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**False Imprisonment and Wrongful Detention: A Comprehensive Study on the Victims of False Imprisonment by Law Enforcing Agencies and are There Any Compensation for Such Wrongful Act?**

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**Consent Form**

The dissertation titled **“False Imprisonment and Wrongful Detention: A Comprehensive Study on the Victims of False Imprisonment by Law Enforcing Agencies and are There Any Compensation for Such Wrongful Act?”** prepared by Syed Mostofa Fardin, ID 2017-3-66-008 submitted to Dr. Nabaat Tasnima Mahbub, Assistant Professor, Department of Law, for the fulfillment of the requirements of Course 406 (Supervised Dissertation) for LL.B. (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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Signature of the Supervisor

Date:

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## **Declaration**

I, Syed Mostofa Fardin, do hereby confirm that the research paper titled “False Imprisonment and Wrongful Detention: A Comprehensive Study on the Victims of False Imprisonment by Law Enforcing Agencies and are There Any Compensation for Such Wrongful Act?” has been prepared by my own findings and efforts. I also declare that this research is my original work and has not been submitted for any other degree or professional certification. Any information or content which was useful in finishing this study is acknowledged and specifically cited.

## **List of Abbreviation**

ICCPR: International Covenant on Civil and Political Rights

UDHR: Universal Declaration of Human Rights

CrPC: The Code of Criminal Procedure

HCD: High Court Division

AD: Appellate Division

ACC: Anti-Corruption Commission

NHRC: National Human Rights Commission

RAB: Rapid Action Battalion

SB: Special Branch

DB: Detective Branch

DGFI: Directorate General of Forces Intelligence

Vs: Versus

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## **Abstract**

In contemporary Bangladesh, unlawful imprisonment and illegal detention have grown widespread. Law enforcement officers are arresting and detaining individuals without a warrant. It has been found that many of them were held for offenses that do not even fall within Bangladeshi law. As a result, several innocent persons have been falsely imprisoned and illegally detained in Bangladesh over the couple of years. But there is no codified law that addresses compensation for the victims of false imprisonment and wrongful detention. Although Bangladesh is a signatory party to the ICCPR, which states that victims of false imprisonment and wrongful detention must be compensated. This paper emphasizes the current problems of Bangladesh and recommends adopting a law for compensating the victims. In doing so, this paper will focus on why compensation is an effective remedy for false imprisonment and wrongful detention victims.

Keywords: False imprisonment, wrongful detention, victim, compensation.



# Chapter 1

## Introduction

### 1.1 Background of the Study

History shows that deprivation of liberty is more often arbitrary and unlawful, and liberty is taken away most commonly by unlawful arrest and wrongful detention.<sup>1</sup> The practice of false imprisonment and illegal detention has always been an end mark of those authorities who holds power to make the arrest. Unlawful arrest and illegal detention have recently become common in Bangladesh. Even police are arresting anybody without a warrant, and in several instances, it has been discovered that many people were detained for crimes that do not even fall under the purview of Bangladeshi law. For that reason, over the years, many innocent people have been falsely imprisoned and wrongfully detained in Bangladesh. The number of false imprisonment and wrongful detention is growing at a concerning rate.

According to the report of world prison brief, by 2021 67,070 people are pre-trial detainees which is 80.0% of the total prison population.<sup>2</sup> The number of pre-trial detainees are rising very highly and there is high possibility that some detainees are not guilty. Many detainees are suffering detention before proving themselves. Thus, they were deprived of human rights.

Bangladesh is a signatory party to the international covenant on civil and political rights (ICCPR) which states that victims of false imprisonment and wrongful detention must be compensated and signatory state have to enact law on this regard. Furthermore, Bangladesh's

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<sup>1</sup> Charles A. Weisman, *A Treatise on Arrest and False imprisonment* (Weisman publication, 3<sup>rd</sup> edition, 1996) 3

<sup>2</sup> “Bangladesh | World Prison Brief” (Bangladesh | World Prison Brief, January 1, 2000) <<https://www.prisonstudies.org/country/bangladesh>> accessed August 5, 2022

constitution's preamble pledge to follow international law, especially Article 25 contends that state shall follow international law and the principals of united nations. Regrettably, Bangladesh has failed to make rule/law to compensate the victims of false imprisonment and wrongful detention. As a consequence, result victims had to suffer socially, economically and mentally.

Considering all these factors, this research paper recommends that Bangladesh to adopt a law for compensating the victims of false imprisonment and detention. In doing so, this paper also emphasized the current problems of Bangladesh. This paper will focus on why compensation is an effective remedy for false imprisonment and wrongful detention victims.

## **1.2 Research Questions**

- 1) What is the most effective remedy for false imprisonment and wrongful detention victims?
- 2) Whether compensation under the law of tort can be regarded as an effective remedy for false imprisonment and wrongful detention victims?

## **1.3 Research Justification**

The essential purpose of this paper is to point up the issue of compensation for the victims of false imprisonment and wrongful detention. This research is willing to discover the reasons and context of false imprisonment, unlawful detention, and law loopholes regarding these illegal acts. This paper also intends to show why compensation is much needed for the victims of false imprisonment and wrongful detention because the victims and detainees had to go through multiple problems, i.e., social, financial, phycological, and mental, for such illegal incarceration. Moreover, they have lost precious time in their life. Therefore, victim rights and compensation policies must be considered to aid victims in reclaiming their lives.

## **1.4 Research Methodology**

The nature of this research is qualitative-oriented. The method is to focus on the exploration of the connection. In conducting the research, the resources like statutes, case, judicial decisions and international conventions are considered primary sources. Regarding the secondary resources, books, national and international journals, newspaper articles websites, online journals, and scholars' blogs are considered.

## **1.5 Literature Review**

False imprisonment and wrongful detention are currently a concerning issue in Bangladesh, and the victims of such heinous act face miscarriage of justice. Different scholars and writers have expressed their concerns regarding false imprisonment and illegal detention and giving damages to victims of such acts. For example, Charles A. Weisman, in his book 'A Treatise on Arrest and False imprisonment,' pointed out the definition, elements, and some factors of false imprisonment. But it does not discuss compensation mechanisms for the victims. Md. Mustakimur Rahman, in his article 'Lawful Arrest and false imprisonment.' finds out how false imprisonment violates the provisions of the constitution and emphasized that there is no codified law that addresses compensation for the victims. Atiqur Rahman, in his article Compensation for the Victims of Wrongful Imprisonment, pointed out why the state should compensate the victims. However, this article has failed to assert the claiming process of compensation. It is clear that literature tries to find out that how false imprisonment causes miscarriage of justice and compensation could mitigate suffers of the victims. However, this literature did not find suitable solution for the victims. thus, this research paper intends to impacts of the victims of false imprisonment and wrongful detention and focuses that why compensation is an effective remedy for the victims.

