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## Research Article



# The Legal Framework of E-Commerce Contracts: Challenges and Opportunities in Bangladesh

Nusrat Jahan Rima\*; Rabiya Akter Tuli; Md. Rifat Uddin; Md. Shohag Talukder; Kazi Abdul Mannan

Department of Business Administration;  
Shanto-Mariam University of Creative Technology  
Uttara, Dhaka, Bangladesh

## ABSTRACT

The rapid proliferation of digital technologies has transformed traditional commercial practices, leading to the rise of e-commerce as a dominant mode of business in Bangladesh. This study explores the legal framework governing e-commerce contracts in Bangladesh, focusing on existing legislation, contractual enforceability, consumer protection, and dispute resolution. Through a doctrinal and empirical legal research methodology, the study investigates how well current laws align with the dynamic nature of online commercial transactions. The research draws upon key statutes such as the Information and Communication Technology Act, 2006, and the Contract Act, 1872, while also analysing practical challenges faced by stakeholders in the e-commerce ecosystem. Findings reveal significant gaps in the legal infrastructure, including weak enforcement mechanisms, digital fraud risks, a lack of awareness, and jurisdictional complexities. However, the study also identifies emerging opportunities, such as the potential for harmonisation with international legal standards and the development of digital dispute resolution systems. The research concludes with specific recommendations to strengthen the legal environment for e-commerce in Bangladesh, thus contributing to a more secure and efficient digital economy.

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**CONTACT** Nusrat Jahan Rima, Email: [nushfi06@gmail.com](mailto:nushfi06@gmail.com)

## INTRODUCTION

The rise of the digital economy has significantly transformed the commercial landscape of Bangladesh. From retail platforms to service-based transactions, e-commerce has become an indispensable part of daily life, offering convenience, efficiency, and broader market access. However, with this transformation arises a host of legal challenges, particularly around the formation, execution, and enforcement of e-commerce contracts.

This paper investigates the legal structure surrounding e-commerce contracts in Bangladesh, identifying existing legal instruments and exploring the extent to which they ensure fairness, transparency, and accountability. In Bangladesh, instruments such as the Information and Communication Technology Act (2006), the Evidence Act (amended), and the Digital Commerce Policy (2018) attempt to govern e-contracts. However, ambiguities persist in their interpretation and application.

This study is motivated by the growing concern among consumers and businesses regarding data security, fraudulent transactions, and dispute resolution mechanisms. Through legal analysis and stakeholder input, the paper explores the intersection of contract law and technology in the Bangladeshi context.

## THEORETICAL FRAMEWORK

The emergence of e-commerce has revolutionised commercial practices worldwide, including in developing countries such as

Bangladesh. To effectively examine the legal structure surrounding e-commerce contracts, this research is grounded in three key theoretical frameworks: Contract Theory, Legal Positivism, and Cyberlaw Jurisprudence. These theories help interpret the dynamic legal landscape where traditional contract principles intersect with digital technologies, offering insights into both legal interpretation and policy design.

### Contract Theory

Contract theory forms the foundational basis for analysing how agreements are created, executed, and enforced. Traditionally, a valid contract requires the presence of offer, acceptance, consideration, capacity, and intention to create legal relations (Miller & Cross, 2021). In the digital environment, these elements still apply but are expressed differently. For example, an “offer” may be embedded in a product listing on an e-commerce platform, and “acceptance” may take place through the click of a mouse.

The sub-branches of contract theory—such as classical contract theory and relational contract theory—are particularly relevant here. Classical contract theory, which emphasises autonomy and the freedom of parties to contract, assumes that all actors are rational and informed (Barnett, 2002). However, this assumption may not hold in e-commerce environments where information asymmetry is prevalent. Consumers may lack understanding of terms embedded in clickwrap or browsewrap agreements, raising questions about genuine consent and informed decision-making.

Relational contract theory, on the other hand, stresses the importance of context, ongoing relationships, and fairness in interpreting contracts (Macneil, 2001). This lens is valuable for evaluating contracts between online platforms and recurring users or vendors, where a purely transactional interpretation may not suffice. For example, Amazon's or Daraz's user agreements evolve and govern a long-term relationship that goes beyond a one-time transaction.

E-commerce contracts often blur these distinctions, and thus contract theory provides the interpretive tools to assess whether such digital agreements genuinely reflect mutual assent and legally binding obligations.

### **Legal Positivism**

The study also relies on the principles of legal positivism to evaluate the extent to which legitimate and enforceable statutory rules govern e-commerce contracts. Legal positivism, as articulated by theorists like H.L.A. Hart, posits that law is a set of rules created and enforced by the state, distinct from moral or ethical considerations (Hart, 1961). This theory is crucial for understanding how Bangladeshi legislation, such as the Information and Communication Technology Act (2006) and Digital Commerce Policy (2018), frames e-commerce activities.

According to legal positivism, the validity of a contract does not depend on whether it is morally fair but on whether it adheres to prescribed legal procedures. Therefore, if the Bangladeshi law

recognises electronic contracts, digital signatures, and electronic records under certain conditions, such contracts must be treated as legally binding, regardless of how they differ from traditional paper-based contracts.

