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A Comparative Analysis of Constitutional Tort Law in Bangladesh and India: Legal Frameworks, Principles, and Implications for Civil Rights

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Constitutional Tort Law is essential for every legal system because it allows citizens to take necessary action against the government or stakeholders if they violate their fundamental rights. Bangladesh and India are two major countries on the South Asian subcontinent, and they have their distinct constitutional framework that regulates the connection between the state and its population. The research contends that several obstacles remain that require attention, including insufficient knowledge among individuals regarding their inherent rights and the legal recourse accessible to them, as well as the ambiguity in implementing the constitutional tort theory. This research seeks to answer this question by providing insights into the legal structure that plays a vital role in establishing the relationship between citizens and the state in these two countries' constitutional tort laws. In addition, it will be a great resource for policymakers, lawyers, and academics interested in learning how to preserve the rights of the people and the rule of law within the legal systems of Bangladesh and India. This research is qualitative, and there is both primary and secondary data. The author has focused on formal print media and landmark case judgments in this paper. The research will conclude with specific recommendations for implementing new codified laws or policies and some key specific findings where further inquiry is required.

Keywords: *constitutional tort law, tort, constitution, Bangladesh, India.*

INTRODUCTION

Constitutional Tort Law is essential for every legal system because it allows citizens to take necessary action against the government or stakeholders if they violate their fundamental rights. Bangladesh and India are two major countries on the South Asian subcontinent, and they have their distinct Constitutional framework that regulates the connection between the state and its population.

The Indian approach to constitutional torts was unique and did not follow regular procedures or lower courts. In the 1997 case of *Bilkis Akhtar Hossain v. Bangladesh*, the High Court Division of the Bangladesh Supreme Court upheld the Indian method and granted damages to political prisoners detained without legal authority by government representatives.¹ Article 102 of the Bangladeshi Constitution², correlated with Article 32 of the Indian Constitution³, acted as a basis for the award.

This study aims to shed light on the issue of how Constitutional Tort Law operates in these two countries and the effect it has on protecting Civil Rights. Despite having a common past formed by the British colonial rulers, the Constitutional and legal developments of the two countries could not be more different. It demands an analysis of a comparison of their respective legal foundations, principles, and implementations of the Constitutional Tort Laws in both Bangladesh and India.

OBJECTIVES OF THE STUDY

To protect civil rights, this study addressed the following question: How do the Constitutional Tort Laws of Bangladesh and India vary concerning their legal frameworks, principles, and practical implications for protecting civil rights? This research is motivated by a desire to find how different nations handle Constitutional Tort law and how these approaches can be modified better to uphold the values of fairness, responsibility, and Civil Rights Protection.

¹ *Bilkis Akhtar Hossain v Bangladesh* (1997) 17 BLD 395 (HCD)

² The Constitution of the People's Republic of Bangladesh 1972, art 102

³ The Constitution of India 1950, art 32

This research seeks to answer this question by providing insights into the legal structure that plays a vital role in establishing the relationship between citizens and the state in these two countries' constitutional tort laws. In addition, it will be a great resource for policymakers, lawyers, and academics interested in learning how to preserve the rights of the people and the rule of law within the legal systems of Bangladesh and India.

RESEARCH QUESTION

1. How do the Constitutional Tort Laws of Bangladesh and India vary regarding their legal frameworks, principles, and practical implications for protecting civil rights?
2. In light of the comparative analysis of constitutional tort law in Bangladesh and India, what recommendations can be made for legal reforms or improvements that ensure civil rights and enhance accountability in Bangladeshi legal systems?

SIGNIFICANCE AND RELEVANCE OF THE RESEARCH

This study seeks to examine the legal framework and remedies provided by Constitutional Tort law in Bangladesh and India, to evaluate their relevance. This research finds the comprehend the reasoning and context underlying judicial decisions in tort cases. Furthermore, it investigates the methodologies employed to determine the absence of any specific legislation enacted by the parliament to address this legal element. Tort law in Bangladesh is a combination of common law principles and statutory law, which have been formulated by judges and lawmakers. The remuneration scale fluctuates depending on the rationale of judges and advocates.

RESEARCH METHODOLOGY

This research is qualitative. The data has been gathered from secondary sources. When conducting research, my study paper incorporates primary sources such as statutes, judicial decisions, and case law was utilized. Secondary materials such as books, national and international journals, online journals, newspaper article websites, and researchers' blogs are taken into account.

HISTORICAL DEVELOPMENT AND PRINCIPLES OF CONSTITUTIONAL TORT LAW IN BANGLADESH AND INDIA

Introduction: A constitutional tort is a legal procedure that has been progressively utilized by the judiciary to establish vicarious liability of the State for the conduct of the employees or servants, to enforce responsibility. This chapter will examine the development of the constitutional tort mechanism and evaluate the principles of constitutional tort law in Bangladesh and India through a comprehensive analysis of existing literature.

Overview of Constitutional Tort Law and its Importance: A tort is an area of law, where you can file a claim for damages after someone does something wrong or unlawful act. Therefore, the goal is to get the person back to how they were before the accident. A proverb goes, '*Every right desire a remedy.*' The idea of tort law is thought to be an improvement on this saying. The English word '*tort*' comes from the Latin word '*tortum*,' which means '*crooked*' or '*twisted*.' A wrongful act hurts someone else, whether on purpose or by chance. The word '*wrongful*' comes from the French word for "*wrong*." Any claims of negligence fall under tort law because they are intentional wrongs that cause harm. Also, tort law is one of the most important areas of the law, along with contract law, property law, and criminal law. More legal cases are brought against it than any other branch of law.⁴

A constitutional tort refers to the violation of fundamental rights that are constitutionally protected, and committed by a local authority or a government servant or employee. Constitutional tort law litigation refers to a formed legal action in which an aggrieved party is eligible to seek legal redress which is monetary compensation if any of their fundamental rights are violated. Essentially, it involves a violation of an individual's constitutionally protected rights, often leading to detriment or harm to the affected party.

In modern democratic society, the legal maxim *Salus Populi Suprema Lex*, indicating that the welfare of the people had the highest priority, started receiving more attention. Consequently,

⁴A S M Tariq Iqbal, 'Scope and Application of Constitutional Tort in Bangladesh: An Analytical Study' (2022) 6(2) Journal of Creative Writing <<https://jrcrwriting.com/index.php/jocw/article/download/61/58>> accessed 21 December 2023

the actions and inactions of the state authority and successor authorities were subject to scrutiny by the judiciary.⁵

Constitutional torts are crucial for safeguarding citizens' constitutional rights and holding government officials accountable for violations. They provide individuals with a legal mechanism to seek redress for harm caused by government actions.