## **1.6 Limitations**

While conducting this research, I encountered some limitations. If there is no time constraint, it may be able to produce a better result. The lack of available resources is another key

constraint, and I was unable to collect sufficient resources related to the subject. There aren't enough resources for research in Bangladesh, and there aren't many recent court cases addressing these issues. Without these limitations, the study could be more structured.

## **1.7 Chapter Outline**

This dissertation shall consist of five chapters.

### Chapter 1. Introduction

This chapter elaborates the background of the study, research question, justification, methodology and what are the literature reviewed to conduct this research and limitation of the paper.

### Chapter 2. Conceptual Aspect and legal Analysis

This chapter discusses the definition, integrating elements of false imprisonment under the law of torts and criminal law and legal framework regarding false imprisonment and wrongful detention.

### Chapter 3. Present scenario in Bangladesh

This chapter deals with false imprisonment and wrongful detention incidents in Bangladesh over the last few years and the dominating factors of false incarnation in Bangladesh.

### Chapter 4. Compensation as an Effective Remedy

This chapter presents an argument for the effectiveness of compensation as a remedy and outlines steps to enable the right to compensation for those who have been wrongfully detained or falsely imprisoned.

### Chapter 5. Recommendation and Conclusion

This chapter finds some lack of law and effective mechanisms to prevent false imprisonment; thus, this chapter gives some recommendations to prevent such wrongful acts.

## Chapter 2

### Conceptual Aspects and Relevant Legal Analysis

#### 2.1 Introduction

The laws governing false imprisonment and wrongful detention must be strengthened in view of the recent trends of human rights violations. Bangladesh has witnessed many false imprisonment and detention victims over the last few decades. This chapter discusses the definition, integrating elements of false imprisonment under the law of torts and criminal law. This chapter also analyzed the position of law concerning false imprisonment and detention with some case laws.

#### 2.2 Concept of false imprisonment and Wrongful detention

False imprisonment occurs when someone with no legal right or rationalization willfully prevents another person from exercising his freedom. False imprisonment comprises all types of illegal confinement or interference with personal freedom.<sup>3</sup> It refers to any illegal invasion of another person's liberty<sup>4</sup>. False imprisonment can be regarded as tort as well as common law crime. It has been identified as intentional tort as the trespass to a person.<sup>5</sup> False imprisonment is the name of the category for those torts that unlawfully deprive the liberty of a person.<sup>6</sup>

Under this category, the most common offense is the illegal arrest.<sup>7</sup> False imprisonment and false arrest are identical and they constitute a single tort. Thus, false imprisonment can be used to refer

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<sup>3</sup> Charles A. Weisman, 'A Treatise on Arrest and False imprisonment (Weisman publication, 3<sup>rd</sup> edition, 1996) 3

<sup>4</sup> *ibid*

<sup>5</sup> 'False Imprisonment | Wex | US Law | LII / Legal Information Institute' (LII / Legal Information Institute) <[https://www.law.cornell.edu/wex/false\\_imprisonment](https://www.law.cornell.edu/wex/false_imprisonment)> accessed July 5, 2022.

<sup>6</sup> Charles A. Weisman, 'A Treatise on Arrest and False imprisonment (Weisman publication, 3<sup>rd</sup> edition, 1996) 3

<sup>7</sup> *ibid*

to both torts jointly because false arrest is a form of false imprisonment. Detention without legal justification forms false imprisonment.

The following definitions of false imprisonment have been given by renowned jurists:

According to WINFIELD:” Infliction of bodily restraint which is not Expressly or impliedly authorized by the law”.<sup>8</sup>

According to BLACK STONE:” Every confinement of the person is an Imprisonment, whether it be in a common prison, or in a private house, or in the stocks, or even by forcibly detaining one in the public street”.<sup>9</sup>

### **2.3 Who can cause false imprisonment and wrongful detention**

False imprisonment of a person may also be committed by a private person, a law enforcement officer, or any other governmental authority. For a person to be considered imprisoned, they don't have to be placed behind bars instead, they should be confined in a place from which they have no other means to escape except by the will of the person holding them there. The relevant factor is the absence of legal authority to support wrongful imprisonment, not the duration of the imprisonment.

### **2.4 Elements of false imprisonment**

Certain elements need to be proved in the lawsuit to establish a claim of false imprisonment under tort law, such as knowledge of the plaintiff, Total or complete restraint, and the Confinement must take place without a lawful justification.

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<sup>8</sup> Aishwarya Sandeep, 'False Imprisonment' (2022) <<https://aishwaryasandeep.com/2022/02/15/false-imprisonment-5/>> accessed 5 July 2022

<sup>9</sup> Ibid

### **2.4.1 Total or Complete Restraint needed**

False imprisonment requires the total or complete restraint of a person's freedom. The objective emphasized by total restraint is that the person being confined must not have any methods at his disposal to escape that imprisonment.<sup>10</sup> Mere partial restraint does not constitute false imprisonment. In case of *Bird vs. Jones*<sup>11</sup>, plaintiff Bird wanted to cross a blocked public road because of the boat race. Two police officers are not allowing him to go on that road but allow him to go in another direction which he can go. Plaintiff remained still and refused to go in that way. Thus, the plaintiff brought a claim of false imprisonment against the defendant. The Court held it is not a suit of false imprisonment since there is no total or complete restraint on the defendant's part, only partial restraint because the plaintiff can easily use another way.

### **2.4.2 The Confinement Must Take Place Without a Lawful Justification**

There must be no valid legal grounds for the confinement and no apparent reason, and it must be wholly illegal. The arrest will not be considered false imprisonment if there is a valid justification for the confinement. In the case of *Rudal Shah vs. State of Bihar*<sup>12</sup> in 1953, Rudul Shah was arrested on the charge of killing his wife. In 1968, an Additional Sessions Judge acquitted him of all charges and ordered his release from custody, but he was released from jail in 1982, after 14 years. It was held that, petitioner should be released as soon as the court does not find him guilty, and any further detention is illegal. Thus, state The State was ordered to make a compensation amount of Rs. 30,000.