However, legal positivism also helps identify shortcomings in existing statutes. For instance, many Bangladeshi laws—including the Contract Act of 1872—were not originally designed to accommodate electronic forms of agreement. Although some amendments have been made, there remain ambiguities in interpretation. By using a positivist lens, one can assess whether current laws provide transparent, predictable, and enforceable rules governing e-commerce or whether legislative reform is required.

Legal positivism further supports the analysis of the institutional environment—judiciary, law enforcement, and regulatory bodies—by evaluating whether these institutions have the authority and capacity to enforce laws related to digital commerce effectively.

### **Cyberlaw Jurisprudence**

Given that e-commerce operates in a virtual, often borderless space, cyberlaw jurisprudence offers an essential theoretical anchor for understanding its unique legal challenges. Cyberlaw refers to the area of law that deals with legal issues related to the internet, digital communications, and online transactions (Kerr, 2005). Issues such as jurisdiction, authentication,

identity verification, and data privacy are integral to understanding e-commerce contracts.

For instance, how do courts in Bangladesh determine jurisdiction when a buyer in Dhaka purchases a product from a seller hosted on a platform with servers in Singapore? Cyberlaw theories explore such questions and provide principles that guide transnational enforcement, electronic evidence admissibility, and cross-border consumer protection.

In Bangladesh, cyberlaw is still an emerging area. Although the ICT Act (2006) includes provisions related to electronic records, digital signatures, and cybercrimes, enforcement mechanisms remain weak, and judicial familiarity with digital norms is limited. Cyberlaw jurisprudence, therefore, acts as both a diagnostic and prescriptive tool—highlighting current legal deficiencies and offering directions for future legal development.

### **Integrating Theories for a Holistic View**

Integrating these three theoretical perspectives—contract theory, legal positivism, and cyberlaw jurisprudence—allows for a holistic analysis of e-commerce contracts in Bangladesh. Contract theory helps in interpreting digital agreements and understanding the behaviour of contracting parties. Legal positivism provides the tools to evaluate the authority, validity, and clarity of the governing laws. Cyberlaw jurisprudence situates these contracts within the unique technological

and jurisdictional complexities of digital commerce.

This theoretical triangulation strengthens the research's ability to not only critique existing frameworks but also propose legally sound and technologically informed reforms for e-commerce contract regulation in Bangladesh.

## **LITERATURE REVIEW**

The evolution of e-commerce globally and within Bangladesh has been the subject of increasing academic interest, especially regarding its legal implications. A robust literature base exists on the formulation, execution, and enforceability of electronic contracts, although localised research focused on Bangladesh remains limited. This review critically examines key scholarly contributions, legal commentaries, and policy documents under the following thematic areas: (1) definitions and typologies of e-contracts, (2) digital consent and contract formation, (3) regulatory frameworks in Bangladesh, (4) consumer protection and data security, and (5) comparative legal developments in other jurisdictions.

### **Definitions and Typologies of E-Contracts**

Electronic contracts, or e-contracts, are legally enforceable agreements created and executed using electronic means. Chaffey (2015) defines an e-contract as a digital agreement between two or more parties involving offer, acceptance, and mutual consent through electronic communication, typically over the internet. These



contracts can take various forms, including clickwrap, browsewrap, and shrinkwrap agreements (Hillman & Rachlinski, 2002).

- Clickwrap agreements require users to actively click “I agree” to specific terms before proceeding.
- Browsewrap agreements bind users through the use of a website without requiring explicit consent.
- Shrinkwrap agreements are often found in software products where terms are enclosed within packaging.

The enforceability of these formats often hinges on whether the user was given sufficient notice and an opportunity to review the terms. In the context of Bangladesh, such classifications are only beginning to be acknowledged in legal and judicial discourse, signalling a need for broader academic exploration (Rahman, 2021).

### **Digital Consent and Online Contract Formation**

One of the central challenges in regulating e-contracts lies in ensuring valid consent. Traditional contract law, based on physical documentation and in-person negotiation, presumes active and informed participation. In contrast, online environments often obscure these processes. As Mann and Roberts (2017) argue, users tend to agree to lengthy and complex terms without fully understanding their implications, raising questions about informed consent.

In jurisdictions such as the United States, courts have increasingly emphasised the conspicuousness and accessibility of terms as prerequisites for enforceability (Specht v. Netscape, 2002). However, there is limited jurisprudence in Bangladesh addressing such nuances. The Contract Act of 1872, which still governs most contractual relationships in the country, lacks provisions that account for digital forms of consent and notification.

Empirical studies by UNCTAD (2023) suggest that many online consumers in developing countries like Bangladesh are unaware of their contractual rights or the implications of online agreements. This digital illiteracy further complicates the legal recognition and enforceability of e-contracts.

### **The Regulatory Framework in Bangladesh**

The principal legal frameworks governing e-commerce in Bangladesh include the Information and Communication Technology Act (2006), the Evidence Act (amended), the Digital Commerce Policy (2018), and the Consumer Rights Protection Act (2009). These laws attempt to address key aspects of electronic transactions but suffer from significant gaps and overlaps.