Existing Literature on Constitutional Tort Law in Bangladesh: The application of tort law principles by the judiciary in the context of Constitutional tort litigation involves the application of tort law concepts by the courts to establish the accountability of state officials for violating basic rights or imposing restrictions on their powers. Constitutional tort litigation predominantly involves the application of legal doctrines such as vicarious liability, strict liability, negligence, and *res ipsa loquitur* by the courts.

Observations on Constitutional Tort Litigation Certain rights are recognized in many human rights documents as a broad representation of human cognitive abilities. Human rights are considered to be inherent, and indispensable for the establishment of a satisfactory quality of life.⁶ According to *Dr. Muhammad Ekramul Haque*, the legal definition of 'Fundamental Rights' includes the notion that the right to superior protection surpasses both the rights acknowledged by the constitution and other rights. Talking of fundamental rights, *TK Top stated*: "Fundamental rights are meant to guarantee that certain rights are insufficient to withstand political change, as well as to attain a higher degree of national certainty among the people"⁷. According to *Taqbir Huda*, Public law compensation in the framework of Bangladesh, consequently, encompasses awards of compensation under Art 102(1) against the state or its officials for their violations of these constitutionally guaranteed fundamental rights.⁸ Article

⁵ Malik Fariha, 'Concept of Constitutional Tort in Bangladesh' (*Law Legum*, 2 September 2022) <<https://lawlegum.com/constitutional-tort-concept-in-bangladesh/>> accessed 21 December 2023

⁶ Muhammad Ekramul Haque, 'Protecting Fundamental Rights Through Restricted Legislative Competence: Application of the Doctrine of Eclipse and Severability' (2006) 17(1) Dhaka University Studies <<https://journal.library.du.ac.bd/index.php/DULJ/article/view/1547/1456>> accessed 21 December 2023

⁷ TK Tope, *Constitutional Law of India* (1st edn, Eastern Book Company 1988)

⁸ Taqbir Huda, 'Fundamental Rights in Search of Constitutional Remedies: The Emergence of Public Law Compensation in Bangladesh' (2021) 21(2) Australian Journal of Asian Law <https://www.researchgate.net/publication/352935866_Fundamental_Rights_in_Search_of_Constitutional_Remedies_The_Emergence_of_Public_Law_Compensation_in_Bangladesh#> accessed 21 December 2023

102(1) permits the petitioner and HCD to choose any suitable remedy, including civil remedies, for the enforcement of basic rights, as it does not specify the sort of redress. *Mahmudul Islam*, a prominent constitutional thinker in Bangladesh, explains that although the HCD has significant authority to determine what constitutes an 'appropriate' remedy under Article 102(1), the enforcement of basic rights is not subject to discretion. Hence, the inherent nature of the right to seek redress for abuses of basic rights imposes a similar duty on the court to create innovative and efficient legal remedies for such violations.⁹

The third part of the Constitution of Bangladesh pertains to the discourse on fundamental rights. This segment consists of 18 different groups, some of which encompass ideological perspectives while others involve rational approaches. One example is found in Article 39¹⁰, which asserts that freedom of thought and belief carries the responsibility of acknowledging limitations. The compatibility of the right to a substantial majority and the general interest of society with the specified conditions is evident, however, the freedom to exercise essential rights under Article 44¹¹ does not meet the same standards. Few words are filled in this passage. The ability to transfer cases to the High Court Division has been established by the stipulations outlined in Article 102 (1) of the Bangladeshi Constitution¹², which guarantees the rights granted within this provision. This provision is further reinforced by the declaration made in Article 44. According to Articles 44(1)¹³ and 102(1)¹⁴ of the Constitution of the People's Republic of Bangladesh, in the case of a violation of the rights enshrined in part III of the Bangladeshi Constitution, the party affected by such infringement, as demonstrated in the case of **Kazi Mukhlesur Rahman v Bangladesh**¹⁵, has the option to approach the Supreme Court and submit a writ petition. By applying these constitutional provisions one can easily claim remedies under tort. And the constitutional torts are guaranteed by these provisions.

⁹ Ridwanul Hoque, 'Judicial Activism in Bangladesh: A Golden Mean Approach' (2013) 11(2) International Journal of Constitutional Law <<https://doi.org/10.1093/icon/mot013>> accessed 21 December 2023

¹⁰ Constitution of the People's Republic of Bangladesh 1972, art 39

¹¹ Constitution of the People's Republic of Bangladesh 1972, art 44

¹² Constitution of the People's Republic of Bangladesh 1972, art 102

¹³ Constitution of the People's Republic of Bangladesh 1972, art 44

¹⁴ Constitution of the People's Republic of Bangladesh 1972, art 102(1)

¹⁵ *Kazi Mukhlesur Rahman v Bangladesh* (1974) 26 DLR 44 (AD)

Existing Literature on Constitutional Tort Law in India: The origins of constitutional tort in India can be traced to the legislative measures implemented by the British East India Company during the colonial period. The initial inclusion of Section 65 within the Government of India Act of 1858¹⁶ is notable. This provision was subsequently passed down in Section 176 of the Government of India Act of 1935¹⁷. Article 176 of the Constitution of India¹⁸ served as the foundation for the subsequent development of Article 300¹⁹. According to Article 300 of the constitution²⁰, provisions are made for the initiation of legal actions and processes against the state under the official name of the Union of India. The state's tortious liability is derived from the vicarious liability of its servant while carrying out non-sovereign activities.

The **State of Rajasthan v Vidhyawati** case is a significant legal matter that was heard by the Supreme Court of India.²¹ The Supreme Court of India has ruled that the State should bear the same responsibility for tortious acts committed by its employees, just like any other employer. This decision was made after a government jeep collided with a pedestrian, causing the death of the individual. The victim's legal representatives initiated legal proceedings against the State of Rajasthan and the driver, demanding compensation for their improper actions. The Trial Court and High Court's decisions were invalidated, and the Supreme Court concluded that the State should bear the same responsibility for tortious acts committed by its employees. The Court deviated from the traditional Common Law principle, which prohibits civil servants from initiating legal action against the Crown. The case of **State of Bihar v Abdul Majid** acknowledges the entitlement of a public servant to initiate legal proceedings against the Government to reclaim unpaid salary. The recognition of the vicarious liability of the State would be consistent with the longstanding established rule that predates the Constitution by at least a century. Article 300 of the Constitution explicitly preserves the authority of Parliament or the Legislature of a State to pass legislation as they deem appropriate in this regard.

