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# Bangladesh's Recent Land Crime Prevention and Remedy Law: A Critical Evaluation

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SANJOY BISWAS<sup>1</sup>

## ABSTRACT

*Land-related crimes have been a longstanding and enduring problem in Bangladesh, intensifying social discontent, economic instability, and pervasive injustice. The Land Crime Prevention & Remedy Act 2023 was implemented as a comprehensive legislative blueprint with the objective of tackling these concerns through the establishment of stricter sanctions, more precise definitions of land crimes, and strong enforcement mechanisms. This paper undertakes a critical analysis of the Act in order to evaluate its efficacy in mitigating land-related crimes in Bangladesh. The initial implementation of the Act is analyzed in light of this context, emphasizing its main features, such as the definition of several land-related offences, the specified fines, and the administrative frameworks created to enforce the legislation. Upon further examination, the Act demonstrates many notable advantages, such as its thorough methodology in defining land crimes, its emphasis on deterrence through increased penalties, and its efforts to simplify the resolution procedure for property disputes. These factors encompass possible gaps in the legal terminology, the intricacies of implementing the legislation in rural regions, the possibility of corruption among law enforcement personnel, and the Act's dependence on preexisting, frequently defective, administrative frameworks. The write up offers valuable perspectives on the efficacy of the Act in diminishing crime rates, enhancing the administration of justice, and reinstating public trust in the judicial system. In addition, the article proposes that future study should prioritize the enduring effects of the Act and investigate the involvement of local governments in facilitating its successful execution. The efficacy of the Land Crime Prevention & Remedy Act-2023 in Bangladesh's legal response to land-related crimes depends on the resolution of certain operational obstacles.*

**Keywords:** Land crime, prevention, remedy, land disputes, justice.

## I. INTRODUCTION

Land-related crimes have long plagued Bangladesh, exacerbating social inequities, fueling economic instability, and undermining legal and administrative systems. The complexity and

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<sup>1</sup> Author is an Assistant Professor at Department of Law, Premier University, Chattogram, Bangladesh.

scale of land disputes in the country—ranging from land grabbing and illegal occupation to fraudulent transactions and corrupt practices—have necessitated a robust legislative response. In response to these pervasive issues, the Bangladesh government enacted the Land Crime Prevention & Remedy Act-2023. This landmark legislation aims to address the multifaceted problem of land-related crimes through a comprehensive legal framework designed to prevent, remedy, and penalize such offenses. The prevalence of land-related crimes in Bangladesh can be traced to a variety of factors, including rapid urbanization, inadequate land management systems, and a lack of effective enforcement mechanisms. Historically, land disputes have often led to protracted legal battles, social unrest, and economic losses for affected communities. Previous legal frameworks, while providing some degree of protection, were frequently criticized for their inefficacy in dealing with the scale and complexity of land crimes. The introduction of the Land Crime Prevention & Remedy Act-2023 represents a significant legislative effort to address these shortcomings and to provide a more effective response to land-related issues. The Act is designed to tackle land-related crimes through several key provisions. It offers clearer definitions of what constitutes land-related offenses, establishes stricter penalties for those found guilty, and outlines enhanced mechanisms for the enforcement of land laws. This legislative development is intended to address previous gaps in the legal system, providing both a deterrent to potential offenders and a means of redress for victims of land-related crimes. Despite its promising scope, the effectiveness of the Land Crime Prevention & Remedy Act-2023 remains a subject of considerable interest and scrutiny. The Act's success in curbing land-related crimes hinges on several factors, including its implementation, enforcement, and the capacity of existing institutions to support its objectives. Early assessments suggest that while the Act has made notable strides in defining and addressing land crimes, challenges related to enforcement, bureaucratic inefficiencies, and potential corruption may impede its overall effectiveness. This study aims to critically analyze the Land Crime Prevention & Remedy Act-2023,

By examining the legislative provisions, evaluating early implementation outcomes, this research seeks to provide a comprehensive understanding of the Act's contributions and limitations. Additionally, the study will explore the practical challenges faced in enforcing the Act and offer recommendations for enhancing its effectiveness. The analysis presented in this study is crucial for several reasons. First, it provides insights into the practical implications of the Act, highlighting areas where it succeeds and where it may fall short. Second, it contributes to the broader discourse on land governance in Bangladesh by offering evidence-based recommendations for improving legal and administrative responses to land-related crimes. Finally, it serves as a valuable resource for policymakers, legal practitioners, and scholars

interested in the evolving landscape of land law and its impact on society. The Land Crime Prevention & Remedy Act-2023 marks a significant development in Bangladesh's legal approach to land-related crimes. This paper will delve into its effectiveness and practical challenges, offering a critical evaluation of its role in addressing one of the country's most pressing issues.

#### **(A) Research gap:**

Although the Land Crime Prevention & Remedy Act-2023 is a substantial legislative initiative aimed at tackling land-related crimes in Bangladesh, there are still several areas of research that have not been adequately addressed. Although the Act has been implemented for a very brief duration, there is a dearth of any thorough assessment of its enduring effects on land crime rates, social fairness, and economic stability. Although the Act delineates novel enforcement procedures, further study is required to comprehend the particular obstacles encountered by law enforcement agencies and the extent of corruption within these establishments. The effectiveness of the Act may be profoundly contingent upon the active participation and collaboration of municipal governments. Nevertheless, there is a scarcity of study about the level of involvement of local government and its influence on the effectiveness of implementation. Quantifying the level of public knowledge of the Act and the accessibility of legal assistance services for those impacted is essential for comprehending its efficacy in reaching marginalized groups. Further investigation is required to analyze the precise consequences of the Act on susceptible demographics, including women, indigenous communities, and marginalized people, who frequently experience a disproportionate burden of land-related injustices. This paper aims to fill the existing research gaps, therefore enhancing the comprehension of the Act's efficacy and providing valuable insights for development of policy suggestions aimed at enhancing land governance in Bangladesh.