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<sup>10</sup> Shraman Adwibedi, 'A full depth study of False Imprisonment under Torts Law'(1 May 2021) <  
<http://www.legalservicesindia.com/article/2156/False-Imprisonment-of-the-Defences>> accessed 12 July 2022

<sup>11</sup> [1845] EWHC(QB) 742

<sup>12</sup> AIR 1983 SC 1086

### 2.4.3 Knowledge of the Plaintiff

This element can be interpreted in two different ways, depending on the circumstances.<sup>13</sup> In some circumstances, the person who has been illegally confined or arrested must be aware of the situation. But in some other circumstances, it is not necessary for the person suing for false imprisonment to have known about his restriction on freedom at the time of his imprisonment. In the case between *Herring vs. Boyle*<sup>14</sup> fact is that a school teacher refused a student's mother to take her son until she paid the total dues. This conversation was made in the absence of the boy. It was this is not a case of false imprisonment since the boy had no knowledge about his detention. Also, in the case *Meering vs. Grahame-white Aviation Co*<sup>15</sup> fact on suspicion of stealing products, the plaintiff, a worker for the defendant company, was forced to wait in the waiting area. He was informed that he would be under investigation for the stolen products at the office. Later, when the police arrived, they detained the man. After being freed, he sued the defendant for false imprisonment. It was decided by the Court that false imprisonment was established even though the plaintiff had no knowledge at first.

### 2.5 Prisoners rights as to false imprisonment

A person who has been detained legally cannot file a false imprisonment lawsuit<sup>16</sup>. There are some boundaries of lawful detention. If a person is legally detained in prison and if he is being tortured in that prison, then he has a right to sue the prison concerned authorities for false imprisonment as because such tortured and abuse makes his lawful detention unlawful.<sup>17</sup> Thus a prisoner can also bring suit of false imprisonment if his lawful detention becomes unlawful.

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<sup>13</sup>Shraman Adwibedi, 'A full depth study of False Imprisonment under Torts Law'(1 May 2021) <<http://www.legalservicesindia.com/article/2156/False-Imprisonment-of-the-Defences>> accessed July 13, 2022

<sup>14</sup> (1884) 1 M&R 377

<sup>15</sup> (1920) 122 LT 44

<sup>16</sup> Margaret D. Fordham, 'Falsely Imprisoning The Legally Detained Person – Can The Bounds Of Lawful Detention Ever Be Exceeded?' <https://www.jstor.org/stable/24865807>> accessed 13 July, 2022

<sup>17</sup> 'India Needs a Stringent Law for Wrongful Imprisonment – A Study' (March 28, 2022) <

<https://knowlaw.in/index.php/2022/03/28/india-needs-a-stringent-law-for-wrongful-imprisonment/>> accessed July 13, 2022



## **2.6 National Legal Instruments Regarding False Imprisonment and Wrongful Detention**

### **2.6.1 The Constitution of the People's Republic of Bangladesh**

The constitution addresses the issue of false imprisonment and detention. The police or any other authority who are authorized to make arrest must have to follow the constitution. Article 32 of the constitution states that no person shall be deprived of life or personal liberty saves in accordance with the law.<sup>18</sup> This article makes it quite apparent that personal freedoms shouldn't be violated in any way. Under Article 32 of the Constitution, no one has the right to violate another person's privacy or take their life. On the basis of this, it may be claimed that anyone's long or short-term imprisonment without any offense is illegal and, as a result, in violation of Article 32. Thus, victims of false incarceration can file a writ under article 102(1). Furthermore, article 33 also gives wrongfully arrested or detained persons some fundamental and constitutional rights such as he must be told why he is arrested or detained, he has right to consult with his lawyer and family, he must be produced before the magistrate within 24 hours. If these fundamental rights are violated, the arrested or detained person may seek a writ of Habeus Corpas for enforcement of his rights under article 102.

### **2.6.2 The Penal Code, 1860**

False imprisonment and wrongful detention are addressed under section 340 of the penal code under the heading wrongful confinement. Furthermore section 220 of the penal code makes it an offence for law enforcing authority who corruptly or knowingly arrest or detained anyone who is innocent. It was held that a police officer arresting a person other than on reasonable ground is liable for prosecution under section 220.<sup>19</sup> Also, it was held that if a magistrate releases a person on the grounds that the accusation made him is not well founded then the magistrate must take cognizance that police officer who has committed the offence under 220<sup>20</sup>.

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<sup>18</sup> The Constitution of the People's Republic of Bangladesh, Art 32

<sup>19</sup> Alhaj Md. Yusuf Ali vs. The State 22BLD (2002) 231

<sup>20</sup> BLAST VS Bangladesh 55 DLR (HCD) (2003) 363

### 2.6.3 The Code of Criminal Procedure (CRPC), 1898

The Code of Criminal Procedure also gives safeguards as to false imprisonment and arrest. Section 54 states that a police officer can arrest without warrant on reasonable suspicion, thus they cannot utilize their power to arrest to their discretion. Section 60 contends that when a police officer arrests a person without warrant, that officer has the obligation to fulfil provision of the code as regard to bail and he have taken the arrested person to the officer in charge and to the magistrate who has jurisdiction. It is the fundamental rule of the criminal justice system that the arrested person must be produced before the magistrate as soon as the arrest. Section 61 more specifically states that a person cannot be kept in police custody more than 24 hours, he must be presented before the magistrate. Section 62 also creates obligation to police officer to make report on such arrest which are made without warrant. The main jurisprudence of this section is made accountable the police officials so that they cannot make mistake while making arrest.

### 2.6.4 Judicial Decision and Guideline to Prevent False Imprisonment and detention

In order to stop unfair arrest and detention and to safeguard persons from torture, Bangladesh's higher judiciary has taken a proactive approach. When arresting any civilian, HCD instructed law enforcement forces, particularly RAB, to adhere to the Code's requirements.<sup>21</sup> In case *Alhaj Md Yusuf Ali v State*<sup>22</sup> Alhaj Md Yusuf arrested on suspicion under s 54 of the Code of Criminal Procedure 1898. He was kept in the custody for six months, although no specific allegation was brought against him. In response to a bail request, the High Court Division freed the suspected offender and determined that, for the purposes of section 54 of the Code of Criminal Procedure, "reasonable suspicion in exercising power" meant a police officer's sincere belief that an offense had already been committed or was about to be committed. In *Ain o shalish Kendra vs. Bangladesh*<sup>23</sup> It was contested that prisoners in Dhaka Central Prison who had completed their

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<sup>21</sup> 'Arbitrary Arrest and Detention in Bangladesh' (Jul 2019) > [https://www.researchgate.net/publication/334204748\\_Arbitrary\\_Arrest\\_and\\_Detention\\_in\\_Banglades](https://www.researchgate.net/publication/334204748_Arbitrary_Arrest_and_Detention_in_Banglades)> accessed 20 Jul 2022

<sup>22</sup> (2002) 22 BLD 231 (HCD)

<sup>23</sup> [2005] 57 DLR (HCD) 11

terms of imprisonment were being held there unlawfully. In this case The HCD found that the continuing imprisonment of the individuals was illegal because it violated their fundamental rights as protected by articles 31, 32, 35 (1), and 36 of the Constitution.

