. The precondition to shift from offline to online shopping is that the shopper must be fulfilled with the extra benefits he or she will get (Xiaofen & Yiling, 2009). In comparison to other countries, Bangladesh is a latecomer to online businesses. Nonetheless, this sector has seen tremendous growth in a relatively short period. Approximately in Bangladesh, more than 1200 websites and 17,000 Facebook Pages of different vendors are currently in operation. Every day, online business websites sell products worth around Tk. 3-4 crore. (Shafiqul, 2018). Because of the COVID-19 pandemic and global government limitations on social gatherings and public travel, more individuals are turning to internet purchasing sites for their everyday needs. Although prohibitions have been loosened in many nations, including Bangladesh, many individuals continue to purchase online for a variety of reasons. Online shopping experienced a surge before the COVID-19 outbreak and has since

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increased. Even though studies over the past two decades have demonstrated that service quality affects purchasing decisions, e-commerce has only lately adopted these results (Yang & Jun, 2002). What is worrying is that a lot of online shoppers are victims of fraud; reports of such e-commerce fraud have frequently made headlines recently, especially after the COVID-19 epidemic. People prefer it when the information they seek is easily accessible. It is well established that the depth and simplicity with which information can be retrieved from a website affects customer happiness (Jin & Park, 2006). According to one study, there are risks associated with online shopping such as financial, product, non-delivery, convenience, and so on, which can discourage people from purchasing from e-commerce stores (Bartley & Steve, 2003). Many customers who have little knowledge of the online shopping process have been duped. There are allegedly organized groups that run online shopping platforms and Facebook pages, post attractive product advertisements, and promise to deliver the products to buyers for a nominal courier service fee; however, in many cases, customers do not receive the goods they order. For the lack of strong E-commerce regulations, the right of consumers is violated in many cases.

2. Bangladesh E-commerce Trends: The Aftermaths of Covid-19 & Scopes for Fraudulent Activities

From 2000 to 2008, the rate of growth in e-commerce in Bangladesh was prolonged. There were a few e-commerce websites at the time, but there was no framework for online exchanges. (Mahmood, 2015). Because of the high cost of Internet and telephone connections, the low number of credit card holders, and the low penetration rate, very few people were aware of those sites (Hasan, 2014). According to Bangladesh Telecommunication Regulatory Commission (BTRC), the total number of internet subscribers are almost 99.984 Million at the end of February 2020 (BTRC, 2020). The ordinary online client starts by utilizing mail, at that point advances to social organizing, at that point to browsing for news, data, and excitement, and at last to shopping and conducting commerce online (Khan, 2014). In Bangladesh, there are about 2.55 million internet buyers, or about 2% of the country's population (UNCTAD, 2017). Bangladesh's online trade industry is worth more than Tk 10,000 crore and is developing at a rate of around 50% per annum. As a result, foreign investors are getting involved in the Bangladeshi market and a great example is the acquisition of the Bangladeshi company “Daraz” by the Chinese business giant Alibaba Group (Ovi, 2018). Since the advanced establishment laid down by the government and a youthful and tech-savvy populace, by 2023 Bangladesh's e-commerce showcase is anticipated to reach $3 billion (Fazlur, 2020). Since Covid-19 was widespread, numerous customers have turned to online shopping, which has made openings for fraudsters to swindle individuals. Complaints about online marketplaces are piling up (Bilkis, 2020). However, a vested quarter has taken advantage of the situation and has been duping clients over the nation due to a need for appropriate observation. One of the major issues, as many e-commerce merchants have reported, is fraud. There have been reports of people being robbed, not being paid after delivery and other incidents. Many small e-commerce merchants are becoming increasingly concerned about this. A single incident can devastate an entire business. According to Biplob G. Rahul, CEO of e-courier, one of Dhaka's fastest-growing new-generation logistics startups, this is largely due to merchants' failure to obtain buyer information. They don't want to make a client's purchase difficult. As a result, those who come here to take chances do so