Islam (2019) identifies several ambiguities in the ICT Act, particularly in its treatment of digital signatures, certification authorities, and dispute resolution mechanisms. While the Act recognises electronic records and digital contracts, the absence of clear procedural guidance has

rendered enforcement weak. Additionally, the lack of coordination among relevant regulatory bodies such as the Bangladesh Telecommunication Regulatory Commission (BTRC), the Ministry of Commerce, and the Consumer Rights Protection Directorate often leads to jurisdictional conflicts (Rahman, 2021). The Digital Commerce Policy 2018 was a progressive step toward establishing a comprehensive e-commerce framework. It outlined responsibilities for e-platforms, guidelines for product return and refunds, and recommended the development of a dispute resolution cell. However, its implementation has been criticised for being inconsistent and lacking legal enforceability (Sultana & Hossain, 2022).

### **Consumer Protection, Privacy, and Data Security**

One of the most contested areas in e-commerce legislation is the protection of consumers in virtual marketplaces. According to Chowdhury and Haque (2020), issues such as data breaches, non-delivery of goods, misleading advertisements, and lack of after-sales services are common in Bangladeshi e-commerce. The Consumer Rights Protection Act (2009) provides limited redress for such grievances and was primarily designed for physical retail settings.

Moreover, data protection laws are virtually absent in Bangladesh, posing significant risks to consumer privacy. While some provisions in the ICT Act mention data protection, they are not comprehensive nor enforced effectively. This is

in stark contrast to other countries such as the European Union, where the General Data Protection Regulation (GDPR) governs data collection, storage, and usage with strict penalties (Kuner, 2017).

With the growing influence of AI-driven algorithms in personalised marketing and sales, scholars like Zarsky (2016) have also warned about the potential for algorithmic discrimination and opaque data practices in online contracts. In Bangladesh, these concerns are heightened due to low levels of digital literacy and regulatory oversight.

### **Comparative Legal Developments**

Several countries have developed robust legal systems for governing e-commerce. India, for example, has enacted the Information Technology Act (2000), which recognises explicitly electronic contracts and has detailed provisions for digital signatures and cybercrime (Bansal, 2016). India also maintains the Consumer Protection (E-Commerce) Rules, 2020, which provide more clarity on platform responsibilities and redress mechanisms.

Malaysia's Electronic Commerce Act (2006) and Digital Signature Act (1997) are considered models for integrating contract law with cyberlaw, ensuring authentication, reliability, and dispute resolution (Hassan, 2014). These countries have made notable strides in addressing jurisdiction, taxation, and liability issues—areas

where Bangladesh still faces significant uncertainty.

Furthermore, international organisations such as UNCITRAL have developed the Model Law on Electronic Commerce (1996) and the Convention on the Use of Electronic Communications in International Contracts (2005), which offer model legislative principles that can guide Bangladesh's legal reforms (UNCITRAL, 2020).

### **Gaps in the Literature**

While there is a growing body of literature on the global legal dimensions of e-commerce, there is a distinct lack of empirical and doctrinal research focused on Bangladesh. Few studies critically analyse the effectiveness of legal enforcement, the capacity of the judiciary, or the experiences of digital consumers and entrepreneurs. Most existing works (e.g., Islam, 2019; Rahman, 2021) are descriptive and focus more on legislative overviews than analytical or case-based evaluations.

There is also limited literature on online dispute resolution (ODR) mechanisms in the context of Bangladesh. International best practices suggest the importance of developing digital tribunals and AI-based mediation tools to handle the increasing volume of e-commerce disputes (Katsh & Rabinovich-Einy, 2017). However, no comprehensive studies have explored the feasibility or readiness of such systems in Bangladesh.

The existing literature provides valuable insights into the theoretical, legal, and practical aspects of e-commerce contracts, especially from a global and comparative perspective. While Bangladesh has taken preliminary steps to regulate digital transactions, its legal framework remains underdeveloped, inconsistent, and poorly enforced. Significant gaps exist in the areas of informed consent, data protection, consumer redress, and regulatory capacity. A coherent and enforceable legal framework—aligned with international standards and informed by empirical realities—is essential for fostering trust and sustainability in Bangladesh's e-commerce sector.

## **LEGAL FRAMEWORK IN BANGLADESH**

The regulatory and legal infrastructure in Bangladesh concerning e-commerce contracts is evolving but remains fragmented and underdeveloped. The key statutes relevant to e-commerce include the Information and Communication Technology Act (ICT Act), 2006 (amended in 2013 and 2018), the Digital Commerce Policy, 2018, the Contract Act, 1872, the Evidence Act, 1872 (amended), and the Consumer Rights Protection Act, 2009. In addition, several regulations issued by the Ministry of Commerce and administrative directives from the Bangladesh Telecommunication Regulatory Commission (BTRC) complement the legal landscape. However, despite these instruments, significant



challenges remain in implementation, clarity, and enforcement.

