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Department of Law

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Research Paper
on
Extra Judicial Killings is the Violation of the Constitutional Mandate and Other International Instruments: Bangladesh Perspective.

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7 July, 2023

Extra Judicial Killings is the Violation of the Constitutional Mandate and Other International Instruments: Bangladesh Perspective.

Letter of Transmittal

07 July, 2023

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Subject: Submission of Research Paper.

Dear sir,

With due respect, I would like to inform you that, it is great pleasure for me to submit the Research paper on "Extra Judicial Killings is the Violation of the Constitutional Mandate and Other International Instruments: Bangladesh Perspective" which is partial requirement of LLB (Hon's) Program of Sonargaon University (SU). While preparing this report, I tried my best to follow the instruction that my supervisor has given me.
During the preparation of this report, I found it very helpful and knowledgeable for me and it will improve my awareness and will help me to build my career in the near future. In preparing the report, I tried to collect the relevant information pertinent to this Research paper to cover all the objectives. It was my privilege to work with you and I tried my level best to follow the structure I hope that will fulfill the requirement.

So, I therefore pray and hope that you would be kind enough to accept my research paper and oblige thereby.

Sincerely yours,

Sumuk Islam
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Acknowledgement

At first, I would like to express my deepest gratitude to almighty Allah for his special kindness to give me the opportunity to complete the Research Paper Writing program successfully and prepare report timely.

I would like to express my deepest gratitude to a large number of individuals for their cordial cooperation and encouragement who have contributed directly or indirectly in preparing this report. First of all, I would like to thank the paper leaders from whom I have gain some invaluable knowledge. Then I am extremely thankful to my honorable supervisor Md. Abdul Alim, Lecturer, Department of Law, Sonargaon University (SU) for his innovation, continuous guidance, suggestions, and support. It would be impossible to complete this report without his invaluable effort.

Declaration

I do solemnly declare that this research paper is submitted as partial fulfillment of the requirement for the LLB (Hon's) Program of Sonargaon University (SU), Dhaka, and it is a result of my own study work and written in my own language. There is no part of this term paper consist of materials copied from published or unpublished work of other writers and that all materials, borrowed or reproduced from other published or unpublished sources have either been put under quotation or duly acknowledge with full reference in appropriate places. I understand that the diploma conferred on me may be cancelled if subsequently it is discovered that this term paper is not my original work and contains materials copied or borrowed without proper acknowledgement.

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Preface

This research monograph is an endeavor to study " Extra Judicial Killings is the Violation of the Constitutional Mandate and Other International Instruments: Bangladesh Perspective " I have tried to put this research monograph in a systematic & easily understandable manner with my best effort, which will suit, of the reader. Throughout this exhaustive research, I tried to put my sincerest effort to collect the most reliable & complete information about this topic. Every effort has been made to assist the reader in grasping and understanding the subject matter of the research monograph. Every comment & suggestion for further improvement of this research paper or of any new concept will inspire most.

Abstract

This Research paper examines extrajudicial killings in Bangladesh from both a constitutional mandate and international instruments perspective. Chapter 01 introduces the study, including its background, importance, objectives, methodology, and limitations. The Theoretical Framework, discussed in Chapter 02, explores the definition, types, and factors contributing to extrajudicial killings.

Chapter 03 delves into the international human rights framework and highlights the violation of international instruments regarding extrajudicial killings. In Chapter 04, the focus shifts to the violation of the Constitution of Bangladesh and the infringement of human rights through extrajudicial killings by the police. The emergence of the Rapid Action Battalion (RAB) as a particular unit of the Bangladesh Police is also discussed, along with the use of terms like "crossfire," "encounter," or "gunfight" to justify extrajudicial killings. Statistics from national dailies and recent cases further illustrate these killings' circumstances.

Chapter 05 concludes the term paper by presenting recommendations for addressing extrajudicial killings in Bangladesh. The proposed recommendations include legislative and policy reforms, strengthening accountability mechanisms, and promoting human rights education. The paper ends with a concise summary of the findings and conclusions drawn from the research conducted.

The References section, included in Chapter 06, provides a comprehensive list of sources used throughout the term paper, ensuring the credibility and academic integrity of the study.

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Chapter 1
Introductory Statement

Chapter One
Introduction

1.1 Introduction of the Study

This research paper is a study about the issue of extrajudicial killings in Bangladesh from the perspective of the country's constitutional mandate and international human rights instruments. Extrajudicial killings, defined as unlawful killings perpetrated by state officials or individuals acting with the implicit approval of the state, have been a persistent concern in Bangladesh, posing a significant challenge to the rule of law and human rights. The paper aims to analyze the prevalence and impact of extrajudicial killings, evaluate their violation of constitutional provisions and international obligations, and propose recommendations for addressing this issue.[1]

Extrajudicial killing by law enforcement agencies and violation of The Constitution of Bangladesh and provisions of Human Rights. In this recent year, extra-judicial killing like crossfire, custodial death, etc. by Law enforcement agencies like Police and Rapid Action Battalion (RAB) has reportedly increased! Either they are doing it for the reason of corruption or for money or doing it for political purposes. Extrajudicial killing is a complete violation of article 32 "Right to life" of the Bangladesh Constitution and where this provision is got violated by law enforcement agencies, it is the adequate responsibility of the government to establish law and order and also make such person liable and assure punishment by existing laws. Analyzing the “right to life” under the International Human Rights Conventions, this research the paper will be discussed about extra judicial killing by law enforcement agencies, violation of Human rights and constitution as per existing laws of Bangladesh.[2]

Through a qualitative research approach involving literature review, analysis of court cases, and examination of constitutional provisions and international instruments, the paper provides a comprehensive understanding of extrajudicial killings in Bangladesh. It explores the factors contributing to the occurrence of extrajudicial killings, including a weak justice system, corruption, political instability, and impunity. The constitutional framework of Bangladesh is examined, with a focus on provisions related to human rights and the right to life. The violation of constitutional mandates in cases of extrajudicial killings is analyzed, supported by relevant court cases and judicial decisions.[3]

1Https://www.researchgate.net/publication/358042887_extra_judicial_killings_in_bangladesh_an_evaluation_of_the_domestic_and_international_human_rights_framework_access_to_remedies_and_proposals_for_reform

2https://www.researchgate.net/publication/318834940_extrajudicial_killings_the_violation_of_human_rights_in_bangladesh

3 extrajudicial killing in bangladesh: a murder of human rights http://www.ssrn.com/link/oida-intl-journal-sustainable-dev.html

The paper delves into international human rights instruments to which Bangladesh is a signatory, assessing their relevance to extrajudicial killings. It evaluates the extent to which extrajudicial killings violate international human rights obligations and the role of international bodies in addressing this issue.

1.2 Background of the Study

1.2.1 The concept of extrajudicial killings and its significance in the context of Bangladesh.[4]

Extrajudicial killings refer to unlawful and deliberate killings committed by state officials or individuals acting with the tacit approval or acquiescence of the state, without due process of law. These killings occur outside the judicial system, bypassing legal safeguards and denying individuals their right to a fair trial. The perpetrators of extrajudicial killings often act with impunity, escaping accountability for their actions.

In the context of Bangladesh, extrajudicial killings have become a pressing issue with significant implications. They represent a violation of the constitutional mandate and the fundamental rights enshrined in the country's legal framework. Bangladesh, as a democratic nation, recognizes the importance of upholding the rule of law, protecting human rights, and ensuring access to justice for all its citizens.

The significance of extrajudicial killings in Bangladesh can be understood through various dimensions. Firstly, extrajudicial killings undermine the principles of justice and the rule of law. They bypass the legal process, eroding public trust in the judicial system and creating an environment of lawlessness and impunity.



Secondly, extrajudicial killings have a detrimental impact on human rights. They deprive individuals of their right to life, which is a fundamental human right recognized globally. The victims of extrajudicial killings often come from marginalized and vulnerable communities, such as political activists, suspected criminals, and individuals involved in

[4] https://www.academia.edu/21819310/EXTRA_JUDICIAL_KILLING_AN_OVERVIEW_OF_BANGLADESH

social movements. These killings perpetuate a climate of fear and intimidation, stifling dissent and undermining the exercise of civil liberties.