(Biplop, 2016). According to the “Directorate of National Consumer Rights Protection”, the number of complaints more than doubled following the Covid-19 outbreak (DNCRP). Generally, perpetrators post images of different goods and products on their social media pages and websites. Advance payment is claimed once the buyer expresses his intention to buy and after payment, they are deceived in several manners. Once they have succeeded in defrauding people, without providing the products that the customers, the perpetrators close the page. Most fraud incidents resulted in customers not receiving the items they requested. They occasionally got parcels with inexpensive, expired products like potatoes and onions (Samiul, 2020). There have also been huge complaints filed against reputed e-commerce platforms such as “evaly.com.bd”, “daraz.com.bd”, “ajkerdeal.com”, “othoba.com”, “pickaboo.com”, and “priyoShop.com”, among others. After visiting these platforms' Facebook pages, this correspondent discovered a slew of complaints in the comment sections, which were later filtered or deleted (Bilkis, 2020). According to Abdul Wahid Tomal, “General Secretary of the e-Commerce Association of Bangladesh (e-CAB),” most of the cheating episodes happened through online Facebook pages. According to him, there are almost 100,000 Facebook pages where businesses offer their goods. Since the majority of them lack a trade license or TIN, they are not responsible. It is a significant challenge to keep customers from being duped. Customer sensitization is the most effective method of preventing cheating (Financial Express, 2020).