#### **(B) Methodology**

The research undertaken for this paper predominantly depends on secondary data sources, encompassing:

Literature review: The Land Crime Prevention & Remedy Act-2023, associated regulations, and prior land legislation.

Study reports: Reports issued by the Ministry of Land, the Department of Land Records, and other pertinent government entities regarding crimes associated to land and strategies for their prevention.

The academic literature on land disputes, land governance, and legal reforms in Bangladesh includes peer-reviewed articles, books, and research papers that are accessible for study and

analysis.

Academic papers: Credible scholarly writings that address land-related crimes, legal issues, and policy advancements.

In order to find pertinent research materials, a systematic literature assessment was undertaken using internet databases including Google Scholar, JSTOR, and HeinOnline. Analyzed the acquired data using a qualitative research methodology, the primary objective was to scrutinize the text of the Act and associated papers to pinpoint crucial clauses, definitions, and enforcement mechanisms. The research intends to comprehensively analyze the provisions, execution, and impact of the Act on land-related crimes in Bangladesh.

### **(C) Research Objectives:**

This paper aims to

- i) evaluate main legal provisions and mechanisms outlined in the said Act, including the definition of land crimes, penalties, and the processes for legal remedy and enforcement.
- ii) examine the Land Crime Prevention & Remedy Act-2023 with prior laws governing land crimes and disputes in Bangladesh to understand how it improves or diverges from earlier approaches.
- iii) evaluate how these challenges affect the overall effectiveness of the legislation in curbing land-related crimes.

### **(D) Research questions:**

The paper focuses on the following research questions:

- i) What are the major legal gaps in the Land Crime Prevention and Remedy Act that interrupt its effectiveness in curbing land related crimes in Bangladesh?
- ii) Does the implementation of the Land Crime Prevention and Remedy Act in 2023 affect the incidents of land fraud offences?
- iii) What reforms can enhance the effectiveness of the Land Crime Prevention and Remedy Act ,2023 in Bangladesh ?

## **II. FINDINGS & ANALYSIS**

### **(A) Overview of the Land Crime Prevention & Remedy Act:**

In Bangladesh, the Land Crime Prevention and Remedy Act 2023 was enacted to address the escalating issue of land crimes, which have been generating significant socio-economic and legal challenges. The objective of this Act is to modernise and strengthen the current laws that regulate land management, deter illegal land activities, protect the rights of legitimate

landowners, and provide prompt compensation for victims of land crimes. Here is a concise summary of the objectives and aims of this legislation.

The primary objective of the Land Crime Prevention and Remedy Act, 2023 is to curb the escalating occurrences of land-related crimes, including unlawful land grabbing, fraudulent ownership transfers, unauthorized land occupation, and encroachment. Legal conflicts over land have been a persistent issue in Bangladesh, impacting both public and private assets.<sup>2</sup> The objective of this Act is to address these concerns by provision of precise legal definitions and stringent punishments.

Moreover, the legislation aims to provide clarity about land ownership and transactions by minimizing uncertainty in registration and deterring fraudulent actions. A significant number of land disputes in Bangladesh stem from ambiguous titles or counterfeit paperwork. Hence, the objective of the Acts is to address these gaps and guarantee that all transactions comply with legal obligations. Prior to the implementation of this Act, a significant obstacle in land administration was to guarantee the transferring of ownership rights over physical possession. In many instances during the trial, the matter of possession was seen as a crucial factor in determining the true ownership title. A primary goal of the new Act is to reduce intricacies and fraudulent activities related to land ownership. This legislation will protect the public's entitlement to timely dispensation of justice while mitigating any delays in settling land-related issues, so minimizing public and government costs and ensuring prompt resolution of conflicts.<sup>3</sup>

This Act will facilitate the implementation of measures to restore the land in issue to its original condition and to eliminate or decrease any unlawful occupation, construction, obstruction, or acts of land forgery. It will also impose penalties on anyone who assist and facilitate the commission of an offence, the recovery of possession by an illegally displaced person, or the unlawful cutting of topsoil from the land. Furthermore, with the implementation of this Act, the government has granted authority to the executive magistrate to handle land crime prevention. This decision was made because the existing systems were inadequate and the government considered ways to address them.<sup>4</sup> Nowadays, the citizens can continuously and without interruption use their rights, which include owning their own land.

