



INTERNATIONAL JOURNAL OF HUMAN RIGHTS LAW REVIEW

An International Open Access Double Blind Peer Reviewed, Referred Journal

Volume 4 | Issue 4 | 2025

Art. 28

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Recommended Citation

Md. Ala Uddin, *Consumer Justice in Bangladesh: An Insight into the Efficacy of the Consumer Rights Protection Act 2009*, 4 IJHRLR 491-512 (2025).
Available at www.humanrightlawreview.in/archives/.

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Consumer Justice in Bangladesh: An Insight into the Efficacy of the Consumer Rights Protection Act 2009

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Manuscript Received
09 Aug 2025

Manuscript Accepted
14 Aug. 2025

Manuscript Published
20 Aug. 2025

ABSTRACT

Consumer rights, an integral facet of human rights, are increasingly gaining global attention as a top priority. However, Bangladesh currently struggles to meet its consumers' essential needs adequately. To address these concerns, Bangladesh introduced the Consumer Rights Protection Act in 2009. Regrettably, despite apparent legal shortcomings, this Act has remained unamended since its enactment. A significant portion of Bangladeshi consumers faces a multitude of challenges, including issues such as adulteration, product quality versus price, misleading advertising, labeling inconsistencies, brand marketing, and the dissemination of deceptive information about products and services. Unfortunately, in developing nations like Bangladesh, consumer protection often takes a backseat. The rapid expansion of the consumer base in Bangladesh emphasizes the critical need for robust consumer safeguards. This paper's objective is to conduct a comprehensive legal assessment of the Consumer Rights Protection Act 2009, with a particular focus on e-commerce consumers in Bangladesh. It also aims to pinpoint the legal barriers that hinder consumers from seeking justice. Through a detailed examination of the Act's provisions and mechanisms, this study seeks to determine the level of protection it offers to consumers. The analysis will cover both the Act's strengths and limitations, providing insights into its practical application and its ability to address existing consumer grievances. Additionally, this research intends to offer observations and recommendations to enhance the avenues through which Bangladeshi consumers can access justice. In a swiftly changing market environment, the government

must take vital initiatives to safeguard the well-being and security of consumers in Bangladesh.

KEYWORDS

*Bangladesh Consumer Protection, E-commerce
Consumer Rights, Legal Barriers to Consumer Justice.*

INTRODUCTION

Mahatma Gandhi¹ stated that "the customer holds a paramount position in our establishment. We rely on them, not the other way around. They are not a disruption to our tasks, they are the very reason for our efforts. Serving them is not a benevolent act on our part, rather, it is a privilege they bestow upon us by providing the chance to assist them."

In today's consumerism driven economy, free market economics claims that consumers are kings, to which consumers are actually soundless victims. In prosperous economies, consumers benefit from established safeguards.² However, in an economic context such as Bangladesh, the absence of a predominant emphasis on quality may disproportionately impact consumers.³ The entitlements of consumers are perceived as intrinsic human rights, and violations of these rights are considered transgressions of fundamental human rights. Consumers' misunderstanding of their rights is a causal factor in Bangladesh's unsatisfactory consumer rights protection.⁴ Regrettably, in our nation, the fundamental human rights encompassing consumer rights are often overlooked, as a significant portion of consumers lack awareness about their entitlements. These individuals are often disadvantaged, lacking the knowledge and influence needed to safeguard their rights. This prevailing situation is prevalent in developing countries where consumers typically face poverty, low levels of education, and limited influence compared to business interests, resulting in their exploitation by unscrupulous entrepreneurs over an extended period.⁵

¹Vinod C. Dixit, 'Consumer Rights' (The Financial Express, 18 March 2017) <<https://thefinancialexpress.com.bd/views/letters/consumer-rights>> accessed 1 May 2025

² Badsha Mia and Sujoy Mallick, 'Protection of Consumers' Right in Bangladesh: Law and Reality' [2021] International Journal of Law Management and Humanities 4789, 4789

³ Ibid, 4790

⁴ Md. Nurnobi Islam, Md. Mehedi Hassan and Nusrat Jahan, 'Consumer Rights Protection: Degree of Awareness and its Present Status in Bangladesh' [2016] European Journal of Business and Management 22, 22

⁵ Ibid

The Constitution of Bangladesh provides protection to consumers indirectly through Articles 15 and 18. According to Article 15, the essential tenet of governmental policy for ensuring a stable standard of life is the right to good quality food.⁶ According to Article 18⁷, the state's policies should place a high priority on public health, nutrition, and the suppression of drug and alcohol misuse. It is crucial to underscore that the aforementioned two provisions constitute fundamental principles of state policy and, unlike fundamental rights, lack judicial enforceability.⁸ Consequently, they predominantly remain unenforceable within the legal domain. That means it is evident that the Constitution of Bangladesh does not provide direct protection for the consumers of Bangladesh.

There are several laws pertaining to consumer rights, such as, the Consumer Right Protection Act, 2009, The Competition Act, 2012, The Penal Code, 1860, The Special Powers Act, 1974, The Sale of Goods Act, 1930, The Contract Act, 1872, the Control of Essential Commodities Act, 1956, The Essential Articles (Price Control and Anti-Hoarding) Act, 1953, etc. Despite the fact that there are multiple laws in Bangladesh that either directly or indirectly protect and uphold consumer rights, due to their poor application and implementation, consumers remain in a disadvantaged position. Hence, the government must play a larger role on behalf of consumers in order to reduce consumer exploitation.

