

EXTRA JUDICIAL KILLING: AN OVERVIEW OF BANGLADESH

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ABSTRACT

In general, extrajudicial killing is the killing by law enforcement authorities without the sanction of any judicial proceeding or legal process. Though a person is being suspected as a criminal, he has the legal and constitutional right to have justice. In this paper it is tried to analyze five years (2005-2009) data from some newspapers articles of Bangladesh on extrajudicial killing, find the legal barriers as well as legal shields used by law enforcement agencies to justify the killings. It is also tried to explain extrajudicial killing by several aspects like denying due process, crime control and access to the justice on the basis of secondary data sources.

KEYWORDS: Extra Judicial Killing, Human Rights, Legal Boundary, Justice System

INTRODUCTION

Civilization is thought to have come to a stage when people are supposedly living in a rights-based rational society. In order to consolidate their perceived and real gains in this respect, the State have to create useful laws and relevant institutions. Of the individual rights guaranteed within the constitutional framework of a state, some have been characterized as the most essential or fundamental to our existence as human race. These are universally regarded as birth rights and are inseparable from us, i.e., 'inalienable' of human being. Right to life, liberty, conscience, right to freedom of movement and speech, freedom from torture and inhuman treatment are agreed to be the pre-requisite for overall development of a human person including physical, mental, intellectual, cultural and spiritual development. Constraints put up by policies (of a state or informal institutions) on the way of accessing these rights would mean constraints in the process of development of human potentials of that particular nation or race. As a poor developing country, Bangladesh unfortunately faces a lot of such constraints.

One of the major concerns of the country today seems to be violation of the fundamental rights and Human Rights of its citizens. Human rights refer to the 'basic rights and freedoms to which all humans are entitled.' Examples of rights and freedoms which have come to be commonly thought of as human rights include civil and political rights, such as the right to life and liberty, freedom of expression, and equality before the law; and social, cultural and economic rights, including the right to participate in culture, the right to food, the right to work, and the right to education. In this paper it is concerned about the violation of life and liberty by the authorities who have to protect the right that means the law enforcement agencies.

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 '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 also continued during the present AL government. (Dr. K. M. A. Malik, 2010)

The matter of concern of this paper is extrajudicial killing and its legal pit wholes and boundaries. First of all it has to know the meaning of extrajudicial killing. 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 process. (Nesar Ahmed 2009).

To clarify the term 'Extrajudicial killing' some definitions and quotations are given underneath.

The definition of extrajudicial killing' means execution without justice. In Bangladesh context we can say that extrajudicial killing means how people are being killed in the name of 'Crossfire' 'Shootout' and 'Gunfight'. In recent years, extrajudicial killing is like a tactic in the ongoing campaign against terrorism, which has generated considerable controversy. Extrajudicial killing is the killing of a person by governmental authorities without the sanction of any legal process. (Steven R. David 2005). Extrajudicial killing is defined as a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. (*Sinaltrainal v. Coca-Cola Co.*, 578 F.3d 1252 11th Cir. Fla. 2009)

There is no excepted definition of Extra Judicial Killing. An extrajudicial killing is the killing of a person by governmental authorities without the sanction of any judicial proceeding or legal process. Extrajudicial punishments are by their nature unlawful, since they bypass the due process of the legal jurisdiction in which they occur. Extrajudicial 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 extrajudicial killings are being categorized under a new vocabulary of 'crossfire,' 'encounters,' etc. (Razia, Sultana 2006)

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)

Bangladesh started its journey as an independent country with constitutional and political commitment to safeguard the human rights for all its citizens. Unfortunately, what we have been witnessing over the years is a serious disregard for this commitment without any exception whether the country was ruled by a 'democratic', 'military' or 'civilian-military' government. Lack of respect for democratic norms and values, denial of space for opposing political views, and marginalizing the weaker sections of the society (religious and ethnic minorities, extreme poor such as slum dwellers, etc) have created the conditions that allow different state organs and powerful sections of the society to violate human rights more or less on a routine basis, without any accountability. There are laws against all kinds of human rights violations but the policing and justice systems are weak and often subservient to the government of the day. The 'violators'

in most cases go scot-free because they either belong to the ruling party/cliقة or have enough money and influence to escape the net of justice.

