

**In an attempt to exert control, the bureaucracy has sought to influence the judiciary through executive interference. The recent law serves as a glaring example of this totalitarian approach, where, in addition to the district commissioner, executive magistrate, and competent court, any other officer is also included in the list of authorities as detailed in subsection 2 of section 2.**

In these matters, civil wrongs and criminal offences are so inextricably linked, without adjudication of civil rights of the parties first, criminal liabilities cannot be determined.

The provision of section 8 of the Act, 2023 is so preposterous (contrary to reason or common sense, utterly absurd or ridiculous), that it will create a literal state of anarchy in this field.

Section 9 of the Specific Relief Act, 1877 provides suit by person dispossessed of immovable property to get back possession through court.

It is a summary proceeding requiring the plaintiff to establish only three facts, that is, he was in possession; he was dispossessed without due process of law; and he has come to the court within 6 months according to Article 3, First Schedule, Limitation Act, 1908.

Section 145 of CrPC also deals with the procedure where a dispute concerning land is likely to cause breach of peace. Section 145 CrPC is there as some remedy in like situation pending decision in a civil court. When in an age-old statute like CrPC provides immediate relief in like situation subject to ultimate relief in a civil court by adjudication of rights of the contending parties, this section in this new Act appears to be firstly, unnecessary; secondly, will further complicate the issues. Moreover, in view of settled principles of jurisprudence, the question arises, can wisdom of a civil court sitting with the jurisdiction of section 9 under the Specific Relief Act be equated with the wisdom of an Executive Magistrate sitting with jurisdiction under section 8 of Act, 2023?

It is an established principle of law that regarding rights, title, and interest relating to immovable and also movable properties, findings (not only decisions) of civil courts are binding on criminal courts, but the reverse is not (but finding of criminal courts is not binding on civil courts).

In this respect, it is a further dangerous provision to give the power amongst other under section 8 to the mobile court in a matter relating to a dispute over the land, a mobile trial can be no better than a mob trial.

Sections 9 of the present Act, 2023 is equally preposterous and is equally likely to give rise to a situation of anarchy. This provision amounts to defying the provision of suit for specific performance of contract according to the provisions laid down in the Specific Relief Act, 1877.

Sections 10 and 11 are punishments provided. In view of our previous discussion, a person can be awarded these punishments only in a proceeding initiated to comply with section 195 of CrPC.

Sections 12, 13 and 14. The subject of these sections have been adequately dealt with in *evsjv# k cwi#ekmsi#Y AvBb, 1995, and gnbMix, wefvMxqknil#Rjvkn#ii #cSi GjvKvmm # #ki mKj #cSi GjvKvi #Ljvi gvVDb#y#vbD#vbGesc#vK...wZKRjvavimsi#Y AvBb, 2000, and c#vK...wZKRjvavimsi#Y AvBb 2000.*

The offences created by sections 6, 7, 8, and 9 are all matters of adjudication by civil courts. Assignment of dealing with these matters by mobile court

**The act addresses punishments, but it does not specify procedures for determining the authenticity of the deed on which the judgment is based. The absence of a standard procedure, as seen in criminal law sections 463 to 471, is notable. In criminal law, a charge sheet prepared by the investigating officer establishes the falsehood of the deed, initiating prosecution proceedings. Unfortunately, the act lacks provisions for safeguarding land-related rights.**

is a grave instance of legislative irresponsibility ignoring fundamental principles of jurisprudence.

There is another important aspect to take into account while we discuss this Act, that is, a law prone to arbitrary use is a bad law because, the inherent defects of such a law offend against the concept of the Rule of Law.

The Rule of Law is a political ideal that all citizens and institutions in a country are accountable to the same laws including law-makers. That is why, it is said, no one is above the law. It is the mechanism, process, institution, practice, or norm that supports the equality of all citizens before the law, secures a non-arbitrary form of government, and more generally prevents the arbitrary use of power and laws.