WHO IS CONSUMER?

According to section 2(19)⁹ a "consumer" is an individual who acquires goods with the intent of personal use, without the intention of resale or commercial utilization. This acquisition may involve partial payment or a commitment to pay in full, and may also encompass deferred payment or installment arrangements. Furthermore, a consumer may exercise the purchased goods with the permission of the seller, procure a good for self-employment purposes in a commercial context, engage in the hiring of services, or employ alternative means to obtain a service through complete or partial payment. Additionally, the utilization of services with the consent of the provider falls within the purview of the defined consumer. The terms "consumer" and "service" are strongly intertwined. In accordance with section 2(22)¹⁰ "Service" refers to transportation, telecommunications, water circulation, construction, fuel, electricity, gas, residential accommodations,

⁶ The Constitution of the People's Republic of Bangladesh 1972, Article 15

⁷ Ibid, Article 18

⁸ Ibid, Article 8

⁹ The Consumer Rights Protection Act 2009, s 2(19)

¹⁰ Ibid, s 2(22)

restaurants, drainage, and health services that are made attainable to their consumers for a fee but do not include free services. The term of "consumer" under the Consumers Right Protection Act of 2009 is quite broad, although it still falls short in some ways. This definition is not specific enough to cover account holders of e-commerce transaction modes such as Bkash, Nagad, Rocket, Upai, Foodpanda, Pathao, Uber, and others as e-commerce consumers. The CRPA's, 2009 definition of "service" also excludes e-commerce services such as ATMs, online banking, online shopping, online ticket purchases, and so on. As a result, consumers in the field of e-commerce do not enjoy the same degree of protection as consumers in other domains.

ANTI-CONSUMER RIGHT PRACTICE

The Consumers Right Protection Act, 2009, was enacted with the goal of safeguarding consumers' rights, preventing anti-consumer rights actions, and dealing with related issues. Despite the fact that the statute itself mentions consumer rights protection, there is not a single provision in the Act that defines consumer rights. Rather, it concentrates on the sorts of actions that are considered anti-consumer interests. As per Section 2(20)¹¹ of the Consumers Right Protection Act, 2009, the term "anti-consumer right practice" encompasses various prohibited actions, including: (a) selling or offering to sell goods, medications, or services at prices exceeding the prescribed limits established by any statutory Act or rule; (b) intentionally selling or proposing to sell contaminated products or medicines; (c) marketing goods containing substances detrimental to human well-being, where such combination with any foodstuff is prohibited by relevant Acts or rules; (d) misleading consumers through deceptive or inaccurate advertising, with the intention of procuring services or goods; (e) failing to supply goods or services as promised in exchange for payment; (f) delivering or selling quantities less than those advertised to consumers; (g) providing false weight information during the sale of goods in commercial transactions; (h) supplying or selling goods with the intent of providing quantities less than initially indicated; (i) misrepresenting length measurements during the sale or delivery of goods in business operations; (j) creating or manufacturing imitation goods or medicines; (k) selling or proposing to sell goods or medications past their expiration date; or (l) engaging in unlawful activities or behaviors that may jeopardize the safety or life of the consumer. In a word, "anti-consumer rights practices" are any actions that impede a citizen from utilizing his or her consumer rights. As indicated in the preceding section, the Act appears to prioritize the obligations of economic actors and product security over the

¹¹ Ibid, s 2(20)

consumer rights that are vital to us.

LEGAL FRAMEWORK OF CONSUMER RIGHTS IN BANGLADESH

In addition to the Consumer Rights Protection Act of 2009, Bangladesh has numerous laws addressing consumer rights. Such legislations are The Essential Commodity Act, 1956, The Pure Food Ordinance, 1959, The Price and Distribution of Essential Commodity Ordinance, 1970, The Drug Control Ordinance 1982, The Breast Milk Substitute (Regulation of Marketing) Ordinance 1984, The Tobacco Goods Marketing (Control) Act 1988, The Special Powers Act 1974, The Dangerous Drug Act 1930, The Trade Marks Act 1940, The Standard of Weights and Measures Ordinance 1982, The Food Grain Supply Ordinance 1956, The Penal Code 1860, The Sale of Goods Act 1930, The Bangladesh Standards and Testing Institution Ordinance, 1985, The Essential Commodity Act 1990, Fish and Fish Product Rules, 1997, The Food Safety Act, 2013 etc. It is evident that there were no specific consumer laws in Bangladesh until 2009, and in addition to that, there are multiple existing laws addressing consumer rights. In Bangladesh, the overlapping of laws makes it difficult to combat criminal activity related to abuses of consumer rights. Analysts have identified several impediments to effective enforcement, encompassing disparities in legislation addressing similar matters, varied penalties for identical offenses under distinct laws, and the imposition of court fees for initiating compensation lawsuits, procedural delays, and delegation of investigation procedures to law enforcement rather than independent entities, and an absence of robust monitoring mechanisms. The outdated nature of these laws contributes to the limited safeguarding of consumer interests within this legal framework.¹²

E-COMMERCE AND E-COMMERCE CONSUMERS OF BANGLADESH IN THE LIGHT OF CRPA, 2009

E-commerce, or electronic commerce, refers to the process of purchasing and selling goods and services, as well as the exchange of funds or data, through electronic networks - most commonly the internet. Such transactions are generally categorized into four primary models: business-to-business (B2B), business-to-consumer (B2C), consumer-to-consumer (C2C), and

