

A CRITICAL STUDY ON THE IMPACT OF GLOBALISATION ON E COMMERCE IN INDIAN PERSPECTIVE

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ABSTRACT

Globalization is the new catchphrase in the global economy that has dominated the globe since the 1990s. People relied more on the market economy, had more trust in private capital and resources, and international organizations began to play a vital role in developing countries' growth.. Globalization and electronic commerce are intertwined because e commerce is a consequence of globalization. It indicates increasing cross border trade that happens between countries and territories. The removal or reduction of restrictions in of tariffs and import quotas enables this kinds of trade more easily.. One major relationship between e commerce and globalization is the fact that the ease of transportation of goods and services across international borders facilitated by globalization makes it easier to trade internationally. As an example It has made very easy for all human being to travel form one part of the world to the other as according to our needs & wants.. Globalization and e commerce can be seen from the ease of communication across borders. International communication is much easier now thanks to the improvement in technology and the influence of globalization. It has turned the entire world in a single market, so the emergence of globalization has resulted in e commerce. It is the buying and selling of goods and services through electronic medium. Ecommerce facilitates modern trends in commerce. It facilitates cross border trade .One of the main problem in cross border trade is the jurisdictional problem. When coming to Indian perspective, even though globalization and e commerce has emerged before 2 decades, there is no proper law regulating this. So this paper aims to analyses the impact of globalization in ecommerce and also the researcher aims to analyze law relating e commerce and the loopholes in Indian laws.

KEY WORDS: Globalization, E –commerce, Development, Economy, Crimes, Cross border trade.

INTRODUCTION

One of the most vital processes of the last several decades has been the emergence and development of the process of globalization. Andrew Heywood defined globalization as “It is the emergence of a complex web of interconnectedness that means our lives are increasingly shaped by the events that occur and the decisions that are made, at a greater distance from us”¹. The salient nature of globalization is the geographical distance of a declining relevance and the territorial boundaries, such as between nation states which are becoming less significant”²Globalization and e-commerce are two impact of technology & now it becomes as a two sides of coins. E-Commerce is completely a technological impact of globalization. Globalization is a concept which is being existing in our society from years ago. From many centuries ago Human being is trying to expand its

¹ Baylis & smith;Globalisation of world politics

² Essays, UK. (November 2018). Globalization And The Impacts Of E Commerce. Retrieved from

<https://www.ukessays.com/essays/information-technology/globalization-and-the-impacts-of-e-commerce-information-technology-essay.php?vref=1>

influence in cross border trade The influence of information technology and world economics are one which changes the face of globalization from last twenty years The development of Internet in global network is one which led to the advancement in ecommerce ; one of the real boom of the society. One of the significant characteristic of globalization is the “Time- space compression”. Through the advances in technology, it is easier to communicate and travel internationally at very high speed. . This aspect of globalization has a wider impact on the global Electronic commerce were the advances in technology have led to an integration and interconnectedness of the global economy. Ecommerce is the process of buying and selling of goods and services through electronic medium. Globalization has turned the entire world into a single market .So the growth of e commerce is very fast. The impact of this globalization in e commerce has resulted in the cross border trade, full time operation ,high customer oriented service etc. but the main issue in this impact is jurisdictional problem of cross border trade, In India currently there is no proper statutory enactment dealing with all aspects e commerce issues, now it is governed by the provision of IT act 2000.But it is not enough to curb all the e commerce issues such as intermediary liability ,Counterfeited goods crimes relating to e commerce etc. So through this study the researcher aims to ascertain the globalization and its impact in e commerce with respect to the existing statutory enactment and also aims to ascertain the globalization and increasing e commerce crimes.