The law enforcement agencies are playing very important role in criminal justice process. Bangladesh Police is the main law enforcement agency of Bangladesh to provide service to all citizens and make Bangladesh a better and safer place to live and work. It also upholds the rule of law, ensures safety and security of citizens, prevents and detects crime, brings offenders to justice and maintains peace and public order. Special Branch (SB) Criminal Investigation, Department (CID), Railway Police (GRP), Highway Police Industrial Police, Armed Police Battalion (APBn), Rapid Action Battalion(RAB), prison police are some branches of Bangladesh Police. Besides there are paramilitary law enforcement agencies like Border Guard Bangladesh (BGB), ANSAR and VDB and Bangladesh coast guards.

Though these agencies are doing their professional duties very actively but they are alleged to be the violators of Human Rights in Bangladesh in some cases which are found to be known from the media. 'Security forces committed numerous extrajudicial killings. The police, Bangladesh Rifles (BDR), and the Rapid Action Battalion (RAB) used unwarranted lethal force. Although there was a decrease in the number of killings by security personnel, nearly all incidents received only administrative investigation. According to local human rights organizations, no case resulted in criminal punishment, and in the few instances in which charges were levied, punishment of those found guilty was predominantly administrative. The resulting climate of impunity remained a serious obstacle to ending abuse and killings. According to press reports and law enforcement agencies, the RAB, a paramilitary group composed of personnel from different law enforcement agencies, killed many persons. The deaths, all under unusual circumstances, occurred to accused persons due to torture in police remand, while in custody or during police operations; however, the authority described the deaths of some identified criminals as occurring in exchanges of gunfire between the RAB or police and criminal gangs as follows-'During the operation of rescuing arms and ammunition taking with accused person, the companions of the accused person attacked the law-enforcing agencies and the accused person had been killed in encounter.'

This is the common news provided by the law-enforcing agencies after cross-fire. In this paper it is tried to find the facts that what law enforcement agencies are related to extrajudicial killing, the methods of executing such killings, legal boundaries in doing so and above all as there are lot of rules, regulation, Human Rights treaties how they continue such a Human Rights violation. To find the facts data are collected from secondary source that is newspaper data and analysis is based on secondary sources like media, newspapers, books, journals and official websites of the law enforcement agencies of Bangladesh, internet journals, Human Rights reports etc.

METHODOLOGY OF THE STUDY

The methodology is one of the important parts of a study. A scientific methodology is a system of explicit rules and procedures upon which study is based on and against which claims for knowledge are evaluated by looking for new means of observation, analysis, logical inference, and generalization. The methodology which is used in this study to collect relevant information to fulfill the objectives of the study is secondary data collection method. The data used in this report are collected from four leading newspapers of Bangladesh; these are The Prothom Alo, The Jugantor, The Daily Star and the Observer through five years that is 2005, 2006, 2007, 2008 and 2009. Findings are analyzed by various concepts based on the information from secondary sources like the media, newspapers, books, journals and official websites of the law enforcement agencies of Bangladesh, internet journals, Human Rights reports etc.

Findings of the Study

A large number of deaths in so-called crossfire and police custody were observed and different law enforcing agencies killed a total of 396 people in 2005. Among them, members of the Rapid Action Battalion killed 111 and 258 were killed by the police. Again, a total of 340 persons were reportedly killed in incidents of 'cross fire' alone. It is found that in 2006, 355 persons died at the hands of law enforcement agencies. In the year 2007 it is found that 184 people killed by law enforcement personnel, as recorded, Rapid Action Battalion (RAB) killed 94 people, the police killed 64 people, RAB and police acting together killed 3, the 'Joint Forces' killed 7, the Army killed 7, the Navy killed 3, the Jail Police killed 1 person, Coast Guards killed 1 person, Forest Guards killed 1 person, Bangladesh Rifles killed 1 and the Department of Narcotics Control Officers killed 2 persons it was reported that 130 people were killed in so-called 'crossfire'/encounter/gunfight/shootout, 30 people were tortured to death, 13 were shot dead in circumstances other than 'crossfire'/encounter/gunfight/shootout and there were 11 deaths in other circumstances – the details of which are given below.

