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**Extra Judicial Killing**

# Introduction:

Bangladesh is a peaceful and democratic country. In Bangladesh, everyone has the right to life and liberty guaranteed by the constitution, but the arbitrary detention and custody of the government agency poses a threat to the right to life and liberty. Extra judicial killings in Bangladesh are on the rise every day. It's only one kind of offense. Extrajudicial killings undermine the state and trigger lawlessness among people who are otherwise rule-abiding. It is a direct challenge to human rights. A lot of people are killed by law enforcement officers. We will see a lot of cases associated with extra-judicial killings every day as we look at the newspaper. In my dissertation, I seek to present an extra-judicial killing and a scenario of our country's viewpoint, and then address its effect on human rights. Before that, I seek to give government transparency and people's reaction to extra-judicial killings and eventually offer some advice to that extra-judicial killing.

# What is Extra Judicial Killing

Extrajudicial killing means killing a person by the authority of government with any sanction given by judicial proceedings or legal process. Extrajudicial sentences are, for the most part, considered by society as unethical, because they circumvent the due process of civil authority under which they occur. Extrajudicial killings often target leading political communities, famous trade unions, people with different opinion, religious and social figures and may be carried out by the state government or any other state authorities, such as the armed forces or the police.

Extra judicial killings and death squads are very common in Central America, Bangladesh,

Pakistan, Sri Lanka, several nations or regions in Africa, Middle East,Jamaica, Kosovo, parts of South America, allegedly Russia, Uzbekistan, parts of Thailand, and in the Philippines. The most recent issue regarded extrajudicial killing was in the debate about the moral and legal status of the targets by unmanned aerial vehicles by the Unites States.

Extra-judicial killings are not those which are conducted under the law of the land by orders of a judge or court. Those include murders or shootings by law-enforcement officials or deaths in detention. Deaths that are not committed by the order of the court in compliance with the statute shall be known as extrajudicial killings. And they are constitutionally illegal because they violate the fundamental rights to life guaranteed by the Constitution. Extrajudicial killing is the killing of an individual by government officials without any of the sanction of any judicial trial or legal procedure. By their very nature, extra judicial punishments are unlawful, since they bypass the due process of the legal jurisdiction in which they occur. So, it can be said, after the above discussion, that it is extrajudicial because of its type, which works as a process outside Bangladesh's judicial system.

# Types of Extra Judicial Killing:



**Cross fire**

**Bre**

**athe**

**to**

**Death due**

**to**

**death**

**torture**



**Border**

**Shooting**

**Death in**

**killing**

**custody**





**Disappear**

**ance**

**Death in**

**prison**

**Public**

**Lynching**

Crossfire is the newest form of extra judicial killing. In 1972, the paramilitary group Jtiya Rakkhi Bahini came into force and they had become infamous for its extra judicial execution until it was absorbed by the army in 1975. Now, since the formation of the Rapid Action Battalion (RAB) in March 2004, such killings are again on the rise and are being categorized under a new vocabulary of “crossfire”, “extra judicial killings”, “encounters” etc. The government of Bangladesh tries to justify these killings by using the term “crossfire”, which it refers to gunfight between any alleged criminal group or “hardened” criminals and the RAB or police. Although some of the people believe that extra judicial killing of the criminals helps to ease the problem of

“terrorism”, but in reality, it encourages lawlessness and aggravates state terrorism. In different countries all over the world, people in power have created an impression that killing the terrorists without bringing them to justice can help to reduce terrorism, but such extra judicial, in fact, can neither bring peace nor eradicate “terrorism”. However, in Bangladesh, the law and order situation has improved a lot after the formation of the RAB and other auxiliary forces, like the Cheetah and Cobra units of the police, and the public seems to be very happy with it still one cannot justify this type of killing from the humanitarian and legal points of view. Every person has the right to a proper fair trial; and before any trial, no one can be killed by law enforcement officials extra judicially. The law must follow principle of natural justice.

# Legal Aspect of Extra Judicial Killing:

Extrajudicial killing is characterized as a deliberate killing not approved by an earlier judgment decided by a regularly constituted court that offers all the judicial protections that civilized people consider as indispensable. But it is being away from its work day by day and inspired by the government for some time. Explain some laws here that make such murders legal:

## Right of Private Defense:

Every person has the right of private protection, according to section 96 to 106 of the Bangladesh Penal Code, to protect his life & property and other life & assets. In this regard an individual may, under certain circumstances, cause death or some other harm to the assailant.