GLOBALISATIN AND E COMMERCE

Globalization is the new catchphrase in the global economy that has dominated the globe since the 1990s. Human community have believed very much on the market economy & they had a good faith in private capital ,resources and international organizations which play an influential role in the development of developing countries like India. The rapid development of information technology, especially the network technology and the globalization of the Internet, has brought us into a new era. A new trade way, online trade which breakthroughs the limitation of time and space of traditional trade, comes into being. It completely differs from the conventional way. Over the last few decades, international trade has experienced several rapid changes. These changes characterize the dynamism of the modern trends in Globalization. The immense market demand for high quality paper processing international trade generates e commerce. The significance of e commerce in the emergence of globalization has a growing tendency, and meanwhile, e-commerce brings a powerful momentum in promoting the development of international trade such as It increases the volume of International trade, decrease the transaction cost, improves the quality and efficiency of trade, increasing trade opportunity, supplying new trade means, Reduce distance and time etc³.. In the next few years, the Internet, which offers tremendous potential commercial opportunity, will become the largest market of the world. Because of variations in the political, financial, cultural, social, technical and geographic climate, there is a huge diversity and complexity in international business. Globalization involves promoting cross-border trade and improving telecommunications technologies and transport, increasing barriers between nations. Globalization can be defined best as a mechanism through which the economies of the world are united into one body and all work together. With ICT developments, particularly revolutionary internet and mobile communications have brought drastic changes to the global economy. Companies make use of There is a huge diversity and complexity in Firms are making use of ICT to deliver their products and services at distant places more conveniently and cost effectively. E-commerce or Electronic commerce indicates the buy and sell of goods & services through electronic medium. It deals with website of a vendor which sells or provides services directly from its portal to the customers. They use a digital shopping cart system and allow payment through credit card, debit card or electronic fund transfer payments. The e-commerce industry play a good role in reducing costs in managing orders while also interacting with a wide range of suppliers and trading partners. It consist of business transaction in which the contracting parties interact through electronically instead of t physical exchanges or direct physical contact. The different types of e-commerce transactions are Business to consumers (B2C), Business to Business (B2B), Consumers to consumers (C2C),

³ RenaudSorieul , Jennifer R & Jose Angelo E sterlia–Fara : Establishing legal frame work for electronic commerce :The work of United Nations Commission of International Trade Law); The International Lawyer ,Vol. 35, No. 1 (SPRING 2001), pp. 107-122 (16pages)Published by: American Bar Association

Consumers to Business (C2B), Business to Government (B2G) and Consumer to Government (C2G)⁴. The great benefit of E-commerce is that there are no limits or boundaries. It works on global level with reduced costs. It works on global level with reduced costs. E-commerce has accelerated the rate of international trade. In 2014, E-Commerce has shown significant growth. Asia-Pacific has emerged as the strongest B2C ecommerce region in the world Bijlani and with a sales growth of 45% over 2012 as against global sales growth with 24%. Hence it shows a huge untapped market. In India, retail ecommerce sales reached \$5.30 billion in 2014. E Marketer estimates retail ecommerce sales, including all products ordered over the internet except travel, to grow by 45.2% to \$7.69 billion this year. Hence B2C e-commerce sales have shown a remarkable growth in India.⁵

Ecommerce in India

Due to the impact of globalization there has been a tremendous increase in number of companies embracing ecommerce technologies and internet in India for past few years. In 2014, E-Commerce sector has shown significant growth. There has been rapid adoption of technologies and devices such as smart phones, laptops and tablets, accelerating usage of broadband, 3G, and now 4G, etc., has increased the consumer base. The significant shifts in consumer groups and growing internet user base aided this growth. The growth shown by major international ecommerce players such as, Amazon, Alibaba, Flipkart etc. and the Indian ecommerce portals such as, Pay tm, Snap deal, Homeshop 18, Jabong, Myntra etc. and their various ways of attracting consumers have intensified the rivalry. The digital India Project of Indian government will also effect on ecommerce sector. This project aims to provide with a one stop shop for government services. The low cost of computers in India, a increasing in the number of computer users, and an increasing ISP market are the main causes for the growing e commerce market in India. There has been a rise in number of companies taking up e commerce in India. The companies like eBay, myntra, flipkart, quikr, olx are some of the companies which have established their name in the Indian e commerce market. All these sites are selling varieties of products, movies tickets, electronic gadgets, accessories, household items and much more. Now the stock exchange has also become online now. Delivery of goods to consumers by couriers at a faster rate, moreover the quality of product delivered is satisfactory. Many Indian banks are also using internet banking facilities. India's economic industry is on a growth curve and is undergoing a spurt in growth. The Online Travel Industry is one of the biggest segments in ecommerce in India and is booming due largely to the Internet-savvy urban population. The online travel industry includes some private firms such as Makemytrip, Clear trip and Yatra. The government has also started IRCTC, which is a successful Indian Railways initiative. The online classifieds segment is also increasing. It is broadly divided into three sectors; Jobs, Matrimonial and Real Estate. Mobile Commerce is another kind of electronic commerce which is developing day by day that helps in acquiring a protective and stable electronic commerce transaction. It is due to the tremendous increase in Smart mobile users in India; in recent years⁶. There are various online classifieds such as, Matrimonial and Real Estate. Mobile Commerce is also growing rapidly and is proving to be a stable and secure complement to Ecommerce due to massive growth in India's mobile user base in recent years. India's Internet and Smartphone Association report stated that India's e-commerce market is growing at an average annual rate of 70% and has risen over 500% since 2007. It is expected that e-tailing and digital downloads will grow at a faster rate, while online travel will continue to dominate the major market share. Gujarat has emerged as one of the top five online shopping markets in the world, according to the third edition of the 2010 eBay India census conducted across 28 states and seven union territories. Gujarat has emerged as one of the best five online shopping markets in our country. Gujarat which was ranked 7th in 2009, is now ranked 4th in after Maharashtra, Delhi and Tamil Nadu. Technology related products dominate India's domestic Ecommerce, contributes 44% of totals Ecommerce transactions according to the latest eBay Census.. Whereas, lifestyle product category dominates in the global trade contributes for 35% for online shopping. India is showing tremendous growth in the Ecommerce. 700,000 registered buyers are there in Rival trade India.com and growth rate is about 35% on

