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Research Article

Challenges of the Consumer Protection in Bangladesh: A Legal Analysis

Salena Akter*

Department of Law and Human Rights, R. P. Shaha University, Bangladesh

Abstract

This article examines the state of consumer rights-protection in Bangladesh, highlighting both the legal framework and its practical implications. There are certain stipulations for the consumers to incline any legal action. Without having any money receipt none can file a complaint. There is a lacking in the state practice not to provide money receipt to all for petty shopping. Under such circumstances, Bangladesh has comprehensive laws in place to safeguard consumer rights, shortcomings persist in ensuring adequate protection. The presence of overlapping statutes and regulatory bodies underscores the lack of streamlined consumer protection mechanisms in the country. Another issue might be raised that is shortage of man power to run such an office smoothly. There is no independent office to oversee and work with the submitted complaints. Another perception is seen among the consumers that they might not get any remedy submitting a complaint. Through an analysis of these issues, the article aims to shed light on the challenges facing consumer rights enforcement and calls for reforms to enhance the efficacy of consumer protection measures in Bangladesh. For the better interest of the consumers the maintenance of the quality of commodities and goods is another issue to focus. In the recommendations a few suggestions have been given.

Keywords

Consumer, Protection, Legal Framework, Enforcement, Challenges

1. Introduction

The concept of consumerism and consumer rights emerged in the aftermath of the Second World War, a period marked by widespread destruction and economic upheaval. In the post-war era, the international community recognized that addressing financial instability and facilitating the flow of goods across borders could help mitigate the risk of future conflicts [1]. Moreover, the promotion of equitable wealth distribution was seen as a means to foster international co-operation and alleviate tensions between nations. As global economies recovered and standards of living improved, the demand for various goods and services surged, leading to the evolution of trade practices such as import and export [1]. In this dynamic economic landscape, two key stakeholders emerged: those involved in the production and sale of goods, and the consumers who purchased and utilized these products. This symbiotic relationship formed the foundation of modern commerce, with producers catering to the demands of consumers. Over time, customary international law and societal norms began to recognize and protect the rights of consumers, albeit through informal channels initially [2]. The formalization of consumer rights, however, was a gradual process, requiring time to codify and institutionalize. This evolution

*Corresponding author: drsalenaa@gmail.com (Salena Akter)

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reflects a broader recognition of the importance of consumer protection within legal frameworks and social structures. Through this historical lens, we can appreciate the journey towards establishing the rights and safeguards that shape contemporary consumerism. Consumer means those people who consume various sorts of products who do not resale the goods. The consumers can buy goods with hard cash or pay through the banking channels [3].

2. Research Objectives

In this work it will be tried to understand the existing practice of buying and selling, contents of the consumer rights and the penal policies. The existing procedure of protection for the consumers will be addressed. The concerns related to the rights of the consumers are an important parameter for assessing the status of enjoyment of such rights. It will be comprehensively examined diverse issues and the legal framework essential for mitigating threats to public health and interest. The Caveat Emptor doctrine, often criticized for its potential to undermine consumer rights, will be scrutinized. Through this work it will be tried to gain following objectives.

1) To understand the legal frameworks and implication of implementation.
2) To verify the market tradition is in compliance of law.
3) To understand the redress policy and length of effective pecuniary punishment in comparison to the level of violation and status as well as capabilities of violator.

3. Research Questions

The qualitative method of research methodology has been followed. In this work, the author has tried to answers of a set of questions as follows.

1) What is the scope of the law in the given context, and how effectively is it enforced in practice?
2) What are the existing practical deficiencies or limitations within current market practices and traditions?
3) How does the complaints are addressed and penalties are imposed?

4. Methodology of the Study

This study adopts a qualitative research approach, depending primarily on the analysis and interpretation of secondary data. Various sources have been meticulously verified, including statutory provisions, academic books, scholarly articles, and news reports published in renowned daily newspapers. Particular emphasis has been given to the opinions and analytical articles published in the dailies, which often provide insightful thoughts and legal norms. The research also includes a critical review of relevant literature, including both primary legal texts and secondary sources such as commentaries, legal critiques, and interpretative essays. To investigate the challenges related to the implementation of laws, the processes and mechanisms of sanctions involved in the resolution of legal disputes have been closely examined and analyzed. The study attempts to identify systemic weaknesses, enforcement gaps, and procedural obstructions that hinder the effectiveness of legal remedies.