¹⁶ Government of India Act, 1858, s 65

¹⁷ Government of India Act 1935, s 176

¹⁸ Constitution of India 1950, art 176

¹⁹ Constitution of India 1950, art 300

²⁰ *Ibid*

²¹ *State of Rajasthan v Vidhyawati* AIR 1961 SC 933

In India, Specific Legislation was absent: In contrast to the Crown Proceedings Act of 1947 in England and the Federal Tort Claims Act of 1946 in the United States, India lacks explicit legislative provisions that directly pertain to determining the state liability. The legal framework in India concerning the liability of the state for the tortious actions of its employees got intertwined with the nature and characteristics of the East India Company's engagement before 1858. Regrettably, Currently, the legislative framework in India lacks provisions for the development of tort law.

LEGAL FRAMEWORKS AND CASE STUDIES

Introduction: There were specific constitutional provisions related to tort law in Bangladesh and India. This chapter will examine the provisions of the constitutional tort mechanism and evaluate its principles. And there are so many landmark case decisions made by the court under constitutional tort. It will analyze how the constitutional tort applies in domestic jurisprudence, how the acknowledgement of compensation as a legal remedy is ensured, the consideration of elements in fixing damage, and specifically the literature review of how these landmark cases protected civil rights in Bangladesh and India.

Examination of the Constitutional Provisions related to Tort Law in Bangladesh: The Constitutional Mandate of Constitutional Tort, According to Article 102(1) of the Constitution of the People's Republic of Bangladesh²², individuals who feel aggrieved have the right to submit a writ petition against any person or authority, including those involved in the government of the Republic, to seek the protection of their fundamental rights as outlined in Part 3 of the constitution. When basic rights are violated by public or private entities, a party who is aggrieved may file a writ petition against them.

Article 102(1)²³ Grants the court the power to choose the appropriate legal recourse for individuals who have experienced a violation of their fundamental rights. Public law compensation is a recently developed mechanism within the judicial system that serves as a constitutional remedy for the protection and enforcement of fundamental rights. The foundation

²² Constitution of the People's Republic of Bangladesh 1972, art 102(1)

²³ *Ibid*

of compensation in public law can be traced back to the broad interpretation of the term 'appropriate' as employed in Article 102(1) of the constitution.²⁴ Article 102(1)²⁵ Confers significant authority upon the Supreme Court of Bangladesh to grant monetary compensation to the aggrieved party in cases involving the infringement of basic rights. The enforcement of a citizen's basic right is considered a fundamental right by Article 44 of the Constitution.²⁶

The declaration of the supremacy of the constitution is stipulated in Article 7 of the Constitution of Bangladesh. Every article of the constitution serves as an actual symbol and manifestation of the serious expression of the collective desires and intentions of the citizenry as a whole. Constitutional mandates require the protection of fundamental rights of citizens and the limitation of powers wielded by governmental authority.

Examination of the Constitutional Provisions Related to Tort Law in India: During the 1980s and 90s, the Indian Supreme Court significantly broadened its constitutional authority by employing innovative interpretations of many provisions, including Article 32 of the Constitution.²⁷ Article 32 confers to persons the capacity to approach the Court through suitable legal procedures to have their fundamental rights upheld.²⁸ The Court is also authorized to grant constitutional remedies by issuing orders, instructions, and different writs.²⁹ The word 'appropriate proceedings' was broadly defined during his time to eliminate procedural formalities and allow the Court to participate in various social matters that were previously considered outside the scope of judicial review.³⁰ These advances are commonly referred to as Public Interest Litigation (PIL).³¹ The Court also broadened the scope of the judiciary's authority in public law by acknowledging the right to live with human dignity as part of the right to life

²⁴ Constitution of the People's Republic of Bangladesh 1972, art 102(1)

²⁵ *Ibid*

²⁶ The Constitution of the People's Republic of Bangladesh 1972, art 44

²⁷ Nirmalendu Bikash Rakshit, 'Right to Constitutional Remedy: Significance of Article 32' (1999) 34(34/35) Economic and Political Weekly <<https://www.jstor.org/stable/4408327>> accessed 21 December 2023

²⁸ Constitution of India 1950, art 32

²⁹ *Ibid*

³⁰ Surya Deva, 'Public Interest Litigation in India: A Critical Review' (2009) 28(1) Civil Justice Quarterly <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1424236> accessed 21 December 2023

³¹ *Ibid*

outlined in Article 21 of the Constitution.³² This established the foundation for acknowledging different socioeconomic rights, such as the rights to sustenance, housing, nourishment, and education. These rights were officially recognized under Article 21 and resolved through Public Interest Litigation (PIL). The mechanism and procedural flexibility of Article 32 refer to how this specific article operates and allows for adaptability in its procedures.³³

The constitutional perspective is a legal analysis framework that considers issues and policies through the lens of constitutional principles and values. Article 300 of the Constitution outlines four significant considerations. 1) The Union of India and States both possess the legal status of individuals as defined by Article 300³⁴. 2) The Government of India or a State can initiate legal proceedings or be subject to legal action in matters about their respective jurisdictions, mirroring the rights and obligations applicable to the Union of India, its Provinces, and Indian States before the enactment of the Constitution. 3) The rights and obligations of the government or state are contingent upon the laws established by an Act of Parliament or the Legislature of the State, by the authorities conferred by the Constitution. 4) If pending legal proceedings involve the Dominion of India as a party at the time of the Constitution's adoption, the Union of India has succeeded the Dominion in those proceedings. If any legal proceedings involve a Province or State in India as a party, the associated State has succeeded the Province or State in India in those proceedings.³⁵

Landmark Cases of Bangladesh and In-depth analysis of these cases -

The Application of Constitutional Tort in Domestic Jurisprudence: In the case of CCB Foundation v Government of Bangladesh,³⁶ The court applied the doctrine of negligence and *res ipsa loquitur* to award monetary compensation of Taka 20 lacs against Bangladesh Railway Board and Bangladesh Fire Services and Civil Defense for gross negligence that resulted in the