⁴ Nandan Kammath: Law of computers and internet in India

⁵ Impact of globalization in e commerce: The Indian Journal of Law and Technology, Vol. 6, 2010, P.22-26.

⁶ Aparna Viswanathan, Cyber Law, Indian and International Perspectives, 276, (1st Ed. 2012).

every year. These facts also show that the e-commerce market in India is also increasing per year. In 2012 the e-commerce market size was about 50000 crores in India as compared to 1 billion in 2011.

GLOBALISATION AND ITS CHALLENGES IN CROSS BORDER ECOMMERCE

The major problem or the negative impact affecting e-commerce is cross border e-commerce transaction. The main problem of cross border e-commerce is with internet jurisdiction of multiple parties in various parts of the world who entered into the electronic transaction. In such a situation, if a party wishes to initiate a suit against another, the problem of territorial jurisdiction arises. Traditional requirements generally cover two areas; firstly, where the defendant resides or, secondly, where the cause of the action arises. Nonetheless, both of these are difficult to establish with any certainty in the context of the internet. Even a childishly simple transaction can give rise to a mind-boggling problem of Internet jurisdiction, also known as cyber jurisdiction, is a field of growing concern for e-commerce due to the growth of cross-border e-tailing, and thus the need for a global solution is also rising. In response, this article first defines Internet jurisdiction, illustrated through a watershed case. Private international law, also known as 'conflict of law' rules or 'choice of law' rules, deals with disputes between individuals or companies of different countries or between individuals / companies and the state.⁷ In the words of Dicey and Morris, English private international law is that branch of law of England which 'consists of laws which do not explicitly define the rights and obligations of particular persons but which specify the scope of jurisdiction to be exercised by the English courts and also the option of the body of law, whether the domestic law of England or the law of any foreign country'.⁸ In the internet era, a single copyright work can be rendered available everywhere to anyone with an internet connection. In any dispute about the exploitation of the work, the 'foreign elements' are likely to be numerous.⁹ Therefore, there is a need for private international law. While Private International Law has an international dimension, it is simply a branch of municipal or domestic law.

There is extensive Indian jurisdiction over whether contracting parties can choose the law applicable to a contract and whether that choice is conclusive, whether there are any limitations on the right of the parties to choose the applicable law, and what the right law for the contract is where there is no choice of law clause in the contract. In addition, Indian courts have addressed the issue of how to determine foreign law in situations where the parties have selected foreign law as the contract's proper rule. Nevertheless, this line of jurisprudence does not address issues arising from the exercise of jurisdiction over a defendant who runs a website due to content posted on the website or an online transaction. With Indian courts having developed minimal jurisprudence, it is important to examine existing common law cases laying down rules for the exercise of jurisdiction over a dispute over e-commerce. In the future, these principles can be applied appropriately in Indian courts to resolve disputes over e-commerce.