This Act, we are discussing about, is contrary to the basic concept of the Rule of Law, and since our constitution in its preamble, Article 1, Article 7, Article 8, and 11 have made a constitutional pledge and declared that the Republic shall be a democracy where high ideals of rule of law, fundamental human rights and freedom, equality and justice, political, economic, and social, will be secured for all citizens. This Act is

also in conflict with the fundamental spirits of our Constitution.

Each law has to pass constitutional scrutiny. Article 7 states that any law inconsistent with the Constitution has to be annulled. Clause 2 of Article 8 says that the principles set out in this part shall be fundamental to the governance of Bangladesh, applied by the State in the making of laws, a guide to the interpretation of the Constitution and other laws of Bangladesh, and the basis of the work of the State and its citizens, but not judicially enforceable. Thus, articles 7, 8(2), and 26(3) clearly state that any part of the law inconsistent with the Constitution has to be repealed, and I think this law didn't pass this exam.



**TABARAK HOSSAIN**  
Senior Advocate, Bangladesh Supreme Court

Everything in this law revolves around two keywords: faith and belief. In Section 6(2) of the law,

**“While we acknowledge the protracted nature of the civil court process, the primary causes for such delays lie in the insufficient number of judges and courts. Addressing these deficiencies would expedite the resolution of pending civil litigations.”**

for example, it is mentioned that a deed or information presented in any land-related proceeding can be considered fraudulent based on belief by the relevant authority. It is crucial to establish cases through proper investigation. This is not a matter of belief. You have to follow a rigorous trial process to ensure that no innocent person is wrongly punished. The law does not adhere to the standards expected in a civilized society.

The Constitution of Bangladesh, since its inception, has mandated the separation of the judiciary from the executive. However, discontent within the bureaucracy arose following the Supreme Court's intervention in the Masdar Hossain case, acknowledging and upholding the principle of the judiciary's independence.

In an attempt to exert control, the bureaucracy has sought to influence the judiciary through executive interference. The recent law serves as a glaring example of this totalitarian approach, where, in addition to the district commissioner, executive magistrate, and competent court, any other officer is also included in the list of authorities as detailed in subsection 2 of section 2.

This law contradicts several existing statutes, including the Survey Act, Transfer of Property Act, Non-Agricultural Tenancy Act, and the State Acquisition and Tenancy Act of 1950. Executive magistrates are primarily well-versed in the Code of Criminal Procedure, 1898, and the Penal Code, but their expertise does not extend beyond these areas. The issue arises when these individuals, lacking the essential knowledge of acts such as the State Acquisition and Tenancy Act of 1950, the Survey Act, and the Civil Procedure Court, are tasked with adjudicating cases related to land crimes.

While we acknowledge the protracted nature of the civil court process, the primary causes for such delays lie in the insufficient number of judges and courts. Addressing these deficiencies would expedite the resolution of pending civil litigations.

The act addresses punishments, but it does not specify procedures for determining the authenticity of the deed on which the judgment is based. The absence of a standard procedure, as seen in criminal law sections 463 to 471, is notable. In criminal law, a charge sheet prepared by the investigating officer establishes the falsehood of the deed, initiating prosecution proceedings. Unfortunately, the act lacks provisions for safeguarding land-related rights and dispute resolution, primarily focusing on expeditious punishments through mechanisms like the mobile court.



**SHAMSUL HUDA**  
Executive Director, ALRD

It appears that the Act does not explicitly specify its non-applicability to the three hill districts, implying that it applies to all districts in Bangladesh. Therefore, contemplating the potential consequences if this law is enforced in the hill districts becomes crucial. One significant repercussion would be the nullification of the Chittagong Hill Tracts (CHT) Regulation 1900, warranting thoughtful consideration since the regulation is still effective.

