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Cross-Border Data Transfers and Legal Risk: Adapting to Fragmented Global Privacy Regimes

Introduction:

Cross-border data transfers involve the movement of personal data, such as identifiers, financial records, health information, or user-generated content, across national borders for processing, storage, or access. In the digital economy, these flows reinforce cloud computing, outsourcing, e-commerce, and fintech. In the case of Bangladesh, the Information & Communication Technology (ICT) & Information Technology Enabled Services (ITES), which include BPOs, has grown rapidly, earning foreign currency and providing employment opportunities for several hundred thousand people. Fintech innovations like mobile financial services and e-commerce platforms further rely on seamless data flows. Government digitization initiatives under the "Digital Bangladesh" vision amplify this dependence.

Key Discussion:

Bangladesh historically lacked a comprehensive personal data protection law. The Information and Communication Technology Act 2006 and the Cyber Security Ordinance 2025 address cybersecurity, critical information infrastructure, and certain data breaches, which impose penalties for unauthorized access or disclosure. Sectoral rules from the Bangladesh Bank (for financial data) and the Bangladesh Telecommunication Regulatory Commission add layer-specific obligations, but these are narrow and do not comprehensively govern cross-border transfers[1].

The landmark Personal Data Protection Ordinance 2025 (PDPO 2025), adopts modern concepts such as data fiduciary responsibilities, consent-based processing, data subject rights, and extraterritorial application to Bangladeshi citizens abroad and foreign entities targeting the Bangladeshi market. Crucially, cross-border transfers are permitted with certain conditions as per section 29(3) of the PDPO 2025[2].

In practice, cross-border data transfers are routine and economically vital. The IT/BPO sector processes customer data, payroll, and software development for European and North American clients. Fintech firms handle cross-border remittances and payments, while e-commerce platforms integrate with global payment gateways and logistics networks.[3] Cloud services from AWS, Microsoft Azure, and Google Cloud are indispensable for scalability, cost-efficiency, and disaster recovery, both for private enterprises and government e-governance platforms, digital identity systems, and public service portals[4]. The digital economy of Bangladesh thus depends heavily on foreign infrastructure.

The PDPO's discretionary classification of powers and approval requirements for certain transfers introduce unpredictability, potentially delaying operations or increasing compliance costs. Multinational clients subject to the EU GDPR may demand Standard Contractual Clauses (SCCs) or Binding Corporate Rules, yet these contractual safeguards could conflict with Bangladeshi requirements for local storage or government approval.

Data sovereignty and national security concerns further increase exposure. Forced localization raises operational expenses, fragments cloud architectures, and may undermine cybersecurity best practices such as data sharding. Enforcement challenges compound the problem: limited institutional capacity and an overburdened judiciary make consistent application difficult. Finally, over-reliance on contracts offers limited protection if domestic law overrides them through classification or emergency orders.

China's Personal Information Protection Law (PIPL) and Data Security Law emphasize strict localization for important data, security assessments, and government oversight, reflecting sovereignty-first priorities[5]. Digital Personal Data Protection Act 2023 of India adopts a more permissive negative list approach: transfers are allowed by default unless the government notifies restricted destinations, balancing growth with safeguards[6].

Concluding Remarks:

The PDPO 2025 may be seen as a positive move towards institutionalization; however, there remain serious issues of ambiguity, execution, and preparedness, which create considerable risk for enterprises and the country's economy overall due to the inconsistent international environment. Through embracing a pragmatic approach that considers both privacy rights and the need for free data flow, Bangladesh can overcome risks, secure investment, and leverage the opportunities arising out of its digital revolution. It has now become imperative to establish a coherent legal framework for international data governance.

Source: Karaduman & Esin Law Firm

1. Bangladesh Bank, 'Guideline on ICT Security (Draft, Version 4.0, 2023)' (Bangladesh Bank, 2023) <https://www.bb.org.bd/aboutus/draftguinotification/guideline/draft_ictpolicy.pdf> accessed 14 April 2026.
2. Personal Data Protection Ordinance 2025, s 29.
3. Visa Economic Empowerment Institute, 'What's Next for Bangladesh?' (Visa, 2023) <https://usa.visa.com/content/dam/VCOM/global/ms/documents/veei-whats-next-for-bangladesh.pdf> (accessed 13 April 2026).
4. Rajib Nag, 'Cloud Computing in Bangladesh: Opportunities, Challenges & Career Skills' (ClickITnexT, March 2026) <https://clickitnext.com/cloud-computing-bangladesh-opportunities-challenges-career.php> (accessed 13 April 2026).
5. Personal Information Protection Law of the People's Republic of China (promulgated 20 August 2021, effective 1 November 2021) (PIPL), arts 38–43.
6. Digital Personal Data Protection Act 2023 (India), s 16. See also DPDP Rules 2025, r 15.