¹² Md. Nayem Alimul Hayder, 'Consumers rights protection in Bangladesh' (The Financial Express, 27 April 2017) <<https://thefinancialexpress.com.bd/views/opinions/consumers-rights-protection-in-bangladesh>> accessed 5 May 2025

consumer-to-business (C2B).¹³

The advent of internet technology has ushered in a transformative era in the business world, known as e-commerce or electronic commerce. This innovation has brought about revolutionary changes, and today, the entire globe is undergoing a significant shift in the way businesses operate. The internet has become a pivotal tool for conducting business in the modern age.¹⁴ E-commerce, often referred to as electronic commerce, involves the exchange of products or services using electronic platforms like the internet and various computer networks. It is swiftly expanding and serves as a remarkable embodiment of the globalizing trend.¹⁵ The rising trend of online shopping and the growing population of internet users indicate a promising future for the development of e-commerce in Bangladesh.¹⁶ Currently, in the Bangladeshi context, there exists no dedicated legal framework governing e-commerce. Simultaneously, the Consumer Rights Protection Act of 2009 does not address the e-commerce industry, lacking any definition, clarification, or clauses pertaining to e-commerce and the rights of consumers engaged in online transactions under CRPA, 2009.

In Bangladesh, the e-commerce or online marketplace sector has commenced its operations without an established legal framework.¹⁷ Individuals have the opportunity to initiate their online businesses by utilizing their personal user profiles and making use of various features on different social media platforms like Facebook, WhatsApp, Instagram, and more. As an example, on Facebook, independent traders often employ Facebook groups and pages to showcase their products, aiming to sell them to members of these groups or their followers.¹⁸ Facebook Pages are becoming increasingly popular because of their advanced functionalities, which facilitate the connection between buyers and sellers, benefiting both parties. The growing popularity of Facebook Pages can sometimes have negative implications for consumer interests. When it comes to creating a Facebook Page, the platform doesn't mandate owners to provide extensive

¹³Cameron Hashemi-Pour, 'E-commerce' (Tech Target Network, 13 December 2023) <<https://www.techtarget.com/searchcio/definition/e-commerce>> accessed 5 May 2025

¹⁴ Md Thohidul Kari and Xu Qi, 'E-commerce Development in Bangladesh' [2018] International Business Research 201, 201

¹⁵ Md. Mohiuddin, 'Overview the E-Commerce in Bangladesh' [2014] IOSR Journal of Business and Management., 1, 1

¹⁶ Supra Note 14, 201.

¹⁷ Dr. Sayeda Anju, 'E-Business in Bangladesh: Need for a Legal Framework' (The Daily Star, 20 July 2021) <<https://www.thedailystar.net/law-our-rights/law-watch/news/e-business-bangladesh-the-need-legal-framework-2134561>> accessed 5 May 2025

¹⁸ Ibid

information that would be sufficient to verify their real identities. This lack of clarity regarding identity increases the likelihood of fraudulent activities, misrepresentation, and violations of consumer rights.¹⁹

The fundamental components of a contract, such as an offer, acceptance, and consideration, remain the same in both offline and online marketing contracts.²⁰ However, the existing legal framework in Bangladesh does not officially recognize online transactions as contracts for the sale of goods. As an example, the Sale of Goods Act from 1930, which regulates sales contracts within the nation, is antiquated and has predominantly been overshadowed by more contemporary and specialized legislations. Surprisingly, there have been no efforts to update it to align with the modern era. Interestingly, this law does not address online aspects like offers, product descriptions, samples, or their corresponding acceptances.²¹

Much like the Sale of Goods Act from 1930, the Consumer Rights Protection Act of 2009 (CRPA 2009) also lacks provisions that specifically address e-commerce and online services. Under CRPA 2009, the Director General of National Consumer Rights Protection is responsible for receiving and addressing consumer complaints, and this authority receives a significant volume of complaints. However, when it comes to resolving complaints stemming from online transactions, consumers often find limited avenues for recourse. To address this issue, it is suggested that amending Section 45 of CRPA 2009 to explicitly include the term "online service" would make it more efficient for relevant authorities to provide remedies for complaints related to online business.²²

Presently, in Bangladesh, popular e-commerce websites include Daraz, Ajkerdeal, Evaly, Chaldal, Foodpanda, and more. In the realm of e-commerce, Bangladesh does not possess a cohesive legal structure to regulate and supervise the rights of consumers, as well as sellers or service providers. In the context of online shopping, a virtual contract is formed between the buyer and seller prior to purchasing a product.²³ Electronic contracts give rise to several pertinent questions, including their legal validity, enforceability, and admissibility as evidence in case of

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid

²² Ibid

²³ Turag, T. T, 'Regulatory Framework of doing Online Business in Bangladesh: Problems and Prospects' (Bangladesh Law Digest, 5 August 2021) <<https://bdlawdigest.org/regulatory-framework-of-doing-online-business-in-bangladesh-problems-and-prospects.html>> accessed 7 May 2025

breaches. However, under Bangladeshi contract law, there is no specific guidance regarding such contracts.²⁴ The Consumer's Right Protection Act of 2009 prohibits the use of false advertising to deceive consumers when selling products or services, considering it a violation of consumer rights. Nevertheless, this law lacks provisions specifying the process for establishing such claims.²⁵

The foundational pillars of fostering a favorable environment for e-commerce hinge upon internet security and trust.²⁶ Cyber threats pose a susceptibility to online shopping systems, wherein the collection of customers' personal data by websites during online transactions introduces a potential risk to privacy. Conversely, shopping websites themselves can become targets for hacking.²⁷ Concerning this matter, the Consumer Rights Protection Act of 2009 does not address consumer-related cyber issues that arise within online platforms. While the Consumer Rights Protection Act of 2009 prohibits the adulteration of goods and medicines, it does not encompass the realm of online activities, specifically the sale of adulterated food, medication, cosmetics, and similar products on virtual platforms. Based on the previous discussion, it can be concluded that CRPA 2009 does not include specific regulations pertaining to e-commerce and the rights of consumers involved in the e-commerce industry.