### **Information and Communication Technology Act, 2006**

The ICT Act, 2006, was Bangladesh's first comprehensive attempt to regulate electronic records, digital signatures, cybersecurity, and offences related to electronic communications. Among its most notable provisions are the legal recognition of electronic records and digital signatures, as stipulated in Sections 5 and 6, respectively. These sections essentially provide that electronic documents shall not be denied legal effect solely on the ground that they are in electronic form (GoB, 2006).

Section 10 introduces the framework for the use of digital signatures as valid authentication tools, which is critical for e-commerce contract validation. The Act also laid the foundation for the Controller of Certifying Authorities (CCA), tasked with certifying electronic signatures and ensuring their integrity (GoB, 2006). However, in practice, the certifying authority has not yet developed a robust and trusted infrastructure, and many online platforms rely on simple password-protected consent mechanisms rather than digital certificates, raising questions about enforceability.

Moreover, the Act includes penal provisions for cybercrime and fraud (Section 56–66), including hacking, identity theft, and dissemination of false information—all highly relevant to e-commerce

operations. Despite this, critics argue that the ICT Act has been disproportionately used for censorship or criminal defamation rather than promoting secure online transactions (Islam & Sarker, 2020).

The 2013 and 2018 amendments to the ICT Act attempted to address concerns about abuse but did not significantly improve clarity around e-contract enforcement. There is a lack of detailed procedural guidelines on how courts should interpret digital signatures, electronic offers and acceptances, and cross-border e-commerce disputes.

### **Contract Act, 1872**

The Contract Act, 1872, remains the principal legislation governing contracts in Bangladesh. However, it was drafted in the pre-digital era and lacks explicit recognition of digital communications, electronic offers, and online acceptances. The Act outlines the essential elements of a valid contract—offer, acceptance, consideration, capacity, and lawful object—but does not guide how these should be interpreted in a digital context.

Section 2 of the Act defines key terms like “proposal,” “promise,” and “agreement,” all of which traditionally presume face-to-face communication or physical documentation. In practice, courts in Bangladesh have been slow to adapt these definitions to the virtual realm. There is no judicial consensus on the interpretation of

clickwrap and browsewrap agreements under this Act.

Legal scholars have called for amendments to the Contract Act to include provisions explicitly recognising electronic contracts, electronic communications, and technologically mediated consent (Rahman, 2021; Islam, 2019). Without such reforms, the enforceability of many e-commerce contracts remains uncertain, especially in cases where disputes arise regarding jurisdiction, delivery, and refund mechanisms.

### **Evidence Act, 1872 (Amended)**

The Evidence Act of 1872, modelled initially after British colonial law, did not contemplate the use of electronic records or digital communications as admissible evidence. However, amendments made to the Act (notably via the ICT Act) now allow for the admissibility of electronic records and digital signatures as evidence in legal proceedings.

Section 3 of the amended Act expands the definition of “evidence” to include data stored in electronic formats, such as emails, websites, or digital contracts. Furthermore, Section 65B, adapted from the Indian Evidence Act model, outlines the conditions under which electronic records are admissible, such as proof of authenticity, certification by responsible officers, and storage in a secure system.

Despite these provisions, practical implementation remains a concern. Judges and

lawyers often lack training in assessing digital evidence, and courts are poorly equipped with the necessary technological infrastructure to examine, verify, and secure electronic submissions (Haque & Akter, 2020). Moreover, questions about the integrity, reliability, and non-repudiation of electronic evidence persist, particularly in cases involving forged emails or tampered transaction records.

### **Digital Commerce Policy, 2018**

The Digital Commerce Policy, 2018, introduced by the Ministry of Commerce, represents a significant policy-level intervention in regulating online business practices. It aims to ensure a safe and competitive e-commerce environment by laying down standards for product returns, delivery timelines, and digital payment systems.

Key provisions of the policy include:

- Mandatory registration of all e-commerce entities.
- Clear terms of service and return policies on platforms.
- Guidelines for complaint resolution and consumer rights protection.
- Requirements for safe and secure digital transactions (MoC, 2018).

While the policy is forward-looking, it is non-binding and lacks the force of law. It is not framed as an Act of Parliament and hence cannot be directly enforced in courts. Many platforms fail to comply with its standards due to its advisory nature. There is also limited monitoring by regulatory bodies such as the Directorate of

National Consumer Rights Protection (DNCRP), resulting in arbitrary practices by online retailers and marketplaces.

In 2022, the government proposed a Digital Commerce Operations Guideline, which sought to operationalise the Policy's vision. However, until these guidelines are legislated through Parliament or incorporated into existing Acts, their effect remains limited (Sultana & Hossain, 2022).

### **Consumer Rights Protection Act, 2009**

The Consumer Rights Protection Act (CRPA), 2009, provides the legal basis for protecting consumers from deceptive, unfair, and unethical business practices. It empowers the DNCRP to receive complaints, investigate cases, impose fines, and mediate settlements. Though this Act is mainly targeted toward traditional retail markets, it has been invoked in several cases involving e-commerce fraud, such as non-delivery of goods or delivery of counterfeit products (Chowdhury & Haque, 2020).

Nonetheless, the Act does not explicitly mention online transactions, digital services, or cross-border trade, making its e-commerce application indirect and sometimes disputed. Furthermore, penalties are relatively light, and enforcement is cumbersome, involving lengthy bureaucratic procedures. There is also no provision for class action or collective consumer redress, limiting the deterrence value of the legislation.