5. Rights of the Consumers

The term ‘consumer’ is confined to private persons who are acquiring goods, services or anything else of value mainly for their own use and not for resale or use in business [3]. Consumers are entitled to a comprehensive set of legal rights, ensuring that the quality of products does not pose harm or detriment to human health under any circumstances [4]. Specifically, consumers have the right to access safe food, including grains, vegetables, fruits, and edible oils that adhere to standards promoting human well-being. Beyond consumables, all products are expected to be in optimal working condition, supported by a robust customer care service [1]. Additionally, products must accurately represent their qualities and ingredients as declared on the label, emphasizing transparency and integrity in the marketplace [5]. Under the Consumer Rights Protection Act, 2009 rights of consumers include the following:

1) Protection against unlawfully increased price.
2) Right to get unadulterated goods.
3) Protection against hazardous goods.
4) Protection against false or misleading advertising.
5) Right to get the goods for which payment is made.
6) Right to get proper amount of goods and measurement.
7) Protection against counterfeit goods or medicine.
8) Protection against expired goods or medicine.
9) Right to be safe from harmful or hazardous activities.

6. Constitutional Protection

The Constitution of Bangladesh is not very explicit about the consumer protection rights. Though it recognizes some rights relating to consumer protection under its ‘fundamental principles of state policy’. but it is so inactive that hardly can turn out the good environment for Bangladeshi people. The provisions of consumer protection can be found at Articles 15 and 18 of the Constitution of the Peoples Republic of Bangladesh 1972. However, these provisions are mainly focused on the vital issues of ‘health’ and ‘food’ than on other consumer rights.

A consumer right is considered as a basic human right as part of right to life. Some countries have already inserted consumer rights in their constitution for giving special preferences e.g. Spain. The constitution of Bangladesh enshrines ‘right to life’ as a fundamental right that indirectly protects consumer rights. The constitution also states that it is the fundamental responsibility of the State to ensure the basic necessities of life, including food, clothing, shelter, education and medical care with special regard to public health and morality [6]. There are sets of legal arrangement in respect of consumer protection which has got direct bearings on this topic. Several statutes have contained the direction regarding consumer protection throughout the era.

7. Statutory Protection

There are some general and specialized legislations that deal with the protection of rights of consumers in Bangladesh. The individuals' consumable rights have been protected under the national statute and there remain punishments for the infringement there of [7].

7.1. The Sale of Goods Act 1930

It defines the law relating to sale of goods. It contains provisions for formation of contract, condition and warranties, transfer of property, transfer of title, rights and duties of buyers and sellers, right of unpaid sellers against the goods, remedy, exclusion clause, etc.

7.2. The Poison Act, 1919

This law discusses about the illegal amalgamation of poisonous chemical with the fruits, beverage or any kinds of foods or material which is drinkable or edible seriously or somehow injurious to public health.

7.3. The Standards of Weights and Measures Ordinance 1982

The law establishes the standards of weights and measures based on metric system and units of measurement for all matters. It also requires maintenance of accuracy.

7.4. The Dangerous Drug Act 1930

The main focus of the Law is the consumption of drugs by sick persons. The purpose of Drugs consumption is totally different from the others edible thing. Where the others food is taken for fulfilling the stomach or in demand of appetite, then drugs are taken in case of emergency sickness only. Most of the people including high educated and illiterate are not known enough about the authentication of drugs. This statute has been enacted for prevention of manufacturing the frugal drugs [8].

7.5. The Special Powers Act 1974

This special law though specifically does not discuss the consumer rights, but it slightly gives emphasis on prevention of adulteration of food. The Standards of Weights and Measures Ordinance 1982, deliberate about the accurate weight and measurement. It is also a big deprivation for consumers to get improper measurement [1].

7.6. The Bangladesh Standards and Testing Institution in 2018

The Bangladesh Standards and Testing Institution which has been substituted to the previously pronounced ordinance of 1985 empowered government to have a authority for the testing of standardization of a product (BSTI). The office of Bangladesh Standards and Testing Institute is situated at Karwan Bazar, Dhaka the main function of this institution are; to cheek the quality of product and certify the institution to carry out the business.