## **2.7 International Legal Instruments Regarding False Imprisonment and Wrongful detention**

### **2.7.1 The Universal Declaration of Human Rights (UDHR), 1948**

UDHR recognizes and prohibits false imprisonment and wrongful detention under the heading of arbitrary arrest. Article 9 asserts that No one should be arbitrarily detained, imprisoned, or exiled.<sup>24</sup>

### **2.7.2 The International Covenant on Civil and Political Rights (ICCPR), 1966**

Bangladesh is signatory party to the ICCPR. ICCPR also addresses false imprisonment and wrongful detention. Article 9 clearly prohibits arbitrary arrest and detention, and also sub-article 9(5) states that,

“Anyone who has been the victim of an unlawful arrest or detention is entitled to compensation”<sup>25</sup>

### **2.7.3 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1988**

These international principles prescribed some particular methods in treating arrested and detained person. The main jurisprudence of these principle is to protect persons from any detention or imprisonment. Principle 2 states that Arrests, detentions, or imprisonment may only be carried out by law enforcement personnel who are competent to do so and who are authorized to do so in accordance the provision of the law. Principles 3 contends that All measures impacting a person's

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<sup>24</sup> United Nations, ‘Universal Declaration of Human Rights | United Nations’ (*United Nations*) <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed July 17, 2022.

<sup>25</sup> The International Covenant on Civil and Political Rights, 1966

human rights when they are subject to any type of detention or imprisonment must be ordered by, or effectively under the supervision of, a court or other authority. Principle 35 (1) specifically talks about compensation for the victims which run as follows:

“Damages resulting from public officials' actions or inactions that violate these principles' protections for rights must be compensated in accordance with the applicable laws or obligations prescribed by domestic law.”<sup>26</sup>

## **2.8 Conclusion**

Needless to say, to constitute a claim of false imprisonment period of confinement is not an essential factor; instead, unlawful confinement and intentional illegal detention are crucial factors. It is also clear from the above discussion that many national and international issues address false imprisonment and wrongful detention. But the loopholes in national legal instruments are that there is no provision for compensation for the victims of false imprisonment and wrongful detention. This chapter has discussed the conceptual aspect and legal framework of false imprisonment and wrongful detention and the next proceeding chapter will discuss about the present scenario of Bangladesh.

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<sup>26</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, 1988

## Chapter 3

### Present Scenario in Bangladesh

#### 3.1 Introduction

Concerningly, innocent people continue to be wrongfully detained and falsely imprisoned by law enforcement officials who are investigating cases, but officials who are conducting such investigations are remained unpunished. This chapter deals with false imprisonment and wrongful detention incidents in Bangladesh over the last few years and the dominating factors of false incarnation.

#### 3.2 Dominating Factors of False Imprisonment and Wrongful Detention in Bangladesh

##### 3.2.1 Forced Confession

It is easier to conduct a criminal investigation when someone confesses during court proceedings. But the law enforcement agencies such as the police, and Rapid Action Battalion (RAB) frequently torture the accused in remand to take confession. Torture in police custody is a very common phenomenon now in Bangladesh and such torture leads to forced confession<sup>27</sup>. Many detainees claimed that they were warned by the police officers that if they didn't confess, they would face serious torture<sup>28</sup>. Md Abdullah and two others were compelled to make a false

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<sup>27</sup> Atiqur Rahman, 'Ensuring Compensation for the Victims of Wrongful Imprisonment and Wrongful Detention' (2020) [https://www.researchgate.net/publication/341840026\\_Ensuring\\_Compensation\\_for\\_the\\_Victims\\_of\\_Wrongful\\_Imp\\_risonment\\_and\\_Wrongful\\_Detention\\_in\\_Bangladesh](https://www.researchgate.net/publication/341840026_Ensuring_Compensation_for_the_Victims_of_Wrongful_Imp_risonment_and_Wrongful_Detention_in_Bangladesh)> accessed 14 August 2022

<sup>28</sup> ibid

confession of the murder of a Narayanganj girl who disappeared and then reappeared one and a half months later.<sup>29</sup>

### 3.2.2 Conflicting Reflection of Presumption of Innocence

Presumption of innocence is one of the familiar maxims and cardinal rule in criminal jurisprudence. This rule contended that an accused is presumed to be innocent, unless and until his guilt is proved beyond reasonable doubt. But Bangladesh hypocritically adheres to the presumption of guilt beyond innocence, which, to put it simply, causes wrongful imprisonment. A report by world prison brief shows that 80.0% of Bangladeshi prisoners are pre-trial detainees or under remand.<sup>30</sup> There is a wide possibility that many of the pre-trial detainees are innocent. Many such detainees were robbed of their fundamental rights as because of suspicion. Thus, gradually they become the victims of false imprisonment by ignoring the rule of presumption of innocence.

### 3.2.3 Politically Influenced Law Enforcement Agencies

One of the major motivating factors of false imprisonment and wrongful detention in Bangladesh is that law enforcement officials are getting influenced politically. Being motivated politically law enforcing agencies detain and arrest the citizens of the country.<sup>31</sup> According to BNP Secretary General Mirza Fakhrul Islam Alamgir, the party's 25,70,547 leaders and activists have been accused of being involved in 90,340 false cases during the last ten years.<sup>32</sup> Two prominent Bangladeshi opposition leaders are subject to an enforced disappearance.<sup>33</sup> Mir Ahmed Bin Qasem

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<sup>29</sup> Nurul Amin & Rezaul Karim, 'I raped and killed her': Story of forced confession' The Business Standard (Bangladesh, 13 Nov 2020) < <https://www.tbsnews.net/bangladesh/crime/i-raped-and-killed-her-story-forced-confession-157696?amp> > accessed 14 August 2022

<sup>30</sup> "Bangladesh | World Prison Brief" (Bangladesh | World Prison Brief, January 1, 2000) <<https://www.prisonstudies.org/country/bangladesh>> accessed August 15, 2022

<sup>31</sup> Atiqur Rahman, 'Ensuring Compensation for the Victims of Wrongful Imprisonment and Wrongful Detention'(2020)[https://www.researchgate.net/publication/341840026\\_Ensuring\\_Compensation\\_for\\_the\\_Victims\\_of\\_Wrongful Imprisonment\\_and\\_Wrongful\\_Detention\\_in\\_Bangladesh](https://www.researchgate.net/publication/341840026_Ensuring_Compensation_for_the_Victims_of_Wrongful Imprisonment_and_Wrongful_Detention_in_Bangladesh) accessed 15 August 2022

<sup>32</sup> '2.5m BNP activists implicated in 90,340 'false' cases in 10 yrs: Fakhrul' The Financial Express (06 October, 2018) < <https://thefinancialexpress.com.bd/national/25m-bnp-activists-implicated-in-90340-false-cases-in-10-yrs-fakhrul-1538814396> > accessed 15 August 2022

<sup>33</sup> 'Bangladesh' End illegal detentions immediately < <https://www.amnesty.org/en/latest/news/2016/08/bangladesh-end-illegal-detentions-immediately/> > accessed 15 August 2022

and Hummam Qader Chowdhury were arrested without warrants or charges, and have not been produced before a magistrate and both men were at the headquarters of the Rapid Action Battalion (RAB).