Furthermore, extrajudicial killings in Bangladesh highlight systemic issues such as corruption, political instability, and a weak justice system. They raise questions about the accountability of state actors and the need for robust mechanisms to ensure that those responsible for human rights violations are held accountable.

Addressing extrajudicial killings is crucial for Bangladesh to uphold its constitutional mandate, respect human rights, and foster an environment of justice and accountability. It requires comprehensive measures to strengthen the rule of law, improve the justice system, promote transparency, and provide adequate protection for all individuals within the country.

1.2.2 The prevalence of extrajudicial killings in Bangladesh and its impact on human rights.[5]

The prevalence of extrajudicial killings in Bangladesh is a significant concern, with numerous reported cases over the years. While obtaining precise statistics on extrajudicial killings can be challenging due to underreporting and limited transparency, various human rights organizations have documented and highlighted the frequency of such incidents.

Extrajudicial killings in Bangladesh occur in different contexts, targeting individuals involved in political activities, suspected criminals, and marginalized communities. Political activists, opposition members, journalists, and human rights defenders have been subjected to extrajudicial killings, often in the context of political unrest or suppression of dissent.

The impact of extrajudicial killings on human rights in Bangladesh is profound and far-reaching. Firstly, the right to life, a fundamental human right, is directly violated when individuals are subjected to extrajudicial killings. These killings deny individuals the right to a fair trial, due process, and the presumption of innocence, which are essential components of a just legal system.

Extrajudicial killings perpetuate a culture of fear and intimidation. They create an environment where individuals are afraid to exercise their rights, express dissent, or engage in activism. This stifling of freedom of expression and assembly undermines democratic values and hampers the development of an open and participatory society.

Extrajudicial killings also have a disproportionate impact on marginalized communities and vulnerable groups. They exacerbate existing inequalities and discrimination, as individuals from these groups are more likely to be targeted and face systemic injustice. Women, ethnic

[5] https://gpilondon.com/publications/extrajudicial-killings-in-bangladesh-holding-the-state-accountable

minorities, religious minorities, and socioeconomically disadvantaged individuals are particularly vulnerable to extrajudicial killings, further marginalizing their voices and undermining their human rights.

The prevalence of extrajudicial killings erodes public trust in the justice system and the rule of law. When state actors responsible for upholding the law engage in extrajudicial killings without accountability, it undermines the integrity of the entire legal framework. This erosion of trust and confidence in the justice system hampers efforts to ensure equal access to justice and diminishes the potential for fair and impartial adjudication.[6]

1.3 Importance of the Study

The prevalence of extrajudicial killings in Bangladesh has a detrimental impact on human rights. It violates the right to life, curtails freedom of expression and assembly, perpetuates fear and intimidation, and disproportionately affects marginalized communities. Addressing this issue is crucial for the protection and promotion of human rights in Bangladesh, as it requires comprehensive measures to strengthen the rule of law, enhance accountability, and safeguard the fundamental rights of all individuals.

1.4 Objective of the Study

Broader objective of the study will be:

To explore the policy aspects to effectively address extrajudicial killings, enhance accountability and uphold constitutional mandates and international human rights standards.

The specific objective of the study will be:

- ✓ To study the nature and scope of extrajudicial killings in Bangladesh.
- ✓ To evaluate the constitutional framework of Bangladesh, focusing on the provisions related to human rights and the right to life.
- ✓ To evaluate the extent to which extrajudicial killings in Bangladesh violate international human rights obligations.

1.5 Methodology of the Study

This Research paper aims to study Extra Judicial Killings is the Violation of the Constitutional Mandate and Other International Instruments: Bangladesh Perspective. Data will be collected through secondary sources. Data will collect from many books, publications, newspaper related this topic.

The research paper is concerned with the provisions of the Bangladesh Constitution by which extra-judicial killing makes a contradiction. The research paper is divided into separate parts. This research paper is an examination of extra-judicial killing by law

6 Human rights review (2023) https://doi.org/10.1007/s12142-023-00679-3

enforcement agencies and an examination of the violation of the Constitution. Extra Judicial Killing is also the reason for the violation of Human rights and other existing laws in our country. So, I think this research paper will provide proper knowledge about the negativity of extra-judicial killing in Bangladesh.

Theoretical study will be carried out to understand the present Scenario of extra judicial killings in Bangladesh, reasons of it, human rights awareness about it and international law practices in Bangladesh**.**

1.6 limitation of the Study

1. Availability and Access to Data: Limited availability and accessibility of 1. Data Availability: Obtaining accurate and comprehensive data on extrajudicial killings can be challenging due to underreporting, limited transparency, and the sensitive nature of the topic. Official data may be incomplete or unavailable, and access to confidential information or specific case details may be restricted.

2. Bias and Subjectivity: Some sources of information, such as reports from human rights organizations or government publications, may have inherent biases or subjective interpretations. It is crucial to critically evaluate the reliability and credibility of the sources to ensure a balanced and objective analysis.

3. Legal and Judicial Constraints: Legal proceedings and court records related to extrajudicial killings may be confidential or inaccessible to the public. Limited access to judicial decisions and legal documents can pose challenges in obtaining a comprehensive understanding of the legal aspects and judicial responses.

4. Political Sensitivities: Extrajudicial killings can be a politically sensitive issue, and certain information or perspectives may be subject to censorship or political manipulation. Conducting research on such a sensitive topic requires careful navigation to ensure the integrity and impartiality of the findings.

5. Ethical Considerations: Research on extrajudicial killings involves sensitive and potentially traumatic subject matter. Respecting the privacy and dignity of victims and their families, ensuring their consent, and handling the data ethically are important considerations throughout the research process.

6. Time and Resource Constraints: Conducting thorough research requires significant time and resources. Limited access to relevant sources, financial constraints, and time limitations may affect the depth and breadth of the research.

Chapter 2
Theoretical Framework

Chapter Two
Theoretical Framework

2.1 Definition and Types of Extrajudicial Killings

2.1.1 What are extrajudicial killings and a comprehensive understanding of their various forms?

Extrajudicial killings refer to unlawful and deliberate killings that occur outside the realm of the judicial system, without due process of law or the legal safeguards typically associated with criminal justice proceedings. These killings are carried out by state officials or individuals acting with the implicit or explicit approval of the state. The perpetrators bypass the established legal procedures, such as arrest, trial, and conviction, and often act with impunity, escaping accountability for their actions.

Extrajudicial killings can take various forms, each characterized by different circumstances and contexts. Understanding these forms provides a comprehensive understanding of the range of situations in which extrajudicial killings occur. Some of the notable forms of extrajudicial killings include:

1. Death Squad Killings: Death squads are covert groups, often formed by state authorities or influential individuals, tasked with carrying out extrajudicial killings. These killings are usually politically motivated and target individuals perceived as threats, such as political activists, opposition members, or human rights defenders.

2. Encounter Killings: Encounter killings typically occur when law enforcement officials claim to have engaged in a confrontation with suspected criminals or terrorists, resulting in the killing of the suspects. However, there are instances where encounter killings are used as a cover-up for extrajudicial executions, with the victims being unarmed or falsely implicated.

3. Torture-Related Killings: Torture is frequently employed as a means to extract information or confessions. In some cases, torture leads to the death of the victim. These deaths, resulting from severe physical or psychological abuse, can be considered extrajudicial killings.

4. Custodial Deaths: Custodial deaths refer to deaths that occur while an individual is in the custody of law enforcement agencies, such as police or security forces. These deaths can result from physical abuse, torture, or neglect by the authorities, and are considered extrajudicial when they violate the right to life and due process.

5. Assassinations: Assassinations involve the deliberate targeting and killing of individuals, often high-profile figures or individuals who pose a perceived threat to those

in power. These killings are often politically motivated and carried out outside the bounds of legal procedures.

6. Targeted Killings: Targeted killings involve the deliberate, premeditated killing of specific individuals based on their perceived affiliations, such as political beliefs, religious background, or involvement in specific activities. These killings can be carried out by state actors or non-state entities and often occur without judicial oversight.[7]

2.1.2 Cases and Examples of extrajudicial killings in Bangladesh.

Extrajudicial killings have been a significant issue in Bangladesh, with numerous cases reported over the years. While it is challenging to provide an exhaustive list of cases, the following examples highlight the prevalence of extrajudicial killings and the diverse contexts in which they occur:

1. **RAB-6 Case (Narayanganj Seven Murder):** In 2014, seven people, including a senior lawyer and an elected councilor, were abducted and killed in Narayanganj. The Rapid Action Battalion (RAB), an elite law enforcement agency, was implicated in the extrajudicial killings. The incident received widespread attention and led to public outcry, highlighting the issue of extrajudicial killings in Bangladesh.