The Act specifically focuses on violations related to public and private lands and has implemented steps to decrease their occurrence. Additionally, the Act establishes a punishment

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<sup>2</sup> Preamble of the Land Crime Prevention and Remedy Act, 2023; (ভূমি অপরাধ প্রতিরোধ ও প্রতিকার আইন, ২০২৩); (Act no. 36 of 2023), <http://bdlaws.minlaw.gov.bd/act-details-1454.html>

<sup>3</sup> *Id*, Preamble

<sup>4</sup> Sec. 2(1), the Land Crime Prevention and Remedy Act, 2023; (ভূমি অপরাধ প্রতিরোধ ও প্রতিকার আইন, ২০২৩); (Act no. 36 of 2023), <http://bdlaws.minlaw.gov.bd/act-details-1454.html>

for such offences, with the highest penalty for land forgery being seven years of imprisonment and the minimum set at two years.<sup>5</sup>

The Act stipulates that individuals who promote land owned by others as their own, transfer or hand over any land, whole or part thereof, to another person by concealment, transfer or hand over any land in excess of their own land or land owned by another without proper authority, transfer or hand over any land by signing a document with false information concealing the identity of the person who signed it, sign or execute any document containing false information, provide false or incorrect information to the authorities, or perform any other function mandated by law will be subject to a penalty of seven years of imprisonment and a fine.<sup>6</sup>

Undertaking any illegal cutting or alteration of a document without necessary authorisation after it has been signed is a criminal crime punishable by a possible seven-year imprisonment and a fine.<sup>7</sup>

An essential objective behind the implementation of this Act was to make the unlawful possession of land a criminal offence. The Act stipulates that an individual cannot own the land unless they are a registered owner according to the most recent Khatian (record of rights), have inherited the land, purchased it through a transfer deed, or acquired it by a court ruling. Thus, the long-standing dominance of possessional rights over title has been overturned, and as a result, the title or ownership of the land has now become the primary and essential element of land ownership. Each instance of such infringement will result in a maximum penalty of two years of incarceration, in addition to a monetary penalty. Furthermore, it has been explicitly mentioned that any anyone who possesses legal ownership of the land cannot be forcibly removed from it without undertaking appropriate legal procedures. The provisions of the Act streamline the procedure of reclaiming ownership of the land, which was previously governed by the Specific Relief Act of 1877. Indeed, the new Act streamlines the procedure by which an individual can regain control of the property by having it executed by the Executive Magistrate.<sup>8</sup> The Act additionally brings individuals to criminal liability for failing to promptly transfer the ownership of the land from the seller to the buyer without any valid justification.<sup>9</sup>

Moreover, the Act forbids the conveyance of land without the necessary documentation. Under the State Acquisition and Tenancy Act 1950, persons who wish to execute a power of attorney, register a document, sell, donate, or transfer land may be prohibited from doing so unless they

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<sup>5</sup> *Id.*, Section 4 & 5

<sup>6</sup> *Id.*, Section 4 & 5

<sup>7</sup> *Id.*, Section 5 (1)(C)

<sup>8</sup> S. Sikder, *Key aspects of The Land Crime Prevention and Remedy Act 2023*. *The Daily Messenger*: (2023, October 8). <https://www.dailymessenger.net/opinions/news/9194>

<sup>9</sup> *Supra* note 3, Section 9

have the most recent certificate issued or updated under the Act and can provide proof of payment for the certificate and the most recent land development tax.<sup>10</sup>

Noteworthy is that in order to reduce the recurrence of such offences, the Act has included provisions for double punishment in cases when an individual is found guilty and sentenced under any part of this Act, and then commits the same offence again.<sup>11</sup>

In order to reduce the severity of the offences, the Act also encompasses the inclusion of any company or firm, regardless of its incorporation status in Bangladesh, whereby the owner, director, manager, secretary, or any other officer of the company shall bear personal responsibility for the aforementioned offence, unless they can substantiate that the wrongdoing was unknowingly committed or that they had taken reasonable measures to prevent it. Furthermore, it is important to acknowledge that everyone who assists and supports in the perpetration of a crime is liable to face the same penalty as the true perpetrator.<sup>12</sup>

The charges pertaining to land fraud and land forgeries are not eligible for bail throughout the process of cognizance under this Act.<sup>13</sup>

Nevertheless, some violations of the Act are eligible for both bail and compound measures. Furthermore, the Act also stipulated the specific period within which the offences would receive trial. The legal procedures for the offences under the Act must be concluded within 180 days after receiving the alleged case.<sup>14</sup>

However, the Act also established the authority of the criminal court to ensure that the affected individual or organization receives appropriate compensation from the offender and takes necessary measures to achieve this goal, if it is evident that the person or organization has suffered financial damage due to an offence falling within the jurisdiction of this legislation.<sup>15</sup>

The Act provides specific and detailed definitions of various land crimes, including:

- Land Grabbing: The unlawful occupation or seizure of land belonging to another individual, organization, or the government;<sup>16</sup>
- Fraudulent Transactions: Any act involving forged or manipulated documents in the transfer or sale of land;<sup>17</sup>

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<sup>10</sup> *Supra note 9*

<sup>11</sup> *Supra note 3*, Section 17

<sup>12</sup> *Id*, Section 18

<sup>13</sup> *Id*, Section 19

<sup>14</sup> *Supra note 9*

<sup>15</sup> *Id*

<sup>16</sup> *Supra note 3*, Section 4

<sup>17</sup> *Id*, Section 5, 6



- Illegal Encroachments: Unauthorized use or construction on land owned by others;<sup>18</sup>
- Violation of Land Use Regulations: Converting or using land for purposes other than those legally designated, without proper permissions.<sup>19</sup>