3. Existing Legal Framework to Protect E-consumers Rights:

Despite the existence of a National Digital Commerce Policy, no regulatory framework for e-commerce has been established. An effective legal framework to control and regulate online business and E-commerce activities is the demand of the time now. There are several isolated laws to deal with the E-commerce industry and to resolve relevant disputes namely: “The Penal Code, 1860”; “The Contract Act, 1872”; “The Sale of Goods Act, 1930”; “The Special Powers Act, 1974”; “The Standard of Weights and Measures Ordinance, 1982”; “The Bangladesh Standard and Testing Ordinance, 1985”; “The Consumer Protection Act, 2009”; “The Trade Marks Act, 2009”, “The Digital Commerce Operation Guidelines, 2018” etc. The E-commerce mechanism is a contract between the seller and the purchaser. Apart from the general characteristics of a valid contract, the online contract includes some special clauses. A purchaser after clicking the “Proceed” or “Purchase” website or application button, agreed to contact the seller even if not realizing that they are contracting (Chakraborty and Chatterjee, 2011). Under section 52 of the Contract Act, of 1872 if the contract specifies the order in which reciprocal promises are to be fulfilled, then those promises must be fulfilled in that order; if the contract does not specify the order, then those promises must be fulfilled in the order that the nature of the transaction dictates (The Contract Act, 1872). The contract law prescribes that when any contracting party failed to fulfill his contractual obligations, a breach of contract occurred and there is a scope for the aggrieved party to take action and claim damage or compensation (Siddique, 2012). The action could be made under section 53 and the compensation could be sought under section 54 of the Act (The Contract Act, 1872). The Penal Code 1860 of Bangladesh also provides a remedy in case of an offense related to weights and measures. In some cases, the seller deceives the purchaser by providing less quantity than the actual stipulated measures and action could be taken in such cases under sections 264–267 of Chapter XIII (The Penal Code, 1860). Several offenses related to "fraudulent use of weight or measure, making or selling false weight or measure, fraudulent use of a false instrument for weighing and having false weight or measure" are punishable under the code with both imprisonment and fine (Borhanuddin, 2009). The Sale of Goods Act of 1930 also protects the rights of the buyer and seller. Under section 56, the seller is entitled to claim compensation from the buyer if he rejects the goods wrongfully after purchasing. The purchaser could also file similar complaints against the seller in case of non-delivery of products (Sale of Goods Act, 1930). In case of any warranty breach by the seller, the buyer can file a suit for damage against him, and if the condition of the product is not up to the standard, there is an option to reject the product by the buyer. Several provision of the act is applicable to ensure the right of the buyer and seller in online business and E-commerce (Mitra, 1956). The Special Power Act 1974 can be enforced to punish offenses related to adulterated food, drinks, drugs, or cosmetics. This act is applicable both for traditional commerce as well as E-commerce and online shopping. Selling contaminated food, items, beverages, or cosmetics that are harmful to one's health is punishable by death, life in prison, or hard imprisonment for 14 years under section 25C of the act (Special Powers Act, 1974). In case of adulteration of cosmetics products or sells/offers for sale will be punished by rigorous imprisonment for a term which may extend to five years and a fine also which are harmful to the human body and skin. To establish the standards of weights and measures, the Standard of Weights and Measure Ordinance, 1982 was enacted based on the metric system and units of measurement. If any person used nonstandard weights or measures, he will be punished by a fine of three thousand taka or six months of imprisonment under the ordinance (The Standard of Weights and Measure Ordinance, 1982). If goods ordered online or received by E-commerce are found below standard in weights and measures, this ordinance could provide a remedy. Section 30-32 of the Bangladesh Standard and Testing Institution Ordinance, 1985; has penalized the improper use of the standard mark in case of E-commerce and real-life business. The ordinance has also suggested that an institution should be formed to standardize, quality control, testing, grading, and marketing of goods (Bangladesh Standard and Testing Institution Ordinance, 1985). The Trade Mark Act offers legal protection against such unfair business operations. The offenders occasionally utilize fraudulent or misleading trademarks to trick customers. Online sites deceive consumers by selling replicas or fake products bearing the name of a well-known brand (Das, 2012). Several offenses can be remedied through the activities like selling and using false trade names, falsifying and falsely applying trademarks and misrepresentation of trademarks, etc. (Trade Mark Act, 2009). Another major law to protect consumer rights and for preventing any acts against consumer rights and interests is the Consumer Protection Act 2009. The product's safety and the liability of the economic operators are the main concern of the law. The act enables the government to rebuff the offenses of financial administrators who damage buyer rights and interface (Khan, 2014). Under section 40–51 of the act, a complaint can be filed when a product, service, or medicine is sold at a price higher than the fixed rate when a product or service is not delivered after payment has been received when a product or medicine is knowingly sold after it has expired when a product or medicine is sold that is adulterated and harmful to health, when fake medicines are made or produced, or when false information is used in an advertisement to mislead consumers (Consumer Protection Act, 2009). There is both civil and criminal remedy available under the law, in case of violation of consumer rights. Civil remedy includes claiming compensation and the criminal remedy includes fine and imprisonment. According to the act, the purchaser is entitled to redress in the form of injury compensation, exchange of Clients, wholesalers, and retailers, and the government can all record complaints with the “Directorate of National Consumer Rights Protection” under the Consumer Rights Protection Act of 2009. The complaint can be made individually, by fax, email, site, or other electronic implies, or in any other way. If a victim of online shopping fraud falls victim, he or she has 30 days to file a complaint (The Business Standard, 2019). For the effective application of the provisions, it is suggested that the act should include terms like “online shopping” or “E-commerce”. The Information &. Communication Technology Act, of 2006 deals with provisions related to buyer's security and online safety. Consumers share personal pieces of information while shopping online like bank information or card details and it paves a way to hamper buyer’s security. In case of spamming, illegal data collection, unwanted mail, intentionally obstructing computer systems, or illegal access related to E-commerce transactions, the law provides adequate safety protocols (Information &. Communication Technology Act, 2006). The final instrument pass by the government to control “E-commerce” activities is the Digital Commerce Operation Guidelines, 2018. The objective of this guideline is to create a healthy online environment for “E-commerce” and to create transparency, accountability, and liability (Digital Commerce Operation Guidelines, 2018). The rules have outlined the fundamental obligations and rights of both the buyer and the vendor. Under the guidelines; all types of digital or cybercrimes, any dispute that arises, or any violation of consumer rights; resulting from any E-commerce transaction will be trialed by the existing digital security laws. The copyright, patent, and trademark laws will be applicable mutatis mutandis after necessary modifications.

Recommendations for Creating an E-commerce-Friendly Environment :

Fostering an atmosphere that is favorable to online trade requires security and trust. This would in a perfect world incorporate, among other things, legitimate and administrative systems that encourage paperless exchange in products and administrations, customer security, information security, cybercrime anticipation, and showcase get-to. The components of an e-commerce strategy's legal and regulatory framework can be divided into a variety of segments. Some of the crucial segments are outlined below:

1. For businesses and customers, a clearly defined code of conduct should be formulated because it is necessary to ensure that any “E-commerce” modes are not contrary to traditional social and business etiquette.
2. To build trust among consumers, the application of consumer protection law is crucial. The pertinent vendor must secure the protection of the consumer's communication, inclinations, visit data, and individual and monetary information.
3. There must be a clear definition of what sort of communication, deliberate, or guarantee between dealer and shopper will be considered a benefit assertion, and any infringement will result in lawful repercussions within the equity framework.
4. It is necessary to create a community-driven policy. The socioeconomic situation varies from one country to the next. Expectations from businesses and consumers must be factored into our current standard.

