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Legitimizing Extrajudicial Killings: A Discursive Study on the Law Enforcement Agency and the Violations of Human Rights in Bangladesh

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Abstract

This study aims to understand the construction process of legitimizing extrajudicial killings through analyzing text from print and electronic media and how they have been portrayed to the audience. It puts an effort to understand how Bangladesh government legitimize extrajudicial killings within a democratic framework of a country. Extrajudicial killing is a threat to modern societies. It has adverse effects on the country's development. Violation of human rights practices by the law enforcement agencies in Bangladesh has been created lots of debates and criticism. Van Leeuwen's method of understanding legitimacy has been used to analyze text from different sources. Government and the authority legitimize extrajudicial killings through texts which have been portrayed to the mass population. A post-colonial theoretical perspective had been used to explain the situation from a post-colonial idea of domination. The status of the rule of law in Bangladesh does not comply with the practice of violation of human rights through the practice of extrajudicial killings.

Keywords: Extrajudicial Killings, Rapid Action Battalion, Violation of Human Rights, Legitimacy, Post-colonialism, Rule of law.

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List of Abbreviations

AHRC- Asian Human Rights Commission

BNP- Bangladesh Nationalist Party

Cr.P.C- Code of Criminal Procedure

DMP- Dhaka Metropolitan Police

EIU- The Economist Intelligence Unit

FIDH- The International Federation for Human Rights

FIR- First Information Report

HRC- Human Rights Commission

ICCPR- International Covenant on Civil and Political Rights

ICESR- International Covenant on Economic, Social and Cultural Rights

NHRC- National Human Rights Commission

OED- Oxford English Dictionary

RAB- Rapid Action Battalion

UDHR- Universal Declaration of Human Rights

UN- United Nations

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1. Introduction

1.1 Background of the problem

"give me shells...three...four. How many have you brought? A voice replied, "Ten.". A conversation between few RAB officers after an alleged murder of Teknaf municipality councilor Akramul Haque. His wife provided some audio clips of scary conversation which escalated the allegations of her husband's murder by Rapid Action Battalion. However, the Rapid Action Battalion in a press conference claimed, Akram was killed in a "crossfire" between the law enforcement officers and the drug dealers. Although, the recorded conversations revealed the process of how he was killed while his wife was screaming from the other side of the phone, "the commissioner has not done anything...why are you killing him?" and the woman voice repeatedly said the same words after hearing a gunshot during the phone call (The Daily Star, 01.06.2018). The record includes a brief conversation before the gunshot was heard. "Aren't you involved?" said an unidentified voice. No, replied another voice. A few seconds later, the sound of pulling back the hammer of a gun was heard, and a gunshot rang out. A man groaning was followed next. As the groaning continued for a few seconds, Akram's wife and two daughters on the other side of the phone screamed and begged for his life, saying he was innocent, according to the audio clip" (The Daily Star, 01.06.2018).

In a democratic country, the responsibility of safeguarding human rights goes on the State's shoulder especially all state institutions, i.e., the Police, RAB, the Army, the Judiciary or civil administrations are responsible for protecting the rights of the citizen and preventing human rights violations (Kamruzzaman et al., 2016: 20). However, the present situation of the human rights is very critical in Bangladesh. The primary concern of the country is now appearing to be the violation of the human and the fundamental rights (Aziz, 2015: 131). Surprisingly, law enforcement agencies especially, Rapid Action Battalion (RAB) and the Police in Bangladesh are involved in the human rights violations (Uddin, 2017: 209). RAB is an independent unit works within the government and is formed in 2004 which is considered as a unique force within the police, with the combination of both military and the police which aims at reducing terrorism, drug trafficking and control serious criminal activities (Janzon, 2017 and Interview of South Asian Director, UN Human Rights Watch, see appendix 9.4). It has its internal unit where they claim, they suspect, they investigate, and they punish. As RAB is a rotating force that incorporates police and military. However, when a country has a joint force like RAB

which incorporates the military and the police, they end up getting militarized. Police start resorting the aggressive behavior with bigger weapons and not showing minimum respect for the rules and regulations given by the constitution (Interview of South Asian Director, UN Human Rights Watch, see appendix 9.4).

In 2014 national elections in Bangladesh the leading opposition political group Bangladesh Nationalist Party (BNP) boycotted the election whereas the election procedure continued. Since then, Bangladesh headed in an authoritarian direction (Human Rights Watch, 2016). Current Bangladesh government is criticized for the failure of reducing violation of human rights, impunity and showed zero resilience to reduce impunity, disappearance and extra-judicial killings (Human Rights Watch, 2016). The voluntary organization International Crisis Group published a report on 11th April 2016 which disclosed some exciting fact about extrajudicial killings. Political rivalry between two ruling political group in Bangladesh took a whole new dimension and resulted in a high level of violence as well as enforced disappearance. "The government's excesses against political opponents and critics include enforced disappearances, torture, and extra-judicial killings. Police tasked with targeting the government's rivals and an overstretched justice system compelled to prosecute opposition leaders and activists now also face a renewed threat from violent extremists" (Asia Report, 11 April 2016). Bangladesh follows a parliamentary democracy where broad powers are exercised by the Prime Minister (Country Reports on Human Rights Practices, 2003).

Bangladesh government has been criticized many times for the practice of extrajudicial killings by the law enforcement agency. On January 24, 2018, the Asia Director of Human Rights Watch wrote a letter to Prime Minister Sheikh Hasina about the enforced disappearance in Bangladesh. The letter was rooted on an earnest request to the Prime Minister to take urgent steps to end the practice of secret detentions and enforced disappearance which is affecting many of the families in Bangladesh (Human Rights Watch, January 24, 2018). Dimitris Christopoulos, FIDH (The International Federation for Human Rights) president said, "It's time for the government to seriously address the issue of impunity for perpetrators of extrajudicial killings and enforced disappearances and to hold law enforcement officers, irrespective of their rank and position, accountable for these serious crimes" (FIDH, 10.04.2017). Sadly, the practice of extrajudicial killing continued till today; furthermore, the situation represents the status of the Bangladesh government which claimed by the Director of Human Rights, "except for a

few isolated incidents, the government has failed to honor this commitment" (Human Rights Watch, January 24, 2018).