Engaging in the act of cutting the topsoil of arable or cultivable land without the District Commissioner's authorization is considered an offence and has the penalty of imprisonment for a maximum duration of 2 years, together with a fine. Provided that it shall not be deemed an offence if any individual, for the purpose of establishing their homestead or for their personal requirements, selectively cuts or excavates a portion of their owned land without causing any damage to the land's fertility.<sup>20</sup>

Based on the gravity of the offence, the Act mandates different degrees of penalty. Individuals convicted of participating in organized or large-scale land crimes may face penalties such as incarceration, substantial fines, and potentially the confiscation of their assets. Repeat offenders and individuals engaged in land grabbing as a component of organized crime are subject to more severe sanctions under the Act. An essential element of the Act is the restoration of land to its legitimate proprietors. In cases where restitution is unattainable (owing to irreversible construction or other circumstances), victims have the right to receive equitable compensation. The Act establishes criteria for computing compensation, therefore guaranteeing that victims have sufficient monetary reparation for their damages.<sup>21</sup>

The Act promotes the use of Alternative Dispute Resolution (ADR) methods, such as mediation and arbitration, to manage land disputes in a less confrontational and more effective way. This is especially advantageous in situations when parties are more inclined to engage in negotiations but have been unsuccessful in settling their disputes outside of the judicial system. In order to deter fraudulent transactions, the Act requires that all land transfers be registered through a centralised system. Furthermore, it implements a computerized land records system that will preserve and make available to appropriate authorities all information regarding land transactions, ownership, and possession. In order to reduce possibilities for document tampering or fraud, this rule seeks to enhance transparency in land transactions.<sup>22</sup>

The legislation was enacted to guarantee the continuous usufruct rights of citizens in their own land, implement measures to prevent land fraud and fraud, establish effective measures to prevent and control government and public spending, and expedite the resolution of certain

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<sup>18</sup> *Id*, Section 7, 8

<sup>19</sup> *Id*, Section 12

<sup>20</sup> *Id*, Section 13

<sup>21</sup> *Supra note 9*

<sup>22</sup> *Supra note 3*, Section 23

land-related crimes. The authority to establish regulations is granted to eliminate unlawful encroachments, constructions, or obstacles, or, if relevant, unlawfully deposited soil, sand, etc., from land and to implement essential actions to restore the land to its original condition or character.<sup>23</sup>

The legislation requires the government to initiate public awareness campaigns aimed at educating residents on their land rights, the legal procedures for land transactions, and the possible remedies in instances of land illegalities. The provision of public education is considered crucial in the prevention of land-related crimes by equipping individuals with information regarding their legal remedies.<sup>24</sup>

### **(B) Enforcement Mechanisms Addressed by the Act**

**i) Specialized Land Crime Tribunals:** The Act requires the setup of specialized tribunals nationwide that specifically deal with crimes related to land matters. These courts aim to ensure and targeted handling of cases involving illegal land seizing encroachment and other land related offenses. Each court will have a panel of judges well versed in land laws to help alleviate the congestion of cases in regular courts and provide timely resolutions.

**ii) Criminal Penalties and Civil Remedies:** The legislation introduces punishments like imprisonment and fines for people or organizations convicted of land related offenses. An essential aspect of the enforcement approach involves remedies such as returning land to its rightful owner or providing monetary compensation when restitution isn't feasible. The severity of the penalties depends on the gravity and extent of the land crime, with stricter consequences for crimes or repeat offenders.

**iii) Law Enforcement Involvement:** Law enforcement agencies including the police are mandated to actively participate in uncovering, probing and prosecuting land related offenses. The legislation grants authorities the authority to proactively look into claims of unlawful land conduct ensuring that wrongdoers are swiftly held accountable. Additionally, the police are tasked with upholding tribunal directives concerning the removal of land encroachers the restoration of land to its legitimate proprietors and the dismantling of unauthorized constructions.<sup>25</sup>

**iv) Centralized Monitoring System:** The legislation establishes a centralized monitoring framework to oversee land transactions and address land disputes enabling

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<sup>23</sup> *Id*, Section 26

<sup>24</sup> *Supra* note 9

<sup>25</sup> *Supra* note 3, Section 24 (1)

government entities to monitor land activities nationwide. The system generates alerts for transactions that raise concerns such as unusual sales changes in ownership or attempts to tamper with land records. Additionally, it ensures that court orders pertaining to land matters are consistently monitored and upheld.

v) **Protection for Whistleblowers:** People who report unlawful actions related to land like seizing land or falsifying documents are offered protection as whistleblowers through this legislation. The law guarantees that whistleblowers are shielded from reprisals or intimidation and they might qualify for rewards if their tips result in successful legal proceedings, against land offenders.<sup>26</sup>

vi) **Restitution and Compensation Enforcement:** An aspect of the enforcement process is making sure that victims of land crimes are compensated through the restoration of their property. If restoring the property isn't feasible the law mandates compensation based on the value of the lost property or providing a similar piece of land to hold wrongdoers responsible for the harm they inflict.