7.7. The Control of Essential Commodities Act 1956

This law provides for powers to control the production, treatment, keeping, storage, movement, transport, supply, distribution, disposal, acquisition, use or consumption of, and trade and commerce in, certain commodities within Bangladesh by imposing requirement of a license and permit[2].

7.8. The Consumer Rights Protection Act, 2009

Under the Consumer Rights Protection Act, 2009, there are Councils at two levels: National level NCRPC (National Consumer Rights Protection Council) and District level DCRPC (District Consumer Rights Protection Committee) The National Consumer Rights Protection Council may, for purpose of preservation and protection of consumer rights, make appropriate regulations, undertake research, create awareness, and advise the government on policy relating to consumer protection, as well as monitor the activities of the Directorate of Consumer Protection[2]. On the other hand, the District Committees are to implement the rules and regulations adopted by the National Council [2].

Under the Consumer Rights Protection Act, 2009, a Directorate of consumer rights is established in Dhaka. [2] In fact, the principal responsibility to implement this Act rests on this Directorate. The Directorate is headed by a Director General (DG) and to assist him, there will be such staffs as may be necessary. A person may submit complaint of any activity violating consumer rights to the DG or any person authorized by him. To make a complaint to Magistrate or to file a criminal case requires the permission of the DG or of person authorized by him on this behalf. The DG holds power to investigate, to search or to issue summons and warrant. Besides this, he may also issue directives to close any shop or business enterprise engaged in activities that violate consumer rights.

Under the Act of 2009, no person can file a complaint directly at the Magistrate's court. A person can file a complaint

[1] The Dangerous Drug Act, 1930.
[2] Safe Food Act, 2013.

based on the anti-consumer activities to the Director General of the National Consumer Rights Protection Directorate or any other person authorized by him within 30 days of the complained cause of action. Then, within 90 days of the complaint received, the charge has to be filed to the Magistrate court with the approval of the DG.

Apart from filing a criminal case with the Magistrate court, civil remedy can be sought at the civil courts. The civil court is endowed with the jurisdiction to grant proper compensation which would not go beyond the fivefold amount of the actual damage.

8. Enforcement Mechanisms

The mobile court has jurisdiction to try offences relating to activities that violate consumer rights. An executive Magistrate runs the mobile court. Besides, the DG has also the same power as an Executive Magistrate to run the mobile court. He has jurisdiction all over Bangladesh. A Magistrate may at once recognize an offence under this Act, if committed in front of him and punish him, on the basis of his confession, with an imprisonment for a period of maximum two years. However, if the offence is serious in nature; he will take steps to file a criminal case in the criminal court.

Under the existing legal regime, the aggrieved consumers themselves cannot go to the court to sue against the violators. It is only the designated government officials empowered under these laws, who can initiate and sue against the violators. The provisions of penalty or punishment under the current laws are so negligible that nobody cares to abide by such laws; and finally, the laws are not effectively enforced.

9. Aspects of Consumer Rights Protection

There are three aspects of consumer rights protection, which every country must consider.

Firstly, the aspect of ‘voluntary protection’ which means that consumer’s themselves would voluntarily set up associations or organizations to safeguard their own rights and interests. These associations/organizations generally work as pressure groups on the government for consumer rights issues. In Bangladesh, the Consumers’ Association of Bangladesh (CAB) was established in 1978 being inspired by consumerism, a movement that already took shape in many advanced countries in Europe and America [9]. Primarily underway as a social group to protect consumers from commodity adulteration and artificial price-hike it has gradually extended its scope to establish and safeguard consumers’ rights and interests in social, economic, health and environmental issues [3]. The Consumer Association of Bangladesh (CAB) is legal body which extends assistance to the consumer protection authority[3]. They provide their opinion in regards to the government initiatives to increase the general tariffs of gas, electricity and water supply in the large cities [4].

Secondly, the aspect of ‘Institutional Protection’. By establishing national institutions to safeguard and promote consumer rights of citizens this aspect of consumers’ protection can be ensured. For example, the United Kingdom established the office of Director-General of Fair Trading and India established National Consumer Protection Council.

Thirdly, the aspect of ‘Statutory Protection’, which can be guaranteed by enacting relevant laws for protecting the rights and interests of the consumers.

10. Challenges for Consumer Rights

While certain rights exist in theory, the market presents a myriad of challenges that hinder the realization of these rights. The subsequent factors have been identified as significant impediments, thwarting the interests and rights of consumers.