Evolving Corporate Liability in the Age of Artificial Intelligence: Regulatory Gaps and Compliance Challenges

Introduction:

Corporate governance has established its core standards through the principles of transparency, accountability, fairness and responsibility. The rules existed for enforcement through board oversight mechanisms, shareholder rights, internal control systems, and statutory regulations[1]. The introduction of digital transformation together with artificial intelligence (AI) technology has created an extra complex operational challenge. The transformation process started with automation and data analytics, but AI-driven innovations now control how businesses make strategic choices and establish their governance systems.

Key Discussion:

Corporate accountability, once grounded in human intent and oversight, now faces disruption as AI systems operate with varying degrees of autonomy[2]. The main problem stems from the way AI systems function as "black box" systems which hide their internal workings[3]. Many machine learning systems produce results which their developers often cannot fully comprehend. The absence of transparent information hinders companies from establishing responsibility which serves as the fundamental principle of their legal obligations.

Corporations increasingly depend on third-party AI solutions which results in all responsibility issues being divided among multiple parties[4]. The deployment of AI systems involves vendors, developers, and end-users yet legal frameworks do not provide clear guidelines for determining who is responsible for these three groups. The existence of compliance challenges arises from companies needing to handle their own responsibilities together with the duties which emerge from their business partnerships. The existing corporate liability models which include negligence and strict liability frameworks face difficulties to adapt to AI-driven contexts[5]. Negligence requires foreseeability and breach of duty[6], yet AI systems can behave unpredictably, which makes it impossible to determine what a reasonable standard of care should show. Strict liability regimes can apply to high-risk scenarios[7], yet their excessive application will create barriers to innovation.

Fragmented regulations are making the matter worse. With different jurisdictions adopting varying AI governance methods, the lack of harmonized standards creates legal ambiguity and increases operational hazards for businesses[8]. Several emerging legal instruments attempt to address these challenges. The European Union AI Act, which the EU proposes[9], establishes a risk-based classification system that requires high-risk AI systems to comply with enhanced operational standards which include transparency requirements, human oversight, and accountability measures. The General Data Protection Regulation (GDPR) and other data protection laws establish data minimization and the right to explanation as fundamental principles, which create indirect effects on AI accountability standards[10].

In other jurisdictions, sector-specific regulations are beginning to emerge. For example, the Financial Conduct Authority and Prudential Regulation Authority, focusing on financial services in the U.K., HIPAA-aligned frameworks in the U.S. focusing on health and life sciences. On federal levels, bias-mitigation and hiring-AI laws are being introduced[11].

Concluding Remarks:

The evolution of AI demands a corresponding evolution in corporate liability frameworks. Policymakers must establish clear, harmonized standards which balance innovation with accountability while corporations develop governance frameworks, conduct risk assessments, and implement ethical artificial intelligence systems. The corporate world should move away from reactive liability systems and instead adopt anticipatory regulations which help them manage risks in today' s AI-driven business environment.

Source: Gemini

1. N Balaji Ganesh and others, 'Corporate Governance in the Age of AI: Ethical Oversight and Accountability Frameworks' (2025) 10 Journal of Information Systems Engineering and Management <https://www.jisem-journal.com/> accessed 11 April 2026.
2. ibid
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5. Enrico Moch, 'Liability Issues in the Context of Artificial Intelligence: Legal Challenges and Solutions for AI-Supported Decisions' (2024) 7(1) East African Journal of Law and Ethics <https://doi.org/10.37284/eajle.7.1.2518> accessed 11 April 2026.
6. Marc L. Shapiro, 'Negligence in Law: Elements, Types, and Claims' (15 September 2025) <https://www.attorneyshapiro.com/negligence-definition/> accessed 11 April 2026.
7. Christiane Wendehorst, 'Strict Liability for AI and other Emerging Technologies' (2020) 11(2) Journal of European Tort Law <https://doi.org/10.1515/jetl-2020-0140> accessed 11 April 2026.
8. Omdia, 'Fragmented Global Regulatory Approach to Data Sovereignty Poses Significant Compliance Challenges' (Omdia, 10 April 2026) <https://omdia.tech.informa.com/pr/2026/apr/fragmented-global-regulatory-approach-to-data-sovereignty-poses-significant-compliance-challenges> accessed 11 April 2026.
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Finance Ordinance 2025

