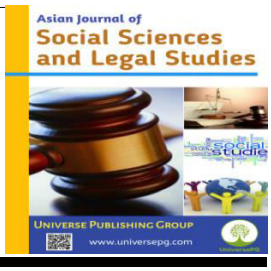
Publisher homepage: www.universepg.com, eISSN: 2707-4668

Asian Journal of Social Sciences and Legal Studies

Journal homepage: www.universepg.com/journal/ajssls

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# The Artha Rin Adalat Ain, 2003 and the Question of Fair Trial in Bangladesh: A Socio-Legal Analysis

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Received Date: 26 April 2026 Accepted Date: 27 May 2026 Published Date: 4 June 2026

**Abstract**

This study mostly focuses about the recovery of defaulted loans that has been a major concern for the financial sector of Bangladesh. In order to address the increasing volume of non-performing loans, the government enacted the Artha Rin Adalat Ain, 2003, which established specialized courts for the speedy disposal of loan recovery cases. Although the Act aims to facilitate efficient financial dispute resolution, critics argue that certain provisions may compromise the principles of fair trial and due process. This paper critically examines the Artha Rin Adalat Ain, 2003 from a socio-legal perspective, focusing on its procedural mechanisms and their compatibility with constitutional and international human rights standards. The study analyzes statutory provisions, judicial interpretations, and scholarly literature to assess whether the law adequately balances efficiency with fairness. It argues that while the Act has contributed significantly to improving loan recovery mechanisms, certain procedural restrictions may create challenges for defendants in accessing justice. Finally, the authors attempted to draw attention that this paper concludes with recommendations aimed at strengthening procedural safeguards without undermining the efficiency of the loan recovery process in a developing and democratic country like Bangladesh.

**Keywords:** Artha Rin Adalat Ain, Fair trial, Human Rights, Bangladesh, and Socio-Legal Analysis.

## 1. Introduction

At the outset of the study, it can be said that the stability of a country's financial system depends largely on the ability of banks and financial institutions to recover loans efficiently. In Bangladesh, the rapid growth of non-performing loans during the 1980s and 1990s created significant challenges for the banking sector, leading policymakers to introduce specialized legal mechanisms for debt recovery (Ahmed, 2018; Bangladesh Bank, 2021). Traditional civil courts were often unable to dispose of loan recovery cases efficiently due to procedural delays and an overwhelming caseload, which ultimately undermined the effectiveness of the financial system (Islam, 2016; Islam *et al*., 2025).

In response to these challenges, the government enacted the Artha Rin Adalat Ain, 2003, replacing

earlier legal frameworks governing loan recovery. The Act established specialized courts known as Artha Rin Adalats with the objective of ensuring the speedy disposal of financial disputes involving banks and financial institutions (Hossain, 2017). By introducing simplified procedures and time-bound litigation processes, the law aimed to reduce the backlog of cases and improve the recovery of defaulted loans. However, while the Act has been praised for improving the efficiency of financial dispute resolution, it has also attracted criticism from legal scholars and practitioners. Some observers argue that certain provisions of the law may restrict the procedural rights of defendants, thereby raising concerns regarding the constitutional guarantee of fair trial and access to justice (Karim, 2015; Chowdhury, 2020). In addition to these, these concerns are particularly significant in the context of Bangladesh's constitutional commitment to equality before the law and due process of law.

Most importantly, from a broader perspective, the concept of fair trial is recognized as a fundamental principle of justice in both domestic and international legal systems. International human rights instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights emphasize the importance of impartial tribunals, equality before courts, and the right to present one's case fully (United Nations, 1948; United Nations, 1966). Therefore, evaluating the procedural framework of the Artha Rin Adalat Ain is essential for assessing its compatibility with established legal principles. Furthermore, this paper therefore examines the procedural structure of the Artha Rin Adalat Ain, 2003 and evaluates whether its provisions align with the principles of fair trial and due process. Through doctrinal and analytical approaches, the study aims to provide a comprehensive understanding of the strengths and limitations of the Act in the context of Bangladesh's legal system (Galligan, 1996; Cappelletti & Garth, 1978; Jiries, 2024).

**Objectives of the Study**

The main objectives of this study are as follows:

1) To critically analyze the Artha Rin Adalat Ain, 2003 from the perspective of fair trial and procedural justice.
2) To examine the historical background and purpose behind the enactment of the Act in addressing non-performing loans in Bangladesh.
3) To analyze the key procedural provisions of the Act and their practical implications in loan recovery cases.
4) To evaluate the compatibility of the Act with constitutional guarantees (equality before law and due process) and international human rights standards.
5) To identify challenges faced by the litigants (especially defendants) and propose recommendations to ensure a balance between efficiency and fairness in the legal system.