In a watershed case, *People v. Lipsitz*¹⁰ (1997), illuminating the impact of commerce transacted on the Internet, Kevin Jay Lipsitz and his companies, including Krazy Kevin's Magazine Club and Tempting Tear-Outs, were accused by the New York Attorney General of fraudulently soliciting magazine subscriptions from Staten Island, New York, United States. If not for the use of the Internet, this would have been a simple case of consumer fraud and false advertising. However, Mr. Lipsitz engaged in commerce transacted on the Internet by sending unsolicited e-mails advertising low prices for magazine subscriptions. Around fifty consumers from New York and around the world complained that they had never received their subscriptions or fewer issues than promised, their arise the question of jurisdiction arose. Before the Internet, such fraud was most often committed face-to-face, over the phone, or through postal mail (National White Collar Crime Center (NW3C) 2014). The Internet makes it possible for fraudulent schemes to reach millions of potential

⁷ *Supra* n. 6. P.294..

⁸ Dicey, Morris and Collins, *Conflict of Law*, 1987

⁹ Austin, Greame, (2001). *Private International Law and Intellectual Property Rights*. In WIPO forum on Private International Law and Intellectual Property. Geneva, January 30th, 2001. Geneva: WIPO. 3.

¹⁰ (1997)LJR 45

victims while the perpetrator can take steps to hide his tracks and identity, thereby expanding the potential profit from such illegal activities (NW3C 2014). The victims rarely encounter a perpetrator, who may cross jurisdictions. Before hearing a case, a court must determine whether it has jurisdiction over the business or individual against whom the legal action is brought, or over the property involved and the subject matter. Jurisdiction refers to the authority of a court to hear and decide an action or law which is in dispute. It is an aspect of the judicial power of a sovereign. When e-commerce crosses borders, jurisdiction is unclear. Consumers expect to seek a remedy in local courts, while businesses do not want to contend with distant jurisdictions or multiple jurisdictions arising from consumer cases worldwide. For cross-border legal actions, there currently is no statutory solution to determine jurisdiction. Although Mr. Lipsitz claimed that the State of New York State court can't exercise jurisdiction over the geographical domain limitless of the Internet and therefore it is not reasonable to apply New York laws, But the SC of the State found that Mr. Lipsitz has sufficient connections with New York so that the state's laws did apply.

LIABILITIES OF E COMMERCE PORTALS UNDER INDIAN STATUTE

Electronic commerce makes possible the buy & sell of resources, goods, & plenty of services through internet. Day by day the trends in e-commerce are increasing due to the advancement in technology. E-commerce brought many online platforms as market places where we can sell or buy anything as we want, according to our needs and wants. In this era of 21st century we can't think of a world without this internet commerce. But the main disadvantage is the lack of strengthened laws. Currently the law relating to e-commerce is brought under Information Technology Act 2000 & certain provisions are dealt by Consumer Protection Act 2019. But still the liability of online market place arises as a quere. *Vanish Bajaj v State*¹¹, popularly called as the 'Bazee.com case'. In this case, Mr. Vanish Bajaj, the CEO of Bazee.com was arrested by police for posting a misleading video for sale on their e-commerce website. Court held that website is held liable as according to IPC provision. This judgment led to the protest on amending IT act. Thus IT act for exempting third parties. & It act 2000 exempt the intermediary liability under section 79¹² of this act as because of the reason that are only a mediators and actual business is taking place between seller and customers. The concept of secondary liability is not also introduced in our IT act. The concept of secondary liability indicates the third party liability who is not directly participating in the trade but they can regulate it. So the third party liability is also should be regulated under ITA. But currently Indian statute lacks such a concept. It also consist of vicarious liability and contributory liability, where master can be held liable for their act of servant during the course of employment. But in Foreign countries like USA & UK¹³ these provisions are available to make intermediaries liable. So Indian court seeks the helps of foreign judicial decision while deciding such cases.

CRIMES RELATING TO E COMMERCE

One of the most vital processes of the last several decades has been the emergence and development of the process of globalization. The definition given on globalization by Andrew Heywood¹⁴ is "It is the emergence of a complex web of interconnectedness that means our lives are increasingly shaped by the events that occur, and the decisions that are made, at a greater distance from us. The salient feature of globalization is the geographical distance is of a territorial boundaries, between nation states are becoming less significant"¹⁵ Globalization and e-commerce are two concepts that almost go hand in hand. E-commerce is a very good impact