Introduction:

The Finance Ordinance 2025 (Ordinance No. 28 of 2025) represents a significant pivot in the regulatory landscape of Bangladesh, particularly concerning the structural oversight of trade and the harmonization of tax laws. In the absence of an active Parliament, the Finance Ordinance 2025 functions as the primary fiscal roadmap for the nation. Promulgated by the President on June 2, 2025, it addresses critical gaps in the existing legal framework, amending the Value Added Tax (VAT) and Supplementary Duty Act 2012, the Income Tax Act 2023, and the Customs Act 2023. Its primary objective is to balance the need for increased domestic revenue with the practical realities of a rapidly digitizing economy.

Key Discussion:

The ordinance introduces several technical and structural changes that redefine the relationship between the taxpayer and the state:

Institutional Renaming and Jurisdiction: A major highlight is the renaming of the "Appellate Tribunal" to the "Customs, Excise, and VAT Appellate Tribunal." This is attached with revised criteria for the appointment of its members, ensuring that only high-ranking officials from the Bangladesh Civil Service (Customs and Excise) with specific tenure experience can preside over fiscal disputes.

Digital Integration: The legislation formally recognizes ERP (Enterprise Resource Planning) and NBR-approved software as the standard for record-keeping. This shift is intended to reduce manual intervention and curb tax evasion through automated data tracking.

Targeted Supplementary Duties: The ordinance provides an exhaustive schedule of duties at the import stage. Notably, high-end food items, specific luxury goods, and industrial raw materials face revised rates, signaling a protectionist stance for local industries while taxing non-essential imports.

Capital Gains & Security Taxation: The 15% flat tax on capital gains for both companies and individual investors in listed securities marks a move toward simplifying the tax code, though it significantly alters the investment calculus for market participants.

Pros and Cons

Pros

The Finance Ordinance 2025 introduces several progressive measures designed to alleviate administrative pressure on taxpayers while fostering a more modern business environment. By extending the window for claiming input tax credits from four to six tax periods, the legislation provides essential flexibility that prevents businesses from incurring financial losses due to minor logistical or timing delays. This practical shift is complemented by the refinement of key legal definitions for terms such as "event," "charitable activities," and "micro-credit," which serves to minimize ambiguity and reduce the likelihood of costly litigation with the National Board of Revenue. Furthermore, the formal legal recognition of cloud-based ERP systems and automated VAT software marks a significant step toward national digitalization, incentivizing small and medium enterprises to adopt efficient, transparent accounting infrastructures that support long-term operational growth.

Cons

While the Finance Ordinance 2025 aims for fiscal tightening, it introduces several challenges that could impact both the market and the administrative ease of doing business. The upward revision of supplementary duties on essential imports such as meat, dairy, and fruits poses a direct risk of inflationary pressure, as these increased costs are likely to be passed on to end consumers, thereby raising the general cost of living. Furthermore, the mandate for conducting business transactions through formal banking channels, while intended to curb the informal economy, presents a significant compliance hurdle for small-scale entrepreneurs and those operating in areas with limited financial infrastructure. This complexity is compounded by a perceived high barrier for legal redress; the stringent professional qualifications required for tribunal members, coupled with rigorous procedural mandates for filing appeals, may inadvertently make the dispute resolution process feel inaccessible or prohibitively difficult for smaller taxpayers seeking to challenge NBR decisions.

Concluding Remarks:

The Finance Ordinance 2025 is a dual-purpose instrument designed to provide both stability and reform. While it introduces stricter oversight and higher duties in specific sectors, it also offers concessions in the form of extended compliance windows and digital recognition. As these provisions take full effect on July 1, 2025, the success of this fiscal strategy will be measured by its ability to generate revenue without stifling the growth of the private sector or overburdening the average citizen. Ultimately, it underscores a transition toward a more structured, tech-heavy, and transparent tax regime in Bangladesh.

Meghna Petroleum Limited vs. Labour Appellate Tribunal, Kakrail and others

Civil Appeal Nos. 394-402 of 2017
Supreme Court of Bangladesh (Appellate Division)
Decided on: 03.03.2020

Overview of the Case:

This case concerns the legal status of canteen workers engaged in the establishment of Meghna Petroleum Limited and whether they could be treated as permanent workers under the Bangladesh Labour Act, 2006. The dispute travelled from the Labour Court to the Labour Appellate Tribunal, the High Court Division, and ultimately the Appellate Division of the Supreme Court of Bangladesh.