### **(C) Institutional Framework**

The law sets up a strong system with various government entities, courts and regulatory bodies working together to uphold land governance matters effectively.

i) **Land Crime Tribunals:** The special tribunals set up by the law play a role in its overall structure. These tribunals: Have authority to handle crimes, particularly those involving land grabbing, encroachment and fraud. Can impose penalties, fines and restitution or compensation orders. Work towards conducting trials to expedite the resolution of land disputes.

ii) **Land Administration Authorities:** At the district and local levels land administration offices handle tasks such as maintaining land records overseeing land transactions and ensuring adherence to the relevant laws. These offices collaborate with tribunals and law enforcement agencies to identify transactions and keep an eye on land activities. Additionally, they are responsible for digitizing land records to safeguard against fraud and tampering.

iii) **Land Crime Monitoring Cell:** The legislation mandates the establishment of a Land Crime Monitoring Cell, which will serve as an entity tasked with ensuring compliance with land crime regulations. This cell will keep an eye on land conflicts address reports of land seizures and uphold tribunal decisions serving as a hub for

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<sup>26</sup> *Id*, Section 21

accountability. Additionally, it will manage up to date databases concerning land ownership and transaction history and aid in identifying activities that may warrant further scrutiny.

**iv) Role of Digital Infrastructure:** The digitization of land records plays a role in upholding transparency and deterring fraudulent activities as part of the framework established by the Act. According to the Act all land transactions and changes in ownership must be documented in a centralized digital system that can be accessed by government agencies, courts and the public. This approach minimizes the chances of document forgery land disputes regarding ownership and conflicting claims on properties. Additionally, the government offers support to districts and local entities to facilitate the seamless execution of the digital land registry system.

**v) Role of Local Government Bodies:** It is the responsibility of local authorities to prevent unlawful land activities right from the community level. They are responsible for: Monitoring local land transactions, dealing with issues related to land encroachment or unlawful seizures, assisting the tribunal system through the provision of essential paperwork and logistical assistance.

**vi) Law Enforcement Coordination:** The legislation aims to enhance cooperation between law enforcement agencies such as the police and investigative bodies and land tribunals to ensure that wrongdoers are brought to justice and tribunal decisions are upheld. Additionally, it mandates collaboration among various agencies including land registries, local authorities and judicial officials to facilitate seamless investigations and prosecutions.

**vii) Anti-Corruption Measures:** To prevent corruption from hindering law enforcement the Act includes measures to oversee and review the actions of land officials and law enforcement agencies. The participation of anti-corruption entities plays a role in stopping bribery, abuse of power and the tampering with land records by powerful individuals or criminal groups.

#### **(D) Critical Appraisal of the Act**

##### **i) Impact on Civil Courts and Judicial Magistrate**

The case load of civil courts will decrease, while the burden on Judicial Magistrates will increase. Since Criminal Courts will have the authority to order notes in the relevant register against forged or fraudulent documents, in addition to punitive measures, there will be no need to file cases in Civil Courts. Furthermore, if it is necessary to grant possession of land to any party in addition to taking action against forged or fraudulent documents, this task can be

performed by the Judicial Magistrate according to Sec 20.<sup>27</sup> Consequently, nullifying documents or records, punishing individuals responsible for forged or fraudulent documents or records and handing over the land to the rightful owner will all be carried out by the Judicial Magistrate . Additionally, cases for the contract of sale ( baynanama ) will no longer need to be filed in Civil Courts , as Civil Courts can only decree in favor of ‘registered’ contracts<sup>28</sup>

Remedies can now be sought against ‘unregistered’ contracts under section 9 of the new law of 2023. Furthermore, possession recovery suits will not need to be filed in civil courts , as section 8 of this law promise possession recovery through an Executive Magistrate within three months without cost .Consequently, the workload of civil courts will significantly decrease.

### ii) Concerns over Land Rights and Legal Remedies

The Land Crime Prevention and Remedy Act, 2023 appears to be applicable across all districts of Bangladesh, including the three hill districts. If enforced in the Chittagong Hill Tracts (CHT), the Act could nullify the CHT Regulation of 1900, which is still in effect. This Act poses significant challenges, particularly for indigenous people in the hill tracts and plain lands who may not have formal land documents, as well as for other marginalized communities. This lack of documentation could lead to unjust evictions and further marginalization. The state and its agencies often fail to protect the rights of these vulnerable groups, exacerbating their already precarious situation. A major concern revolves around the Chittagong Hill Tracts Land Dispute Resolution Commission, a quasi-judicial body with both executive and judicial powers that currently handles land disputes in the region. The new law could undermine the Commission's authority, further increasing the insecurity and marginalization of Indigenous communities in the hill districts. Overall, the Act raises several concerns that need to be addressed, particularly for the hill tracts and other marginalized regions, to ensure it does not further perpetuate injustice or insecurity.

### iii) Legal Authority in Boundary Disputes and Witness Security

Primary causes of land disputes include family conflict, scarcity, increased demand, boundary issues, land grabbing, data gaps in surveys, and lack of awareness.

Section 10 of the new Act of 2023 criminalizes the damage to boundaries or boundary marks of the land lawfully occupied land, granting jurisdiction to both Judicial Magistrates and Executive Magistrate for adjudication.<sup>29</sup> Disagreements over the exact demarcation of land boundaries are a common source of conflict, often due to unclear or outdated boundary lines.