### **3.2.4 Other Miscellaneous Factors**

There is other several factors behind false incarceration and wrongful detention in Bangladesh. Procedural delay is an aggravating factor. Delay disrupts the administration of justice. The well-known maxim Justice delayed is justice denied has a clear reflection in Bangladesh. Abdul Jalil spent 15 years in prison, then HC ordered his immediate release.<sup>34</sup> non-granting of bail is another reason for wrongful detention. If someone is charged with a crime for which bail is permitted by law, they must be given the opportunity to get bail in accordance with the legal process. ineffective defense counsel is also one of the causes of illegal detention. While many believe that the defense lawyer should shield the defendant from the errors of others, research has shown that incompetent defense lawyering was the main cause of false imprisonment, which leads to the incorrect conviction.<sup>35</sup>

### **3.3 Trends of fraudulent police practice and incidents of Illegitimate Imprisonment**

Numerous citizen and opposition activists in Bangladesh have been unlawfully detained and imprisoned in secret detention centers without being brought before the court as required by law. Before being formally arrested or released, persons who are detained end up spending weeks or months in jail. Though others are assassinated in alleged armed conflicts, many others are still listed as disappeared. Violations of human rights by Bangladeshi law enforcement forces are nothing new. According to the State Department of the United States, forced disappearances by law enforcement official, unlawful or illegitimate detentions, and targeted executions are

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<sup>34</sup> Ashutosh Sarkar, 'Justice stumbles at every step' The Daily Star ( Bangladesh, May 26, 2016)< <https://www.thedailystar.net/frontpage/justice-stumbles-every-step-1229578>> accessed 16 August 2022

<sup>35</sup> Brittnay Lea-Andra Morgan, 'Wrongful convictions: reasons, remedies' (Graduate School Thesis, Appalachian State University 2014)

Bangladesh's most serious human rights violations.<sup>36</sup> The DB, RAB, SB, and DGFI are suspected of arbitrary arrest and wrongful detention.<sup>37</sup>

### 3.3.1 The Table of Incident of False Imprisonment and Wrongful detention

Name	Incident
Falzu Miah	55-year-old Fazlu Miah has been held without charge at Sylhet Central Jail for 22 years for no offence. According to official documents, he was detained in Sylhet in July 1993 under section 54 of the Criminal Procedure Code and then charged with "wandering at large" while a person of unsound mind under section 13 of the Lunacy Act 1912. After serving 22 years in prison for no crime, he was finally freed on October 15, 2015. <sup>38</sup>
Abdul Jalil	Abdul Jalil was juvenile when he was tried under wrong law for rape. The District and Sessions Judge of Bhola formed the Juvenile Court for holding the trial, no rules of the Children Act 1974 were followed in the process. Later, the Women and Children Repression Prevention Tribunal, not the Juvenile Court, tried the case and sentenced Jalil to life considering him an adult person <sup>39</sup> . He spent 15 years in prison, then HC ordered his immediate release and given 50 lacs taka as

<sup>36</sup> United States Department of State, 2021 Country Reports on Human Rights Practices: Bangladesh(2021)< <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/bangladesh>> accessed 17 Aug 2022

<sup>37</sup> Dr. Abdullah Al Faruque, 'Analysis of the decision of the higher judiciary on arrest and detention in Bangladesh'( National Human Rights Commission January 2013)< <https://www.yumpu.com/en/document/read/42434882/arrest-and-detentionpdf-nhrc-bangladesh>> accessed 17 August 2022

<sup>38</sup> MD Mustakiur Rahman, ' Lawful Arrest and false imprisonment' The Daily Star, ( Bangladesh Oct 27 2015)< <https://www.thedailystar.net/law-our-rights/rights-advocacy/lawful-arrest-and-false-imprisonment-162703>> last accessed 17 Aug 2022

<sup>39</sup> Ashutosh Sarkar, 'Justice stumbles at every step' The Daily Star (Bangladesh, May 26, 2016) < <https://www.thedailystar.net/frontpage/justice-stumbles-every-step-1229578>> accessed 18 August 2022



	compensation <sup>40</sup> .
Javed Ali	Javed Ali from Satkhira, who was sentenced to 13 years in jail after being found not guilty of a murder. <sup>41</sup>
Jahalam	Jahlam was an ordinary jute mill worker who spent three years in prison after being falsely convicted of corruption by the Anti-Corruption Commission (ACC) and a commercial bank. Jahalam was freed from jail as a result of a High Court decision. He had been wrongfully accused of 33 instances of corruption. In this instance, the ACC acknowledged that they charged Jahalam as Abu Salek in error. <sup>42</sup>
Unknown	A mentally challenged man has reportedly spent time in jail without being charged with a crime and the disabled person has been incarcerated in Jhenaidah Jail for almost three years based only on a General Diary (GD) <sup>43</sup>

<sup>40</sup> ibid

<sup>41</sup> Anika Tahsin, 'A grim picture of wrongful convictions in Bangladesh' (Bangladesh 29 Nov 2020) <<https://www.tbsnews.net/thoughts/grim-picture-wrongful-convictions-bangladesh-164614>> accessed 18 Aug 2022

<sup>42</sup> ibid

<sup>43</sup> 'Mentally Retarded in Jail for three Years Without case '(Bagladesh 5 Aug 2022)<<https://bangla.dhakatribune.com/bangladesh/2022/08/05/16597150232533>> accessed 18 August 2022