Facts of the Case:

This is a case whereby the respondent, Meghna Petroleum Limited (hereinafter referred to as Meghna), appeals to the decision of the High Court Division. The petitioner (appellants herein) consists of nine persons who were employed in the posts of Head Cook, Assistant Cook, Tea maker, and Table Boys in the canteen of Meghna's Main Installation in Chittagong. Their date of joining varied between the years 1988 and 2005. These nine persons instituted separate cases before the Labour Court alleging that they had been working on a continuous basis and that their services had become permanent within the provisions of section 4(8) of the Bangladesh Labour Act, 2006. Both the Labour Court and the Labour Appellate Tribunal ruled in favour of the petitioners and directed Meghna to issue letters of permanent appointment to them. Meghna contested this by filing appeals before the Appellate Division and arguing the workers were not its employees, as the canteen was run by a canteen committee, was non-profit, and the claimed posts were not included in Meghna's Organogram or Budget Allocation.

Issue

- Whether the canteen workers could be considered employees of Meghna Petroleum Limited.
- Whether the Labour Court and the High Court Division erred in directing Meghna to issue permanent appointment letters to the respondents.
- Whether the cases were maintainable under the Bangladesh Labour Act, 2006, given Meghna's status as an instrumentality of a statutory body and the canteen's non-profit nature.

Relevant Provisions

1. Bangladesh Labour Act, 2006
    a. Section 4(6) & (7): The Court relied on these provisions to hold that permanency requires appointment against a sanctioned post and completion of probation.
    b. Section 33: It was referred to show that although the workers had pursued the grievance procedure, such compliance alone could not confer permanent employee status.
    c. Section 92: The Court acknowledged that providing canteen facilities is mandatory.
2. Employment of Labour (Standing Orders) Act, 1965
    a. Section 2(p): The Court relied on the statutory concept of probationer and permanent worker to reinforce that permanency arises only from appointment against a sanctioned vacancy, not merely from long and continuous service.
3. Constitution of Bangladesh
    a. Article 10: The court invoked this provision to highlight the State's obligation to promote a fair and equitable economic system for workers.
    b. Article 14: It was cited to emphasize the duty of the State to protect workers from exploitation .
    c. Article 15: The Court referred to this Article to underline the importance of ensuring fair wages and basic necessities for workers, even where they do not hold permanent legal status.

Relevant cases:

- Bangladesh Biman Corporation and others v Md Zahangir Farazi and others (65 DLR (AD) 116)
- Rupali Bank Limited and others v Chairman, First Labour Court and others (58 DLR (HCD) 46)
- Bangladesh Petroleum Exploration and Production Company Limited (BAPEX) and another v Md Hasan Ali and others (XI ADC 300)

Judgment

The Appellate Division of the Supreme Court of Bangladesh found that the positions alleged by the respondents were not present in the Organogram or Budget Allocation of Meghna, therefore, the posts of Head Cook, Assistant Cook, Tea Maker, and Table Boy were not permanent posts. The Appellate Division also found the Labour Court's decision that the petitioners were appointed against permanent posts to be wrong. The court pointed out that without permanent posts being created and included in the Organogram with Budget Allocation, the court could not treat the respondents as permanent workers of the statutory body's company. However, the Court made an equitable observation that Meghna Petroleum should take steps to ensure fair wages and proper arrangements for the canteen workers, either by Creating posts, or ensuring proper employment through the canteen committee.

Conclusion:

The Supreme Court held that the nine canteen workers could not be declared permanent employees of Meghna Petroleum Limited itself. The impugned judgments were set aside. At the same time, the Court issued a strong directive to Meghna to ensure fair wages and benefits for these long-serving canteen workers through the canteen committee. The decision emphasizes that regularization of canteen staff in public sector undertakings is possible only against sanctioned posts and with proper budgetary provisions.

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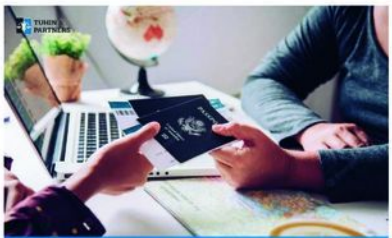
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