Bangladesh's rapidly expanding e-commerce sector has faced significant challenges due to inadequate regulatory oversight and limited transparency. In response, the government enacted the Digital Commerce Operation Guidelines 2021 to safeguard the interests of both consumers and sellers, while also catering to the evolving demands of the growing digital marketplace.²⁸ This guideline defines some key terms, including "Marketplace," "Product," "Warranty," "Guarantee," "adulterated products," "counterfeit products," and "Digital Wallet," among others.²⁹ The initiative aims to enhance employment opportunities by promoting the growth of digital enterprises, ensure consumer protection by introducing regulatory discipline within the marketplace, and encourage the rise of new entrepreneurs

²⁴ Ibid

²⁵ Ibid

²⁶ Supra Note 14, 206

²⁷ Supra Note 23

²⁸ Samiul Azim, 'The Digital Commerce Operation Guideline 2021 could address many of the woes of the e-commerce sector' (The Business Standard, 30 April 2023) <<https://www.tbsnews.net/thoughts/digital-commerce-operation-guideline-2021-could-address-many-woes-e-commerce-sector-624006>> accessed 10 May 10 2025

²⁹ Ibid

through the implementation of transparency and accountability in the digital commerce sector.³⁰ The guideline outlines general provisions and restrictions applicable to all digital commerce platforms. Key requirements include clear disclosure of product details, pricing, and return policies; prohibition of multi-level marketing, drug sales, and unauthorized lotteries or raffle draws. Selling medicines requires prior approval from the relevant authority. Additionally, platforms must inform users about cookie usage and the collection of personal data during transactions.³¹ As e-commerce expands, disputes are inevitable; thus, the guideline includes provisions for complaint resolution and consumer remedies. It mandates resolving complaints within 72 hours and implementing a rating system. In exceptional cases, the relevant department must notify the customer within 48 hours and ensure product delivery within the following 72 hours.³²

LEGAL EVALUATION OF THE CONSUMERS RIGHTS PROTECTION ACT, 2009

The definition of “complaint” given by the Consumers Rights Protection Act, 2009, is too narrow for the consumers of Bangladesh. According to Section 2(2)³³ in the said Act, "Complaint" refers to any claim submitted in writing to the Director General by a complainant against any seller for engaging in any anti-consumer right behavior as defined by this Act. As a result, we can see that the aforementioned definition creates a legal barrier for consumers to directly access justice. This Act mandates the establishment of the National Consumers' Right Protection Council.³⁴ This council shall have to perform certain functions as stated in the Act, which are, to provide guidelines for the Director General and the District Committee on how to carry out the guidelines for the protection of consumer rights for the purposes of this Act,³⁵ to evaluate and provide an opinion on any issue presented by the government concerning consumer rights protection,³⁶ to advise and collaborate with the government in creating relevant legislation and administrative directives to safeguard and promote consumer rights,³⁷ to conduct the suitable educational and promotional initiatives to raise public knowledge about consumer rights,³⁸ to take the appropriate actions to raise public awareness of the need to preserve consumer rights and the

³⁰ Ibid

³¹ Ibid

³² Ibid

³³ The Consumer Rights Protection Act 2009, s 2(2)

³⁴ Ibid, s 5

³⁵ Ibid, s 8(a)

³⁶ Ibid, s 8(c)

³⁷ Ibid, s 8(d)

³⁸ Ibid, s 8(e)

negative effects of anti-consumer right behaviors,³⁹ to do research on consumer rights⁴⁰ and to inspect and oversee the Directorate's, Director General's, and district committees' actions.⁴¹

To carry out the provisions of this Act, a directorate known as the "Directorate of National Consumer Rights Protection" shall be established,"⁴² which shall support the Council in carrying out all of its activities and be answerable for the implementation of the Council's decisions.⁴³ According to Section 20 of the Consumers Right Protection Act, 2009, there shall be a Director General of the Directorate. The Directorate of National Consumer Rights Protection is a quasi-judicial government entity entrusted with hearing and resolving consumer complaints about goods and services. Section 21 of this Act enabled the Director General to take the appropriate steps for the protection of consumer rights, the avoidance of anti-consumer rights activities, and the resolution of complaints involving violations of consumer rights.⁴⁴ The Director General is empowered to undertake various measures,⁴⁵ including, preventing suspected actions that may violate consumer rights, ensuring vendors adhere to prescribed quality standards in their products or services, monitoring and preventing deceptive practices related to weight or quantity during sales or supplies, scrutinizing the production, marketing, and sale of counterfeit products or medications that may mislead consumers, inspecting for the adulteration of goods or medications, verifying the adherence to legislated specifications regarding instructions, quantity, and production date on product or medicine labels, conducting inspections to ascertain if any commodities are being produced or devised in a manner jeopardizing human life or health, and overseeing the safety of passengers endangered by the unauthorized operation of trains, buses, launches, steamers, and minibuses by inadequately trained or unlicensed drivers, among other responsibilities. Based on the analysis of Section 21, it appears that, although, the Director General may take multiple necessary actions concerning the protection of consumer rights and anti-consumer rights practices, there is no clause relating to monitoring the artificial price hike. In Bangladesh, artificial price hikes are one of the vital factors in the violation of consumer rights. This provision also lacks supervision for online services, online fraud, and so forth.