## Section 54 of the Code of Criminal Procedure, 1898:

Under Section 54 (S54) of the Code of Criminal Procedure of 1898, individuals may be arrested under suspicion of criminal activity without any order from a magistrate or a warrant.

## Section 86 of the Dhaka Metropolitan Police Ordinances:

Section 86 of the Dhaka Metropolitan Police Ordinance echoes the provision of section 54 of the Code of Criminal Procedure. However, Section 54 of CRPC, 1898 is applied all over Bangladesh but Section 86 of DMP Ordinance is used for arrests in the Dhaka Metropolitan area only.

## Special Powers Act 1974:

The 1974 Special Powers Act is viewed as an oppressive statute by human rights advocates and other members of civil society. The use and abuse of this Act in the name of protecting the State's security has led to a steady pattern of human rights abuses. The Act provides for special legislation' to deter pre-judicial acts, timely conviction and sentencing for serious crimes.

# Extra-Judicial Killing and Fundamental Human Rights in Our Constitution:

Extra-judicial killings are all unexpected. Our law enforcement agencies are carrying out extra judicial killings in our country. Our Government legalizes that. But this isn't true, because every individual has some basic rights. One of the constitutional rights is receiving fair judgment by statute. For all human rights the right to life is the most important. Bangladesh's constitution of 1972 served as an epitome in championing the causes of human rights and became a milestone in the country's protection and promotion of human rights. Article 31 is the well-known clause of Bangladesh's Constitution and has a special position as a constitutional right. It guarantees people and aliens the right to life and personal freedom and is enforceable against the State. Extra-judicial killing or assassination is a common phrase without the due process of law. Within the current discussion this method of killing is mainly being opposed by representatives of law enforcement agencies nationally and globally on grounds of human rights abuses. Those freedoms are guaranteed by the Constitution as well as the statute, among many others.

Bangladesh is certainly no exception. Notwithstanding that, in Bangladesh and elsewhere these illegal and unlawful acts do happen.

Our country’s constitution is a written constitution. It provides all kind of facilities which we need for well living. Part III of the Bangladesh constitution provide fundamental rights of the peoples, here some important articles are given:

1. Equality before law. (Article-27)
2. Right to protection of law. (Article-31)
3. Protection of right to life and personal liberty. (Article-32)
4. Safeguards as to arrest and detention. (Article-33)
5. Protection in respect of trial and punishment. (Article-35)
6. Freedom of movement. (Article-36)
7. Enforcement of fundamental rights. (Article-44)
8. Saving for certain law. (Article-47)

# Extra Judicial Killing in Bangladesh

According to information gathered by Odhikar, in between January to December 2011 total 84 has been killed by extra judicial agencies. Also, in 2015 it increased into 92 and till than extra judicial killing is increasing repeatedly. According to another rights group named Ain O Salish Kendra says 79 people were killed in the shootouts while they were in police custody in Bangladesh in the first six months of 2016.[[1]](#footnote-1) Here the police were themselves were involved in 37 of these deaths. Almost 3,000 people were subjected to extrajudicial killing by the law enforcement agencies across the country from January 2009 to December 2019. There is a list and a chart of extrajudicial killing giving below.

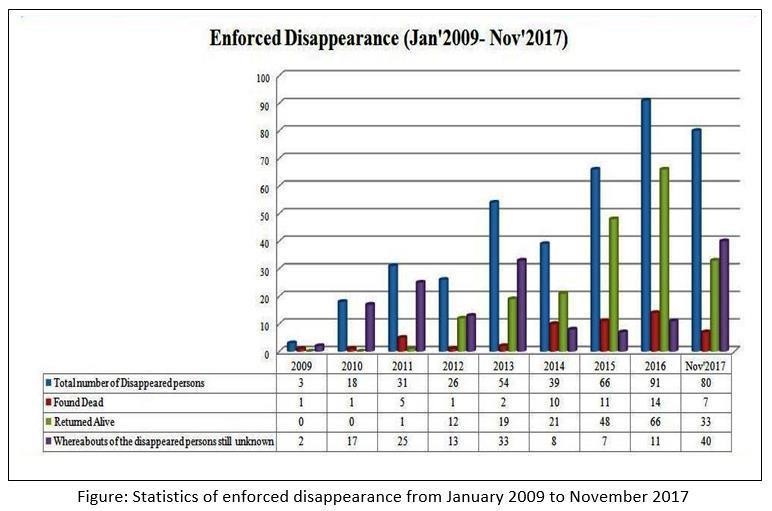
* The RAB agencies has killed 15 criminals by cross fire without arrest, 7 criminals by cross fire after arrest. And after arrest by physical torture 1, by shooting 1 criminal. This fall under extra judicial killing.
* The Police agency had killed 20 people by crossfire without arrest, by physical torture 2 and by shooting 3 criminal deaths. Also, with arrest by cross fire 20, by physical torture 3 and by shooting 17 death.