Shipon	In 1994, he was in prison without trial for 17 years in a murder case in Sutrapur, Dhaka. he was neither granted bail nor tried. Lawyer Kumar Debul De, who brought his matter to the notice of the High Court, said the High Court granted him bail and asked him to complete the trial within six months. Shipon was found innocent in that trial. 17 years have been lost in between. <sup>44</sup>
Rozina Islam	Rozina Islam, a senior journalist, was detained by the authorities on May 17, 2021 on suspicion of stealing secret papers and espionage but nothing specific proof of a clearly defined criminal offense was provided. <sup>45</sup>
Awlad Hosen	Awlad Hossain has been detain is custody for 68 on false warrant. According to report, he was arrested in a case of torture of women and children in Cox's Bazar. He was brought from one jail to another and from one court to another. Awlad was released on January 6, 2020 by order of the High Court after 68 days of detention. <sup>46</sup>

<sup>44</sup> ' No bail, no trial' ( 8 Aug 2021)<  
<https://amp.dw.com/bn/%E0%A6%9C%E0%A6%BE%E0%A6%AE%E0%A6%BF%E0%A6%A8-%E0%A6%A8%E0%A6%BE%E0%A6%87-%E0%A6%AC%E0%A6%BF%E0%A6%9A%E0%A6%BE%E0%A6%B0-%E0%A6%A8%E0%A6%BE%E0%A6%87/g-58839584>> accessed 19 Aug 2022

<sup>45</sup> "Bangladesh Archives" <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/bangladesh/report-bangladesh/#endnote-3>> accessed August 18, 2022.

<sup>46</sup> 'Imprisonment for 68 days on fake warrant, compensation 32 lakh taka Awlad Hosen'(01 Aug 2022)<  
<https://www.youtube.com/watch?v=OV3y1dNbbb4&list=LL&index=5>> accessed 19 Aug 2022

### **3.4 Conclusion**

False imprisonment and wrongful detention have become a practice that has unfortunately become completely routine in Bangladesh. Bangladeshi law enforcement agencies have a lengthy record of illegal detention, torturing detainees, and using other cruel methods when they are under custody. Hence it is high time Bangladeshi authorities must immediately stop unlawful detentions and adopt measures to prevent negligence of law enforcement officials. This chapter thoroughly analyses the present scenario in Bangladesh in connection with that, next chapter will discuss the effective remedies for the victims of false imprisonment and wrongful detention.

## Chapter 4

### Compensation as an Effective Remedy

#### 4.1 Introduction

In contemporary Bangladesh, one of the numerous crucial matters that trouble the Bangladeshi legal system is false incarceration and wrongful detention and providing adequate compensation to victims of such unlawful acts. Victim compensation is a universally accepted principle. But in Bangladesh, no specific provision exists for seeking compensation for false imprisonment and illegal detention. This chapter gives a hypothesis on the fact why compensation is an effective remedy and how to enable the right of compensation for the victims of false imprisonment and wrongful confinement.

#### 4.2 Ensuring Compensation by the Way of Constitutional Tort

In Bangladesh there is no statute for demanding compensation for wrongs false and illegal detention committed the by the law enforcing agencies. Right now, the victims have to file constitutional tort litigation. A constitutional tort is the breach of a citizen's constitutionally assured fundamental rights by a local authority or government servant. When someone's fundamental rights are violated, the aggrieved individual has a right to legal redress in the form of damages and this type of litigation is known as constitutional tort litigation.<sup>47</sup> Article 102(1) of the constitution is applied to invoke the award of compensation as a remedy in cases of constitutional tort. According to article 32 of the constitution, "No individual shall be deprived of life, or personal liberty, save as provided by law."<sup>48</sup> Under Article 32 of the Constitution, no one has the right to

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<sup>47</sup> Lawlegum, 'Concept of Constitutional Tort in Bangladesh' (Lawlegum.com, 7th July 2021) <  
<https://lawlegum.com/constitutional-tort-concept-in-bangladesh/#:~:text=Constitutional%20tort%20litigation%20is%20a,her%20fundamental%20rights%20are%20violated> >accessed 20 Aug 2022

<sup>48</sup> The Constitution of the People's Republic of Bangladesh

violate another person's privacy or take their life. On the basis of this, it may be claimed that anyone's long or short-term imprisonment without any offense is illegal and, as a result, in violation of Article 32. Thus, victims of false incarceration can file a writ under article 102(1). Under article 102(1), what form of legal remedies shall be awarded to the victim for the violation of their fundamentals rights is the discretionary power of the Court. The case of *CCB Foundation v Government of Bangladesh*<sup>49</sup> is incredibly significant since it created a victim's right to compensation under public law for the first time in the history of our domestic jurisprudence. In this case doctrine of negligence was adopted and awarded compensation of 20 lacs taka to the Jihads family, who lost his life due to the negligence of Bangladesh Railway Board and Bangladesh Fire Services and Civil Defense. In this case Court find that the notion of sovereign immunity is not allowed within our constitutional structure, in contrast to the Indian Constitution's (Article 300). Therefore, the courts have the authority to grant monetary compensation to the affected family for a violation of the right to life, which is protected by Article 32 of the constitution. The court ruled that the recipient of monetary compensation under public law would not be prevented from pursuing private legal claims for compensation. In assessing claim of compensation for the wrongs of wrongful imprisonment and illegal detention a landmark case of Indian jurisprudence can be taken into consideration. In the case of *Rudul Sah v State of Bihar*<sup>50</sup> Rudul sha was illegally detain for 14 years. This is the first case where the state liability was first introduced. In this case for the first time, the court must decide whether to pay damages for the infringement of a guaranteed fundamental right to life under Article 21 of the Constitution. In deciding a vital issue came up - Whether in exercise of jurisdiction under Article 32, the court can pass an order for payment of money?<sup>51</sup> In resolving the issue and ordered the State to pay compensation to the victim of illegal detention. The court said refusal to grant monetary compensation would be 'mere lip service' to his precious right to liberty. It ruled that the state has so grossly infringed on the man's fundamental right to freedom.<sup>52</sup>

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<sup>49</sup> 279 5 CLR (HCD) [2017]

<sup>50</sup> (1983) 4 SCC 141

<sup>51</sup> Lawlegum, 'Concept of Constitutional Tort in Bangladesh' (Lawlegum.com, 7th July 2021) <<https://lawlegum.com/constitutional-tort-concept-in-bangladesh/#:~:text=Constitutional%20tort%20litigation%20is%20a,her%20fundamental%20rights%20are%20violated.>>> accessed 21 Aug 2022

<sup>52</sup> ibid

In light of the above cases, it is evident that Article 102(1) has given immense power to SC to grant monetary compensation to the affected party for breach of fundamental rights. Thus, the victims of false imprisonment and wrongful detention can claim compensation against law enforcement agencies for infringement of fundamental rights. Hence monetary compensation under article 102 of the constitution could be considered as an effective remedy for the victims of false imprisonment and wrongful detention.