Chapter 4 of the Consumer Rights Protection Act, 2009,

³⁹ Ibid, s 8(f)

⁴⁰ Ibid, s 8(g)

⁴¹ Ibid, s 8(h)

⁴² Ibid, s 18(1)

⁴³ Ibid, s 18(3)

⁴⁴ Ibid, s 21

⁴⁵ Ibid

pertains to the punishment of offenses recognized under this Act. According to sections 37 to 54 of this Act, the minimum term of imprisonment and fines is one year and fifty thousand taka, and the maximum is three years and two lac taka. An individual who has previously been convicted of an offense delineated in this Act and subsequently repeats the same transgression is subject to a penalty twice as severe as the permissible maximum.⁴⁶ However, the sanctions for activities such as the production of counterfeit goods, the sale of expired goods or medications, the incorporation of prohibited substances in food items, or any action posing a threat to life are deemed insufficient. These types of anti-consumer rights actions may cause the death of any person, and punishment regarding the death of a person due to these offences is missing here. The degree of punishment should be expanded in this regard. This Act provides punishment for filing false or vexatious cases, but it lacks punishment for abatement to file such cases or commit the offenses mentioned in this Act.

Offences under the Consumers Right Protection Act, 2009, shall be tried by a Magistrate of the first class or Metropolitan Magistrate.⁴⁷ Section 59⁴⁸ states that offenses under this Act shall be bailable, cognizable, and compoundable. Despite the fact that this section discusses alternative dispute resolution, the mechanism of ADR is absent. There are no specific guidelines regarding ADR proceedings. Furthermore, all offenses covered by this Act were made bailable. That is, despite the fact that some of the offenses may result in the immediate death of any person, an accused under this act has the right to bail. Such as selling outdated medicine or blending forbidden elements in foodstuffs, which may endanger human life. According to section 60,⁴⁹ no complaint regarding any anti-consumer right practice under this Act shall be taken into consideration if it is not submitted to the Director General or any official of the Directorate authorized in this regard within 30 (thirty) days of the occurrence of the cause of action. This provision is silent with respect to consumers who fail to submit the allegations to the Director General within the said period. Here, the limited time frame creates a legal barrier for the consumer to get access to justice. Furthermore, Section 61 of this Act also denotes that, if no charge sheet is provided within 90 (ninety) days of receiving a complaint under Section 60, the magistrate shall not take cognizance of any offense.⁵⁰ This provision does not hold the Director General or any other officer of the Directorate accountable if the complaint is not submitted

⁴⁶ Ibid, s 55

⁴⁷ Ibid, s 57

⁴⁸ Ibid, s 59

⁴⁹ Ibid, s 60

⁵⁰ Ibid, s 61

to the Magistrate within the time frame stipulated.

Chapter 6 of the Consumers Right Protection Act, 2009, pertains to civil proceedings and civil remedies. According to Section 66(1)⁵¹, nothing shall impede any hampered consumer from filing a civil lawsuit in a competent Civil Court to pursue civil relief against a person because a criminal probe has been opened into the matter for any anti-consumer right practice or the person has been found guilty of a criminal offense for such an act in appropriate circumstances. This clause provides no criteria or explanation for consumers to consider when determining "appropriate circumstances." The term "competent civil court" as defined in this Act pertains to the Court of Joint District Judges with jurisdiction over the local area.⁵² In the event that a consumer has suffered harm due to a seller's anti-consumer rights conduct, and the resultant damage is quantifiable in monetary terms, the consumer has the option to initiate a civil lawsuit in any competent civil court. The relief sought in such cases is limited to a maximum of five times the assessed amount for the incurred damage.⁵³ This provision explicitly indicates that a dissatisfied consumer is eligible to pursue compensation solely in cases where the damage incurred can be assessed in monetary terms. Furthermore, this clause is not precise enough to assess the monetary damages in the event of a death as a result of anti-consumer rights activities.

According to Section 70,⁵⁴ regardless of whether a violation of Chapter 4 of this Act has occurred, the Director General or any other officer authorized by the Directorate may, if they deem it necessary to stop any anti-consumer right practices or to address any violations of this Act's anti-consumer right provisions, take administrative actions that only involve a fine, the cancellation of a trade license, or the permanent or temporary suspension of commercial functions, without administering any penalty or initiating any legal procedure to bring the condemned individual to justice. The question that arises in this regard is how the Director General or any other official empowered by the Directorate may impose a fine in the case of death due to the offenses, such as selling outdated goods, medicine, recognized in this Act. There is also no such provision in this Act. Section 71(1)⁵⁵ states that no criminal action shall be directly initiated in the Court of a Magistrate of the First Class or a Metropolitan Magistrate against any individual on the basis of any anti-

⁵¹ Ibid, s 66 (1)

⁵² Ibid, s 66 (2)

⁵³ Ibid, s 66 (3)