¹¹ (2005) 3 CompLJ 364 Del

¹² IT act 2000

¹³ ¹³ L'Oreal v. International, C324/09

¹⁴ *ibid*

¹⁵ Essays, UK. (November 2018). Globalization and the Impacts Of E Commerce. Retrieved from <https://www.ukessays.com/essays/information-technology/globalization-and-the-impacts-of-e-commerce-information-technology-essay.php?vref=1>

of globalization but at the same, there is some negative impact that is the increasing rate of different IT crimes happening in e commerce & in digital world¹⁶. Some of the crimes relating to e commerce are

Advertisement through Internet: The volume of trade conducted electronically has grown tremendously with the widespread usage of internet. There is also a corresponding increase in the advertisements through websites and email causing annoyance and discomfort to neitzens .Moreover their time and e mail is unnecessarily wasted by unwanted bulk of advertisements called spams.

Spamming: Spamming is an act which involves bulk mass or repeated posing or mailing of substantially identical messages. Spam can be a lot more than merely an advertisement for products and services. It is possible to receive spam mail that actually spam mail actually doesn't advertise either a product or service. Spam can be used to spread malicious software. It can be considered as an act of trespass into the space allotted to another.

Denial of Service Attack: In a denial of service attack, an attacker attempts to prevent legitimate users from accessing information or services. The attacker may be able to prevent the user from accessing email, websites, online accounts or other services that rely on the affected computer. It may be launched by using a single computer or a number of computers scattered in different locations.

Identity Theft: Identity theft is a crime committed by using somebody else identity like name, social security number, bank account number.etc.The crime involves misappropriation and abuse of personal information. The common ways to commit identity theft are dumpster diving, shoulder surfing and phishing.

Phishing: Phishing is a criminally fraudulent process of acquiring someone's personal information by disguising as a trustworthy entity in an electronic communication.

Donation Seams: Internet offers ample opportunity to collect donations in the crimes of religious institution, trusts, charitable societies and educational institution .The money collected reaches at the hand of criminals. They take advantage of natural resources like earth quakes, floods, Tsunami etc.

Online job hunting scams: Cyber criminals post their address on legitimate job sites and often use familiar looking or convincing company logos, language and inks to fake websites that appear to be those of real organizations.

Nigerian Frauds : Nigerian frauds starts with an e mail offering the recipient millions of dollars that the seller is trying to transfer illegally from Nigeria .The recipient is encouraged to send information such as bank name account number cvv number etc to identify information. He will be asked to send money for taxes, bribes to government etc. Once the victims stop sending money, culprits start using the personal information & start commits frauds

Even though the rate of these crimes are increasing day by day, still there is no strict provision to control or prevent these IT crimes .These rise in IT crimes is one of the notable negative impact of globaliasation in bringing the entire world into a single market. The rate of increase in these types of crimes are mostly affecting to women.AS per the study conducted in 2018 there is about a tremendous increase in the rate of crimes through Internet. Now a day's social Medias such as facebook, whatsapp, instagram etc are also becoming a platform of crimes. In order to reduce it there should need a strict National and International Conventions to regulate it properly

¹⁶L Padmavati ;aw relating to Information technology ; Impact of globalization and information Technology

CONCLUSION

Globalization is the new catchphrase in the global economy that has dominated the globe since the 1990s. People relied more on the market economy, had more trust in private capital and resources, and international organizations began to play a vital role in developing countries' growth.. Globalization and electronic commerce are intertwined because electronic commerce is a consequence of globalization. One major relationship between e commerce and globalization is the fact that the ease of transportation of goods and services across international borders facilitated by globalization makes it easier to trade internationally. . Globalization has turned the entire world into a single market .So the growth of e commerce is very fast. The impact of this globalization in e commerce has resulted in the cross border trade, full time operation, high customer oriented service etc. but the main issue in this impact is jurisdictional problem of cross border trade, Private International law is applied to resolve a dispute relating to cross border trade. In India currently there is no proper statutory enactment dealing with all aspects e commerce issues, now it is governed by the provision of IT act 2000. But it is not enough to curb all the e commerce issues such as intermediary liability, Counterfeited goods etc .the main other negative impact of globalization is rise in the e commerce crimes such as email bombing, Phishing, Identity theft, cyber squatting Nigerian Frauds etc. Even though the rate of e commerce crime is increasing still our law is not enough to control these crimes, there exist a loophole in the existing Indian statutes in case of e commerce. So there should need a proper e commerce law for overriding this negative impact of globalization