I High price of products

The sale of a product at an exorbitant price is detrimental to consumer interests. Prices should be set within a reasonable and acceptable range, as indicated by the Maximum Retail Price (MRP) displayed on the product [5]. While sellers are permitted to sell goods below the MRP, it has been observed that, in some instances, the state practice involves selling products at prices exceeding the specified maximum [5]. Additionally, retail sellers occasionally impose additional costs on buyers, often attributing these surcharges to purported supply constraints [6].

Under the provisions of the Essential Commodities Act, 1957, the government may declare any of the classes of commodities mentioned in the Schedule to this Act to be essential commodity and may control the prices at which any essential commodity may be bought or sold in any area [4]. The scheduled commodities include food, fuel, paper, medicine, tea, textbooks etc [4]. According to the Consumer Rights Protection Act, 2009, when maximum retail price is be fixed by the government under applicable rules, selling the goods at a higher price is a violation of consumer rights If any person violates this provision, he will be punished with imprisonment for up to one year, or a fine up to fifty thousand taka or with both [4]. Under the Act, mentioning the maximum retail price [4] e of prescribed products are mandatory and failure to do so is punishable with imprisonment and fine [4]. Displaying the price of prescribed goods is also compulsory under section 38 of the Act[4].

II Adulterated Goods

The scarcity of fresh food and medicine poses a significant challenge in Bangladesh. The supply of both food and medicine should be guaranteed to be pure and secure, and any compromise in this regard is considered a violation of user rights. Such compromises not only contribute to a decline in general health but also pose severe threats to human lives.

[3] The Consumer Rights Protection Act, 2009, s. 2.

[4] The Sale of Goods Act, 1930.

[5] The Constitution of Bangladesh, Arts. 21, 31, &32

[6] The Penal Code 1860, ss. 264-267, 272-276, 478-483

Users often grapple with the unsettling reality that medicines, crucial for their well-being, can be counterfeited. Consequently, attendants of patients are compelled to focus more on sourcing medicines from various outlets, often prioritizing availability over quality due to the prevailing scarcity [7]. In Bangladesh two main actors are parties to these malpractice (i) dishonest drug manufacturers who produce and release drugs in the market that don't meet the required standard. (ii) criminal actors putting fake labels on items and selling them as genuine medicine. Such a problem is not unique in Bangladesh -- it happens in other parts of the world as well [7].

Under the Consumer Rights Protection Act, 2009, selling adulterated goods or medicine is punishable with imprisonment for up to three years, or a fine up to two lac taka or with both 4. Producing adulterated goods is also punishable with similar punishment 4. Using unsafe methods for producing or processing any goods is also punishable under section 43 of the Act. The existing law defines sale of adulterated food as an offence which is punishable with imprisonment for six months [7, 8]. On the other hand, section 25C of the Special Powers Act 1974 provides that selling adulterated food or medicine is punishable with death, or with imprisonment for life, or with rigorous imprisonment for a term which may extend to fourteen years, and shall also be liable to fine 1. For adulterated foods, there is a separate legislation named the Safe Food Act, 2013 which contains specific provision relating to protection of consumers from unsafe food. Under this Act, selling adulterated food is punishable with imprisonment which may extend to five years along with fine up to ten lac taka[8].

III Injurious Products

The counterfeit cosmetics, including face wash, cream, shampoo, hair oil, face pack, henna, massage cream, and face powder of various brands including Garnier, Ponds, Dabur, and Emami are found to be prepared[3]. Those are prepared with severe detrimental chemicals and ingredients having no healthy contents. They Sometimes it has been observed that the users have lost their face color, leading to cancer[3].

Under the Consumer Rights Protection Act, 2009, mixing harmful substance with any goods or medicine is punishable with imprisonment for up to three years, or a fine up to two lac taka or with both[3].

IV False Advertisement

The deceptive colorful and befitting advertisements are circulated over the banners, in television media and using the internet protocols. The owners of the companies consciously make fraud with the consumers[9]. The common people are the prey of these deceptive businessmen[10]. Under section 44 of the Consumer Rights Protection Act, 2009, deceiving consumers with false advertising for the purpose of selling any goods or services is punishable with one year imprisonment and two lac taka fine [3]. Publishing false advertising relating to food is also prohibited under the Safe Food Act, 2013 [11].