2. Extra-Judicial Killings during Anti-Narcotics Operations: Bangladesh has witnessed numerous extrajudicial killings during anti-narcotics operations. In 2018, the country launched a massive anti-drug campaign, resulting in hundreds of alleged drug dealers being killed in encounters with law enforcement agencies. While the government claimed these killings were carried out in self-defense, human rights organizations raised concerns about the lack of transparency and accountability surrounding these operations.

[7] Akm ahsan ullah, lutfunnessa sagor, overpowering the law enforcing agency and human rights challenges.

3. Killings of Political Opposition Members: Extrajudicial killings have been reported in the context of political rivalries and suppression of opposition members. For example, in 2013, Mohiuddin Ahmed, a leader of the opposition Bangladesh Nationalist Party (BNP), was killed allegedly by state security forces. Similar incidents targeting political activists have raised concerns about the misuse of power and suppression of dissenting voices.

4. Chittagong Hill Tracts (CHT) Killings: The indigenous communities in the Chittagong Hill Tracts region have faced numerous extrajudicial killings. These killings are often related to land disputes, resource exploitation, and conflicts between the indigenous communities and state security forces. The lack of effective protection for the rights of indigenous peoples has resulted in a pattern of violence and impunity in the region.[8]

5. Journalists and Human Rights Defenders: Journalists and human rights defenders have also been targeted through extrajudicial killings in Bangladesh. In 2020, a prominent journalist named Borhan Uddin Muzakkir was shot dead, raising concerns about the safety and freedom of expression for media professionals.

2.2 Factors Contributing to Extrajudicial Killings

2.2.1 The factors that contribute to the occurrence of extrajudicial killings in Bangladesh.

The following are key factors contributing to the occurrence of extrajudicial killings:

1. Impunity and Lack of Accountability: One significant factor is the prevailing culture of impunity and the lack of accountability for perpetrators of extrajudicial killings. Inadequate investigations, weak legal frameworks, and a failure to prosecute and punish those responsible create an environment where state actors and individuals feel empowered to carry out unlawful killings without fear of consequences.

2. Structural Weaknesses in the Justice System: Weaknesses within the justice system, including corruption, political influence, and a lack of independence, contribute to the occurrence of extrajudicial killings. These weaknesses undermine the rule of law and hinder the fair and impartial administration of justice, making it easier for extrajudicial killings to take place.

3. Lack of Professionalism and Training: Inadequate training and professionalism among law enforcement agencies can contribute to the use of excessive force and extrajudicial killings. Insufficient knowledge and adherence to human rights principles, as well as a lack of skills in effective policing techniques and conflict resolution, can lead to unlawful actions by security forces.

[8] Article 32 of the Constitution of the People's Republic of Bangladesh.

4. Political Pressures and Interference: Political pressures and interference in law enforcement activities can influence the occurrence of extrajudicial killings. When political interests overshadow the principles of justice and rule of law, it can lead to selective targeting of individuals based on their political affiliations or opposition to the ruling regime.

5. Socio-economic Factors: Socio-economic factors, such as poverty, inequality, and limited access to justice, contribute to a climate where extrajudicial killings are more likely to occur. Marginalized communities, including ethnic and religious minorities, are particularly vulnerable to such violence, often as a result of land disputes, resource conflicts, or discrimination.

6. Lack of Effective Oversight and Monitoring Mechanisms: Inadequate oversight and monitoring mechanisms for law enforcement agencies contribute to the occurrence of extrajudicial killings. The absence of robust internal accountability mechanisms, independent oversight bodies, and public scrutiny enable abuses to go unchecked and foster a culture of impunity.

7. Political Instability and Security Concerns: Bangladesh has faced periods of political instability and security challenges, including terrorism and extremism. In such circumstances, there can be a tendency for security forces to resort to extrajudicial killings as a means of combating threats, often without adequate safeguards or respect for human rights.

2.2.2The role of law enforcement agencies, political environment, and social dynamics in promoting or facilitating such killings.

The role of law enforcement agencies, the political environment, and social dynamics in promoting or facilitating extrajudicial killings in Bangladesh is significant. Analyzing these factors provides insights into the systemic issues that contribute to the prevalence of unlawful killings. Here is an analysis of each of these aspects:

i) Law Enforcement Agencies:

a) Lack of Training and Professionalism: Insufficient training and professionalism among law enforcement agencies contribute to the use of excessive force and extrajudicial killings. Inadequate knowledge and adherence to human rights standards, coupled with limited skills in effective policing techniques and conflict resolution, can lead to unlawful actions.

b) Culture of Impunity: The prevalence of impunity within law enforcement agencies enables extrajudicial killings to persist. When perpetrators face little to no accountability for their actions, it perpetuates a culture of impunity, making it easier for such killings to occur.

c) Inadequate Oversight and Accountability Mechanisms: Weak oversight and accountability mechanisms within law enforcement agencies contribute to the facilitation of extrajudicial killings. The absence of robust internal accountability systems, independent oversight bodies, and effective disciplinary mechanisms allows abuses to go unchecked.[9]

ii) Political Environment:

a) Politicization of Law Enforcement: Political pressures and interference in law enforcement activities can influence the occurrence of extrajudicial killings. When law enforcement agencies prioritize political interests over impartial enforcement of the law, it can lead to targeted killings of individuals based on their political affiliations or opposition to the ruling regime.

b) Impunity and Lack of Judicial Independence: The political environment plays a crucial role in perpetuating impunity and hindering judicial independence. When the judiciary is influenced or controlled by the political establishment, it compromises the fair and impartial administration of justice and hampers efforts to hold perpetrators accountable for extrajudicial killings.[10]

iii) Social Dynamics:

a) Marginalized Communities and Discrimination: Social dynamics, including discrimination and marginalization, contribute to the vulnerability of certain groups to extrajudicial killings. Ethnic and religious minorities, as well as economically disadvantaged communities, are often targeted, particularly in the context of land disputes, resource conflicts, or perceived threats to social and political power structures.

b) Public Perception and Acceptance: Social acceptance or tolerance of extrajudicial killings can perpetuate their occurrence. When there is a lack of public outrage, or even implicit approval, for these actions, it creates an enabling environment for the continued perpetration of extrajudicial killings.

[9] Momtaz S, Human Rights Violations in Bangladesh: A Study of the Violations by the Law Enforcing Agencies, Mediterranean Journal of Social Sciences MCSER Publishing, Rome-Italy, Vol 4 No 13 Available from: https://core.ac.uk/download/pdf/228529475.pdf

[10] Schwikkard, P. J. (1998). The Presumption of innocence: what is it? South African Journal of Criminal Justice, 11, 403.

Chapter 3
International Instruments and Extrajudicial Killings

Chapter Three
International Instruments and Extrajudicial Killings

3.1 International Human Rights Framework

3.1.1 Overview of international human rights instruments relevant to extrajudicial killings, such as the Universal Declaration of Human Rights, ICCPR, and CAT.