* The Police and RAB agencies both by join work has killed 1 criminal by crossfire after

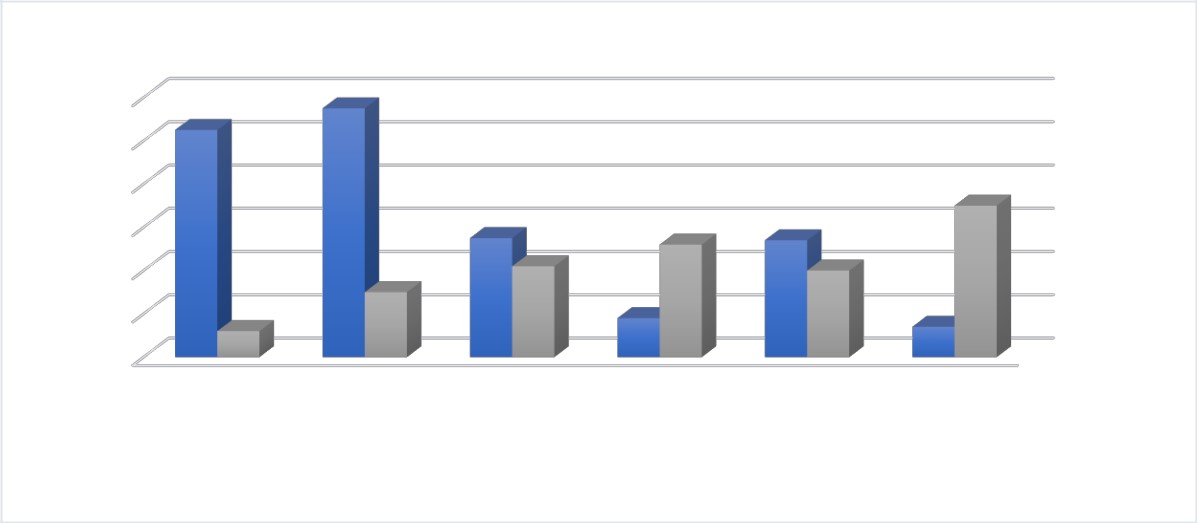
arrest

* Ansar and Coast guard agencies have killed 2 criminals by crossfire after arrest.

* RAB and Coast guard agencies in a joint mission killed a criminal by cross fire after arresting him.



# Extra Judicial Killing in Different Districts:



120

100

80

60

40

20

0

Khulna

Dhaka

Chittagong

Sylhet

Rajshahi

Barisal



court



count per population

# Critical Analysis:

In Bangladesh there are dilemmas about cross fire. In the famous murder case of **Rifat Sharif** the whole nation was happy for the extra judicial killing of Noyon Bond. On the other hand, in the case of extra judicial killing case of **Major Sinha** the nation was seeking justice for him. So why extra judicial killing is sometimes accepted and sometimes not accepted, it is still a burning question in Bangladesh.

Some dilemmas about extra judicial killing are given below: -

1. A and B are two brothers, A is a police officer and B is involved with drug dealing. In an anti-drug operation, A found his brother who was shooting the police force with the gun because he was unable to recognize his brother because of drug doses. Here if A should crossfire B or he should leave him because B is his brother is a big dilemma. If he leaves

B free the other police officers will be dead.

1. In Teknaf a drug dealer was shot by the police while he was talking to his daughter. Here the dilemma is if the police set him free, he will be ruining other ten children’s life. But if they shoot him his family will be destroyed as they all deepens on him fully.