³² Rehan Abeyratne, 'Socioeconomic Rights in the Indian Constitution: Toward a Broader Conception of Legitimacy' (2014) 39(1) Brooklyn Journal of International Law <<https://dx.doi.org/10.2139/ssrn.2189277>> accessed 21 December 2023

³³ *Ibid*

³⁴ Constitution of India 1950, art 300

³⁵ Ravindra Kumar Singh, 'Liability of the State for Torts Committed by Its Servants: Public Law and Private Law Perspectives' (2016) 6(1) GNLU Journal of Law <<http://216.48.186.243:8080/jspui/handle/123456789/3761>> accessed 21 December 2023

³⁶ *CCB Foundation v Government of Bangladesh* (2017) 5 CLR 278 (HCD)

death of a 4-year-old child. This case established a significant precedent for public authorities to be held liable for the negligence of their employees or servants. The court stated that, in contrast to the Indian Constitution, there is no provision for sovereign immunity, permitting courts to award monetary compensation to aggrieved families for violations of the right to life protected by Article 32 of the Constitution. The court further said that the award of monetary compensation under public law will not preclude the harmed party or victim from seeking compensation under private law, and respondents' liabilities under private law will remain.

In the case of **Ruhul Quddus v Government and Others**,³⁷ A 22-year-old student's right hand was amputated following a collision between two buses. The incident occurred when the public bus, operated by Bangladesh Road Transport Corporation, and the private bus, owned by Swajon Paribahan Ltd, were vying to pick up passengers at a specific bus stop. A public interest lawyer filed a lawsuit against the BRTC and Swajon Paribahan Ltd, invoking Article 102(1) of the constitution. The HCD has mandated a payment of 5 million BDT (equivalent to A\$ 82,500), to be made collectively by BRTC and Swajon Paribahan Ltd as compensation. The Bangladesh Road Transport Corporation and a private company were deemed responsible for the recklessness of two bus drivers engaged in a race, resulting in a passenger losing his hand and eventually succumbing to death. The HCD determined that the companies-maintained authority over the bus and, hence, over the driver who acted negligently.

The acknowledgement of compensation as a legal remedy under Article 102(1): Bangladesh v Ahmed Nazir ³⁸In that case, The Appellate Division determined that the Court possesses the authority to exercise its discretion in granting the remedy, which is contingent upon examination of the facts and circumstances. The responsibility for determining suitable remedies under Article 102 lies with the HCD, whether they are monetary or otherwise.

In the **Azharuddin Ahmed v Bangladesh**³⁹ The case where the court first heard about Article 102 monetary relief. The petitioner was forced into early retirement by the then-minister of information by misusing his power. After examining the illegal act, the HCD awarded 10,000

³⁷ *Ruhul Quddus v Government and Others* (2019) 7 CLR 665 (HCD)

³⁸ *Bangladesh v Ahmed Nazir* (1975) 27 DLR 41 (AD)

³⁹ *Azharuddin Ahmed v Bangladesh* (1981) 33 DLR 171 (HCD)

Taka as compensation. But the court's most important concern is who should pay the victim's compensation. According to the court, public bodies whose officials disobeyed were usually liable. The court also considered why a public body should be responsible for an individual's act. Instead of solving the compensation payment uncertainty, the court said it's up to the court to decide who pays the charges.

It is held in the case of **Habibullah Khan v Shah Azharuddin Ahmed and others**.⁴⁰ The HCD has discretion over the suitable remedy and the concerned authority that will pay, but that discretion 'must be applied judiciously' and in compliance with the legislation. Thus, the Bangladeshi Supreme Court institutes compensation. The Supreme Court opposes compensating FR violation victims. Though the Court's case test and analysis are discretionary, the Court's admission has set a precedent for future compensating remedy cases under Art.102(1) of the Bangladeshi Constitution.

In the case of **ZI Khan Panna v Bangladesh** ⁴¹ It was stated when immunity was granted to the joint forces member who conducted 'Operation Clean Heart', a controversial criminal hunt, the court can award compensation for unlawful arrest and imprisonment under Art.102 (1). Joint forces killed at least 43 persons during this operation. 85 days were spent on the operation. The petitioners challenged the Joint Drive Immunity Act 2003 and sought compensation for torture and custodial death victims under Art 102(1) of the constitution. The state rejected the argument since the operation victim had not filed a case against the forces for unlawful behavior. The court also held that criminal accountability is personal liability, so it is not required to compensate operation victims. The court acknowledged that "the victims will be entitled to call in aid jurisdiction of the HCD for reparation by way of pecuniary compensation payable by the state of its unlawful and unconstitutional actions during the operation".⁴² The court recognized the urgent need for Public Law compensation and made it a liberal phase of compensation even if there is no specific compensation law.

⁴⁰ *Habibullah Khan v Shah Azharuddin and others* (1983) 35 DLR 72 (AD)

⁴¹ *ZI Khan Panna v Bangladesh* (2017) 37 BLD 271 (HCD)

⁴² *Ibid*

Public Law Compensation for Unlawful Arrest and Detention: In Banu v Bangladesh,⁴³ The HCD in Bangladesh has issued a directive for the state to provide BDT 2 million as compensation for the illegal detention of an individual who was wrongly detained due to mistaken identity as a fugitive convict. The HCD contended that the ultimate responsibility for compensation ought to lie with the highest-ranking official of the police force, rather than on the state or the relevant ministry. The court cited the definition of vicarious liability, which pertains to the legal responsibility that a person in a position of authority holds for the actions of a subordinate or associate, as determined by their relationship. The HCD justified the amount of compensation by calculating the detainee's anticipated loss of earnings to be BDT 2,080,000, multiplied by 260 weeks, and therefore granted a sum of BDT 2 million. The court specified that this recognition does not prevent the victim from pursuing suitable compensation in civil law. The judgment made by the HCD to grant compensation by Article 102(1) enables the responsibility of both public officials and private companies to be upheld.

Consideration of elements in fixing damage -

Bilkis Akhter Hossain V Bangladesh and Others 1997,⁴⁴ This is the initial instance in which the HCD has utilized Article 102(1) of the Constitution to grant Monetary Compensation.⁴⁵ In this case, a petition was submitted by Bilkis Akhter, the spouse of a politician, claiming that her husband was unlawfully apprehended and held in custody, In addition, claimed that imprisonment was a violation of his constitutional rights to freedom of movement and assembly, as well as his rights to life and liberty, as stated in articles 36, 37.31, and 32 of the Constitution of Bangladesh, respectively. The monetary compensation is awarded based on several factors, including the irreparable damage to the individual's reputation, the media portrayal of the individual as a terror leader, the separation from family members, the inhumane mental and physical torture experienced while in custody, and the cost of litigation. The court awarded 100,000 BDT on a 'lump-sum' basis here also.