## 2. Review of Literature

Existing literature highlights that the rise of non-performing loans in Bangladesh created significant pressure on the financial system, leading to the need for specialized legal mechanisms for loan recovery (Ahmed, 2018; Bangladesh Bank, 2021).

Scholars emphasize that traditional civil courts were inefficient due to delays and backlog. Legal scholars such as Hossain (2017) and Karim (2015) discuss the introduction of the Artha Rin Adalat Ain as a mechanism to ensure speedy disposal of financial disputes, noting its contribution to improving efficiency in the banking sector. However, critical literature (e.g., Chowdhury, 2020; Rahman, 2019) argues that certain provisions of the Act may undermine procedural fairness, particularly by restricting defendants' ability to defend claims or appeal decisions.

From a theoretical perspective, the concept of fair trial and due process is extensively discussed in works by (Galligan 1996; Cappelletti & Garth, 1978) emphasizing access to justice and procedural safeguards as fundamental legal principles.

Most importantly, International human rights literature, including the Universal Declaration of Human Rights (1948) and ICCPR (1966), establishes that fair trial includes impartial tribunals, equality before law, and the right to be heard, which serve as benchmarks for

evaluating the Act. Overall, the literature reflects a debate between efficiency and fairness, where the Act is praised for economic effectiveness but criticized for potential violations of procedural justice.

## 3. Methodology

A doctrinal and analytical research methodology, focusing on the examination of legal texts and principles has been adopted in this study. It relies on a detailed analysis of the statutory provisions of the Artha Rin Adalat Ain, 2003 to assess its procedural framework. In addition, the research incorporates judicial interpretations and case law analysis, which help evaluate how the provisions of the Act are applied in practice by courts. This approach ensures a realistic understanding of procedural fairness within the legal system. The methodology also includes a review of secondary sources, such as scholarly articles, books, and institutional reports (e.g., Bangladesh Bank and World Bank publications), to contextualize the Act within broader legal and economic discussions. Furthermore, a socio-legal approach, combining legal analysis with consideration of social realities, particularly how procedural rules impact litigants' access to justice and fairness in practice have been followed in this study.

## 4. Results and Discussion

### Overview of the Artha Rin Adalat Ain, 2003

The Artha Rin Adalat Ain, 2003 represents a specialized legislative framework designed to facilitate the recovery of loans by banks and financial institutions in Bangladesh. The Act provides a comprehensive legal structure for resolving disputes related to defaulted loans through dedicated courts known as Artha Rin Adalats (Hossain, 2017). One of the key features of the Act is the establishment of specialized courts with exclusive jurisdiction over financial loan recovery cases. These courts are authorized to hear cases filed by banks and financial institutions seeking the recovery of outstanding loans from borrowers or guarantors. By concentrating such cases within a specialized judicial forum, the law aims to ensure greater efficiency and consistency in adjudication (Ahmed, 2018; Bari, 2022).

Another important aspect of the Act is its emphasis on expedited judicial procedures. The law provides for simplified filing requirements, limited adjournments, and relatively shorter timelines for case disposal. Such provisions are intended to reduce procedural delays that previously characterized loan recovery litigation in ordinary civil courts (Karim, 2015). The Act also introduces provisions allowing the court to issue interim orders, attach property, and enforce decrees through the sale of mortgaged assets. These enforcement mechanisms are designed to strengthen the ability of financial institutions to recover defaulted loans while minimizing opportunities for deliberate delays by borrowers (Bangladesh Bank, 2021).

Despite these objectives, some provisions of the Act have been criticized for potentially restricting the procedural rights of defendants. For example, the requirement that defendants deposit a portion of the decretal amount before filing an appeal may limit access to higher courts for financially distressed borrowers (Chowdhury, 2020). Such provisions have generated significant debate among legal scholars regarding the compatibility of the Act with constitutional guarantees of justice and fairness.

### Critical Evaluation of Procedural Fairness

From a legal perspective, procedural fairness requires that individuals involved in legal disputes be given adequate opportunities to present their arguments, challenge opposing evidence, and receive impartial judgments from independent courts (Galligan, 1996). In evaluating the Artha Rin Adalat Ain, it is therefore necessary to examine whether its procedural rules provide sufficient safeguards to protect these fundamental rights. In addition to these, one of the primary concerns raised by critics relates to the limited opportunities for defendants to challenge claims effectively. Because the Act emphasizes expedited procedures, defendants may face constraints in gathering evidence or preparing comprehensive legal arguments within the prescribed time frame (Rahman, 2019). While such limitations may contribute to faster case disposal, they may also affect the overall fairness of the judicial process.