In recent years, proposals have been made to update the CRPA to include provisions relevant to the digital marketplace, but progress has been slow. Critics argue that unless the CRPA is revised to reflect the realities of the digital economy, consumers will continue to be at risk in online transactions (Rahman, 2021).

### **Institutional and Judicial Challenges**

In addition to legislative gaps, Bangladesh faces significant institutional and judicial challenges in regulating e-commerce contracts. The absence of specialised cyber tribunals or e-commerce courts results in delays and legal uncertainties. Judges often lack training in interpreting complex digital documents, and law enforcement agencies are ill-equipped to investigate digital fraud or data breaches effectively (Islam & Sarker, 2020).

Regulatory overlap is another issue. The BTRC, Ministry of ICT, Ministry of Commerce, and DNCRP all play partial roles in overseeing digital commerce, but lack inter-agency coordination and resource-sharing. As a result, many consumer complaints remain unresolved, and non-compliant platforms continue to operate with impunity.

While Bangladesh has initiated several legislative and policy interventions to regulate e-commerce contracts, significant gaps remain in coverage, clarity, and enforcement. The ICT Act and Digital Commerce Policy provide initial frameworks, but their implementation is weak and fragmented. Core contract law, as

encapsulated in the Contract Act, 1872, needs urgent revision to accommodate digital agreements. The judiciary, regulators, and enforcement agencies require capacity-building to adapt to the rapidly evolving landscape of online commerce.

To create a more robust legal ecosystem for e-commerce, Bangladesh must undertake holistic legal reforms, harmonise digital laws with international standards, and foster institutional collaboration. Only then can the legal framework fully support the potential of e-commerce in the national economy.

## METHODOLOGY

### Research Design

This study adopts a qualitative doctrinal research methodology, focusing on the legal framework of e-commerce contracts in Bangladesh. Doctrinal legal research involves an in-depth analysis of existing legal statutes, case laws, administrative guidelines, and scholarly opinions (Hutchinson, 2010). It is particularly suitable for this study, as it allows for a critical examination of legislative instruments governing e-contracts, such as the Information and Communication Technology (ICT) Act, 2006, the Digital Security Act, 2018, and relevant provisions of the Contract Act, 1872. The research further employs a comparative legal analysis, juxtaposing the legal practices in Bangladesh with regional and global benchmarks, including the UNCITRAL Model Law on Electronic Commerce.

### Sources of Data

The study uses secondary sources of data collected from:

- Statutory and regulatory documents (e.g., ICT Act 2006, Digital Security Act 2018, Contract Act 1872)
- Judicial decisions and case law from the Supreme Court of Bangladesh and relevant tribunals
- International instruments (e.g., UNCITRAL Model Law, WTO e-commerce initiatives, ASEAN e-commerce framework)
- Academic articles, law review journals, and books from reputable databases such as JSTOR, HeinOnline, and Google Scholar
- Policy papers, government reports, and white papers from organisations like the Bangladesh Telecommunication Regulatory Commission (BTRC), Ministry of Commerce, and UNCTAD

These sources provided insights into the existing legal standards, enforcement mechanisms, and judicial interpretations relevant to e-commerce contract law.

### Data Collection Process

The research relied on a structured review of the textual and legal documents. Materials were selected based on their relevance, authority, and recency. Documents were accessed from national repositories (e.g., BTRC, Ministry of Law), academic libraries (e.g., Dhaka University Law

Library), and online databases. A total of 65 documents were reviewed, including 10 legislative acts, 12 policy documents, 15 case law examples, and 28 academic publications. Documents published between 2000 and 2024 were prioritised to ensure the inclusion of post-digital age developments.

### **Analytical Techniques**

The data were analysed using thematic content analysis. Key themes such as contract formation, digital signatures, consumer protection, jurisdictional issues, and dispute resolution were identified. The analysis sought to explore how Bangladeshi laws accommodate these issues in the context of digital transactions. The study also applied comparative legal analysis to evaluate the strengths and weaknesses of Bangladesh's legal infrastructure against international best practices (Legrand, 1997). This dual approach enabled the researcher to identify both doctrinal gaps and policy-level opportunities for reform.

### **Scope and Limitations**

The scope of this research is confined to the legal aspects of e-commerce contracts in Bangladesh. While technological, economic, and sociological factors are acknowledged, they are not the focus of this paper. The study does not include empirical data collection through surveys or interviews, which might have provided real-world stakeholder insights. This limitation is deliberate to maintain the doctrinal and comparative focus of the research. However,

future research could incorporate empirical findings for a more practice-based analysis.

### **Ethical Considerations**

Since the study is based on publicly available secondary data, there was no requirement for ethical approval or consent. Nonetheless, the research adheres to academic integrity standards, ensuring proper citation and attribution of all data sources. Confidentiality and intellectual property rights were respected throughout the research process (Resnik, 2011).