⁴³ *Banu v Bangladesh* (2019) Writ Petition No 7297 of 2019

⁴⁴ *Bilkis Akhter Hossain v Bangladesh* (1997) 17 BLD 395 (HCD)

⁴⁵ Huda (n 8)

BLAST v Bangladesh and others 2003,⁴⁶ The Bilkis Akhter case, which involved whistleblowing and compensation for state power violations of citizens' fundamental rights, often sets a precedent for future cases. Since no specific provision exists,

The topic of compensation under Art.102 (1) was challenged again in this case before the HCD. The writ case was brought by a Legal Aid NGO on behalf of a student who died in police custody. Police regularly violate civilians' fundamental rights, according to BLAST. Police abuse their power of arrest and detention. The petitioner requested that the court issue orders to prevent abusive authority usage and defend protected rights. The petitioner stated that HCD can provide compensation under ART.102 (1) if the detention was unlawful and the detainee was subject to torture, cruel, inhuman, and degrading treatment. The HCD acknowledged the reasoning but modified the compensation award to depend on the facts and circumstances of each case. Because custodial death was involved, the court denied compensation to the victim's relatives in this writ petition.

Literature Review of How These Cases Protected Civil Rights in Bangladesh

Due to the absence of a statute regarding tort law, there is a widespread misperception that Bangladesh does not have any tort law. However, it is noteworthy that both our Appellate Division (AD) and High Court Division (HCD) have made highly significant rulings in various instances, which have effectively shaped the rules about tortious responsibility within our jurisdiction. The case laws serve as the fundamental variables driving the evolution of this legal framework. The concept of constitutional tort is still in the process of being developed.

Recognition of Compensation as a Remedy according to Article 102(1)⁴⁷ Monetary compensation provided under Article 102 is seen as an effective means of addressing the suffering experienced by the victim. The case of *Bangladesh v Ahmed Nazir* established that the Court has the authority to give a remedy based on its examination of the facts and circumstances.⁴⁸ It is

⁴⁶ *Blast v Bangladesh and others* (2003) 55 DLR 363 (HCD)

⁴⁷ Constitution of India 1950, art 102

⁴⁸ *Bangladesh v Ahmed Nazir* (1975) 27 DLR 41 (AD)

obvious that the duty to determine appropriate remedies under Article 102⁴⁹ With the HCD, whether it be monetary or of another nature.

The establishment of the constitutional tort in our country has been limited. Furthermore, a significant number of Bangladeshis lack knowledge of the definition of a constitutional tort and the methods of compensation for such cases. Court rulings are now considering the inclination of tort law, which may lead to the full applicability of tort law in Bangladesh. Hence, it is imperative to educate Bangladeshi individuals about their fundamental entitlements and the protocol for obtaining reparation in the event of any infringement of such rights. Based on the aforementioned rationale, it may be inferred that the higher courts possess the full constitutional power to issue monetary damages as a constitutional recourse for obvious infringements of people's basic rights. The constitutional remedy for compensating public law violations is still in its nascent stage and has not yet completely matured within our domestic legal framework.

Landmark Cases of India and In-depth analysis of these cases

The Evolution of Constitutional Tort Through Major Cases:

Rudal Shah v State of Bihar,⁵⁰ Supreme Court public interest litigation case under Article 32 of the Constitution.⁵¹ The appeal sought Rudal Shah's release and compensation from wrongful confinement. Rudal Shah was arrested for murdering his wife in 1953. An acquittal followed in 1968. He served 14 years in prison after his acquittal. The court ordered the state to compensate the petitioner 30,000 rupees. This is a landmark case in the jurisprudence of the state's responsibility. This case established compensatory jurisprudence for basic rights violations. The Supreme Court awarded damages for basic rights violations for the first time. The court noted that compensation is a palliative for authorized activities of instrumentalities acting in the public interest and using official powers as a shield.

The verdict rendered in this case established two significant principles by determining that:

⁴⁹ Constitution of India 1950, art 102

⁵⁰ *Rudul Shah v State of Bihar and others* (1983) 4 SCC 141

⁵¹ Constitution of India 1950, art 32

1. Civil responsibility may be incurred in cases when there is a violation of constitutional rights.
2. Civil liability may also arise in cases where there is a breach of personal liberty.

Saheli v Commissioner of Police,⁵² This decision reviewed and affirmed the principle established in the case of *Vidyawati*, and confirmed its validity via its practical implementation. In instances where a child has lost their life due to police assault and physical abuse, a compensation of Rs. 75000 has been awarded. Furthermore, the Delhi Administration has been authorized to seek reimbursement from the individuals who bear responsibility for the aforementioned incident.

Bhim Singh v State Of J&K,⁵³ The petitioner is an MLA of J&K who was unlawfully detained by the police while he was going to attend the assembly session. He lost his constitutional right to attend the assembly session since he was not brought before the magistrate in time. Article 21 of the Constitution was violated. The court ordered the state to pay 50,000 rupees in exemplary damages.

Nilabeti Behera v State of Orissa,⁵⁴ The present case relates to the unfortunate incident of the demise of Suman Behera, who was in custody at the time of his death. The petitioner in this matter is the father of the deceased individual. The individual sustained injuries while in detention, leading to their demise, and later the body was thrown off on a railway track. This incident might also be seen as a violation of basic rights. The petitioner was awarded a compensation of INR 150,000 by the Supreme Court.

Sebastian M Hongray v Union of India,⁵⁵ The Supreme Court assumed that the two individuals may have died while in the custody of the army. By recognizing this as a significant loss to their family and a violation of Article 21 of the constitution, the court ordered compensation to be awarded for the actions carried out by public servants in the execution of their sovereign duties.

⁵² *Saheli, A Women' S Resources Centre v Commissioner of Delhi Police* (1990) 1 SCC 422

⁵³ *Bhim Singh v state of J&K* (1986) 4 SCC 677

⁵⁴ *Nilabeti Behera v State of Orissa* (1993) 2 SCC 746

⁵⁵ *Sebastian M Hongray v Union of India* (1984) 3 SCC 82

Ao Leihao Devi V State of Manipur,⁵⁶ The Guwahati High Court has issued a directive to provide a compensation of 1,50,0000 rupees to the spouse of the deceased individual who was fatally shot by members of the Rifles force after he refused to stop the vehicle at a designated checkpoint. Therefore, the use of sovereign immunity is rendered inapplicable in instances when human rights are violated.