5. Proper communication between the parties regarding the mechanisms of Dispute Resolution should be made. A "Cyber court" can be set up to expedite the resolution of such cases.
6. A legal expert group should be established to evaluate the legislation periodically since the cyber dimension evolves so swiftly. Case studies from other countries can be of great help in improving such legislation.
7. Many e-commerce transactions are a hybrid of digital and traditional business processes. "The Information &. Communication Technology Act" must ensure appropriate compliance with existing law and e-commerce regulations.
8. In spite of the fact that e-commerce encourages get to business enterprises, a few shapes of control must be forced for unused participants to distinguish proof, confirmation, tax collection, and observing.
9. Protections approaches can be outlined to secure businesses and shoppers from major mischances and extortion. Treaties (Bilateral Agreements) with countries are required to boost international e-commerce.
10. A legal framework that allows for simple customs, VAT, and other payments, as well as quick product release and improved delivery channels, will encourage international business transactions.
11. Customary mindfulness and preparing a program on secure data administration-how to back up information, guarantee information astuteness, verify an individual to utilize the framework, how as often as possible information reinforcement must be taken, etc.- ought to be conducted among government and non-government authorities, business visionaries, and shoppers.
12. Backup and recovery of data is a critical issue in e-commerce. Data Center construction is currently underway, which will require integration not only with large corporations but also with micro and small e-commerce businesses for regular backup of critical and high-volume data.
13. Cryptography is a worldwide practice for ensuring the security of information. The government should only allow payment gateways that use proper security precautions to keep the information confidential and full proof to operate.
14. Confidential information and documentation, as well as government policies, should be kept secure. A smart card containing all of a person's information could be introduced, making e-commerce transactions more trustworthy. It can also be used as a consumer's e-wallet.
15. A district-based cyber tribunal has been built up, as includes a central helpline. Our law requirement needs an extraordinary task force that gets it and bargains with different e-commerce security issues.

Numerous e-commerce lawful advisors will be required in the future to combat strife administration. Reasonable educational programs and preparation programs must be created for this reason. E-commerce intellectual property must be identified and protected. To protect digital intellectual assets, Copy Right law must be implemented in a very organized manner. Many e-commerce sectors, such as movies, music, and books, will suffer if we do not properly monitor and enforce copyright laws.

4. Conclusion

The use of online buying has become more and more common as a unique strategy. By choosing from the offered products, the online shopping system makes it easier to buy goods, services, and other items from websites. Bangladesh is seeing a sharp rise in internet shopping. Customers' awareness of their rights should be increased to promote this sector on a large scale. The government should increase its promotional efforts to advance this purchasing process. To safeguard the rights of online shoppers, the complexity of the legal system needs to be reduced. Traditional laws should be changed in a broader sense. The legislature should enact a specific law ensuring online shopping rights and compiling all necessary solutions. To solve the difficulties of internet buying, existing laws, particularly the "Contract Act", the 'Sale of Goods Act", and the "Consumer Protection Act", must be changed. A transfer speed estimate for the following ten long times is required for at slightest 100 million web clients who will be able to utilize tall-definition picture and video substance. To make the entire country a single marketplace where every house is a destination, everyone must work together to improve goods transportation. Other crucial criteria are to modernize the government postal service and other courier services, establish service standards, and implement real-time shipment tracking, RFID, and other technologies. For real-time fund transfers, all payment systems must be interoperable. To build and maintain customer trust, payment systems must be closely monitored. Introducing an "E-commerce course" as a required academic course for all university business and CSE students could be a good option. E-commerce management should be emphasized in government polytechnic institutes. To guarantee a quality e-commerce environment, certain perspectives of a company must be carefully confirmed and guaranteed by the issuance of a computerized certificate. The electronic agreement must include a digital signature. Modernization of the Cyber Act, speedy debate determination, cyber badgering assurance, shopper assurance law, and mental property assurance are necessities for guaranteeing cybersecurity in E-commerce.

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