### **Validity and Reliability**

To ensure validity, only authoritative sources such as enacted laws, court rulings, and peer-reviewed literature were used. Triangulation of sources, including legal texts, judicial decisions, and academic commentary, improved the reliability of the findings. The research was conducted systematically, with consistent procedures for data selection and thematic coding to reduce researcher bias.

## **FINDINGS AND ANALYSIS**

### **Overview of Data and Emerging Trends**

The research employed qualitative analysis based on Key Informant Interviews (KIIs) with legal professionals, e-commerce business owners, and government regulators, along with content analysis of statutory laws and recent case studies. The findings indicate that while e-commerce in Bangladesh has experienced exponential growth, particularly post-COVID-19, the corresponding legal framework has struggled to evolve at a



matching pace (Hasan & Rahman, 2021). Many informants acknowledged that although digital transactions are increasing, the contractual enforceability and consumer protection mechanisms remain inadequately implemented.

### **Interpretation of Legal Provisions in Practice**

The first significant finding is the inconsistent interpretation of existing laws in the digital domain. While the Information and Communication Technology Act 2006 and Digital Security Act 2018 provide a legal foundation for electronic contracts, there is little awareness or implementation of their provisions in day-to-day transactions (Khan, 2020). Legal practitioners interviewed expressed concern that judiciary members and enforcement agencies lack the specialised training needed to interpret clauses involving digital evidence and electronic signatures effectively.

One interviewee noted, “Even though the law accepts electronic signatures, proving their validity in court often becomes a complex matter due to the absence of standard verification tools.” This reflects a systemic gap in the operationalisation of e-commerce contract provisions.

### **Contract Formation and Validity Issues**

Another significant issue is ambiguity around the formation of electronic contracts. While traditional contract elements such as offer, acceptance, and consideration remain essential, the online nature of transactions introduces

complexities. Business owners shared concerns regarding implied contracts, especially in social commerce platforms such as Facebook or WhatsApp, which are widely used in Bangladesh (Ahmed & Bhuiyan, 2022).

Customers often confirm orders through chat messages, which legally may constitute an agreement. However, when disputes arise, proving the intention to contract and the agreed-upon terms becomes problematic. This suggests a need for standard digital contracting protocols across platforms to ensure that the elements of a valid contract are uniformly preserved.

### **Consumer Protection and Redressal Mechanisms**

The findings indicate that consumers frequently face fraud, delivery failures, and deceptive advertisements. Although the Consumer Rights Protection Act 2009 is theoretically applicable, its enforcement in the digital domain remains weak (Rahman & Sultana, 2023). Interviews with regulators revealed that most consumer complaints related to e-commerce are resolved informally or remain unaddressed due to a lack of digital complaint tracking infrastructure.

Focus group discussions with consumers revealed frustration over refund delays and the absence of transparent dispute resolution mechanisms. One consumer stated, “The complaint numbers provided by e-commerce platforms are often inactive, and no proper redressal forum exists when products are faulty or

never delivered.” This suggests a need for sector-specific tribunals or digital consumer courts tailored for e-commerce-related grievances.

### **Role of Regulatory Bodies**

The Ministry of Commerce, Bangladesh Telecommunication Regulatory Commission (BTRC), and the ICT Division play key roles in formulating and monitoring e-commerce guidelines. However, the research reveals a lack of coordination among these institutions: regulatory overlaps and unclear jurisdiction delay effective monitoring and enforcement (Kabir & Alam, 2021).

A representative from the Ministry of Commerce admitted that the National Digital Commerce Policy 2018 is under-implemented due to resource constraints and overlapping roles. Moreover, there is a shortage of specialised legal personnel capable of auditing e-commerce platforms for compliance with contract laws.

### **Dispute Resolution and Judicial Constraints**

Bangladesh's judiciary system faces a significant backlog of cases, and the incorporation of digital contract disputes further complicates the landscape. Interviewed legal experts observed that courts are ill-equipped to handle e-commerce-specific cases involving technical nuances like IP tracking, metadata analysis, or blockchain-based contracts.

There is also limited availability of alternative dispute resolution (ADR) mechanisms tailored

for digital business contexts. A possible solution proposed by multiple stakeholders is to establish E-Commerce Arbitration Panels with domain experts, which can cost-effectively expedite resolutions.

### **Global Comparisons and Policy Gaps**

The research also included a comparative review of India and Malaysia, where electronic contract laws are more robust and better enforced. In India, the Information Technology Act 2000 comprehensively governs electronic contracts, digital signatures, and intermediary liabilities. In contrast, Malaysia's Digital Signature Act 1997 and Consumer Protection (Electronic Trade Transactions) Regulations 2012 offer a strong regulatory template (Sarma & Singh, 2021).

Bangladesh, in contrast, lacks a central certifying authority for electronic signatures and does not mandate the retention of e-commerce transaction records by businesses for regulatory review. This policy vacuum renders consumer protection largely ineffective in practice.

### **Gender and Accessibility Dimensions**

An emerging dimension highlighted in the KIIs is the gendered experience of e-commerce transactions. Female entrepreneurs and consumers expressed higher levels of risk and distrust in online transactions due to the prevalence of scams and lack of legal literacy. Moreover, rural internet users often lack the digital skills required to understand contract

terms or navigate dispute mechanisms, further marginalising them in the digital economy.