Landmark Judgements on Constitutional Tort -

P & O Navigation Company v Secretary of State for India,⁵⁷ State sovereign immunity was first argued in this case. There was a piece of a funnel made up of iron which was being transported by some workers on a government-owned steamer, which in its way hit plaintiff's horse-driven carriage. The plaintiff sued the government for damages owing to government personnel's carelessness.

Held: "The Government is liable when servants perform non-sovereign functions but not when sovereign functions are performed".

Rajasthan v Mst. Vidyawati⁵⁸ An accident killed a pedestrian when a government vehicle hit him. The government was found not accountable for the "Act of State" under Article 300, although sovereign immunity was denied. Compensation was Rs. 15000. The Supreme Court declared that "in the modern era, the liability of State is not limited to Sovereign functions but is socialistic and related to the welfare of the people and thus, the old immunity of State functions is irrelevant".

N. Nagendra Rao v State of Andhra Pradesh⁵⁹ The Kasturi Lal ratio applies only in exceptional circumstances when legislative power to perform particular activities is transferred. In any civil society, the state cannot play with people's rights and claim sovereignty, hence it cannot be regarded above the law.

⁵⁶ *AO Leihao Devi v State of Manipur* (1999) ACJ 594

⁵⁷ *P & O Navigation Company v Secretary of State for India* (1861) 5 Bom. HCR App I, p.1

⁵⁸ *Rajasthan v Mst. Vidyawati* (1962) AIR 933

⁵⁹ *N. Nagendra Rao v State of Andhra Pradesh* (1994) 6 SCC 205

Devaki Nandan Prasad v State of Bihar⁶⁰, The Apex court's verdict in this significant case established a new framework for thinking in cases about constitutional tort and compensation. In the present scenario, the plaintiff, who was unjustly deprived of his pension, was granted the opportunity to seek redress via the awarding of exemplary damages amounting to Rs. 25000. This compensation was granted due to the malicious harassment inflicted upon the plaintiff by the defendant.

Literature Review of How These Cases Protected Civil Rights in India -

Constitutional tort refers to the legal provision that allows for the potential awarding of compensation, sometimes in the form of exemplary damages, to individuals who have violated their constitutional rights. The use of Article 300⁶¹ may render the state accountable for its tortious actions. The relevance of constitutional tort in India has been minimal. The awareness around the doctrine of compensating redress for the violation of fundamental rights has seen a significant increase after the landmark decision of the Supreme Court in the Rudal Shah case.

The field of law is inherently dynamic, always evolving to address the conflicts that develop between the state and its citizens. The jurisprudential approach to law should endeavour to address the tensions that arise within a contemporary and evolving society. Despite the little understanding of the redressal process of tort law in India, it is evident that this method of redressal is more viable due to its expansive reach and breadth. Consequently, the use of constitutional tort continues to be seen as an effective method of seeking restitution for the violation of fundamental rights.

IMPLICATIONS FOR CIVIL RIGHTS

Introduction: Constitutional tort plays an effective role in Civil Rights protection in Bangladesh and India. This chapter also identified the Similarities and Differences between the constitutional tort law of both these countries. Here it will also examine the evaluation of constitutional tort mechanisms for ensuring civil rights.

⁶⁰ *Devaki Nandan Prasad v State of Bihar* (1983) 4 SCC 20

⁶¹ Constitution of India 1950, art 300

Evaluation of the effectiveness of Constitutional Tort Law on Civil Rights Protection in

Bangladesh: Bangladesh, a country located in South Asia, possesses a constitution that ensures an extensive range of freedoms and rights to its citizens. However, there have been cases where these rights have been violated by government officials or institutions. In response to such violations, the legal framework in Bangladesh implemented constitutional tort law as an alternate option for seeking legal relief. In Bangladesh, individuals have the right to seek remedies for infringements of their constitutional rights by filing civil lawsuits under constitutional tort law. It enables individuals to ensure that government actors are held responsible for their conduct, offering an extra level of safeguarding beyond conventional remedies.

The concept of constitutional tort law is quite recent in Bangladesh. It refers to the violation of a citizen's constitutionally protected fundamental rights by a municipal authority or government official. Constitutional tort litigation refers to a type of legal action in which the aggrieved party is eligible for legal redress in the form of monetary compensation if any of their fundamental rights are infringed upon.

The efficacy of constitutional tort law in safeguarding civil rights in Bangladesh has been a topic of contention. A significant obstacle is the limited knowledge among citizens regarding their inherent rights and the legal recourse accessible to them. An additional obstacle arises from the absence of precision in the implementation of the constitutional tort theory. The article contends that it is imperative to have a more precise implementation of the notion of constitutional tort to prevent any potential misuse or exploitation.⁶²

Notwithstanding these difficulties, there have been noteworthy achievements in the implementation of constitutional tort law in Bangladesh. In the case of *Bangladesh Environmental Lawyers Association v. Government of Bangladesh*, the High Court Division of the Supreme Court of Bangladesh ruled that the right to life encompasses the right to a clean

⁶² Fariha (n 4)

and sustainable environment. The court has instructed the government to implement essential measures to safeguard the environment and avoid any form of environmental deterioration.⁶³

Dr. Mohiuddin Farooque v Bangladesh⁶⁴ is a significant legal case in which the Supreme Court of Bangladesh ruled that the right to life encompasses the right to health. The court mandated the government to implement requisite measures to guarantee that the residents of Bangladesh had access to fundamental healthcare amenities.⁶⁵

Constitutional tort law has played a crucial role in safeguarding the civil rights of individuals in Bangladesh. The judiciary has been instrumental in safeguarding constitutional rights, and the notion of constitutional tort has been employed to offer legal recourse to individuals whose fundamental rights have been infringed upon by the government.

The application of constitutional tort law has demonstrated its efficacy in safeguarding civil rights in Bangladesh. The law has raised the level of safeguarding by enabling individuals to seek redress for infringements of their rights, going beyond conventional remedies. Nevertheless, there are obstacles to overcome, such as the restricted availability of legal recourse. To enhance the efficacy of constitutional tort law, it is necessary to address these problems and consistently reinforce its application.