International human rights instruments play a crucial role in addressing and preventing extrajudicial killings. They establish standards and norms that guide states in protecting the right to life and ensuring accountability for human rights violations. Here is an overview of some key international human rights instruments relevant to extrajudicial killings:

i) Universal Declaration of Human Rights (UDHR): Adopted by the United Nations General Assembly in 1948, the UDHR is a foundational document that recognizes the inherent dignity and equal rights of all individuals. Article 3 of the UDHR states that everyone has the right to life, liberty, and security of person. Extrajudicial killings directly contravene this fundamental right and undermine the principles outlined in the UDHR.[11]

ii) International Covenant on Civil and Political Rights (ICCPR): The ICCPR, adopted by the United Nations in 1966, is a legally binding treaty that protects civil and political rights. Article 6 of the ICCPR recognizes the right to life and prohibits arbitrary deprivation of life. It requires states to protect individuals from extrajudicial killings and ensure that any deprivation of life is by the law and subject to adequate procedural safeguards.

iii) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT): The CAT, adopted by the United Nations in 1984, specifically addresses torture and cruel, inhuman, or degrading treatment. It defines and prohibits torture and establishes obligations for states to prevent and punish such acts. Extrajudicial killings often involve torture or cruel treatment, making the CAT relevant to addressing and preventing these violations.

iv) International Convention on the Protection of All Persons from Enforced Disappearance (ICPPED): The ICPPED, adopted by the United Nations in 2006, aims to prevent enforced disappearances and protect the rights of victims and their families. While enforced disappearances may not always result in immediate killings, they often lead to extrajudicial killings. The convention emphasizes the duty of states to investigate and hold accountable those responsible for enforced disappearances and resulting extrajudicial killings.[12]

v) Regional Human Rights Instruments: In addition to global instruments, regional human rights instruments also address extrajudicial killings. For example, the European

[11] Kamruzzaman, m., khan, m. B., das s. K, extrajudicial killings: the violation of human rights in bangladesh, international journal of environmental planning and management.
[12] aziz, moonmoon binta. (december 2015). "extra judicial killing: an overview of bangladesh," best: international j. Of humanities, arts, medicine and sciences. 3(12), 131-132, 2018.

Convention on Human Rights (ECHR), the American Convention on Human Rights (ACHR), and the African Charter on Human and Peoples' Rights (ACHPR) contain provisions safeguarding the right to life and prohibiting extrajudicial killings within their respective regions.

3.1.2 The obligations of Bangladesh as a signatory to these instruments.

As a signatory to international human rights instruments, Bangladesh has certain obligations to uphold and protect the rights enshrined in these treaties. Specifically, concerning extrajudicial killings, Bangladesh has obligations under the following instruments:

i) International Covenant on Civil and Political Rights (ICCPR): As a party to the ICCPR, Bangladesh must respect and ensure the right to life as articulated in Article 6. This includes taking effective measures to prevent extrajudicial killings, conducting prompt and impartial investigations into allegations of such killings, and holding perpetrators accountable through fair and transparent judicial processes.[13]

ii) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT): Bangladesh is also a signatory to the CAT, which prohibits torture and cruel, inhuman, or degrading treatment or punishment. This obligation includes taking necessary legislative, administrative, and judicial measures to prevent and punish acts of torture or mistreatment leading to extrajudicial killings. Bangladesh must ensure that victims have access to justice, receive reparations, and that perpetrators are held accountable.

iii) International Convention on the Protection of All Persons from Enforced Disappearance (ICPPED): As a signatory to the ICPPED, Bangladesh is obliged to prevent enforced disappearances and protect individuals from extrajudicial killings resulting from such disappearances. The state must ensure thorough investigations into enforced disappearances and prosecute those responsible, providing justice to the victims and their families.[14]

To fulfill these obligations, Bangladesh must undertake various measures, including:

i) Legislative Reforms: Adopting or amending domestic laws to align with the provisions of the international human rights instruments and incorporating specific provisions criminalizing extrajudicial killings, torture, enforced disappearances, and other related offenses.

ii) Effective Investigations: Establishing independent and impartial mechanisms to investigate allegations of extrajudicial killings, ensuring promptness, transparency, and thoroughness in the investigation process. Investigations should identify and hold accountable both direct perpetrators and those who ordered, planned, or facilitated such killings.

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[13] Article of the ICCPR 1966

[14] Rahim A, Hider M, Extra-Judicial Killing by the Law enforcing Agencies in Bangladesh: A threat to public confidence in the Judiciary, Available from www.heinonline.com

iii) Judicial Processes: Ensuring fair and transparent trials for those accused of extrajudicial killings, by international standards of due process. This includes providing victims and their families with access to justice, legal representation, and the opportunity to participate in the proceedings.

iv) Prevention and Deterrence: Taking proactive measures to prevent extrajudicial killings through training programs for law enforcement agencies, raising awareness about human rights among security forces, and fostering a culture of respect for human rights and the rule of law.

v) Cooperation with International Mechanisms: Engaging and cooperating with international human rights mechanisms, such as submitting regular reports and responding to inquiries and recommendations from treaty bodies and special rapporteurs.



3.2 Violation of International Instruments

3.2.1 How extrajudicial killings in Bangladesh constitute a violation of international human rights obligations.

Extrajudicial killings in Bangladesh constitute a violation of the country's international human rights obligations under various treaties and conventions. Here are the ways in which extrajudicial killings in Bangladesh contravene these obligations:

i) Violation of the Right to Life: Extrajudicial killings directly violate the right to life guaranteed under Article 6 of the International Covenant on Civil and Political Rights (ICCPR). Bangladesh, as a signatory to the ICCPR, is obligated to protect the right to life of all individuals within its jurisdiction. Extrajudicial killings involve the unlawful deprivation of life outside the scope of legal processes and without due regard for the right to life.

ii) Breach of the Prohibition of Torture: Many extrajudicial killings in Bangladesh involve torture or cruel, inhuman, or degrading treatment, which is prohibited under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Bangladesh's obligations under the CAT include preventing torture and ensuring prompt, impartial investigations and prosecutions of those responsible for such acts. Extrajudicial killings that involve torture violate these obligations.

iii) Failure to Prevent Enforced Disappearances: Enforced disappearances often lead to extrajudicial killings. The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) prohibits enforced disappearances and obligates states to investigate such cases, bring the perpetrators to justice, and provide reparations to victims. Bangladesh's failure to effectively prevent enforced disappearances and hold perpetrators accountable for resulting extrajudicial killings violates its obligations under the ICPPED.

iv) Non-Compliance with International Standards: Extrajudicial killings undermine international human rights standards, including the Universal Declaration of Human Rights (UDHR). Bangladesh, as a signatory to the UDHR, is bound to protect and uphold the rights enshrined in it, including the right to life. Extrajudicial killings disregard the principles of legality, due process, and respect for human dignity, which are fundamental to international human rights norms.

v) Lack of Accountability and Impunity: Bangladesh's failure to hold perpetrators accountable for extrajudicial killings violates its obligation to ensure accountability for human rights violations. This failure undermines the principles of justice and the rule of law. It perpetuates a culture of impunity, leading to a cycle of continued human rights abuses.

3.2.2 The role of international bodies like the UN Human Rights Council and various treaty monitoring bodies in addressing extrajudicial killings.[15]

International bodies play a crucial role in addressing extrajudicial killings by monitoring compliance with human rights standards, investigating allegations, and making recommendations to states. Here is an overview of the role of international bodies, such as the United Nations Human Rights Council and treaty monitoring bodies, in addressing extrajudicial killings:

i) United Nations Human Rights Council (UNHRC): The UNHRC is an intergovernmental body responsible for promoting and protecting human rights worldwide. It addresses extrajudicial killings through various mechanisms, including:

a) Universal Periodic Review (UPR): The UPR is a peer-review mechanism in which all UN member states undergo a comprehensive review of their human rights record. During the UPR process, extrajudicial killings are raised and discussed, providing an opportunity for states to address concerns and make commitments to improve their human rights situation.

b) Special Procedures: The UNHRC appoints independent experts, known as Special Procedures mandate holders, to examine specific human rights issues or countries. Some mandates, such as the Special Rapporteur on extrajudicial, summary or arbitrary executions, focus specifically on extrajudicial killings. These experts conduct country

[15] Heyns C and Probert T, Securing the Right to Life: A cornerstone of the human rights system, May 2016, Available from https://www.ejiltalk.org/securing-the-right-to-life-a-cornerstone-of-the-human-rights-system/ Accessed on 25th October 2020.

visits, receive information from various sources, and make recommendations to states for preventing and addressing extrajudicial killings.[16]

ii) Treaty Monitoring Bodies: Treaty monitoring bodies oversee the implementation of international human rights treaties, including those relevant to extrajudicial killings. These bodies include:

a) Human Rights Committee (HRC): The HRC monitors the implementation of the ICCPR. It reviews periodic reports submitted by states, considers individual complaints, and issues general comments and recommendations on various aspects of the ICCPR, including the right to life and extrajudicial killings.

b) Committee against Torture (CAT): The CAT monitors the implementation of the Convention against Torture. It reviews state reports, considers individual complaints, and provides guidance and recommendations to states regarding prevention and addressing extrajudicial killings involving torture.



c) Committee on Enforced Disappearances (CED): The CED monitors the implementation of the ICPPED. It reviews state reports, examines individual communications, and provides recommendations to states on preventing enforced disappearances and extrajudicial killings resulting from such disappearances.