### **4.3 Number of successful cases of getting compensation in Bangladesh**

Even though there isn't a statute that specifically addresses compensation, we have found multiple instances where the Bangladesh Supreme Court's High Court Division ruled that the government must pay a man who has gradually become the victim of false and wrongful detention.

In the case of *Bilkis Akhter Hossain Vs. Bangladesh and others*<sup>53</sup> where the HCD for the first-time applied Article 102(1) of the constitution to give monetary compensation. In this case the petitioner Bilkis Akhter wife of politician Dr. Khandakar Musharraf Hossain filed writ petition on and contended that her husband was detained illegally. Additionally, he claimed that his rights to life, liberty, and freedom as guaranteed by articles 36, 37.31, and 32 of the Bangladeshi Constitution, respectively, had been violated by his detention. The petitioner brought up the question of monetary compensation and expenses for the infringement of those rights that were protected. The courts found that the detention was unlawful and that the detention order had not been made with due consideration and the for the first time, the court granted each detainee compensation in the amount of one lakh taka.<sup>54</sup> As stated by the Court, detaining someone without following the proper legal procedures violates their fundamental rights, which are protected by our constitution. And under Article 44, when read with Section 102, any person whose right has been violated may go before the High Court to seek remedy.

In *Abdul Jalil* case he prosecuted for rape under the incorrect statute, he was a minor. No regulations of the Children Act of 1974 were observed in the formation of the juvenile court by

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<sup>53</sup> (1997) 17 BLD (HCD) 395

<sup>54</sup> Bangladesh Journal of legal studies, 'Bilkis Akter Hossain v. Government of Bangladesh, (1997) 17 BLD (HCD) 395( Mar 14,2016) <https://bdjls.org/bilkis-akter-hossain-v-government-of-bangladesh-1997-17-bld-hcd-344-2-mlr-1997-113/> accessed on 21 Aug 2022

the District and Sessions Judge of Bhola. He imprisoned for 25 years for no offence, then He spent 15 years in prison, then HC ordered his immediate release and given 50 lacs taka as compensation.

In *Javed Ali* case who was imprisoned for 13 years in jail after being found not guilty of a murder. In this case The HCD issued a regulation ordering Tk20,000.00 in compensation for Javed Ali from of the government.<sup>55</sup>

In *Jahalam* case Jahlam was freed from jail after being wrongly convicted of corruption by the Anti-Corruption Commission (ACC) and a commercial bank. He had been wrongfully accused of 33 instances of corruption. The ACC acknowledged that they charged Jahalam as Abu Salek in error.<sup>56</sup> In this incident the HCD also directed the govt. to pay 15 lacs to Jhalam.<sup>57</sup>

#### 4.4 Impact on the victims

In recent decades, issues concerning false imprisonment incidents have grown in most countries, but little is known about how these injustices affect people psychologically. The challenges faced by persons who were wrongfully imprisoned and their families matched those groups, such as war veterans, who have experienced long-term psychological trauma.<sup>58</sup> False imprisonment and illegal detention leave an irreparable mark on a person's life. Reintegrating into society after release is incredibly difficult due to the victim's psychological and financial problems as well as the loss of precious and irrecoverable time and years of their lives. Prof Wilson of Cleveland State University conducted a study on the psychological effects of wrongful imprisonment, and it was discovered that the majority of exonerees undergo a variety of distinct psychological disorders after their incarceration.<sup>59</sup> In addition to psychological effects, the person

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<sup>55</sup> Anika Tahsin, 'A grim picture of wrongful convictions in Bangladesh' (Bangladesh 29 Nov 2020) < <https://www.tbsnews.net/thoughts/grim-picture-wrongful-convictions-bangladesh-164614>> last accessed 23 Aug 2022

<sup>56</sup> ibid

<sup>57</sup> "High Court order to pay compensation of 15 lakhs to Jahalam" Prothom Alo ( 30 Sep, 2020)< <https://www.prothomalo.com/bangladesh/video/%E0%A6%9C%E0%A6%BE%E0%A6%B9%E0%A6%BE%E0%A6%B2%E0%A6%AE%E0%A6%95%E0%A7%87-%E0%A7%A7%E0%A7%AB-%E0%A6%B2%E06>> accessed on 23 Aug 2022

<sup>58</sup> Adrian T. Grounds, 'Understanding the Effects of Wrongful Imprisonment' (2015) < <https://www.jstor.org/stable/3488358>> accessed on 23 Aug 2022

<sup>59</sup> Udai Yashvir Singh and Smita Singh, Right to Compensation for Wrongful Prosecution, Incarceration, and Conviction: A Necessity of the Contemporary Indian Socio-Legal Framework < <https://www.ijlmh.com/paper/right->

may experience a variety of other negative consequences, including harm to their health, a loss of earnings or income, a loss of property, the cost of litigation fees, and other consequential expenses resulting from the wrongful imprisonment such as the loss of their family life, a loss of opportunities (for education, a way support themselves in the future, or skills), and reputational damage, as well as psychological and emotional harm to the victim's family.

#### **4.5 Factors in Assessing Compensation**

As it is pointed out in this research earlier, there is no codified or statutory law to determining the compensation for the victims of false imprisonment and detention. Thus, compensation is awarded on the case basis with regard to Pecuniary and non-Pecuniary loss. Pecuniary loss such as loss of earning and future earning, litigation costs and additional costs associated with being imprisoned, including costs to the family. And non-pecuniary loss such as psychological and mental injury, Character or reputation damage, damage to feelings resulting from false incarceration and illegal detention. Any expenses, legal or otherwise, spent by the claimant in proving his innocence or pursuing the compensation claim will be taken into consideration by the assessor when determining the amount of the assessment.<sup>60</sup> The case of *Bangladesh Beverage Industries Limited vs. Rowshan Aktar and others*<sup>61</sup> can be taken into consideration while assessing compensation. In this case a newspaper reporter was due to accident with a mini truck that came up from the wrong side and the negligence of that truck driver was proved. Hence, the HCD give compensation of Tk 3, 52, 97,000 but, AD and upheld the ruling by changing the amount to TK 1, 71, 47,008. In this case, while determining the Compensation Amount, the quantification of damages and the identification of the types of damages were taken into consideration. Which are the victims' monthly income until retirement, annual increases, income from writing articles, lack of fatherly affection and care due to the presence of minor sons,

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to-compensation-for-wrongful-prosecution-incarceration -a-necessity-of-the-contemporary> accessed on 24 Aug 2022

<sup>60</sup> A Report by Justice, 'Compensation for Wrongful Imprisonment'(London 1982)<

<https://archives.novascotia.ca/pdf/marshall/RG44v271n8-ReportJustice-1.PDF>> accessed 24 Aug 2022

<sup>61</sup> (2016) 4 CLR (AD) 411



the cost of the children's education, the impact of the wife's sudden widowhood and the loss of the husband's care and love, as well as any other potential income and family losses.