1. A RAB officer was instructed to kill an innocent man who was arrested wrongly, he was offered a lot of money and that time he needed the money because his mother was dying in hospital by cancer. Here he should kill an innocent man or let his mother die is the dilemma.

In many cases the extra judicial killing is done wrongfully. In **Narayanganj Killing Case** of 2014 Panel Mayor of Narayanganj city corporation Nazrul Islam, his 4 assistants, Tijul, Islam, Liton, and Jahangir, Advocate Chandan Sarkar and his Driver Ibrahim were abducted and killed near KS Osman Ali Stadium of Fatullah Narayanganj on 27 April 2014. After 3 days 6 bodies were found in the

Shitalakkha river. And high court order to arrest 3 RAB top officers on this case.

In **Zafar Alam, Jahangir Alam, and Dhalu Hossain Case**, according to the statements of

Bangladesh Police, these three were notorious human traffickers who had been killed on 8th May of 2015 during a gunfight with the officers. However, there were accusations on Police that one or two days prior to each of the incidents, the police picked up the men from their homes or from

local markets. No one investigated these things further.[[2]](#footnote-2)

In **Rasal Ahmed Bhutto Case**, He was picked up by RAB in plainclothes on the date of 3rd

March, 2011, while minding a friend's shop in Dhaka. On 10th March, Bhutto was brought to the area where he used to live, in a RAB vehicle. He was shot inside the park. Later RAB summoned journalists to show the body of an alleged criminal killed in crossfire.

So, here we can see that the agencies and RAB sometimes misuses their power because of some political matters. Maybe sometimes encounter is necessary where the life of the police officers are in danger. But in most of the case we can see that they had many more measures to take other than the crossfire and they intentionally created the situation of encounter.

# People’s Response to Extra-Judicial Killing:

Extra-judicial killing or murder is a common term, without due process of law. In the ongoing debate this method of killing is being objected mainly by leaders of law enforcement agencies nationally and globally on grounds of human rights abuses. Most people including family members of victim, civil society, lawyers and human rights activists are raised against extra-

judicial killing. Human rights groups or civil society observe the human chain many times to discuss the law enforcement agency's extra-judicial killings. Although extra-judicial reduce offence but it is unwelcomed by concerned peoples. In Many cases the members of the victims’ family have denied the story of “encounter” and alleged that the RAB members had killed the victims after he was arrested.

# Ethical Issues Involved in Extra Judicial Killing:

* **Violation of organizational protocol**

Every organization has some code of operation and it must be followed at any point. Violation of this protocol will reduce the prestige of the organization. By making extra judicial killing a trend, without any trial, the protocols and boundaries of the police department are broken.

* **Undermining Constitution**

The constitution of Bangladesh provides some laws and provisions for handling criminal justice system. Police force is supposed to follow the law and order whereas giving punishment to the criminals is the job of judicial body. Violation of this fundamental practice is a violation of constitution which is against our ethics.

* **Violation of individual rights**

Every individual, whoever he is, a victim or a criminal, has some basic sets of rights which can never be taken away except by judicial interference. By performing extra judicial killing police is overriding this provision and violating human rights. This is unethical.

* **Moral obligation**

The police or RAB are obliged to perform their duty in the most dedicated way. The people who are supposed to protect lives are performing crime is a very clear violation of ethics and one’s integrity. By performing extra judicial killing one is challenging his inner ethics against majority motions.

* **Mob Mentality**

Encounter is wrong; it is the mentality of a mob which sees things through the lens of agitation than justice.

# Extra Judicial Killing & Capital Punishment:

Capital punishment is a sanction given by government where a person is put to death as a punishment for his crime. This penalty is generally given for grievous crimes. It can be cause by beheading, electrocution, hanging, lethal injection, shooting. However, many countries do not support the concept of capital punishment. According to the source of Amnesty international as at May 2012, 141 countries had abolished the death penalty from both law and practice.[[3]](#footnote-3) They believe the death penalty is totally inhuman and cruel. Most importantly it will not help to reduce the crime. According to criminology the main reason behind punishment is to prevent crime. The death penalty is clearly a symbol of the culture violence, not a solution of it. Punishment should be given in such way which helps to reduce the crime. The crime should be abolished not the criminals. People, who are getting death penalty, are getting it by proper hearing. But how can we justify extra judicial killing which is done by without any kind or trial. The principle of Natural Justice says,

* No one should be condemned unheard,

* The judges should be biased.