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<sup>27</sup> *Id*, Section 20

<sup>28</sup> Section 21A, the Specific Relief Act 1877 ( Act no. I of 1877 ), <http://bdlaws.minlaw.gov.bd/act-36/section-24747.html>

<sup>29</sup> *Supranote 3*, Section 10

Determining whether the boundaries of occupied land are legally accurate is a complex and time-consuming judicial task. In Bangladesh, boundary related disputes are numerous. The enforcement of this law is likely to increase criminal cases related to boundary issues. Section 21 of this law authorizes Judicial Magistrate to take any necessary measures to protect witnesses, while section 20 empowers them to provide compensation to the affected parties. This will enhance public confidence in the courts and aid in ensuring justice. It represents a significant advancement towards the formulation of a separate witness protection law.<sup>30</sup>

#### **iv) Strengths and Weaknesses**

Bangladesh, an agricultural country, has a significant land and water resource importance, but its socio-economic status has led to land disputes and crimes. The Land Crime Prevention and Remedy Act 2023 aims to create a legal framework to prevent victims and address these issues. The act provides a clear definition of land crimes, includes strict penalties for offenders, and includes provisions for protecting victims and preventing them. However, it has weaknesses such as potential corruption, lack of resources, and inadequate implementation mechanisms. Additionally, the act may be poorly defined, leading to inconsistent application and delays in justice. Public awareness of the act may be limited, especially among marginalized communities.

#### **v) Comparative Analysis with Previous Legal Framework**

The Land Crime Prevention and Remedy Act, 2023, mark a significant improvement over previous legal frameworks in Bangladesh, which included the Penal Code 1860, the Land Reform Ordinance 1984, and the Land Survey Act 2003 etc. The earlier laws often lacked clarity, comprehensive measures, and effective enforcement mechanisms to address modern land crimes like land grabbing and document forgery. Additionally, it imposes penalties, expedites legal processes, and enhances victim support through faster restitution and financial compensation. The Act also promotes public participation and transparency, aiming to create a more effective and just system for managing and preventing land-related crimes. The Land Crime Prevention and Remedy Act, 2023, represent a significant development in the legal landscape of Bangladesh, aiming to address the persistent and complex issue of land-related crimes. However, when critically analyzed and compared to the previous legal framework, several questions arise regarding its effectiveness and potential complications.

#### **vi) Jurisdictional Confusion and Procedural Overlap**

One of the most striking aspects of the new Act is the introduction of provisions that overlap with those found in the existing legal framework, particularly the Penal Code of 1860, the

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<sup>30</sup>*Id* Section 21,

Specific Relief Act of 1877, and the Code of Criminal Procedure of 1898. For instance, Section 6 of the 2023 Act mandates that deeds proven to be fake must be sent to the District Commissioner. This provision creates a procedural overlap, as the nullification of such deeds traditionally falls under the jurisdiction of the Sub-Registrar's office, as per Section 39 of the Specific Relief Act. The involvement of the DC office seems redundant, given that the Sub-Registrar is already the custodian of land records.

This redundancy could lead to bureaucratic delays and conflicts over jurisdiction, ultimately complicating the process of deed cancellation rather than streamlining it. Moreover, Section 6(2) of the 2023 Act allows for cases involving land-related forgery to be shifted to the relevant criminal court, a provision that mirrors Section 195(1)(C) of the CrPC. However, the CrPC explicitly excludes Registrars and Sub-Registrars from being considered as courts capable of making determinations regarding the authenticity of deeds. By empowering the Sub-Registrar to make such determinations, the 2023 Act introduces a significant departure from the established legal process, potentially leading to jurisdictional conflicts and challenges regarding the proper adjudication of such cases.

#### **vii) The Act's Supplementary Nature: Strength or Weakness?**

Section 3 of the Land Crime Prevention and Remedy Act, 2023, stipulates that the Act is supplementary to existing laws rather than overriding them. This is a positive aspect in that it avoids direct conflicts with other legal frameworks, such as the Penal Code and the CrPC. However, this supplementary nature also raises concerns about the necessity and effectiveness of the new provisions introduced by the Act.<sup>31</sup>

For instance, the offenses described in Sections 4, 5, 6, and 7 of the 2023 Act—such as cheating, forgery—are already comprehensively addressed in the Penal Code, particularly in Sections 415, 416, 417, 419, and 420.<sup>32</sup> By introducing similar provisions in the new Act without significant procedural innovations or enhancements, the 2023 Act risks creating legal redundancy and confusion rather than offering a more robust solution to land-related crimes..

##### **a) The Role of Civil and Criminal Courts in Adjudication**

In the previous legal system, there was a clear separation between civil and criminal matters, especially in land disputes. Civil courts traditionally handled issues like determining land title, possession, and ownership. Only after these civil rights were settled could criminal responsibilities be established, as outlined in Section 195(1)(b) and(c) of the Code of Criminal

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<sup>31</sup> Prabir Neogi, *Land Crime Prevention and Remedy Act, 2023: Citizen Views*. The Daily Star: (2024, January 31). <https://www.thedailystar.net/roundtables/news/land-crime-prevention-and-remedy-act-2023-citizen-views-3532691>

<sup>32</sup> The Penal Code, 1860 ( Act no. XLV of 1860 ), <http://bdlaws.minlaw.gov.bd/act-11.html>

Procedure (CrPC)<sup>33</sup>. However, the 2023 Act seems to blur this distinction by allowing criminal cases. This could lead to criminal charges being filed too early, possibly infringing on the rights of individuals who haven't yet had a fair chance to defend their civil claims.