The CHT Accord, formulated and signed by this government, resulted in the creation of regional councils, district councils, and other laws, making it significant. The Chittagong Hill Tracts Land Dispute Resolution Commission is a quasi-judicial body that plays a pivotal role, possessing the authority to handle land disputes. The unique dual powers of the Chittagong Hill Tracts Land Dispute Resolution Commission, as a quasi-judicial body encompassing both executive and judicial powers, raise questions about its fate after the enactment of this law. This new law poses a significant concern as it not only threatens to interrupt the interests of indigenous people but also increase their insecurity further, if enacted in these districts.

The areas mostly affected by land-related offenses are Khas lands, particularly forcibly grabbed by influential entities. Furthermore, there is a need to identify the pattern of crimes, including torture, rape, and murder, to understand the real picture of land grabs in char areas. However, the law does not include these crimes in the offense list, raising concerns. The focus on identifying areas where

**“The unique dual powers of the Chittagong Hill Tracts Land Dispute Resolution Commission, as a quasi-judicial body encompassing both executive and judicial powers, raise questions about its fate after the enactment of this law. This new law poses a significant concern as it not only threatens to interrupt the interests of indigenous people but also increase their insecurity.”**

offenses occur, including remote regions with char lands and rivers facing encroachment, is crucial. The law must specify these issues.

Most districts of Bangladesh have brick kilns, potentially compromising the preservation of topsoil. In our formal meetings with two district commissioners, one revealed that more than 50 percent of brick kilns in his district are functioning without a license. He initiated action against unlicensed brick kilns and was transferred to another district within one month. The destruction of topsoil undermines agricultural land, impacting food security, agricultural sustainability, the environment, and more. However, the issue of brick kilns is not categorized as a crime in this law.

The law also poses challenges, especially for Indigenous people from hill tracts and plain land who didn't maintain land-related documents, and for marginalized communities, potentially leading to unjust evictions. Unfortunately, the state and its agencies often fail to demonstrate humanity to its marginalized and vulnerable citizens, putting them in an even more vulnerable situation.

While acknowledging the time-consuming nature of civil cases, the suggestion of establishing a Land Tribunal for expeditious resolution of land cases is worth considering. Conducting research on prevalent land litigation cases is also worth considering, with the possibility of having specialized civil personnel to handle these cases.

The constitutionality of the Act should be thoroughly examined, and careful consideration of its cancellation, rather than amendment, is a viewpoint worth endorsing.



**TAPOS KUMAR DAS**  
Chairman, Department of Law & Justice, Jahangirnagar University

This law represents a significant transformation, reflecting distrust in the civil administration of justice and empowering both criminal administration and administrative jurisdiction through the mobile court.

Will this law be helpful in resolving land-related disputes? No authoritative research has been conducted in Bangladesh regarding the efficiency of our civil or criminal administration of justice in disposing of cases. Lord Justice Woolf issued a report in the UK in 1999 on access to justice, which was accepted by the British Parliament. He noted that litigants harbor distrust toward civil or criminal administration of justice due to cost, complexity, and

**“Unfortunately, Bangladesh government does not seem to pursue any sustainable judicial reform by enhancing the efficiency of the justice delivery system; instead, it opts for a cosmetic solution.”**

delay. The efficiency of courts stands at only one percent for completing both civil and criminal cases. Thus, he recommended more efforts to reform the judicial system, one of which was the implementation of a tracking system to appraise the value of cases and expedite their resolution. Unfortunately, Bangladesh government does not seem to pursue any sustainable judicial reform by enhancing the efficiency of the justice delivery system; instead, it opts for a cosmetic solution.

A conflict of interest is present in this legal procedure, where the government is positioned to be both the victim and the judge simultaneously. This contradicts the common law principle.

Three writ petitions were filed to challenge the constitutionality of the mobile court. The High Court issued its combined judgment for the three writs in 2017, stating that the operation of the mobile court is absolutely contradictory to Article 22, and it violates the independence of the judiciary and the separation of powers. Now, the government has again attempted to restore the mobile court through this law.