⁵⁴ Ibid, s 70

⁵⁵ Ibid, s 71(1)

consumer right activity under this Act. The mentioned provision additionally affirms that a consumer or complainant has the option to submit a complaint to the Director General or any person authorized by him, or alternatively, to a District Magistrate or any Executive Magistrate delegated by the District Magistrate.⁵⁶ This provision appears to impose a legal constraint on consumers, necessitating their reliance on the competent authorities outlined in this Act for legal protection, rather than pursuing it independently. Furthermore, this section contradicts Article 27 of Bangladesh's Constitution, which declares that "all people are equal before the law and are entitled to equal protection of the law."⁵⁷

Section 73 of the Consumers Right Protection Act of 2009 empowers the Director General the authority to examine and identify flaws in private health care services,⁵⁸ but it does not empower him to take corrective action, instead, he may only notify the Secretary, Ministry of Health, and the Director General, Department of Health, of the problem.⁵⁹ This provision imposes two types of legal constraints. The first is that the Director General cannot take legal action even after discovering flaws in private health-care services. Besides, it is also silent about the matters referred by the Director General to the concerned authorities under this Act. The second issue is that this provision makes no mention of public health care services. Health safety should be prioritized, whether it is a private or public health care service.

Pursuant to Section 76(1) of the Consumers Right Protection Act of 2009, a consumer has the right to lodge a written complaint with either the Director General or an individual appointed by the Director General.⁶⁰ Upon receiving such an allegation, the competent authority is obligated to promptly conduct an urgent investigation or inquiry.⁶¹ If the accusation is substantiated following the investigation, the Director General or an authorized official may take administrative measures and impose a fine on the convicted party.⁶² Notably, if a fine is levied, 25% of the imposed fine is immediately allocated to the complainant, except in cases where the complainant is a Directorate officer or employee, in which case they are exempted from this entitlement.⁶³ Section 76 further stipulates that in the

⁵⁶ Ibid, s 71(2)

⁵⁷ Supra Note 6, Article 27

⁵⁸ The Consumer Rights Protection Act 2009, s 73(1)

⁵⁹ Ibid, s 73(2)

⁶⁰ Ibid, s 76(1)

⁶¹ Ibid, s 76(2)

⁶² Ibid, s 76(3)

⁶³ Ibid, s 76(4)

event of a regular case brought before a court or special tribunal resulting in a conviction and the imposition of a fine, the complainant is entitled to receive 25% of the obtained fine.⁶⁴ However, as a complainant, an officer or employee of the Directorate is not eligible for such remuneration.⁶⁵ Additionally, Section 76 empowers any individual to independently investigate the adulteration or falsification of goods in a public or private laboratory and file a complaint based on the findings.⁶⁶ Drawing insights from Section 76, it is evident that the procedural framework outlined in this section is likely to incentivize consumers to report instances of anti-consumer rights practices due to the punitive measures attached to such allegations. This award, however, is not accessible to the Director General or the person designated by him as a complainant. It seems like he or she is not within the purview of the definition of a consumer. There should be a refund method for consumers who examine the adulteration or falsification of goods at their own expense. It can also encourage consumers to be more watchful about anti-consumer rights behaviors.

In accordance with Section 78(2)⁶⁷ of the Consumers Right Protection Act, 2009, If the goods are manufactured in an authorized or accredited workshop, factory, or organization, and he or she has no role in this respect, no criminal or administrative action shall be taken against the owner or director of the shop from which goods are sold for being contaminated or faulty. Section 78(3)⁶⁸ states that unless it is evident beyond reasonable scrutiny that the person intentionally, knowingly, or with collusion purchased and sold the goods to any buyer, they shall not be liable under this Act if, as a means to earn a living, such a person, as a hawker or peddler, purchases and sells any goods that are contaminated, fabricated, or in any other manner flawed and as a result, the rights of consumers are undermined. This provision excludes the concept of product liability. According to the Indian Consumer Protection Act, "product liability" refers to the obligation of a product manufacturer or seller to provide compensation for any harm suffered by a consumer due to a faulty product they made or sold or due to shortcomings in the services associated with that product.⁶⁹ While the Indian Consumer Protection Act contains the said specific definition, it is notably absent in the CRPA, 2009. Section 78(3) of the CRPA, 2009 exempts a seller even if the items sold to customers are

⁶⁴ Ibid, s 76(5)

⁶⁵ Ibid, s 76(5)

⁶⁶ Ibid, s 76(6)

⁶⁷ Ibid, s 78(2)

⁶⁸ Ibid, s 78(3)

⁶⁹ The Consumer Protection Act 2019, s 2(34) (India)

contaminated or faulty. Consumers suffer as a result of the conflict between vendors and manufacturers. This section also exempts a hawker or peddler who purchases and sells contaminated, counterfeit, or substandard products to consumers in good faith. In this regard, customers are the ultimate losers. In addition, this provision does not hold a seller, hawker, or peddler accountable in respect of a violation of the consumer's rights committed in good faith. Simultaneously, this provision does not offer any guidelines or standards for sellers, hawkers, or peddlers to assess the genuineness of the product.

BARRIERS TO THE IMPLEMENTATION OF CONSUMER RIGHTS IN BANGLADESH

Based on the preceding legal analysis, this paper identifies certain legal barriers that hinder the enforcement of consumer rights in Bangladesh, as outlined below.