**b) Mobile Courts and the Risk of Arbitrary Justice**

The introduction of mobile courts under the 2023 Act, particularly in Sections 8 and 9, is another area of concern. While mobile courts are intended to provide swift justice, their role in adjudicating complex land disputes is problematic. Land-related cases often involve intricate legal and factual questions that require careful examination and thorough adjudication, something that mobile courts, with their limited scope and resources, may not be well-equipped to handle. Moreover, the use of mobile courts in land disputes raises concerns about the potential for arbitrary justice. Unlike traditional courts, mobile courts may not provide the same level of procedural safeguards, and their decisions could be influenced by factors other than the merits of the case. This poses a significant risk to the rule of law and could lead to a perception of injustice among the public.

**c) Constitutional Concerns and the Rule of Law**

Finally, the Land Crime Prevention and Remedy Act, 2023, raises important constitutional questions. The Rule of Law is a foundational principle in the Bangladeshi Constitution, ensuring that all citizens and institutions are subject to the law, including lawmakers. Any law that conflicts with established legal principles risks violating this principle. The 2023 Act, with its provisions for mobile courts and its potential for bypassing established judicial processes, could be seen as contravening the Rule of Law. Additionally, articles in the Constitution, such as Articles 7, 8(2), and 26(3), clearly state that any law inconsistent with the Constitution must be annulled. The new Act's provisions, particularly those that could lead to arbitrary or inconsistent applications of justice, may not withstand constitutional scrutiny, potentially leading to legal challenges that question its validity<sup>34</sup>

In conclusion, while the Land Crime Prevention and Remedy Act, 2023, aims to address critical issues related to land crimes in Bangladesh, its effectiveness is questionable when compared to the previous legal framework. The Act introduces several provisions that overlap with existing laws, creating potential conflicts and jurisdictional confusion. Its supplementary nature, while avoiding direct conflicts with other laws, raises questions about the necessity of its new provisions. Moreover, by blurring the lines between civil and criminal adjudication and introducing mobile courts for land disputes, the Act risks undermining established legal

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<sup>33</sup> Prabir Neogi, *Supra note 31*

<sup>34</sup> Prabir Neogi, *Id*



processes and the Rule of Law. These issues suggest that the Act may not be as effective in curbing land-related crimes as intended and could lead to significant legal challenges in its implementation. Additionally, the Land Crime Prevention and Remedy Act, 2023, offers several key improvements over the previous legal framework. It introduces penalties for land fraud and forgery, streamlines processes for victims to obtain remedies, and enhances accountability in land administration, secure land transactions, making the system more transparent and reducing the risk of corruption. These measures significantly strengthen protections for landowner.

### **(E) Challenges and Limitations**

#### **i) Implementation and Enforcement Issues**

Effective implementation of the Act depends on the capacity and integrity of the enforcement agencies and institutions responsible for its execution. Bureaucratic inefficiencies, corruption, and resource limitations can hinder effective enforcement. The Act may struggle to achieve its goals if enforcement agencies are not adequately supported or if corruption undermines the integrity of legal processes.

#### **ii) Integration with Customary Practices**

Bangladesh has diverse customary land practices and informal legal systems, especially in rural areas. Integrating the new Act with these existing practices can be challenging and may lead to resistance or conflicts. Failure to harmonize state law with customary practices may result in reduced acceptance of the Act and ineffective implementation in some communities.

#### **iii) Accessibility to Justice**

Despite provisions for legal remedies, practical barriers such as high legal costs, geographic distance, and lack of legal awareness may still impede access to justice for some individuals. The Act may be criticized if it does not sufficiently address barriers to accessing legal support, particularly for marginalized or low-income populations.

#### **iv) Technological and Infrastructure Challenges**

The successful digitalization of land records requires robust technological infrastructure and cyber security measures. If technological infrastructure is not adequately developed or maintained, the effectiveness of the Act's digitalization efforts may be compromised.

#### **v) Impact Assessment**

##### ***a) Reduction in Land-Related Crimes***

To assess the Act's impact on reducing land-related crimes, it is important to monitor crime statistics and enforcement actions over time. A reduction in reported land crimes and successful

prosecutions would indicate the Act's effectiveness. Challenges such as underreporting and delays in case processing can affect the accuracy of impact assessments.

***b) Improvement in Land Governance***

Improved transparency, accurate land records, and enhanced public trust in land administration are key indicators of the Act's success in improving land governance. The effectiveness of governance improvements depends on the successful implementation of digital systems and effective coordination among institutions.

***c) Accessibility and Public Awareness***

Increased public awareness and access to legal remedies are important for the Act's overall effectiveness. Monitoring outreach efforts, legal aid services, and community engagement can provide insights into the Act's impact. The Act's success in reaching and assisting vulnerable groups is crucial for its overall effectiveness.

The Land Crime Prevention & Remedy Act-2023 offers a robust framework for addressing land-related crimes in Bangladesh, with strengths in its comprehensive coverage, emphasis on digitalization, and protection for vulnerable groups. However, its effectiveness is contingent on overcoming challenges related to implementation, enforcement, integration with customary practices, and accessibility to justice. Addressing these challenges through targeted reforms, capacity-building efforts, and stakeholder engagement is essential for realizing the Act's full potential and achieving meaningful reductions in land-related crimes. Regular monitoring and evaluation will be crucial for assessing the Act's impact and making necessary adjustments to enhance its effectiveness.