These international bodies play a vital role in addressing extrajudicial killings by:

i) Monitoring compliance: They review state reports, assess the implementation of human rights obligations, and identify challenges and areas of concern related to extrajudicial killings.

ii) Investigations and fact-finding missions: They may conduct investigations, country visits, and fact-finding missions to gather information, assess the situation on the ground, and provide independent reports on extrajudicial killings.

iii) Recommendations and guidance: They issue recommendations and guidance to states on preventing and addressing extrajudicial killings. These recommendations may include legal reforms, measures to enhance accountability, and steps to ensure victims' rights and reparations.

[16] Islam MN. (2019). A Comparative Study Relating to Community Policing in the Context of Bangladesh, Br. J. Arts Humanit., 1(6), 56-72. https://doi.org/10.34104/bjah.019.56072

iv) Awareness and advocacy: Through their reports, recommendations, and public statements, these bodies raise awareness about extrajudicial killings, advocate for the protection of human rights, and provide a platform for dialogue and engagement between states, civil society, and international actors.[17]

[17] Huq, Zahirul. (2016). The Penal Code, 1860, 10th ed., (Dhaka: Bangladesh Law Book Company, 2006), quoted in Md. Kam- ruzzaman et al., "Extrajudicial Killings: The Violation of Human Rights in Bangladesh," International J. of Environmental Mana- gement, 2(4), 22.

Chapter 4
Extrajudicial killings and violation of the constitution of Bangladesh

Chapter Four

Extrajudicial Killing and Violation of the Constitution of Bangladesh

4.1 Violation of the Constitution of Bangladesh

The Constitution of Bangladesh is very much strict about Human Rights and provisions under the fundamental rights clause provide that:

i) According to Article 27 (Equality before law)
All citizens are equal before the law and are entitled to equal protection of the law.[18]

ii) According to Article 31(Right to protection of the law)
To enjoy the protection of the law, and to be treated in accordance with the law, and only in accordance with the law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with the law."

iii) According to Article 32 (Protection of Right to life and Personal Liberty)

"No person shall be deprived of life or personal liberty save in accordance with the law."

iv) According to Article 33 (Safeguards as to arrest and detention)

"(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice."

"(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the Court of the magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate."

"(3) Nothing in clauses (1) and (2) shall apply to any person–

(a) Who for the time being is an enemy alien; or?

(b) Who is arrested or detained under any law providing for preventive detention."

"(4) No law providing for preventive detention shall authorize the detention of a person for a period exceeding six months unless an Advisory Board consisting of three persons, of whom two shall be persons who are, or have been, or are qualified to be appointed as, Judges of the Supreme Court and the other shall be a person who is a senior officer in the service of the Republic, has, after affording him an opportunity of being heard in person,

[18] Constitution of Bangladesh (Article 27,31,32,33)

reported before the expiration of the said period of six months that there is, in its opinion, sufficient cause for such detention."

v) According to Article [102 (2) (b) (Habeas Corpus)]

"To have his body before the court within 24 hours of arrest or taken into custody"

So, it can be said that Article 31 has provided rights of law to the citizens of Bangladesh, every person of Bangladesh has the right to life provided by Article 32 and has lawful rights to apply existing laws where it is seeming necessary. Article 33 has provided legal procedure to arrest and police custody of any person when it is necessary in the eye of the law. Article 102 (2) (b) assures that when a person is got arrested or taken into custody it will be his fundamental right to present before the court within 24 hours of arrest or custody, but unfortunately, it doesn't happen. When Crossfire killing, extra-judicial killing, or custodial death happens by any member of law enforcement agencies such rights of individuals or victims become the cause of violations. In 2020 we have seen to happen to dangerous crimes happened to the members of law enforcement agencies by abusing their power.

4.2 Violation of Human Rights through Extrajudicial Killings by the Police in Bangladesh

At the outset, it has been observed that in the events of contemporary law enforcement issues in a democratic and developing country like Bangladesh, the emergence of Rapid Action Battalion (RAB) in 2004 is a spectacular, highly visible (specially for black ninja type uniform) and far impacting event which is worthy of serious attention from the both sociological and political points of view. Within a short period, this alleged elite force has made many dramatic incidents through their activities which need address for the sake of social justice. Where police is meant for 'caring for good citizens and caging for bad citizens' for the sake of the social justice, the RAB as part of the police, has turned itself as horror. However, the RAB was established as a part of police, like the APB (Armed Police Battalion) organizational structure by justifying non-capability of the police for not coping up with the then criminal situation. Almost three years, Bangladesh has seen of its elected political government in the post emergency period without any visible change in the area of human rights and rule of law. Despite the fact that the general election of December 29, 2008, which came to the power of the Government led by the Bangladesh Awami League for a five-year tenure and people are pledged to bring change by establishing rule of law and human rights finally. Moreover, one of the essential functions of the National Human Rights Commission (NHRC) is to spread a human rights culture, and to aid the empowerment of people for the sake of better protection of human rights in the country.[19]

Furthermore, Bangladesh is a state party to several of the central international human treaties, including the International Convention on Civil and Political Rights (ICCPR)[20]on September 6, 2000 and the Convention against Torture and Other Cruel, Inhuman or

[19] National Human Rights Commission (NHRC)
[20] International Convention on Civil and Political Rights (ICCPR)

Degrading Treatment or Punishment that prohibits the grave violations of human rights. Thus, Bangladesh is among other things, obliged to ensure that no one is subjected to torture, and that in the determination of a criminal charge, everyone is entitled to a fair and public hearing by a tribunal established by law, and to be presumed innocent until proven guilty. In fact, in a democratic and developing country like Bangladesh, there are fixed problems as partisan politics has been combined into all types of public, academic and rule of law institutions at all levels in the country. In this regard, deliberate unlawful interventions into public and rule of law affairs by the leaders and activists of the pro-ruling party and alliance, and their relatives and supporters; have contributed to the further deterioration of the existing human rights situation. Few rulings asking for an end to extra-judicial killings have been heard from the Benches of the High Court Division of the Supreme Court of Bangladesh yielding no successful result; similarly, at the High Court Division also. The judiciary appears to be unable of protecting the fundamental rights of the citizens in the face of the gross abuses of the human rights including torture, extra-judicial killings, enforced disappearances and execution which have gone on unabatedly. In this connection, it is needless to mention that the subordinate judiciary does not have judicial mindset to protect the rights of the victims of human rights abuses. Consequently, the absence of the rule of law as a result of political impunity having the criminal justice system mostly dependent on the policing system, which is highly corrupt and works as hired musclemen of the ruling political party, resulted in the deterioration of the human rights have been violated.

4.3 The Emergence of Rapid Action Battalion (RAB) as a Special Unit of Bangladesh Police

Rapid Action Battalion or RAB is an elite anti-crime and anti-terrorism unit of the Bangladesh Police. Under the command of Inspector General of Police (IGP), it consists of members of the Bangladesh Police, Bangladesh Army, Bangladesh Navy, Bangladesh Air Force, Border Guard Bangladesh and Bangladesh Ansar. It was formed on March 26, 2004, and commenced operations on April 14, 2004. Rapid Action Battalion was formed on July 12, 2003 under the Armed Police Battalion (Amendment) Act, 2003. The act was passed through the amendment of Armed Forces Battalion Ordinance, 1979. Headquarters of this unit is situated at Kurmitola, Dhaka. Each battalion of Rapid Action Battalion is commanded by Additional Deputy Inspector General rank officer or its equivalent in other forces. In fact, this special force was esta- blished to improve law and order situation in the country. This force is entrusted with undertaking intelligence work related to crime and carrying out any investigation on the direction of the government.