## **4.6 Conclusion**

It is evident from the discussion above that false imprisonment and wrongful detention, as well as providing adequate compensation to those who have been the victims of such illegal acts, are among the many important issues that trouble Bangladesh's legal system today. Therefore, considering all the adverse effects caused due to wrongful imprisonment and unlawful detention, it becomes compulsory for the state to rectify the wrongs caused by law enforcement agencies and help the victim integrate again into society by adequately compensating them. Hence, this chapter has discussed why compensation is an effective remedy to address victims' grievances. Furthermore, related to that, next will give some recommendations and a concluding statement.

## Chapter 5

### Recommendations and Conclusion

#### 5.1 Findings

- 1) There is no statutory law for compensating victims of false imprisonment and wrongful detention in Bangladesh, unlike in the USA, Canada, France, and Sweden.
- 2) Also, no statutory provision specifically defines false imprisonment, arbitrary arrest, wrongful conviction, and illegal detention.
- 3) Right now, in Bangladesh, the victims of false incarceration and wrongful detention have some indirect remedies. The decision to award compensation and the amount of compensation remains at the discretion of the court under the current system, and the remedy of compensation results in an ex-gratia obligation rather than a statutory obligation on the part of the State to compensate.
- 4) The government has not implemented an adequate punishment system for police officers and other people involved in the conspiracy who have unlawfully incarcerated innocent people.
- 5) Section 54 of CrPC, 1898 has empowered the police officer to arrest any person without a warrant on reasonable suspicion and credible information. But such reasonable suspicion and credible information lack a clear definition, giving the police plenty of room to abuse their power to cause false imprisonment and wrongful detention.
- 6) The study finds that, False incarceration and wrongful detention victims lack of the resources and capacity to challenge the negligence of police power and seek redress in court. Also, the law enforcement agency sometimes intimidates victims and their families into taking action against them.

- 7) Costly access to justice procedural delay is an obstacle in claiming compensation. Generally, in Bangladesh, legal system to get a remedy from the Court is very time-consuming and costly. Besides, if a judgment is obtained and the subsequent execution of those orders takes years.
- 8) The HCD seems the only body which has determined compensation in some cases. By case-to-case HCD has decided the appropriate amount for the victims of false imprisonment and wrongful detention.
- 9) The Apex Court has the power to apply tort and thus, empowered to assess compensation for the victims. Whereas the subordinate Court does not have the power to apply tort law principle neither has awarded compensation to victims of false imprisonment.
- 10) The complexity of providing compensation to victims of false incarceration and unlawful detention is caused by the lack of development of tort law in our jurisprudence.
- 11) Bangladesh as a signatory party to the ICCPR, requires to take effective step to compensate the victims of false imprisonment and wrongful detention. Regrettably, till now Bangladesh does not take adequate step to compensate the victims.
- 12) This study also finds that the law commission, NHRC and civil society of Bangladesh does not show adequate concern to pay compensation to the victims.

## **5.2 Recommendations**

- 1) This paper's first recommendation is to make the legislation of claiming compensation for the victims of false imprisonment and wrongful detention.

- 2) The state needs to pass legislation right away in the essence of tort that includes a provision compensating those who are falsely incarcerated and detained without justification.
- 3) There should be clear a statutory provision which specifically defines false imprisonment, wrongful convictions, arbitrary arrest and illegal detention.
- 4) Also, this paper suggests that, the both monetary and non-monetary compensation would be included in the statutory framework for compensation for the victims of false imprisonment and detention. The non-pecuniary type of compensation would include state-provided services including counseling, mental health assistance, and the development of vocational skills.
- 5) A clear and precise method of measuring compensation claims should be available, along with guidelines for calculating damages, for the proper solution of the uncertainty issues adjusting to getting compensation.
- 6) The award for compensation should include any reasonable expenses incurred by the victims in proving his innocence.
- 7) The apex court of Bangladesh should give direction and training to its subordinate courts to entreat tort law principals in giving compensation. Thus, a special law should be enacted to give compensation to the victims of false imprisonment and this law should be tried by the subordinate courts also and the claimant who seeks remedy under this law should have pay a fixed court fee (Minimum fee) as opposed to Ad valorem fee in claiming compensation.
- 8) The non-governmental organizations and civil society must take a proactive role in assisting the victims of such wrongful imprisonment in approaching the appropriate courts and asserting their legal rights.

- 9) State should implement an adequate punishment system for police officers and other people involved in the conspiracy who have unlawfully incarcerated innocent people.
- 10) The state should have the liberty to recover the portion compensation amount from the salary or pension of law enforcement officials or any other officer of the republic who is involved in wrongfully incarcerating innocent people.
- 11) The state should arrange proper and effective training for law enforcement agencies such as Police, RAB, SB and others to perform their duty prudently. Also, raise public awareness to prevent false imprisonment and wrongful detention.

### **5.3 Conclusion**

False imprisonment and wrongful detention are regarded as a miscarriage of justice world widely. Recently, unlawful imprisonment and illegal detention have grown widespread in Bangladesh. The law enforcement officers are detaining individuals without a warrant, and it has been found that many of them were held for offenses that do not even fall within Bangladeshi law. As a result, several innocent persons have been falsely jailed and illegally detained in Bangladesh throughout the years. As several causes contribute to this issue, which has to be resolved right now as because it is the victims who suffer most and since there are too many cases for the Bangladeshi judicial system to handle, it is crucial for the state to uphold innocent people's rights in this situation. In Bangladesh, some statutes address the offence of false imprisonment and wrongful detention, but none of these statutes does contain a provision that addresses compensation which would mitigate the sufferings of the victims. Although the apex court in Bangladesh has given some remedy as compensation to the victims. But this type of remedy is decided case to case basis. Consequently, this form of remedy for compensation creates an ex-gratia burden rather than a legal obligation for the State to provide compensation. Since the state cannot give the victim back the years, family life, opportunities, etc. that were lost due to false imprisonment and illegal, wrongful detention, it can still help the victim to reintegrate back into society by offering monetary and non-monetary compensation as a result, which would minimize the suffering of the victim as well as

his/her family. Hence, it the high time for Bangladesh to adopt a compensatory law for the victims of false imprisonment and illegal detention and in doing so state must take adequate punishment system for law enforcement officers and other people involved in the conspiracy who have unlawfully incarcerated innocent people.

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