V Proper delivery

Sometimes the products are received at the doorsteps. The online business now-a-days has been emerged up to a great deal. The online shops do not have any specific place to show their products [3]. The pictorial view is the only thing to check the products [12] They provide fake, degraded and counterfeit products. Sometimes, they even do not delivery the product. The legal structure is not well defined [3]. Under section 45 of the Consumer Rights Protection Act, 2009, failure to sell or supply any goods or services price is punishable with one year imprisonment and fifty thousand taka fine if the price is paid [3].

VI Wight of the product/piece/gauge

The sellers steal in weight. They fraudulently deform the weight scale and deceit the consumers. The customers do not get the product in real condition though they pay proper cost. In various markets, it has been shown that a five-kilogram product gets only 3.5 kilogram when it is retested in another place. In Karwan bazar, a five-kilogram product will provide 200 grams to 2.50 grams' reduction. Though that is negligible amount, it cannot be accepted and made a law [7]. Same condition is remaining in the fish markets also [7]. In the hardware or steel business, the high standard stealing practice is seen. All of the sectors are causing the deception to the consumers. In case of gauge measurement, the same type of stealing is in practice. The consumers are to pay extra cost for taking their products. The fuel pumps are doing the same and causing harm to the buyers.

According to the Consumer Rights Protection Act, 2009, selling or supplying less than the agreed amount of goods is a punishable offence. Under sections 46 and 48, if the weight of the goods [4] or the measurement of the goods [4] are less than the agreed amount, the punishment is one year of imprisonment and fifty thousand taka fine. Using weights or scales that shows more than the actual amount of goods, or using incorrect measuring tapes are also punishable offences [4].

VII Timed out goods/Label change

The super shops in the state are found to sell timed out products. They most illegally manipulate the label. The customers are affected. The costly items are seen to do. Consumption of these timed out goods may cause life threat. The foreign juice, bottled liquid food and waters are in the list to affect the customers' interest [4]. Under the Consumer Rights Protection Act, 2009, selling goods after the date of expiry is punishable with imprisonment and fine [4].

VIII Sudden Increasing of Price

The imported goods are sold at a higher price. [13]The cost of importation and exchange rate of dollar varies time to time. The customers are accustomed with this though the busi-

[7] The Essential Commodities Act, 1957, s. 3.
[8] The Business Standards (15.02.2022).
[9] Dhaka Tribune (29.04.2023)
[10] The Daily Star (14.03.2017).

[11] Nizam Uddin (38), a clerk in a private organization
[12] The Financial Express, (31.03.2018).
[13] The Financial Express (17.04.2017)

nessmen play unilateral role for fixing the retail price [10]. Sometimes the price of goods is increased in the international market. Logically it can be accepted that the prices will be hiked in the local market whenever the new products after price hike in the international sphere will come up over there [11]. Violating such standard theory, the businessmen increase all the prices in the local market instantaneously [11.] It is to mention that the traditionally importation takes a minimum 15 days from the date of opening a letter of Credit (LC). So, the prices should not be increased before particular time. There is no governance from the government [11]. On the contrary, reduction of the international market price seldom impacts over the local market [14]. Sometimes, the impact becomes so negligible in amount which cannot console the consumers' mental condition [14]. Though there is no protection against sudden increase of price in the Consumer Rights Protection Act, 2009, such protection is possible for essential goods as declared by the government under the Essential Commodities Act, 1956[4].

IX Sale of products

A general problem is that the retailers seldom provide any money receipt or cash voucher. To file a complaint, the consumers need such voucher. Without receipt no complaint could be accepted. [3] So, the daily lives of the consumers are to struggle with the malpractices. There is no legal provision that makes it mandatory to provide written receipt at the time of sale. [14]

11. Existing Complaint Mechanism

There is a complaint mechanism in the Consumer Rights Protection system [4]. The consumers who suffer from the aforementioned factors can submit a complaint. The consumers shall have to submit such complaint with the voucher supplied at the time of shopping [4]. Such complaint shall have to be submitted within 30 days from the date of shopping [14]. Any buyer or consumer, any registered consumer association under the law, any person having same interest in the issue, person having administrative authority or a retailer can submit a complaint for such violation [15]. If the complaint is proved, the seller will be fined. The complainant will get 25% of such fine as award [16]. The complaint can be submitted through a prescribed form and it can be sent through email or fax also [3].