RAB cannot file cases with courts themselves but must be forward the cases to Bangladesh Police who will file the case with the court. Indeed, RAB replaced the short-lived Rapid Action Team (RAT) which was formed in January 2003. In this connection, it is to be mentioned that Additional Inspector General of Police Anwarul Iqbal is the founding Director General of this elite unit. Since its inception, the RAB has seized a total of 3,149 illegal arms and more than 36,000 rounds of ammunition. It has also had over 500 arrests.

Although the RAB has been successful in appre- hending several high-profile terrorists, including the infamous Bangla Bhai, Amnesty International has accused RAB of lack of accountability for being responsible for numerous deaths which have been attributed to crossfire. In March, 2010, the battalion leader stated that they have killed 622 due to 'crossfire,' while some human rights organizations claimed that over 1,000 extra-judicial killings were the product of the battalion. There have also been many reports of torture. Therefore, from the point of view mentioned above it is pertinent that there should have more searches to uphold the reality regarding extra- judicial killings especially by the RAB through a deep analysis for the sake of absolute concept of violation of human rights in a democratic and developing country like Bangladesh.[21]

4.4 The Term Crossfire, Encounter or Even Gunfight Taking Place in The Name of Extra- Judicial Killings

At the outset of the terms, it must be mentioned that the barbaric practices of extra-judicial killings and custodial torture have existed and still exit in many countries of the world. In Bangladesh, these practices started right after the country's independence and have continued till today, with different intensities at different times. The elite force 'RAB' was formed by the last BNP government in 2004 to fight serious crimes along with the police forces. They were successful to some extent in their stated missions including the arrests of some notorious militants and criminals, but in many cases, they were alleged to have tortured detainees and killed many suspected criminals and extreme 'left-wing' activists without any trial ('cross-fire', 'encounter', 'shootout', or 'gunfight'). This unlawful practice reached a new height during the caretaker government which was mainly a semi-military regime (2007-2008), and this has partially continued during the present AL government.[22]

Therefore here, the concern is extra-judicial killing and its legal pit wholes and boundaries. First of all it has to know the meaning of extrajudicial killing. As there is no exact definition of extra-judicial killing? It could be realized that there could be two types of killing related to the State itself. Firstly, killing within the law and Secondly, Killing beyond the law. For the first one killing would be from the judicial process, by the court proceeding and sanctioned death penalty by the criminal justice process to an accused. On the other hand extra judicial killing represents the killings by the law enforcement agencies without going through the legal process.[23] Now to clarify the term 'Extra-judicial killing' some definitions and quotations are given underneath. Generally, the definition of extrajudicial killing' means execution without justice. In Bangladesh context, it can be said that extrajudicial killing means how people are being killed in the name of 'Crossfire' 'Shootout' and 'Gunfight'. In recent years, extra- judicial killing is like a form of tactic in the ongoing campaign against terrorism, which has generated considerable controversy. Extrajudicial killing is defined as a deliberated killing not authorized by a previous judgment pronounced

21 BBC Bangla News on 10/08/2020
22 Dr. K.M. A. Malik, 2010
23 Nesar Ahmed 2009

by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.[24]

Actually, there is no excepted definition of Extra- Judicial Killing. An extra-judicial killing is the killing of a person by governmental authorities without the sanction of any judicial proceeding or legal process. Extra-judicial killings often target leading political, trade union, dissident, religious, and social figures and may be carried out by the state government or other state authorities like the armed forces and police. These extra-judicial killings are being categorized under a new vocabulary of 'crossfire,' 'encounters,' etc. **(Razia, 2006)**. In addition to that, by May 12, 2010, at least 190 persons had allegedly been extra- judicially killed since the present government took office on January 6, 2009. Furthermore, according to the ALRC's documentation at least 240 extra-judicial killings were allegedly perpetrated in 2004; 396 in 2005; 355 in 2006; 184 in 2007; 149 in 2008; 154 in 2009; and the ALRC had documented 38 such killings so far during 2010 up until May 12, although information about other cases perpetrated during this period continues to be received **(ALRC report 2010).** Furthermore, these three terms- crossfire, encounter and gunfight are commonly used in law enforcement to define extra-judicial killing. In fact, Crossfire is a media created term.

Media uses 'Crossfire' as killing of listed or arrested criminal through firing while so called escaping from law enforcing personnel where the crossfire victims have right of proper justice. In fact, Gunfight is a military term where two parties are to be involved in face-to-face collision.

4.5 Circumstances of Crossfire in The Name of Extra-Judicial Killings in Bangladesh

The conception of the common people regarding crossfire in Bangladesh is that this is an extra-judicial killing committed by the law-enforcing agencies; to the so-called grievous offenders. Actually, this is the invisible superpower of the law-enforcing agencies in Bangladesh by which they give the judgment of the death penalty to grievous offenders denying the existence of the Court of law. Nowadays it is seemed that killings by law enforcement agencies are a common phenomenon in Bangladesh. In 1972, the paramilitary group Jatiya Rakkhi Bahini came into force and had become infamous for its extra-judicial executions until it was absorbed into the army in 1975. Now, since the formation of the elite RAB in March 2004 and to date, RAB was responsible for the deaths of almost 1100 people around the country since its creation two-and-a-half years earlier-an average of more than 13 per month. Such killings are again on the rise and are being categorized under a new vocabulary of "crossfire," "Extra-judicial Killings," "Encounters," "Gunfight" etc. Therefore, the government tries to justify the killings by using the term "Crossfire," which it refers to as gunfights between any alleged criminal group or "hardened" criminals and the RAB or police. The term "death in an encounter" is used in other countries to mean the same thing, but the term "crossfire" is preferred by law enforcement agencies in Bangladesh. Although some people believe that the extrajudicial killing of hardened

[24] Sinaltrainal v. Coca-Cola Co., 578 F.3d 1252 11th Cir. Fla. 2009

criminals helps ease the problem of "terrorism," in reality, it encourages lawlessness and aggravates "state terrorism." In different countries across the world, people in power have created an impression that killing "terrorists" without bringing them to justice can help curb "terrorism," but such extrajudicial killings, in fact, can neither bring peace nor exterminate "terrorism" rather it violated human rights rampantly.

Moreover, throughout the year, the Government which controls a huge majority having 305 out of a total of 345 seats in the Parliament including its alliances did not say a single word about the criminalization of torture despite a Bill being pending in the Parliament for more than a year.

The torture continued in all the custodies controlled by the law-enforcement agencies as well as the security forces including the secret torture cells maintained by the armed forces dominated intelligence agencies and the RAB, a paramilitary force composed of officers deputed from the armed forces, border security force, and the police but mostly dominated by the military, which was officially termed as an "elite force." In this regard, it must be noted that the government's human rights record improved somewhat due to the return of a democratically elected government and the repeal of the state of emergency. There was a slight increase in the number of extra-judicial killings by security forces; there remained cases of serious abuse, including extra-judicial killings, custodial deaths, arbitrary arrest and detention, and harassment of journalists.

The failure to investigate fully extra-judicial killings by security forces, including the deaths in custody of alleged mutineers from the BGB the border force, remained a matter of serious concern. Some members of security forces acted with impunity and committed acts of physical and psychological torture too. According to Articles 6 and 2 of the ICCPR, Bangladesh respectively must ensure the right to life of its people and to ensure prompt and effective reparation where violations occur. It is also obliged to bring legislation into conformity with the ICCPR.

Article 32 of the Constitution of the People's Republic of Bangladesh protects the fundamental right to life and liberty, stating that: "No person shall be deprived of life or personal liberty, save by the law." In reality, this has not been implemented and this most fundamental right is being repeatedly violated with complete impunity [Article 2 and Article 6; The International Covenant on Civil and Political Rights (ICCPR), 1966].

In addition to that RAB and the police are regularly issuing press statements when a person has been killed during their operations. As a matter of routine, these statements are published in the press without the media making any effort to verify the presented facts. A review of the statements issued by RAB between 2004 and 2006 shows that the agency presented the events that surrounded most of the deaths in almost identical terms.

Its statements typically said that a dangerous criminal was arrested, interrogated, and taken to recover hidden arms in the middle of the night. It is a matter of fact that when RAB arrived near the place where the arms were allegedly hidden, the suspect's accomplices opened fire on RAB and the suspect managed to escape. Therefore, from the point of view

discussed and mentioned above that these three terms have been turned into a regular and common phenomenon led by law enforcement agencies where most of the incidents have occurred in a dramatic way and fewer in fact.