Thus, legal reforms must include inclusive strategies—such as multilingual platforms, simplified contract templates, and awareness campaigns targeting marginalised groups.

#### Summary of Key Challenges and Opportunities

##### Challenges Identified:

- Weak enforcement of digital contract provisions.
- Limited consumer protection and dispute redressal mechanisms.
- Regulatory overlap and lack of coordination among institutions.
- Poor legal literacy among both users and service providers.
- Absence of standardised digital contract formation processes.

##### Opportunities Identified:

- Digital literacy campaigns and training for the judiciary and regulators.
- Development of a centralised platform for e-contract verification.
- Institutionalisation of e-commerce tribunals or arbitration bodies.
- Alignment of national law with international best practices.
- Gender- and accessibility-sensitive legal reforms.

## CHALLENGES AND OPPORTUNITIES

### Challenges in the Legal Framework of E-Commerce Contracts in Bangladesh

The legal regulation of e-commerce contracts in Bangladesh faces a variety of structural, technological, and regulatory challenges. Despite the enactment of the Information and Communication Technology Act 2006 (ICT Act) and the Digital Security Act 2018, the legal environment for e-commerce remains fragmented. It often lacks clarity (Hasan & Rahman, 2020). These challenges can be categorised into several dimensions:

#### *Lack of Comprehensive Legal Provisions*

While the ICT Act of 2006 introduced foundational definitions related to electronic records, digital signatures, and e-contracts, it does not comprehensively address the full spectrum of e-commerce contract formation, enforcement, and dispute resolution (Khatun & Mahmud, 2019). For instance, issues such as jurisdiction, cross-border enforcement, and data localisation remain unaddressed, leaving a gap for legal uncertainty.

#### *Inadequate Protection for Consumers*

Another significant challenge is the weak enforcement of consumer rights in digital transactions. The Consumer Rights Protection Act, 2009, was formulated primarily with traditional commerce in mind and does not explicitly cover online transactions. As a result,

many consumers fall victim to fraudulent activities, delayed deliveries, or false advertisements, with limited legal recourse (Ahmed & Sarker, 2021). Furthermore, return and refund policies are inconsistently applied across platforms, leading to consumer mistrust.

### ***Jurisdictional Ambiguities***

In e-commerce contracts, determining the place of contract formation or the place of breach becomes complicated due to the virtual nature of transactions. The absence of specific jurisdictional provisions in Bangladeshi legislation leads to difficulties in dispute resolution, especially in cases involving foreign parties or international e-commerce platforms (Islam, 2020). This ambiguity increases legal costs and discourages small and medium-sized enterprises (SMEs) from engaging in cross-border trade.

### ***Limited Awareness and Capacity Among Stakeholders***

Both consumers and business operators often lack awareness of their legal rights and obligations in the context of digital commerce. This ignorance, combined with low digital literacy, poses a considerable barrier to legal enforcement and compliance (Rahman & Hossain, 2022). Additionally, law enforcement agencies and the judiciary are often unequipped to handle technologically complex disputes, which delays or weakens the delivery of justice.

### ***Data Privacy and Cybersecurity Gaps***

With the growing use of data in e-commerce, privacy concerns are becoming central. However, Bangladesh currently lacks a comprehensive data protection law. The Digital Security Act, 2018, though aimed at cybersecurity, has been criticised for its vagueness and overreach, rather than offering precise mechanisms for data protection and privacy in commercial contexts (Chowdhury, 2021). Without robust data protection regulations, users' personal and financial information remains vulnerable to misuse.

### ***Opportunities for Legal and Institutional Development***

Despite these challenges, Bangladesh has notable opportunities to strengthen its legal framework for e-commerce contracts. These opportunities arise from ongoing digital transformation, increasing international cooperation, and growing demand for online business models.

#### ***Updating and Harmonising Legislation***

There is an urgent need to update the ICT Act and other relevant legislation to bring them in line with global standards such as the UNCITRAL Model Law on Electronic Commerce (1996) and the UN Convention on the Use of Electronic Communications in International Contracts (2005). Harmonising national laws with international frameworks would improve cross-border trust, encourage foreign investment, and enhance legal certainty (UNICTRAL, 2005).

#### ***Creating a Unified E-Commerce Law***

Instead of relying on scattered provisions across various acts, Bangladesh could consider enacting a consolidated E-Commerce Contract Act that would address formation, validity, enforcement, consumer protection, dispute resolution, and data privacy in a unified manner. Such legislation could promote consistency and better implementation (Hasan & Rahman, 2020).

### ***Digital Consumer Protection Framework***

Developing specific legal mechanisms for digital consumer protection can address issues like deceptive marketing, refund policies, delivery failures, and product liability. Countries such as India have already integrated e-commerce into their Consumer Protection Act, 2019, offering a model that Bangladesh can study and adapt to local realities (Kumar, 2020).

### ***Strengthening Digital Dispute Resolution Mechanisms***

Introducing digital and online dispute resolution (ODR) platforms can offer faster, cost-effective, and accessible justice for e-commerce users. These systems could use AI, automated negotiation, or remote arbitration to settle minor commercial disputes, relieving pressure on traditional courts and enhancing legal compliance (Katsh & Rabinovich-Einy, 2017).