Evaluation of the effectiveness of Constitutional Tort Law on Civil Rights Protection in India:

I discovered a research paper titled *Doctrine of Constitutional Tort: Evolution and Evaluation* by Rakesh Kumar.⁶⁶ This study examines the notion of vicarious liability of the state and its connection to the law of torts in India. It also analyses the development of the legal principle of constitutional tort and its implementation in significant court decisions. This document is a summary of Article 300 of the Constitution of India.⁶⁷, which outlines the responsibility of the Union or State in cases of wrongful conduct committed by the Government.

⁶³ Huda (n 8)

⁶⁴ *Dr. Mohiuddin Farooque v Bangladesh* (2003) 55 DLR 69

⁶⁵ Miss Jesy Chakma, 'Remedy under tort law in Bangladesh' (*hg.org*) <<https://www.hg.org/legal-articles/remedy-under-tort-law-in-bangladesh-53746>> accessed 21 December 2023

⁶⁶ Rakesh Kumar, 'Doctrine of Constitutional Tort: Evolution And Evaluation' (*Legal Service India*) <<https://www.legalservicesindia.com/articles/dct.htm>> accessed 21 December 2023

⁶⁷ Constitution of India 1950, art 300

The notion of constitutional tort is quite recent in India. An act or omission that violates the provisions of the Constitution, but does not otherwise constitute a tortious action¹. The concept of constitutional tort has developed via significant legal decisions, with the judiciary playing a pivotal role in safeguarding constitutional rights.

The paper emphasizes that the principle of vicarious liability of the state is grounded in Article 300 of the Constitution of India.⁶⁸, which outlines the responsibility of the Union or State for wrongful actions committed by the Government¹. The paper also analyses the extent and suitability of tort law principles in constitutional tort litigation. The judiciary has utilized tort law principles in constitutional tort lawsuits to hold the state vicariously responsible for the actions of its employees or servants.

This article investigates the efficacy of constitutional tort law in safeguarding civil rights in India. This text asserts that the concept of constitutional tort has played a crucial role in offering legal recourse to individuals whose basic rights have been infringed upon by the government. The article references significant legal decisions in which the judiciary has employed the notion of constitutional tort to safeguard the rights of individuals. In the case of **Nilabati Behera v State of Orissa**⁶⁹, the Supreme Court ruled that the state has a legal obligation to provide monetary compensation to the victim or their family in situations when death or torture occurs while in custody.

Nevertheless, the report also underscores several obstacles encountered by the notion of constitutional tort in India. A significant obstacle is the limited knowledge among residents regarding their basic rights and the legal recourse options accessible to them.

Ultimately, the concept of constitutional tort has played a crucial role in safeguarding the civil liberties of individuals in India. The judiciary has played a crucial role in safeguarding constitutional rights, and the concept of constitutional tort has been employed to offer legal recourse to individuals whose basic rights have been infringed upon by the government. Nevertheless, several obstacles remain that require attention, including the insufficient

⁶⁸ *Ibid*

⁶⁹ *Nilabati Behera v State of Orissa* (1993) 2 SCC 746

knowledge among individuals regarding their inherent rights and the legal recourse accessible to them, as well as the ambiguity surrounding the implementation of the constitutional tort theory.

Identification of Similarities and Differences: Constitutional tort law is a distinct legal field that addresses violations of the fundamental rights and liberties guaranteed by a nation's constitution. While Bangladesh and India possess unique legal frameworks, they exhibit both similarities and differences with constitutional tort law. In Bangladesh, a constitutional tort refers to the violation of a citizen's constitutionally protected fundamental rights by a local authority or government official. In India, a constitutional tort refers to an act or omission that violates the requirements of the Constitution but does not constitute a regular tort.⁷⁰

A key similarity between the two countries is that they both acknowledge constitutional tort litigation as a legal process that allows individuals to seek compensation in the form of damages if their fundamental rights are violated. Both nations have experienced a rise in the utilization of tort laws in recent times, with the judiciary playing a vital role in safeguarding constitutional rights.⁷¹

Both Bangladesh and India share several similarities in terms of their constitutional frameworks. Both countries have constitutions that ensure fundamental rights for their citizens, provide for judicial review of administrative actions and laws, hold public officials accountable for violating fundamental rights, and rely on precedent and case law to interpret constitutional provisions about tort law.

Bangladesh and India exhibit parallels in acknowledging constitutional tort law and safeguarding fundamental rights, while simultaneously displaying notable disparities in legal structure, judicial precedents, and historical circumstances. In Bangladesh, the constitutional provision for constitutional tort is outlined in Article 102(1) of the Constitution of the People's Republic of Bangladesh.⁷² This provision enables a party who has been wronged to submit a

⁷⁰ Shrabani Paul, 'Applications and Challenges of Tort Law in Bangladesh' *The Daily Observer* (18 May 2023) <<https://www.observerbd.com/news.php?id=419880>> accessed 21 December 2023

⁷¹ Fariha (n 5)

⁷² Constitution of the People's Republic of Bangladesh 1972, art 102

writ petition against any individual or authority to protect and enforce their fundamental rights as guaranteed in Part 3 of the Constitution. Unlike India's Constitution, which does not specifically address constitutional torts, the concept of constitutional tort has developed over time via significant legal decisions.

The judiciary in the two countries applies tort law concepts in constitutional tort proceedings with varying depth and applicability. In Bangladesh, the judiciary enforces tort law principles to hold the state responsible for the actions of its employees or servants. In India, the doctrine of vicarious liability of the state is established under Article 300 of the Constitution of India.

RECOMMENDATIONS AND CONCLUSION

Findings -

There is no Specific Compensation Policy: The lawyers of the Supreme Court said that although there is a rule to file a case in the judicial court regarding the compensation in the accident, there is no specific law or provision on how much money should be paid to the victim. But the High Court of the country, by its constitutional and judicial powers, ordered the actual victim to pay a certain amount of compensation or money. However, no committee, policy, or law has yet been made in this regard.⁷³

Payment Method Dilemma: The issue of compensation payment remains unresolved since it is not specified who will be responsible for compensating. Whether it be governmental institutions or individuals themselves. Therefore, the payment process between the parties is currently causing a dilemma and uncertainty, which hinders the prompt receipt of a compensation amount.