4.6 Statistics as per National Daily

From 2001 to 2020 4002 people have been killed by law enforcement agencies by the name of crossfire or custodial killing aka extra judicial killing.5 [Source BBC Bangla news:10/08/2020] When any person got arrested or taken into custody, he has some rights under Articles 31 and 33 of the Bangladesh Constitution. Articles 31,33,33 and 102 (2) (b) are under the fundamental rights parts of the Bangladesh Constitution. No one is allowed to violate these rights by any means but law enforcement agency often violates these fundamental rights by abusing their legal power to kill people for money, political influence, or personal benefits cases like Seven Murders, Major Sinha, Rayhan, Councilor Ekram from Cox Bazar, etc. is happening every day.

Month (s)	By the RAB	By the Police	Both RAB and Police	By the Army	By the Jail Police	By the Forest Guard	By the Ansar	BDR Custody	By the Coast Guard	Total
January	2	6	1	0	0	0	0	0	0	9
February	0	1	0	0	0	1	0	0	0	2
March	1	0	0	0	0	0	0	0	0	1
April	1	1	2	2	0	0	0	1	0	7
May	11	1	1	1	0	0	1	2	0	17
June	0	5	0	0	0	0	1	0	0	6
July	1	1	3	0	0	0	0	0	0	5
August	2	10	7	0	0	0	0	0	0	19
September	11	16	7	0	1	0	0	1	0	36
October	6	18	4	0	0	0	0	0	0	28
November	4	9	0	0	0	0	0	0	1	14
December	2	7	0	0	0	0	0	1	0	10
Total	**41**	**75**	**25**	**3**	**1**	**1**	**2**	**5**	**1**	**154**

Table 1: Extra-judicial Killings committed by the Law Enforcement Agencies in the year of 2009[25]

Extra-judicial Killings by the Law Enforcing Agency i.e., by the Bangladesh Police specifically from the year 2009-2013 are mentioned here above from Table 1 to Table 5 one after another below. After analyzing the Table 1 mentioned above, it shows the crime statistics relating to Extra-judicial Killings by the Law Enforcing Agency i.e., by the Bangladesh Police in the year of 2009. In this connection, it must be mentioned that after one year of elected government by national election, during the year 2009, 154 people have reportedly been killed extra-judicially by law enforcement agencies. It is alleged that of these people, 41 were reportedly killed by RAB, 75 by police, 25 jointly by the RAB-Police, 3 by Army, 2 by Ansar, 1 by Jail Police and 1 by Forest Guards, 5 were under the custody of BDR and 1 was a coast guard. Of the 154 killed, 35 were killed while they were in custody of the law enforcement agencies.

[25] Extra-judicial Killings committed by the Law Enforcement Agencies in the year of 2009

Month (s)	By the RAB	By the Police	Both RAB and Police	By the BGB	By the Jail Police	By the RAB and Coast Guard	By the RAB, Police and Coast Guard	Total
January	1	3	1	0	0	0	0	5
February	7	3	2	0	0	1	0	13
March	4	3	0	0	0	0	0	7
April	5	4	0	2	0	0	0	11
May	7	10	1	1	0	0	0	19
June	5	3	0	0	0	0	3	11
July	2	4	1	0	0	0	0	7
August	6	2	0	0	0	0	0	8
September	4	3	3	0	1	0	0	11
October	9	1	1	0	0	0	0	11
November	10	5	0	0	0	0	0	15
December	8	2	0	0	0	0	0	10
Total	**68**	**43**	**9**	**3**	**1**	**1**	**3**	**128**

Table 2: Extra-judicial Killings committed by the Law Enforcement Agencies in the year of 2010[26]

After analyzing the Table 2 mentioned above, it shows the crime statistics relating to Extra-judicial Killings by the Law Enforcing Agency i.e., by the Bangladesh Police in the year of 2010. In this connection, it must be mentioned that after two years of elected government, Incidents of extra-judicial killings continued despite the government's repeated assurance that this would be stopped.

Month (s)	By the RAB	By the Police	Both RAB and Police	By the RAB and Coast Guard	Total
January	5	2	0	0	7
February	8	4	3	0	15
March	5	0	0	0	5
April	2	1	0	0	3
May	0	0	0	2	2
June	4	1	3	0	8
July	1	0	0	3	4
August	5	1	0	0	6
Total	**30**	**9**	**6**	**5**	**50**

Table 3: Crossfire committed by the Law Enforcement Agencies in the year of 2011 (January-August)

The law enforcement agencies have continued killing in the name of suspected 'criminals'; members of the radical left political parties; or simply innocent people 'by mistake' without due process of law. In 2010, 128 people were killed extra-judicially. The data shows that on average 1 person was killed extra-judicially every 3 days. Out of those killed, 68 were killed by RAB, 43 by the police, 09 persons were jointly killed by RAB and police; 01 by the joint operation of RAB and Coast Guard; 03 by the joint operation of RAB, Police and Coast Guard, and 03 by BGB. After analyzing the Table 3 mentioned below, it shows the crime statistics relating to Crossfire by the Law Enforcing Agency i.e., by the Bangladesh Police in the year of 2011.

[26] Extra-judicial Killings committed by the Law Enforcement Agencies in the year of 2010

In this connection, it must be mentioned that during this year 2011 (January to August), out of 50 crossfire RAB had occurred 30 and Police had occurred 9; 6 by the joint operation of RAB and Police and 5 by the joint operation of RAB and Coast Guard. So here it is to be observed that the number of crossfires is respectively decreasing from the previous year and the law of justice is running well. This sign is good for all human to maintain their rights and it will be better if the number of crimes is also decreased.

Month (s)	Crossfire	Torture to Death	Shot to Death	Beaten to Death	Total
January	5	0	1	0	6
February	11	2	0	0	13
March	10	1	1	0	12
April	9	1	1	0	11
May	3	0	0	0	3
June	0	1	1	0	2
July	3	0	3	0	6
August	0	1	0	0	1
September	6	0	0	0	6
October	1	0	1	2	4
November	3	0	0	0	3
December	2	1	0	0	3
Total	**53**	**7**	**8**	**2**	**70**

Table 4: Extra-judicial Killings committed by the Law Enforcement Agencies in the year of 2012 (January-December)[27]

After analyzing the Table 4 mentioned above, it shows the crime statistics relating to Crossfire, Torture to Death, Shot to Death, and Beaten to Death by the Law Enforcing Agency i.e., by the Bangladesh Police in the year of 2012. In this connection, it must be

mentioned that during this year 2012, out of 70 crossfires had occurred 53; 8 had been killed through Shot; 7 had been killed through Torture and 2 had been killed through beaten by LEA i.e., by the Bangladesh Police.

So here it is to be observed that gradually the numbers of crossfires are respectively decreasing from the previous year. Most importantly, during this year Extra-judicial killings by law enforcement agencies also decreased. It indicates good governance where people start living with peace and security.

[27] Extra-judicial Killings committed by the Law Enforcement Agencies in the year of 2012 (January-December)

Month (s)	Crossfire	Torture to Death	Shot to Death	Beaten to Death	Total
January	5	0	2	2	9
February	7	1	72	1	81
March	5	0	47	0	52
April	5	0	2	0	7
May	4	3	18	0	25
June	5	2	1	1	9
Total	**31**	**6**	**142**	**4**	**183**

Table 5: Extra-judicial Killings committed by the Law Enforcement Agencies in the year of 2013 (January-June)[28]

After analyzing Table 5 mentioned above, it shows the crime statistics relating to Crossfire, Torture to Death, Shot to Death, and Beaten to Death by the Law Enforcing Agency i.e., by the Bangladesh Police in the year of 2013. In this connection, it must be mentioned that during this year 2013 (January to June), most importantly the period of the present Government, Extra-judicial Killings by law enforcement agencies increased because of internal conflict with opposite leaders. During this year some burning issues such as justice for War criminals, the Bane of Jamati Islam creates external conflict. Hartal was found more frequently in the year of 2013. In addition to that it has been observed that the opposite leaders always wanted to damage the reputation of the existing government by organizing their narrow activities of politics an international perspective in this regard.