If the mobile court is run through the judicial magistrate court or metropolitan court, the constitutional challenge can be mitigated.



**SULTANA KAMAL**  
Rights Activist & Former Adviser to a Caretaker Government

Upon scrutinizing the act, my primary observation is that it unmistakably signifies an attempt by the executives to assert control over the judiciary.

While the fundamental purpose of any law is to protect the people, a thorough examination of the act reveals a significant gap in fulfilling that objective. As citizens, we require an appropriate forum and platform to question whether this law genuinely upholds our rights.

Numerous provisions within this act are duplicated from various other laws. It is untenable to accept this as a comprehensive law when its provisions are piecemeal incorporations from existing legislation. Regrettably, this act has both neglected and violated our constitution. Given that the Constitution is regarded as the source of all acts, no law should be formulated in violation of its principles. Unfortunately, that is precisely what

has occurred in this instance.

Furthermore, the utility of this law is questionable, considering that numerous provisions it encompasses are already covered by existing legislation. The enforcement of this law is poised to impact people's interests negatively. Typically, laws are formulated based on pre-existing legal frameworks to safeguard the interests of the populace. However, this particular law is in direct contradiction with and violation of other laws pertaining to land.

Moreover, enforcing this law will affect people's interests because every law is formed on the basis of other laws to shield people's interests. However, this law will contradict and violate other land-related laws.

It is imperative to underscore a salient point: the complainant, defendant, and adjudicator in question emanate

**“The utility of this law is questionable, considering that numerous provisions it encompasses are already covered by existing legislation. Furthermore, the enforcement of this law is poised to impact people's interests negatively.”**

from a singular authority, contravening established principles of impartiality. The amalgamation of roles, wherein an individual assumes the positions of complainant, defendant, and judge, stands in stark violation of the cardinal tenets of justice, thus compromising the foundational integrity of the legal process.

A legal proscription exists against the establishment of mobile courts. Notably, this Act includes provisions referencing mobile courts. Introducing a contentious system into a new legal framework raises significant concerns and poses inherent problems.

The distinctions between the terms “civil wrong,” “criminal offense,” “dispute,” and “crime” have been muddled in the new act, rendering it more intricate. This confusion is poised to engender anarchy within our legal system. Several elements in the Act have the potential to be used for the harassment of individuals. Regrettably, this law fails to align with the principles of a democratic and human rights-oriented society. This Act does not exemplify the jurisprudential standards expected in a democratic country. Consequently, we are compelled to reject it. We should consider initiating legal proceedings against this Act.

A fundamental tenet of the law is the presumption of innocence, grounded in the principle that ‘thousands of criminals may escape, but not a single innocent should be punished.’ Unfortunately, this act flagrantly disregards the presumption of innocence, rendering it incompatible with the principles of justice. Despite our repeated assertions of the desire to establish a society where justice prevails, this act, in essence, undermines the very concept of justice. It stands as a blatant disrespect to the core principles that justice seeks to uphold.

What about the Chittagong Hill Tracts? There's a concern that this Act might try to abolish The Chittagong Hill-tracts Regulation, 1900. We need to stay vigilant. Also, what about slum dwellers, victims of river erosion, and those without land titles who've been living without land for a long time? If conflicts arise, the court may favor papers from powerful individuals, leaving the helpless without support. How will the law then serve the public's interests?



**TANJIM FERDOUS**  
In-charge of NGO and Foreign Missions, Business Development Team, The Daily Star

While the Land Crime Prevention Act initially brought a wave of optimism to middle-class landowners, the euphoria masked deeper concerns. The promise of ‘papers equaling possession’ resonated with those who, despite holding rightful documentation, had previously lost land to powerful interests. Today's discussion, however, exposes the Act's weaknesses. The reliance on subjective ‘faith’ and the bypassing of proper judicial procedures cast a shadow over its supposed guarantees. While some may find solace in the immediate assurance, the long-term ramifications for due process and land rights for all remain unsettling.