Circumstances of the Deaths

It was reported that RAB killed 90 people in 'crossfire'/encounter/gunfight/shootout. 2 persons were tortured to death while 2 other men, arrested by RAB, later died in hospital. 35 people were killed by police in 'crossfire'/encounter/gunfights/shootout. They tortured 14 people to death. The police kicked 1 elderly man causing him to fall, hit his head and die. The police shot dead 11 people in circumstances, other than 'crossfire'/ encounter/ gunfights/ shootout. 1 person died in police custody and 2 men who had been arrested by the police later died in hospital. RAB and the police acting together killed 3 people in 'crossfire' /encounter/gunfight/shootout. Army allegedly tortured 5 people to death. 1 person died while reportedly trying to escape from an Army van. 1 man who had been arrested by the Army later died in hospital. It has been reported that the Navy tortured 3 people to death. The 'Joint Forces' allegedly killed 1 person in 'crossfire' /encounter/ gunfight/shootout. They allegedly tortured 3 people to death. 1 person who had been arrested by the 'Joint Forces' later died in hospital. 1 person in 'Joint Forces' custody reportedly jumped off a six-storey building and died. 1 person who was arrested by the 'Joint Forces' died in a police station. It was reported that the Department of Narcotics Control tortured 2 men to death and that the Jail Police tortured 1 man to death. The Coast Guard killed 1 person in 'crossfire'/encounter/gunfight/shootout. The Forest Guard gunned down 1 man and Bangladesh Rifles (BDR) shot dead another person in circumstances, other than 'crossfire'/ encounter/ gunfights/shootout. (Odhikar report 2007)

In the year 2008 it is revealed that 149 people killed by law enforcement personnel, Rapid Action Battalion (RAB) killed 68 people, police killed 59 people, RAB and police acting together killed 15, the 'Joint Forces' killed 1, Coast Guards killed 4 person and Bangladesh Rifles (BDR) killed 2 persons. It was reported that 136 people were killed in so-called 'crossfire'/encounter/gunfight/shootout, 12 people were tortured to death, 1 was shot dead other than 'crossfire'/encounter/gunfight /shootout.

Circumstances of the Deaths

It was reported that RAB killed 65 people in 'crossfire'/encounter/gunfight/shootout while 3 persons were tortured to death. 50 people were killed by police in 'crossfire'/encounter/gunfights/shootout. They tortured 8 people to death. The police also shot dead 1 people in circumstances, other than 'crossfire'/ encounter/ gunfights/ shootout. RAB and the police acting together killed 15 people in 'crossfire' /encounter/gunfight/shootout. The Coast Guard killed 4 people in

'crossfire' /encounter/gunfight/shootout. Bangladesh Rifles (BDR) killed 1 people in 'crossfire' /encounter/gunfight/shootout and 1 people was tortured to death. The 'Joint Forces' allegedly killed 1 person in 'crossfire' /encounter/ gunfight/shootout.

154 people killed by law enforcement personnel, as recorded, Rapid Action Battalion (RAB) killed 41 people, the police killed 75 people, RAB and police acting together killed 25, the Army killed 3, the Jail Police killed 1 person, Coast Guards killed 1 person, Forest Guards killed 1 person, Bangladesh Rifles killed 5 and the Ansar killed 2 persons in 2009.

Extra Judicial Killing in India-Bangladesh Border

India and Bangladesh share an international border of 4095 kilometers with about 6.5 kilometers of land and riverline patches still un-demarcated near Bangladesh's Comilla district bordering Tripura (M. Afsarul Qader 2010) Several Indian states, including West Bengal, Assam, Meghalaya, Mizoram and Tripura adjoin a total of 28 Bangladesh districts at the border. (<http://mha.nic.in/pdfs/Fencing.pdf>) The international border was first created with the partition of the subcontinent into India and Pakistan in 1947. The new nation of Pakistan was carved out, and consisted of two land blocks, one to the east and the other to the west. In 1971, East Pakistan broke away after a bitter war against West Pakistan, and the independent nation of Bangladesh was formed. According to Bangladesh human rights monitoring group, Odhikar, between 2000 and June 2010, at least 924 Bangladeshi nationals were killed by India's Border Security Force. MASUM, a non government organization has documented hundreds of cases in India, in just the one state of West Bengal.