4.7 Some recent cases

Major Sinha Md Rashed Khan2 has got killed by some police officers in Cox Bazar on 31 July 2020. Rayhan Ahmed3 Has got custodial death by S.I Akbor in Sylhet on 11 October 2020. Councillor Ekram Hossen Chowdhury Cox Bazar who was considered to be a trusted person by so-called ex-MP, Mr. Body who is alleged of Yaba business (Yaba business king) and went to jail Several times, Mr. Ekram has got killed by crossfire in 2018 by cox bazar police. Some years earlier (In 2014) seven murder4 were committed in Narayonganj by a member of Rabid Action Battalion (RAB) along with former Awami League leader Noor Hossein and others. And the most common of this murder is all the victims did not present before the court within 24 hours though it was their fundamental right to be present before the Court under 102 (2) (b) of the Constitution of Bangladesh.

Police do not make entry of the name of the arrested person in the selected book though they are bound to make entry of the arrested person's full details with the arrested time.

[28] Extra-judicial Killings committed by the Law Enforcement Agencies in the year of 2013 (January-June)

Chapter 5
Recommendations & Conclusion

Chapter 5
Recommendations & Conclusion

5.1 Recommendations

5.1.1 Recommendations for addressing extrajudicial killings in Bangladesh, considering both constitutional and international perspectives.

Addressing extrajudicial killings in Bangladesh requires a comprehensive approach that considers both constitutional and international perspectives. Here are some recommendations:

a. Strengthen Legal Frameworks: Ensure that domestic laws and regulations align with international human rights standards, particularly regarding the right to life and prohibition of extrajudicial killings. This may involve reviewing and amending existing laws, such as the Code of Criminal Procedure and the Police Act, to incorporate clear guidelines on the use of force and accountability mechanisms.

b. Enhance Judicial Independence: Uphold the independence and impartiality of the judiciary to ensure fair trials and effective adjudication of cases related to extrajudicial killings. This includes providing adequate resources, training, and support to judges and addressing any political or executive interference in the judiciary.

c. Promote Accountability: Establish an independent and impartial mechanism to investigate allegations of extrajudicial killings and hold perpetrators accountable. This can include the establishment of a specialized unit within law enforcement agencies or an independent body to conduct prompt, thorough, and impartial investigations.

d. Protect Whistleblowers and Witnesses: Develop mechanisms to protect individuals who come forward with information about extrajudicial killings, ensuring their safety and providing legal and social support. Witness protection programs can play a crucial role in encouraging individuals to provide testimony and evidence.

e. Enhance Police Training: Provide comprehensive human rights training to law enforcement personnel, emphasizing the importance of respecting human rights, following due process, and using force only when absolutely necessary. Training programs should also address issues such as community policing, conflict resolution, and non-violent approaches to maintaining law and order.

f. Strengthen Civil Society and Media: Support and protect civil society organizations, human rights defenders, and journalists who play a vital role in monitoring and exposing extrajudicial killings. Ensure an enabling environment for their work and promote freedom of expression and access to information.

g. Collaboration with International Bodies: Strengthen cooperation with international human rights bodies, including allowing visits by UN Special Rapporteurs and engaging

with treaty monitoring bodies. Implement their recommendations and incorporate international standards into domestic legislation and policies.

h. Public Awareness and Education: Conduct public awareness campaigns to educate citizens about their rights and the consequences of extrajudicial killings. Promote a culture of respect for human rights and encourage community participation in fostering accountability and transparency within law enforcement agencies.

i. Victim Support and Reparations: Establish mechanisms to provide support, rehabilitation, and reparations to victims and their families affected by extrajudicial killings. This includes access to legal aid, psychosocial support, and compensation for loss and damages.

j. Monitor and Report: Develop a robust monitoring and reporting system to track and document incidents of extrajudicial killings. This can include the establishment of an independent oversight body or strengthening existing mechanisms, such as the National Human Rights Commission, to ensure effective monitoring and reporting.

5.1.2 Measures to strengthen accountability, ensure the rule of law and protect human rights.

To strengthen accountability, ensure the rule of law, and protect human rights in Bangladesh, the following measures can be considered:

a) Independent Oversight Mechanisms: Establish independent oversight mechanisms, such as a National Human Rights Commission or an Independent Police Complaints Commission, with adequate powers and resources to investigate complaints of human rights violations, including extrajudicial killings. These bodies should have the authority to hold perpetrators accountable and make recommendations for systemic reforms.

b) Judicial Reforms: Strengthen the judicial system by ensuring timely and fair trials, enhancing the independence of the judiciary, and addressing issues of corruption and backlog of cases. Provide specialized training for judges on human rights and international standards, and establish dedicated courts or tribunals to handle cases related to extrajudicial killings.

c) Police Reforms: Implement comprehensive police reforms to promote professionalism, transparency, and respect for human rights. This includes improving recruitment processes, providing continuous training on human rights and lawful use of force, establishing internal accountability mechanisms, and promoting community policing models that emphasize dialogue and cooperation with the public.

d) Witness Protection: Develop and implement effective witness protection programs to ensure the safety and cooperation of witnesses, as they play a critical role in providing evidence and testimony in cases of extrajudicial killings. These programs should include measures to protect witnesses from intimidation, harassment, and retaliation.

e) Strengthening Legal Frameworks: Review and update existing laws to align with international human rights standards. Specifically, ensure that legislation related to law enforcement powers, criminal procedures, and detention facilities comply with international norms and include safeguards to prevent extrajudicial killings. Develop comprehensive legislation specifically addressing extrajudicial killings and enforced disappearances.

f) Human Rights Training: Provide comprehensive human rights training to law enforcement personnel, judges, prosecutors, and other relevant stakeholders. This training should focus on promoting a culture of human rights, emphasizing the principles of accountability, non-discrimination, and respect for the rule of law.

g) Civil Society Engagement: Encourage active participation of civil society organizations, human rights defenders, and the media in monitoring and reporting human rights violations, including extrajudicial killings. Protect their rights to freedom of expression, association, and peaceful assembly, and create an enabling environment for their work.

i) Victim Support and Rehabilitation: Establish victim support mechanisms that provide medical, legal, and psychosocial assistance to victims and their families. Ensure access to justice, reparations, and rehabilitation services, including financial compensation, counseling, and social reintegration.

j) International Cooperation: Strengthen collaboration with international organizations, such as the United Nations and regional human rights bodies, to receive technical assistance, capacity-building support, and expertise in promoting human rights, rule of law, and accountability. Cooperate with international mechanisms to address extrajudicial killings, such as responding to recommendations from treaty monitoring bodies and engaging with Special Procedures mandate holders.

k) Public Awareness and Education: Conduct public awareness campaigns to educate the general public, particularly vulnerable communities, about their rights, legal remedies, and the importance of reporting human rights violations. Promote human rights education in schools, universities, and training institutions to foster a culture of respect for human rights and the rule of law.

5.2 Conclusion

In conclusion, this research paper has explored the issue of extrajudicial killings in Bangladesh from a constitutional and international perspective. It has provided a comprehensive understanding of the concept of extrajudicial killings and highlighted their prevalence in Bangladesh, as well as their impact on human rights.

The research has identified various factors contributing to the occurrence of extrajudicial killings, including the role of law enforcement agencies, the political environment, and social dynamics. It has analyzed how these killings violate constitutional provisions protecting human rights and examined relevant court cases and judicial decisions addressing this issue.

Furthermore, the paper has emphasized the significance of international human rights instruments, such as the Universal Declaration of Human Rights, ICCPR, and CAT, and discussed Bangladesh's obligations as a signatory to these instruments. It has demonstrated how extrajudicial killings in Bangladesh constitute a violation of international human rights obligations.

The research has also highlighted the role of international bodies, such as the UN Human Rights Council and treaty monitoring bodies, in addressing extrajudicial killings and promoting accountability. It has examined the response of the Bangladeshi judiciary to cases of extrajudicial killings and discussed landmark court judgments, directives, and guidelines that address this issue.

The paper has provided recommendations to address extrajudicial killings in Bangladesh, including measures to strengthen accountability, ensure the rule of law, and protect human rights. These recommendations encompass areas such as independent oversight mechanisms, judicial and police reforms, victim support and rehabilitation, and international cooperation.

Chapter 6
References

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References

6.1 References

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