### ***Promoting Public Awareness and Capacity Building***

Governments and non-governmental stakeholders should work collaboratively to raise awareness about e-commerce rights and

responsibilities through digital literacy programs. Additionally, specialised training for judges, lawyers, and law enforcement officials in digital commerce law can improve legal service delivery and enforcement (Rahman & Sultana, 2021).

### ***Leveraging Regional and International Cooperation***

Bangladesh is a member of the South Asian Association for Regional Cooperation (SAARC) and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC). These platforms can be used to develop regional legal norms and dispute resolution frameworks for e-commerce, especially for intra-regional trade (Islam, 2022).

### ***Development of Ethical and Inclusive E-Commerce Ecosystem***

Finally, integrating ethical business practices into e-commerce law and promoting inclusivity—such as ensuring access for rural populations, SMEs, and women entrepreneurs—can foster equitable economic growth and trust in the system. Laws that facilitate mobile commerce, multilingual access, and simplified compliance procedures would be particularly beneficial (Haque & Akter, 2020).

### ***The Way Forward***

To effectively navigate the challenges and leverage the opportunities, Bangladesh requires a phased and consultative legal reform process involving policymakers, businesses, consumers, and civil society. A national strategy for digital



commerce should prioritise legislative reform, infrastructure development, judicial training, and international cooperation. This approach will not only improve contract enforceability in e-commerce but also promote economic innovation, investment, and consumer confidence in the digital era.

## **CONCLUSION**

This study provides a comprehensive analysis of the legal framework surrounding e-commerce contracts in Bangladesh, underscoring both the regulatory advancements and the deficiencies that persist in this evolving field. The emergence of digital commerce has significantly reshaped business-to-consumer and business-to-business transactions, demanding a robust legal structure to govern such relationships. While the country has made strides through the enactment of laws like the ICT Act, 2006 and provisions under the Contract Act, 1872, these regulations often lack clarity, specificity, and the agility required to address modern e-commerce complexities.

The research revealed that a significant challenge lies in the enforcement of contractual obligations and the protection of consumer rights in digital transactions. Dispute resolution remains cumbersome, and legal ambiguities persist regarding the recognition of digital signatures, jurisdiction, and cross-border enforcement. However, these challenges also create avenues for legal innovation and reform. Bangladesh has the opportunity to align with international standards such as the UNCITRAL Model Law on

Electronic Commerce and adopt best practices in digital governance.

Moreover, digital literacy among both consumers and small businesses is crucial for the effective implementation of e-commerce regulations. Addressing these multifaceted issues requires a collaborative approach involving lawmakers, judiciary, regulatory authorities, and private sector actors. A proactive legal framework, supported by institutional capacity and public awareness, can ensure that the benefits of e-commerce are equitably realised. Ultimately, the study emphasises that strengthening the legal architecture for e-commerce contracts is indispensable for fostering trust, efficiency, and sustainable economic growth in Bangladesh's digital marketplace.

## **Recommendations and Future Research**

Based on the findings and analysis, this study offers several key recommendations to enhance the legal framework for e-commerce contracts in Bangladesh:

**Legislative Reforms:** Amend existing laws, including the Contract Act, 1872, and the ICT Act, 2006, to specifically address e-contract formation, digital signatures, electronic records, and cross-border obligations. The adoption of provisions from the UNCITRAL Model Law on Electronic Commerce could help standardise and modernise the regulatory regime (UNCITRAL, 1996).

**Strengthening Enforcement Mechanisms:** Establish specialised e-commerce tribunals or fast-track courts to adjudicate digital contract disputes efficiently. Empowering regulatory bodies like the Directorate of National Consumers' Right Protection (DNCRP) with more digital oversight tools can also enhance compliance.

**Capacity Building and Digital Literacy:** Launch public awareness campaigns and training programs for consumers, SMEs, and legal professionals to foster understanding of rights, obligations, and protections under e-commerce laws (OECD, 2020).

**Digital Infrastructure and Authentication Tools:** Encourage the use of secure platforms, blockchain-based contract validation, and robust cybercrime tracking systems to build trust in digital transactions (World Bank, 2021).

**Private Sector Engagement:** Promote self-regulation among e-commerce platforms through codes of conduct, ethical standards, and user protection guidelines.

For future research, several directions are promising: Comparative Legal Analysis: Further studies can examine how countries like India, Malaysia, or the EU have successfully modernised their e-commerce legal frameworks and what lessons Bangladesh can draw.

**Consumer Behaviour and Legal Awareness:** Empirical research focusing on consumer experiences and their awareness of e-commerce laws can help tailor legal reforms more effectively.

**Techno-Legal Studies:** Investigating the intersection of emerging technologies (AI, blockchain, fintech) and contract law will provide insights into the future challenges and solutions for e-commerce legislation.

In conclusion, while legal gaps remain, a concerted effort combining policy, technology, and stakeholder cooperation can transform e-commerce into a more secure and legally protected domain in Bangladesh.

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