Another issue involves the provision allowing courts to deliver ex-parte judgments when defendants fail to appear within the specified time. Although this mechanism helps prevent unnecessary delays, it may

also create the risk of judgments being issued without fully considering the defendant's perspective (Karim, 2015). Ensuring that proper notice is served and that defendants are given reasonable opportunities to participate in the proceedings is therefore essential. The appeal process under the Act has also attracted criticism due to the requirement that appellants deposit a substantial portion of the decretal amount before filing an appeal. While the purpose of this requirement is to discourage frivolous appeals, it may unintentionally restrict access to justice for borrowers who lack the financial capacity to meet this condition (Chowdhury, 2020).

Therefore, these concerns highlight the complex challenge of balancing efficiency with fairness. While the objectives of the Act are economically important, the legal framework must also ensure that individuals are not deprived of their procedural rights in the pursuit of efficiency.

**Human Rights and Constitutional Considerations**

The concept of fair trial is deeply embedded in both international human rights law and the constitutional framework of Bangladesh. Article 10 of the Universal Declaration of Human Rights provides that everyone is entitled to a fair and public hearing by an independent and impartial tribunal (United Nations, 1948). Similarly, Article 14 of the International Covenant on Civil and Political Rights guarantees equality before courts and tribunals (United Nations, 1966). In the context of Bangladesh, constitutional provisions also emphasize the importance of fairness in legal proceedings. Article 27 ensures equality before the law, while Article 31 guarantees that no person shall be deprived of life, liberty, or property except in accordance with law (Government of Bangladesh, 1972). When evaluated against these standards, the Artha Rin Adalat Ain demonstrates both strengths and limitations. On the one hand, the establishment of specialized courts can enhance judicial efficiency and reduce delays in financial litigation.

On the other hand, certain procedural restrictions may create barriers for defendants seeking to challenge claims or appeal unfavorable decisions (Halim, 2014). Legal scholars have therefore argued that reforms may be necessary to ensure that the procedural framework of the Act fully aligns with constitutional principles and international human rights norms (Ahmed, 2018).

## 5. Conclusion and Recommendations

The Artha Rin Adalat Ain, 2003 plays a crucial role in addressing the problem of loan default and strengthening the financial system of Bangladesh. By establishing specialized courts and introducing streamlined procedures, the Act has significantly improved the efficiency of loan recovery litigation. However, the emphasis on efficiency must be balanced with the protection of procedural fairness and access to justice. Certain provisions of the Act, particularly those relating to ex-parte judgments and appeal requirements, have raised legitimate concerns regarding their impact on defendants' rights. A balanced approach that maintains the effectiveness of loan recovery mechanisms while strengthening procedural safeguards would help ensure that the legal framework remains consistent with both constitutional principles and international standards of justice. Therefore, the following constant and very pertinent suggestions are made:

1) The study recommends that procedural safeguards be strengthened within the Artha Rin Adalat framework to ensure that efficiency does not come at the cost of fairness. This includes revisiting provisions that may restrict defendants' rights.
2) It suggests reforming the appeal requirement, particularly the mandatory deposit of a portion of the decretal amount, as this condition may limit access to justice for financially distressed litigants.
3) The study also recommends ensuring greater opportunities for defendants to present evidence and arguments, even within expedited procedures, to uphold the principle of fair hearing.
4) Another important recommendation is to introduce safeguards against misuse of ex-parte judgments, including stricter requirements for proper notice and reasonable time for appearance.
5) Finally, the paper emphasizes the need to align the Act more closely with constitutional provisions (Articles 27 & 31) and international human rights standards, thereby achieving a balanced legal

framework that promotes both the economic efficiency and procedural justice.

## 6. Author Contributions

M.M.: Conceptualization and composing the manuscript's initial draft, M.N.I.: Investigation, reviewing, abstract writing, supervision, editing, developing the concluding remarks, findings with recommendations and corresponding of the manuscript, M.A.A.; and M.J.U.: Conceived the idea with data collections, and Sk.T.: Developed the methodological notes presented in this paper.

## 7. Acknowledgment

The authors are first and foremost grateful to Almighty for granting them the strength, knowledge, ability, and opportunity to conduct this research study. Without His blessings, this work would not have been completed satisfactorily. The authors would like to express their heartfelt appreciation to their mentors, Professor Dr. M. Anisur Rahman and Professor Dr. M. Ahsan Kabir, (Department of Law, University of Rajshahi) for their proper supervision and enthusiastic encouragement in this study. Finally, the authors thank anonymous reviewers and the journal editor for their insightful suggestions and comments that helped to improve the manuscript too.

## 8. Conflicts of Interest

There are no conflicts of interest from the authors' end with respect to the research work.

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Citation: Mursalin M, Islam MN, Amin MA, Uddin MJ, and Tanbin Sk. (2026). The Artha Rin Adalat Ain, 2003 and the question of fair trial in Bangladesh: a socio-legal analysis, *Asian J. Soc. Sci. Leg. Stud*., **8**(3), 588-594. https://doi.org/10.34104/ajssls.026.05880594

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