- a) In Bangladesh, consumers typically lack awareness of consumer-related laws, and their understanding of the formal definition of consumers and consumer rights often doesn't align with their personal perceptions.⁷⁰
- b) Diverse penalties for the same consumer-related offenses across various laws can lead to confusion among both consumers and law enforcement authorities. For instance, selling adulterated goods or medicines is considered a punishable act under CRPA 2009, with penalties ranging from imprisonment for up to 3 years, a fine not exceeding taka 2 lacs, or both.⁷¹ Conversely, under the Special Powers Act, 1974, the sale of adulterated food, drinks, or drugs can result in severe punishments such as the death penalty, life imprisonment, or rigorous imprisonment for up to fourteen years, along with fines.⁷² Furthermore, the Penal Code, 1860, prescribes imprisonment for selling adulterated drugs, with a maximum term of six months, a fine of up to one thousand taka, or both.⁷³
- c) The Consumer Rights Protection Act of 2009 does not contain definitions for e-commerce, e-commerce services, or

⁷⁰ Dr. Ahamuduzzaman, *Consumer Protection Law (Bangladesh & International Perspectives)* (3rd edn, Law Book Company, Dhaka 2014) 183

⁷¹ The Consumer Rights Protection Act 2009, s 41

⁷² The Special Powers Act 1974, s 25C

⁷³ The Penal Code 1860, s 275

the rights of consumers engaged in the e-commerce sector. Furthermore, the Act does not include provisions addressing the cyber security of consumers on online platforms.

- d) Consumers are often seen as wanting products that offer affordability through lower prices or rates, yet they also expect these products to ensure quality, style, durability, sustainability, comfort, safety, and security simultaneously.⁷⁴
- e) The Consumer Rights Protection Act of 2009 lacks a definition of "consumer" that covers individuals in the e-commerce sector. Similarly, the Act's definition of "complaint" presents a legal obstacle for consumers seeking direct remedies in court. Additionally, the Act's definition of "services" does not encompass e-commerce services, legal services, or banking services.
- f) The Consumer Rights Protection Act of 2009 does not offer a precise explanation for "consumer rights," nor does it provide a definition for the term "good faith."
- g) The Consumer Rights Protection Act of 2009 lacks specific regulations for overseeing artificial price increases. Moreover, the Act neither offers a definition for "artificial price hike" nor establishes any criteria related to such price hikes.
- h) The Consumer Rights Protection Act of 2009 does not contain provisions related to online fraud.
- i) The penalties for producing counterfeit products, selling expired medicines or food, and adulterating food with prohibited substances are insufficient. Additionally, the Act does not address penalties for cases resulting in the death of individuals due to anti-consumer practices. Furthermore, there are no provisions for penalties related to assisting in the filing of false cases or engaging in offenses recognized under the Consumer Rights Protection Act of 2009.
- j) As per the Consumer Rights Protection Act of 2009, a dissatisfied consumer is not allowed to directly submit a complaint to the relevant court. At the same time, there is no provision that holds the Director General or any official

⁷⁴ Supra Note 70, 185

of the Directorate accountable for not submitting a complaint within the specified timeframe.

- k) While section 59 of the Consumer Rights Protection Act of 2009 mentions that offenses under the Act can be settled through a compromise, there are no defined criteria for conducting Alternative Dispute Resolution (ADR) proceedings.
- l) According to the Consumer Rights Protection Act of 2009, a consumer can seek compensation through a civil lawsuit. However, the law does not outline any procedure for obtaining compensation in cases where a consumer's death is a consequence of anti-consumer rights practices.
- m) The Consumer Rights Protection Act of 2009 does not encompass public healthcare services, and it also does not grant the Director General independence when it comes to initiating legal actions related to private healthcare services.
- n) As previously noted in Section 78 of the Consumer Rights Protection Act of 2009, the notion of strict product liability is not included. Furthermore, this section does not establish the responsibility of shop owners or directors for selling adulterated or faulty products to consumers, even if these products were obtained from a licensed factory or organization. Additionally, it grants an exemption to street vendors, even if they sell tainted or substandard goods to consumers.
- o) Despite the various obstacles presented in the Consumer Rights Protection Act of 2009, there have been no revisions or amendments as of 2023.
- p) In Bangladesh, there is currently no legislation guaranteeing an individual's freedom to exercise choices or their right to obtain information regarding halal food and halal products.⁷⁵
- q) The Ministry of Commerce in Bangladesh lacks the authority to set prices for essential goods and conduct periodic monitoring of bazaars, markets, and supermarkets through official circulars.⁷⁶
- r) In Bangladesh, impediments to the effective enforcement of consumer rights encompass issues such as poverty, inadequate education levels, and a lack of widespread public awareness.⁷⁷

⁷⁵ Ibid, 195

⁷⁶ Ibid

⁷⁷ Ibid

- s) In Bangladesh, there is presently no designated official entity empowered to issue halal certifications. Nonetheless, in 2015, the Islamic Foundation did so for the first time, although without legal sanction.⁷⁸
- t) Another disadvantage for consumers is that the present legal and institutional frameworks are confusing due to the proliferation of laws and organizations that lack coordination.

OBSERVATIONS AND RECOMMENDATIONS FOR THE ELIMINATION OF GRIDLOCKS TO THE IMPLEMENTATION OF CONSUMER RIGHTS IN BANGLADESH

The following observations and recommendations are given based on the detailed discussion mentioned above. The government of Bangladesh may consider these with a view to ensuring justice for Bangladesh's consumers.