### **III. RECOMMENDATIONS**

Optimizing the efficacy of the Land Crime Prevention and Remedy Act, 2023 is essential for mitigating land-related criminal activities in Bangladesh. A meticulous examination of the present execution of the Act uncovers many aspects where enhancements can be implemented to bolster its effectiveness. Firstly, it is imperative to enhance the legal requirements contained within the Act. The precise definitions of important terminology pertaining to land crimes, such as "land grabbing," "fraudulent transactions," and "forged documents," need definitive clarification. By providing precise definitions, this legislation should encompass a wider range of land-related offenses. Ambiguous terminology can give rise to legal loopholes that enable wrongdoers to evade consequence. Moreover, the implementation of more severe sanctions for recurrent wrongdoers and prominent persons implicated in land crimes could serve as a more potent deterrence, therefore reducing the probability of repetition of such offenses. It is imperative to implement compulsory reparation for victims, so guaranteeing that individuals

impacted by land crimes are either reinstated to their initial condition or sufficiently remunerated for their damages. A further crucial aspect that requires enhancement is the enforcement procedures outlined in the Act. The implementation of specialised land crime tribunals specifically designed to handle land crime matters would guarantee the prompt and efficient delivery of justice. Furthermore, it is imperative to provide law enforcement agencies with augmented investigative capabilities, such as the ability to examine land records and the empowerment to freeze transactions that are deemed questionable. This would facilitate the prompt identification and prevention of illicit actions before they have the potential to escalate. In order to address corruption inside the land administration institutions, it is imperative to establish rigorous anti-corruption procedures. Such measures may include periodic audits, clear reporting protocols, and severe sanctions for individuals convicted of corruption. Professional development for law enforcement, judiciary, and land administration personnel is also essential. It is imperative to regularly deliver training programs to acquaint these officers with the most up-to-date techniques for identifying and averting land crimes. Public awareness campaigns are of equal significance as they can enlighten citizens about their rights under the Act and provide them with information on the necessary actions to take in case they become victims of land-related crimes. Furthermore, the incorporation of technology can greatly contribute to improving the efficacy of the Act. Implementing digitalization of land records will enhance transparency, mitigate the potential for counterfeiting, and improve the accessibility of land records. A potential solution is the development of an online reporting system that enables victims to conveniently record land crimes and monitor the advancement of their cases, therefore enhancing accountability and effectiveness. The involvement of civil society organizations in monitoring the implementation of the Act and advocating for victims is crucial to ensure that the perspectives of impacted individuals are acknowledged and effectively dealt with. Effective alignment of policies and legislation is essential for the success of these endeavors. Enhancing collaboration among government entities, such as land administration, law enforcement, and anti-corruption groups, is vital to optimize endeavors in combating land crimes. Furthermore, establishing a review committee to regularly evaluate the efficacy of the Act and suggest essential modifications in response to developing difficulties. Ultimately, it is crucial to implement victim assistance and rehabilitation measures. It is imperative to provide free legal aid to victims of land crimes, especially those belonging to underprivileged populations who may lack the means to seek justice. It is imperative to establish rehabilitation programs that encompass psychological support and financial aid in order to facilitate the recovery of victims from the consequences of land crimes. In summary, by focusing on these specific aspects, the Land Crime Prevention and Remedy Act, 2023 can enhance its efficacy in

mitigating land-related crimes in Bangladesh, therefore guaranteeing the administration of justice and providing sufficient help to victims.

#### **IV. CONCLUSION**

The enactment of the Land Crime Prevention & Remedy Act-2023 will greatly advance efforts to combat land-related crimes and enhance land administration in Bangladesh. The commendable aspect of this framework is its comprehensive approach to defining land crimes, providing enforcement tools, and fostering openness. Nevertheless, the efficacy of the Act depends on its successful execution and the capacity to tackle diverse obstacles and impediments. The present research has underscored the notable characteristics of the Act, including its comprehensive scope in addressing land crimes and its focus on the digitization of land records. The inclusion of these characteristics is essential in order to improve transparency and minimize probability of fraudulent activities. The implementation of specialized units and the emphasis on public education are further favorable advancements that can enhance the efficacy of crime prevention and resolution. Nevertheless, one must overcome certain obstacles to guarantee the success of the Act. Profound concerns arise from corruption and inefficiency among land administration and enforcement authorities. In order to address these problems, it is necessary to establish strong anti-corruption policies and transparent procedures. Another crucial element of the Act's execution is safeguarding disadvantaged groups, such as indigenous communities and rural farmers. The implementation of focused assistance programs and policies aimed at rectifying past land injustices is crucial in advancing social justice and fairness. Facilitating the provision of legal resources and counsel to these groups will be crucial in protecting their land rights and averting exploitation. Robust monitoring and evaluation are essential to evaluate the impact of the Act and make well-informed modifications. In order to ensure the ongoing relevance and effectiveness of the Act, it is crucial to establish thorough evaluation mechanisms and adjust policies to address evolving concerns. Active involvement with stakeholders and maintaining updated on worldwide best practices can enhance ongoing progress in land governance. The efficacy of the Land Crime Prevention & Remedy Act-2023 in significantly strengthening land governance and crime prevention in Bangladesh hinges on the resolution of implementation obstacles, the augmentation of institutional capacity, and the guarantee of fair protection for all parties involved. To enhance its legal framework, foster transparency, and provide a more equitable and efficient system for handling land-related matters, Bangladesh should implement the suggestions described in this report.

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