Legal Shields Using in Extra Judicial Killing

Typically, regarding extra-judicial killings, the police at the first hurriedly register a complaint of unnatural death. Such complaints are registered under Section 174 of the Code of Criminal Procedure-1898 as an 'accidental or suicidal death' instead of a 'homicidal death.' The same provision also empowers an 'Executive Magistrate' to inquire into the incident. In all cases, the law-enforcement agents and the magistrates conspire to disguise the extra-judicial killings, notably by branding them as 'crossfire' or 'encounter' killings. In the rare case where complainants attempt to lodge complaints of extra-judicial killing by State-actors, the police not only refuse to record the complaint but also intimidate the complainants and even other members of their families. Furthermore, the authorities typically then engage in smear campaigns against the victims, labeling them as being suspects or accused persons in criminal cases, including fabricating charges and/or cases against such persons. Such fabrication is commonplace in Bangladesh, and includes serious crimes like robbery, murder and the possession of illegal drugs, related to gang criminality, possession of illegal weapons, possession of narcotic drugs etc.

Torture and cruel, inhuman and degrading treatment or punishment, repression against the innocent people, use of unnecessary force and abuse of legal provision by the law enforcing agencies is a growing phenomenon in Bangladesh. Apparently, arbitrary arrest on the ground of 'reasonable suspicion' under Section 54 of the Code of Criminal Procedure (Cr. P. C.), Section 86 of the Dhaka Metropolitan Police Ordinance (DMP Ordinance) and the Special Powers Act of 1974 and torture by the police in custody have all turned into common incidents. The law enforcing agencies engaged in the practices of torture are entirely contrary to the universally accepted international human rights instruments like UDHR, ICCPR, CAT and also to the domestic legal provisions and constitutional bindings and guidance.

Section 54 of the Code of Criminal Procedure

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 Ordinance

Section 86 of the Dhaka Metropolitan Police Ordinance echoes the provision of section 54 of the Code of Criminal Procedure. However, Section 54 of Cr. P. C. 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 Special Powers Act of 1974 is deemed by human rights activists and other members of civil society as a repressive law. The use and abuse of this Act in the name of protecting the security of the State has resulted in a steady pattern of human rights violations. The Act provides 'special measures' for the prevention of pre judicial activities, for a speedy trial and punishment for grave offences.

There have also been cases where the police have arrested a person under S. 54 of the Code of Criminal Procedure and then included his name in a criminal case even though his name was not found in the First Information Report (FIR). Thereafter, the unfortunate detainee is charge sheeted. Thus, both Section 54 of the Code of Criminal Procedure and Section 86 of the Dhaka Metropolitan Police Ordinance allow police to arrest persons on ground of 'reasonable suspicion' without a warrant or the permission of a Magistrate.

It is also found that, 'police remand' was being used as an excuse to physically torture detained persons. Corrupt police officers used 'remand' as a tool for collecting bribes from the arrested persons. From the remand victims in monitored police stations. They alleged that the police tortured them inhumanly after taking them into remand and they were given no food during their detention under remand. (M Rafiqul and S M Solaiman 2003)

LEGAL BOUNDARIES AGAINST EXTRA JUDICIAL KILLING

The protection to the life and personal liberty of individuals are inalienable and universal human rights recognized in a growing body of international human rights instruments of which Bangladesh is a party. Bangladesh is a ratifying party of the 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is also a signatory of the 1948 Universal Declaration of Human Rights. These instruments unequivocally outlaw all kinds of torture, cruel, inhuman or degrading treatment or punishment without any derogation. The Universal Declaration (Article 5), ICCPR (Articles 4.2 and 7) and the Torture Convention may be relied upon to show that acts of torture under police remand in Bangladesh constitute a gross violation of human rights recognized in and protected by international law and the United Nations.

The Constitution of Bangladesh guarantees fundamental rights to life and personal liberty (Article 32), equality before law (Article 27), protection of law (Article 31), safeguards against arrest and detention (Article 33) and freedom of movement (Article 36). Its protection in respect of trial and punishment requires that 'no person shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment' (Article 35.5). These constitutional guarantees are not barely ornamental and declaratory, but entail precise legal obligations. Articles 44 and 102 of the Constitution provide judicial remedy against any violation of fundamental rights.