Several judgments that provide petitioners compensation have not yet been put into effect. The decisions have either been put on hold while an appeal is heard (this is a common procedure since the court system backlogs cases and appeals take years to resolve) or the respondents—

⁷³ Muhammad Fozlul Haque, 'What is the rationale for the writ of compensation of crores of takas in the public interest? -English Translated' *Jago News* (4 January 2022) <<https://www.jagonews24.com/special-reports/news/728718>> accessed 21 December 2023

mostly the government—continue to postpone paying compensation. 33 HCD compensation verdicts have not been implemented, according to a July 2022 news source.⁷⁴

Delay in receiving compensation: Many individuals are currently awaiting compensation as they await the outcome of a court case. The delay in receiving compensation is due to the absence of specific laws that directly address their situation. The mass population in Bangladesh, who are victims of rights violations, faces the additional challenge of dealing with large numbers of pending cases and the absence of particular legal provisions under which they can file suits. Establishing Tort Law in our country is a significant problem. Bangladesh does not have any legislation specifically governing Tort law. There is no explicit legal rule that defines Tort or provides details on its various types, components, and the areas it encompasses.

Inadequate progress in the evolution of tort law: The application of our legal principles adds intricacy when determining the amount of compensation awarded under tort law. It is imperative to formally establish the legal framework for integrating tort law within our jurisdiction. The absence of codified legislation poses distinct obstacles for people, particularly in defining the specific set of regulations that must be adhered to when filing a tort claim. Consequently, victims have become disinterested in pursuing a tort claim.

The absence of judicial activism and the lack of defined procedures for assessing damages: The institutionalization of constitutional tort lacks judicial action. An unwillingness to embrace the advancement of tort law is also evident. However, subordinate courts are prohibited from adjudicating Constitutional Tort Cases. Furthermore, following independence, no effort was made to codify tort law. The current environment provides the constitutional tort remedy through the imprecise, unexpected, and unclear language of Article 102(1) of the Constitution. There is no definitive legal authority to grant compensation.

The HCD seems to be the sole authority: HCD has determined compensation in certain situations. In our legal system, the lower courts do not make decisions on claims related to

⁷⁴ M Moneruzzaman, 'Dozens Await Compensation Pending Court Hearing' *New Age* (25 July 2022) <<https://www.newagebd.net/article/176691/dozens-await-compensation-pending-court-hearing>> accessed 21 December 2023

Constitutional Tort Cases. Subordinate courts do not engage in the process of adjudicating Constitutional Torts, as they lack the authority to make decisions regarding Constitutional Tort claims.

In certain instances, HCD Judges take a pro-victim approach: Numerous writs seeking compensation in the public interest worth crores of Takas are filed in the High Court Division. The HCD grants high-level compensation, which is subsequently not upheld in AD. As a result, to ask for and get high damages in the High Court Division, an evaluation is necessary to ascertain the true reasonableness of the desired damages, strengthening the case.

RECOMMENDATIONS

1. The most vital observation and recommendation stated by Naima Haider J in the Catherine Masud case is, 'In our opinion, the time has come for us to review the law of tort and consider whether the law of tort should be incorporated in Bangladesh law so that claims arising from negligence, be it medical or otherwise, are properly dealt with. We feel that a comprehensive judgment should come from the Supreme Court of Bangladesh which extensively deals with the tortious concept and clarifies how tort laws should be interpreted. If this is not done, the social injustice that we see would not be cured and cases of negligence would go unpunished in the absence of a central piece of law'.⁷⁵

2. There was a question arise that, which remedy under tort law is covered by the constitutional torts?

In Bangladesh, common law and civil law jurisdictions apply to private law torts. The proper civil courts and tribunals may receive the initial filing of a private law tort lawsuit. However, constitutional torts are implemented by both Article 44 and Article 102(1) of the Constitution. When the statutory authority is liable for the violation of the constitutional rights guaranteed in part III of the Constitution, an application for writ claiming compensation can be filed in the

⁷⁵ Farhana Helal Mahtab and Ali Mashraf, 'Decoding children charity foundation Bangladesh: the first ever public law compensation case in Bangladesh and the way forward' (2019) 4(2) BILD Law Journal <<https://www.studocu.com/row/document/rajshahi-university/international-humanitarian-law/bildlawjournal42-9-31/86923814>> accessed 21 December 2021

country's constitutional court holding the state responsible. Therefore, that is clearly stated that only the violation of the constitutional rights guaranteed in part III of the Constitution falls under the constitutional torts.

3. The state must promptly enact legislation regarding tort law that has a mechanism for compensating individuals who have been damaged by Public Authority. There needs to exist clear and comprehensive legal provisions that precisely define all Torts.

4. The non-governmental organizations and the civil society have a responsibility to proactively assist individuals who have been unjustly treated in their endeavours to engage with the appropriate judicial institutions and assert their legal entitlements.

5. There is no alternative but to establish a comprehensive Tort law in the legal system of Bangladesh. The purpose of this legislation is to consolidate the existing tort remedy into a uniform and comprehensive framework. It attempts to provide a single, concrete piece of legislation that the courts can use to address claims related to tort law.

6. A precise method for quantifying compensation claims, incorporating a comprehensive framework for calculating damages to address the issue of uncertainty in obtaining compensation. In India, the Constitutional Tort Model was developed due to legal reformation, In Bangladesh that needs to be inherited.

7. Judicial Activism is the most crucial and essential component for the development of Constitutional tort or tort law as a whole. Given the current authority of the Supreme Court, the court must have a genuine intention to establish new laws and identify the appropriate platform to address this unique issue. In cases where an individual's protected fundamental rights are infringed upon by a statutory authority, they should be entitled to receive compensation.

8. The Supreme Court should offer institutional-level guidelines to facilitate the activation of the lower judiciary in adjudicating Constitutional Tort cases. To handle the influx of cases, it is imperative to enhance the lower judiciary's jurisdiction and allocate sufficient resources.

CONCLUSION

In conclusion, the perception and application of constitutional tort law in Bangladesh and India may be influenced by various factors, including disparities in constitutional provisions, legal history, legal systems, judicial activism, amendments, and legislative changes, as well as differences in legal culture and practices. Legal practitioners and scholars should acquaint themselves with the complexities of constitutional tort law in both countries to effectively address cases involving breaches of constitutional rights, as the use of tort laws has grown in both nations in recent years.

In the end, in light of the comparative analysis of Constitutional Tort Law in Bangladesh and India, we do not have a chance to fully explore the concept yet. Now is an appropriate time to act to establish an adequate legal structure for tort in Bangladesh for legal reforms or improvements that can ensure civil rights and enhance accountability in Bangladesh Legal Systems.