- 1) It is absolutely necessary to revise the Consumer Rights Protection Act of 2009, particularly in areas such as complaint procedures, definitions, penalties, and accountability of the enforcement authority.
- 2) It is crucial to review and harmonize the penalties for consumer-related offenses across various laws to ensure consistency and clarity. This could involve amending and aligning the punishments for similar offenses to prevent confusion and create a fair and equitable legal framework.
- 3) In consideration of the expanding e-commerce sector, the Consumer Rights Protection Act of 2009 should be updated to include comprehensive clauses, instructions, and guidance related to various aspects of e-commerce. This should encompass online complaint processes, the rights of consumers engaged in digital transactions, issues of online fraud, and the cyber security of consumers. In this context, the government of Bangladesh could consider adopting a framework similar to the Indian Consumer Protection Act of 2019. This Indian legislation includes definitions for terms like e-commerce, consumer rights, consumer disputes, electronic service provider, product liability, product liability actions, unfair trade practices, and more, which are noticeably absent in Bangladesh's Consumer Rights Protection Act of 2009.
- 4) It is important to include a definition of “good faith” within the Consumer Rights Protection Act of 2009. This would help assess whether the conduct of sellers, manufacturers, street

⁷⁸ Ibid, 194

vendors, the directorate, or its officers was carried out with proper care or not.

- 5) When consumers seek redress, the fundamental right guaranteed by Article 27 of the constitution of Bangladesh must be upheld.
- 6) The CRPA, 2009 ought to incorporate clauses concerning the accountability of the Director General or any officer of the Directorate. Simultaneously, it is vital to safeguard the professional autonomy of the Director General concerning both public and private healthcare services, particularly with regards to legal actions and inspections.
- 7) The Consumer Rights Protection Act of 2009 should encompass regulations pertaining to artificial price escalations, with a strong emphasis on prioritizing this issue within the context of Bangladesh.
- 8) There should be initiatives to provide consumer rights education, enabling individuals to proactively utilize the expected legal assistance available for them.
- 9) The CRPA, 2009 should include clauses addressing situations where a consumer's death results from actions that violate their consumer rights.
- 10) Clear instructions concerning alternative dispute resolution are absent in the CRPA, 2009. The Act should incorporate comprehensive provisions related to ADR, especially since it explicitly mentions that offenses under the Act can be settled through compromise.
- 11) The government of Bangladesh may establish separate courts for consumers at the subordinate court level.
- 12) The CRPA of 2009 should incorporate clauses concerning the right to choice and access to information regarding halal products and halal food. Furthermore, it's essential to establish a designated institution under this Act with legal authorization to issue halal certificates. To ensure that institutions like BSTI may play a vital role in this regard.
- 13) To ensure justice for consumers in Bangladesh, the requirement for the Director General's authorization to initiate criminal cases should be eliminated. Moreover, consumers should possess the right to file cases without encountering procedural obstacles.

- 14) Another initiative that can be taken into consideration for ensuring consumer rights is to periodically review and amend consumer protection laws to keep them in line with evolving societal needs and international best practices. This may help maintain relevance and address any emerging issues.
- 15) Consumer rights should be recognized as fundamental rights, and to enforce these rights in Bangladesh, the government could establish certification programs for chemists, food producers, and manufacturers.
- 16) Within the framework of CRPA 2009, there is a need to establish a distinct online oversight entity responsible for overseeing online business activities, including online services, pricing, and the prevention of online fraud, among other aspects.
- 17) In order to monitor the pricing of various products and the services provided by numerous companies in sectors like healthcare, transportation, and telecommunications, the government could set up a dedicated monitoring unit.
- 18) The government could arrange seminars, symposiums, workshops, and other educational initiatives to enhance consumer awareness of their rights. If necessary, the government might adopt consumer rights strategies employed by more developed countries.
- 19) To resolve consumer-related conflicts in a peaceful manner, the CRPA, 2009, could potentially include clauses related to mediation. To achieve this, the government of Bangladesh might consider adopting the mediation provisions already outlined in the Indian Consumer Protection Act, 2019.
- 20) The government may adopt the consumer protection standards established by the United Nations into the country's domestic legal framework and to implement the necessary measures to enforce these regulations for the benefit of consumers in Bangladesh.
- 21) A centralized, government-backed online dispute resolution (ODR) mechanism should be developed to ensure timely, impartial, and cost-effective resolution of consumer complaints across all digital commerce platforms.

CONCLUSION

Based on the earlier discussion, safeguarding consumer rights

can enhance the sense of safety and security among a country's citizens. By effectively enforcing these rights and maintaining quality standards for products and services, a nation can generate income, particularly in the e-commerce sector. Government regulatory bodies like Bangladesh Telecommunication Regulatory Commission (BTRC) should work in conjunction with online e-commerce platforms to safeguard the data of online business entities. Additionally, online shoppers should be educated about the risks of purchasing from unreliable online sellers who engage in deception and misrepresentation of products. Consumer rights are so vital that they are essential for preserving the right to life. To ensure the protection and promotion of consumer rights without hindering economic growth and sustainable development, the government must promptly initiate necessary reforms. Advocating for consumer rights can serve as a strategy to boost the economy. The Consumer Rights Protection Act, 2009, is a good point of departure when it comes to protecting consumers' rights in this nation, but it falls well short. Amendments are required to include a clear definition of consumer rights, streamline and cost-effective relief processes, and enhance the authority of the Council and the Directorate to enforce orders, instructions, and decisions related to consumer rights violations through state mechanisms. These changes are essential to give the legislation real significance. As mentioned earlier, this Act needs revision, and the government must put in additional effort in this domain to achieve the intended purpose of the legislation.