EXTRAJUDICIAL KILLING DENYING DUE PROCESS

The principal guide that informs our predictions of the future directions of criminal and juvenile justice is Herbert Packer's model criminal justice process. He describe the criminal justice process as 1. The crime control model 2. The due process model

Crime control model want to make the process more efficient—to move cases through the process as quickly as possible and to bring them to a close. Packer characterizes the crime control model as “assembly-line justice.” The key to the crime control model is “a presumption of guilt”—if a person has been arrested and charged, they must be guilty. So here guilty is the main goal.

On the other hand the due process model embodies traditional politically liberal values. In this model, the principal goal of criminal justice is at least as much to protect the innocent as it is to convict the guilty. (H. Packer 1968)

In case of Extrajudicial killing in Bangladesh the crime control model is followed by the law enforcement agencies by using police deadly force for example torture signs had been found in the dead bodies who were alleged criminals by the law enforcement agencies but they were tortured to confess guilt as presumed by the specialists (Md. Shohiduzzaman 2008) and strongly ignored the due process.

Extrajudicial Killing as the Barrier of Access to Justice

Access to justice includes certain stages, which starts with the right to bring the grievances before the court and end up with enforcement of the remedy achieved. Anderson (2003) suggests five stages of access to justice and they are naming, blaming, claiming, winning and enforcing (Table-1).

Table 1: Stages of Access to Justice (Anderson, 2003, p. 2)

Naming	Identifying a Grievance as a Legal Problem
Blaming	Identifying a culprit
Claiming	Staking a formal legal claim
Winning	Getting rights and legitimate interests recognized
Enforcing	Translating rights into reality

The barriers of the formal legal system that have been identified before play its part to make sure that access to justice is denied at every stage. As shown in Table 1, stage 1 demands the identification of a grievance and the filing of it as a legal problem. Two things create problem in Bangladesh in doing so. First, certain grievances of rural poor are not even recognized by the court. Second, technicality of law is another problem. Language of law is not understandable and thus access to justice is denied. Even when the problems related to the first stage is overcome; it only paves the way to the problems related to the second stage. It demands the identification of the criminal. The ineffectiveness of law enforcement bodies and unbridled corruption create hindrance in this stage and thus to access to justice. If fortunately, someone becomes successful to overcome this hurdle, he has to deal with staking a legal claim. However, the anti-poor laws in the formal legal systems, negative attitude to the poor among many engaged in legal process and excessive bureaucracy create unwanted delay in processing a legal claim (Hasle, p. 7). The luckiest person can reach up to final stage, which requires translating his/her right into a reality. However, barriers like corruption, lack of judicial independence and ‘abuse of political authority vis à-vis law enforcing agencies’ can undermine the surety of implementation of justice delivered. And in Bangladesh the obstacles in case of access to justice are given underneath-

Table 2: Access to Justice through Formal Legal System: Bangladesh Scenario

Stages	Problems Faced in Bangladesh
Identifying a grievance as a legal problem	Inadequate laws, too much technicality
Identifying a culprit	Ineffective law enforcement bodies, corruption
Staking a formal legal claim	Capitalist laws, negative attitude, excessive bureaucracy
Getting rights and legitimate interests recognized	Delayed justice procedure, corruption
Translating rights into reality	Corruption, abuse of political power

From the Bangladesh scenario it is found that access to justice is denied in different stages of criminal justice process and if the person who presumed to be guilty is executed with any extrajudicial method then there would be no scope to get into the process at all.

Extra Judicial Killing from Conflict Perspective

Conflict theory is based upon the view that the fundamental causes of crime are the social and economic forces operating within society. The criminal justice system and criminal law are thought to be operating on behalf of rich and powerful social elites, with resulting policies aimed at controlling the poor. From the previous discussion and data it is found that most people who are being victim of extrajudicial killing are from the group of lower economic class, and also have no political power, or minor political groups, who are unable to bribe the law enforcement agencies are being victim of extrajudicial killing.