Extra judicial killing is a clear violence of the whole idea of justice. It never reduces the crime and never serves justice. Every criminal must get a chance to clarify himself. The death sentence is irreversible and sometimes mistakes happen which can also happen in case of extra judicial killing. It does not deter the crime. The death penalty and extra judicial killing is often done with the less advantaged socio-economic background, ethnic or religious minority because they do not have enough power to fight back or to do appeal, revision. There is also a political discrimination. So justice is not served in many cases properly.

In Bangladesh death sentence by hanging till death is the capital punishment. But many countries do not support it and some has already abolished it saying it inhuman cruel, so how we can justify extra judicial killing where there is not even proper trial. The police force pr RAB themselves even do not know whether the person they are killing is actually a criminal or not. It is the gross violence of the whole idea of justice.

# Opinion Regarding Extra Judicial Killing:

In my opinion, extra judicial killing should be fully banned from legal aspect because not only it's violating one's moral aspects but also harming the administration and judicial system. Because of this system the actual criminal can easily get away with his crimes. This loophole of the justice system should be fixed as early as possible otherwise the society will lose hope from the judicial body and the whole justice system. We know that even the society keeps different opinion in different case of extra judicial killing. However, killing any person is wrong ethically and morally. Every person’s life is valuable. Every person has some basic human rights such as right to live. So extra judicial killing is not only illegal but also unethical. It can also be considered as a crime against humanity.

# Comparative Review:

From just the conversation above, we see that constitution gives us more than 23 fundamental rights but despite these factors people are unable to receive their basic rights. There have been several illegal murders for extra judicial killing. Many people get killed without justice by RAB, joint powers, police though these people were not offenders. Extra judicial killing is violation of the constitutional right provided for in Bangladesh constitution. Since our constitution grants our fundamental rights but against our fundamental right is extra judicial killing.

# Concluding Remarks:

The discussion above explains that an extra-judicial killing is the killing of an individual by law enforcement officers without the approval of any legal or judicial proceedings. This is a serious violation of human rights. This is also a violation of the constitution of Bangladesh. Yet in Bangladesh, these forms of killings still occur frequently. Extra-judicial killings have no place in society in the light of democratic values, because they are not only unlawful but also unconstitutional. Therefore, it is discovered that this form of operation by the RAB is simply a false concept to call the extrajudicial killing under the call of 'crossfire,' it is only to wash the general public's eyes. People should raise their voice against these kinds of things.

# References:

1. Rashid, Barrister Harunur, “Extra-judicial killings Some Issues” Published by The Daily Star, June, 18, 2005.
2. <http://belalpacs.blogspot.com/2012/10/extra-judicial-killings-by-law.html>
3. The Constitution of the People’s Republic of Bangladesh, Dhaka, The Ministry of Law, Judiciary and parliament, pp. 8-14.
4. <http://odhikar.org/extrajudicial-killings/>
5. <http://odhikar.org/statistics/killed-by-law-enforcement-agencies/>
6. [.http://www.banglanews24.com/Law/English/detailsnews.php?nssl=9b8619251a1 9057cff70779273e95aa6&nttl=130](http://www.banglanews24.com/Law/English/detailsnews.php?nssl=9b8619251a19057cff70779273e95aa6&nttl=130)
7. Ain O Shalish Kendra,‘Rab: SantrashNirmul Na RashtrerSanstrash’ Dhaka, 2005
8. [https://www.thedailystar.net/3000-extrajudicial-killings-in-bangladesh-last-10-years1944349](https://www.thedailystar.net/3000-extrajudicial-killings-in-bangladesh-last-10-years-1944349)

1. Sarker, Sujit (2016-07-01). "79 killed in 'crossfire' in 6 months in Bangladesh: Rights group". Asia News Network. Retrieved 2017-01-22.

   [↑](#footnote-ref-1)
2. In Bangladesh, a license to kill". Retrieved 2017-01-22.

   [↑](#footnote-ref-2)
3. Amnesty [↑](#footnote-ref-3)