12. Limitations of the Legal Protection

The consumer protection landscape in Bangladesh is governed by various regulatory bodies, each endowed with distinct powers and responsibilities concerning consumer rights. Notable entities include the National Consumer Rights Department, Safe Food Authority, and the Bangladesh Standard and Testing Institute. However, the existing regulatory framework is characterized by a lack of effective coordination among these agencies, leading to potential overlaps in their functions.

In the realm of consumer protection, Bangladesh witnesses the proactive engagement of multiple authorities, including Mobile Courts, City Corporations, Bangladesh Standards and Testing Institution and the Safe Food Authority, in conducting anti-adulteration drives. Despite their efforts, a crucial need for enhanced coordination among these diverse entities responsible for enforcing consumer protection laws is evident. This coordination is imperative for streamlining efforts and ensuring a more coherent and impactful approach to safeguarding consumers.

The state has taken steps to enact various laws aimed at protecting consumers[16]. However, the proliferation of enactments has resulted in confusion for stakeholders, including manufacturers, retailers, consumers, and even enforcement authorities. The multiplicity of laws necessitates a comprehensive review and consolidation to simplify the legal landscape, fostering a clearer understanding and effective implementation of consumer protection measures[17].

Enforcement practices in the current scenario primarily focus on penal measures, often overlooking the potential impact of more persuasive approaches such as cautionary measures or improvement notices. A balanced and holistic enforcement strategy is crucial to ensure that stakeholders are not only penalized for non-compliance but are also encouraged and guided towards better adherence to consumer protection laws.

One noteworthy gap in the existing legal framework is the absence of a mandatory provision requiring the issuance of cash memo or receipt at the time of sale[6]. This omission poses challenges for both consumers and businesses, as the lack of a written record may hinder accountability and dispute resolution processes. Addressing this gap by introducing a mandatory receipt provision could contribute to enhancing transparency and accountability in consumer transactions, thereby promoting a more secure and reliable marketplace.

13. Recommendations

To overcome the volatile situation identified by this work, the author would like to draw the effective authority to take following initiatives. It would be believed that the following circumstances might bestow more opportunities to the consumers reducing the existent shortfalls as follows.

1) Issuance of cash memo should be made mandatory in case of selling goods.
2) A sufficient number of magistrates should be posted in the Directorate of Consumers Rights Protection Cell to operate mobile court more random basis.

[14] The New Age (24.03.2018).
[15] The Daily Observer (09.11.2020).
[16] Nizam Uddin (38), a clerk in a private organization.
[17] The Daily Star (10.12.2023).

3) To dismantle the market syndication, the export-import cost could be disclosed and open in the websites so that common consumers could know.
4) The government could arrange easier transportation of goods and food grains so that none could claim unprecedented and undramatic costs for goods.
5) Registration of E-commerce should be made mandatory and the system of monitoring be enlarged.
6) The E-commerce guide should be made mandatory to follow for the e-businessmen.
7) Manpower and capacity of work of the Consumer Protection Authority should be increased.
8) People should be made aware against the corruption and taught to revolt.
9) Process of adjudication should be made speedy and easy accessible.
10) Quality of goods and commodities should be checked through a panel of experts.

14. Conclusion

In the instances where quality concerns, pricing mechanisms, and mechanisms for addressing complaints arise, consumers in Bangladesh are inadequately protected. They face the risk of encountering fraudulent practices by traders and industries, exposing them to heightened vulnerabilities. The prevalence of counterfeit goods within the state is not inconsequential, further contributing to the challenges faced by consumers[18].

In conclusion, addressing the challenges in the consumer protection landscape of Bangladesh requires a multifaceted approach. Enhancing coordination among regulatory bodies, consolidating and simplifying legal enactments, adopting a balanced enforcement strategy, and introducing mandatory provisions for written receipts are crucial steps towards building a robust consumer protection framework that truly serves the interests of all stakeholders.

Abbreviations

CAB	Cpnsumers' Association of Bangladesh
DG	Director General
DCRPC	District Consumers' Rights Prortection Council
LC	Letter of Credit
NCRPC	National Consumers' Rights protection Council
MRP	Maximum Retail Price

Author Contributions

Salena Akter is the sole author. The author read and approved the final manuscript.

Conflicts of Interest

The authors declare no conflicts of interest.

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