CONCLUSIONS

Bangladesh started its journey as an independent country with constitutional and political commitment to safeguard the human rights for all its citizens. Unfortunately, what we have been witnessing over the years is a serious disregard for this commitment without any exception whether the country was ruled by a 'democratic', 'military' or 'civilian-military' government. Lack of respect for democratic norms and values, denial of space for opposing political views, and marginalizing the weaker sections of the society (religious and ethnic minorities, extreme poor such as slum dwellers, etc) have created the conditions that allow different state organs and powerful sections of the society to violate human rights more or less on a routine basis, without any accountability. There are laws against all kinds of human rights violations but the policing and justice systems are weak and often subservient to the government of the day. The 'violators' in most cases go scot-free because they either belong to the ruling party/cliقة or have enough money and influence to escape the net of justice.

It can be said that, These Extrajudicial killings have never been a good policy to controls the crimes. Many countries such as India, Srilanka, Pakistan, Russia, Thailand etc. were using this tool to control the environment but over the times they was failed to prove its logics. In Bangladesh, this policy is cried out when RAB was formed. Primarily it was coming out with some success but over the time it creates the fear among the people due to its unwise, negative uses. There are a no. of examples are available in this regards. In the end which diminishes public faith on judicial system of Bangladesh. (Hasan, Tarique, 2009).

'Crossfire' is an extrajudicial execution that is in flagrant violation of Bangladesh's constitution and the international human rights conventions of which the country is a party. Although some people believe that extrajudicial

killing of hardened 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 eradicate ‘terrorism.’

The arbitrary abuse of power by law enforcement agencies through illegal arrest, arbitrary detention, fabricating charges, intimidation and extortion from ordinary citizens, as well as the use of torture and ill-treatment in custody in the name of maintaining law and order in Bangladesh must be stopped immediately. A transparent and accountable monitoring system should be launched in order to stop any kind of manipulation by the law enforcement agencies, for example the enforcement of the law in the interest of justice would be the paramount preventive remedy against any misuse of s. 54 and s. 167. Potential victims of the abusive use of sections 54 and 167 may be spared in many instances through the adoption of appropriate preventive measures. Any reform agenda must grapple with the fact that prevention is better than cure, which can easily be accomplished by introducing precision and filling-up gaps in the existing criminal and penal laws of Bangladesh. Transparency in dealing with the person in remand is an important procedural aspect of the fair application of the law. A minimum threshold of objectivity and openness in law enforcement may be adopted through a number of measures. These may inclusively include: 1. The police may be allowed to arrest on suspicion only after collecting some relevant material/evidence in support of the arrest without warrant. 2. The police must be required to effectively notify the relatives of the arrestee about the time, place of arrest and venue of custody within the shortest possible time, preferably not exceed 12 hours after arrest. 3. The competent magistrates may be authorized to release an arrested suspect should the arresting police fail to file a case within a specified short period of time, preferably within 48 hours from arrest. 4. The lawyers(s) of the victim’s choice must be allowed to meet him/her as early as possible and stay there during interrogation. During the remand period, the police must not be allowed to keep the remanded person under their custody all the time. Instead, interrogation may be carried out at best the whole day and his/her lawyer(s) should be allowed to accompany as long as the victim wants and can afford. 5. If hiring a lawyer is not affordable to the victims, legal aid may be made available to ensure his/her self-defense, or representatives of at least one human rights organization of the victim’s choice, could be allowed to be present during interrogation.

In this paper it has been tried to focus a beam of light on the extrajudicial killing of Bangladesh from the information and writings of secondary source. It is an academic contribution which is tried to explain extrajudicial killing by conflict perspective, denial of due process and barrier to access to justice.

REFERENCES

1. Ahmed, Nesar, ed. *Crossfire: State’s Political Killing*. Dhaka: Oitijjhya publications, 2009.
2. Ain O Salish Kendro (ASK), *Human Rights in Bangladesh 1998*. Dhaka: The University Press Limited, 1999.
3. Akash, Jahangir A. Pain. Bloomington: Xlibris Corporation, 2011.
4. Amnesty International Report. ‘Bangladesh Chapter’, 2010
<<http://www.americanchronicle.com/articles/view/160975>>
5. Anderson, M. *Access to Justice and legal Process: making Legal Institutions Responsive to Poor People in LDCs*. San Francisco: Jossey-Bass, 2003.
6. Asian Legal Resource Centre (ALRC). ‘Civil and Political Rights, Including the question of: Torture and

- detention'.7 February 2005.
7. Asian Legal Resource Centre (ALRC). 'BANGLADESH: The perpetrators of over 1000 extra-judicial killings must be brought to justice'. Human Rights Council, Tenth session, February 13, 2010.
 8. Aziz, M. A. and Islam, M. A. 'The validity of the Special Power Act, unreported case', The New Nation, Dhaka, 13 July 2001.
 9. Dey, S. K. 'Murder after arrest of innocents under section 54: Tortures exceed all records'. TheJanakantha. Dhaka, 23 May 2002.
 10. Fencing and Floodlighting of Borders.' Report of the Ministry of Home Affairs.10 October 2010 <<http://mha.nic.in>>.
 11. Gomes, N. William. 'Cross fire: crosses the limit in Bangladesh'. 7 January 2010 <<http://nicholasgomes.wordpress.com/cross-fire-crosses-the-limit-in-bangladesh/feed/>>.
 12. Hasan, Tarique; BCS Digest, Dhaka: Millers Publication, 2009.
 13. Hasan, Md.Mahmudul. 'Cross-Fire in Bangladesh.' December 16th, 2009 <<http://www.thesop.org/rss/contributor-mahmudlaw.xml>>
 14. Halim, Md. Abdul. Constitution, Constitutional Law and Politics: Bangladesh Perspective, 2nd ed. Dhaka: CCB Foundation, 2010.
 15. Huq, Zahirul. Law and Practice of Criminal Procedure, 10th ed. Banglabazar: Bangladesh Law Book Company, 2006.
 16. Hyeed, H. A. Governance and Judiciary in, Governance: South Asian Perspective. Dhaka: University Press Ltd, 2000.
 17. Islam, M. Zahirul. The Penal Code. Banglabazar: Bangladesh Law Book Company, 2005.
 18. Kabir, A. H. M. 'Police remand and the need for judicial activism', The Daily Star, 7 April 2002.
 19. Khan, Shamsul I., Islam, S. Aminul and Haque, M. Imdaul. Political Culture, Political Parties and the Democratic Transition in Bangladesh. Dhaka: Academic Publishers, 1996.
 20. Legal and Judicial Reform: Observations, Experiences and Approach of the Legal vice Presidency. Washington D. C.: World bank, 2002.
 21. Malik, K. M. A. 'Extrajudicial Killings & Custodial Torture'. 28May 2010 <www.utulsa.edu.llm>.
 22. Odhikar, Human Rights Reports on Bangladesh, 2006,2007,2008,2009< www.odhikar.org>
 23. Packer, Herbert. The Limits of the Criminal Sanction. 1st ed. Stanford Research Park: Stanford University Press, 1968.
 24. Police and judiciary'. The New Nation, Dhaka, 28 May 2002.
 25. Rahman, Anisur. 'Bangladesh orders probe into custodial deaths of 21 BDR troops'. The Press Trust of India Ltd. May 21, 2009.
 26. Qader M. Afsarul. 'Management of Bangladesh-India Border.' Bangladesh Institute of International and Strategic Studies. October 2010 <<http://www.biiss.org>>.
 27. Rafiqul, M. and Solaiman, S. M. 'Torture Under Police Remand in Bangladesh: A culture of impunity for gross violations of Human Rights'. Asia-Pacific Journal on Human Rights and the Law 2003. Printed in the

Netherlands.

28. Reasonable suspicion vs. unreasonable impunity'. The Daily Star, 8 December 2001.
29. Ross, Jeffrey Ian. Varieties of State Crime and its Control. Monsey: Criminal Justice Press,2000.
30. Shaha, Subrota kumar. Research Planning and Personal writing skill. Kolkata: AHFPH, 2010.
31. Shohiduzzaman, M. 'Extrajudicial killing, torture continue apace'. The Daily New Age, Dhaka, December 10, 2010.
32. Sultana Razia. Extrajudicial Killings in the Name of Crossfire. Vol. 15, Human Rights Solidarity, Kowloon: Asian Human Rights Commission, May-July 2005.
33. Steven R. David. 'Fatal Choices: Israel's Policy of Targeted Killing, Mideast Security and Policy Studies',2005.
34. 'The Daily Star Dialogue on arrest and police remand: Accent on check and balance in legal system', The Daily Star, 11 April 2002.