Legitimacy is a crucial issue in every governmental organization. Despite, being warned and aware by many international and national Human Rights Organizations about the consequences of practicing extrajudicial killings in a country, the Bangladesh government continues practicing it. Moreover, the authority legitimizes extrajudicial killings which violate the essential features of the rule of law of a country. Some of the extrajudicial killings and forced disappearances are emerged to be politically motivated where few numbers of opposition party member gone missing or killed (Human Rights Watch, 2018). Government to conceal the act of extrajudicial killings represents text in print or electronic media in a way that manipulates audience's belief towards extrajudicial killings and narrates a story that makes them believe in the goodwill behind any killings or abduction. Many cases have found where law enforcement agency members confirmed their identity as the authority while carrying out a forced abduction or crossfire. Confirmation has also found from the witness about the involvement of the law enforcement agency in unlawful killings and forced disappearances (Human Rights Watch, 2018). However, even after many promises the government frequently made to investigate all allegations of the violation of human rights (Human Rights Watch, 2018), the situation continued till the present day which resulted in questioning the rule of law of Bangladesh.

1.2 Aim and Objectives

The aim of this paper to acquire an understanding of the legitimacy construction of extrajudicial killings. Hence, the primary aim of this paper can be outlined as, "Investigating how have extrajudicial killings been legitimized within the framework of the Constitution of Bangladesh which prohibits unlawful killings?". The aim of this study focuses on the understanding of how Bangladesh government legitimize extrajudicial killings which is recognized as a democratic country and expected to act following the constitution. The word democracy came from the Greek words, demos and Kratos, which means the power of the people (Mollah, 2015: 02). It is recognized as the "voice of the people" (Momtaz, 2013: 101) and regarded as a form of governance in Bangladesh where people rule themselves through their representatives (Mollah, 2015: 02). Independent sovereign People's republic of Bangladesh was announced in 26th March 1971 through a historic war for national independence (Constitution of the People's

Republic of Bangladesh, 1972: 01) and was expected to act in accordance with the constitution. According to the constitution, “it shall be a fundamental aim of the State to realise through the democratic process to socialist society, free from exploitation-a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens (Constitution of the People’s Republic of Bangladesh, 1972: 01). One of the most basic principles of the constitution is the rule of law however, in practice rule of law is undignified and disappointing (Rahman, 2014: 32). Constitution governs the legitimacy of the action of the government (Habib, 2014: 225) hence, by securing the right of the human constitution contributes in levelling democracy in a country (Momtaz, 2013: 101). The rule of law safeguards the fundamental elements to keep the democracy moving, however the successful status of the rule of law and a stable democratic system depends on effective and modern law enforcement agencies and how far they are liable to show respect. To what extent the rule of law and the rights of a human have been patronized by the law enforcement agency is also an indicator of a successful democratic country (Momtaz, 2013: 101). According EIU (The Economist Intelligence Unit) Democracy Index 2017, Bangladesh was ranked 92 with a score of 5.73 out of 10. This report in addition categorized media in Bangladesh as “partly free” and it ranked Bangladesh’s media freedom status 49th among 167 countries (Star Report, 2018).

This study hereby aims to gather an understanding of the legitimacy process of extrajudicial killings by the law enforcement agency whereas Bangladesh as being a democratic country is required to act in accordance with the constitution to safeguard the rights of the human and prohibits unlawful killings.

1.3 Research Questions

Apart from this aim, this paper is also categorized in specific research questions to get an ample idea of what this study serves. In order to continue this study with an ambition of knowing the fact that hinders the actual growth and the development for a citizen by violating the fundamental human rights in Bangladesh, following question are presented as the research question of this paper and after that are expected to get an answer from the text of this paper-

-How do extrajudicial killings committed by the RAB are discursively legitimized by the authorities and treated in media?

Media plays a very important role in delivering and outreaching any information into a mass audience. In Bangladesh, extrajudicial killings are seen as an act taken by the law enforcement agency to protect the citizen. Furthermore, media represents and highlights the text to manipulate people's belief. The first research question is therefore intending to know how these extrajudicial killings are presented in the media which in a way helps in legitimizing extrajudicial killings by the authority.

-What role has the Bangladesh Judiciary system played in protecting the rights of the citizens from abusive uses of the power by RAB?

1.4 Delimitations

Extrajudicial killings have been a very controversial issue in Bangladesh since the time of their establishment until now. Due to the controversial nature of the topic and difficulties in accessing in the relevant empirical data narrowed down the scope of this research. The area of this research hereby involves some serious issues that has been going on for a long time as an act of Government and which lead the entire governing system questioned. This research has a lot of significance in understanding the act Bangladesh government is supposed to carry out as being a democratic country and to what extent the rights of the human should be protected. However, due to the limitations of time, this study only focuses on the issues of legitimacy. Analyzing official case documents could have been an advantage to know in what extent Bangladesh Judiciary protects the rights of the citizen as being the most powerful institution. Limited access in official documents and case paper hinder and confined the scope of the study.

1.5 Dispositions

The first chapter introduces a background of the problem of the study, the research question, aim and objectives of the study. Based on an overview of previous research second chapter provides a brief description of Bangladesh Judiciary System and how the system has been developed through a different period of governance. In this chapter, the condition of human rights in Bangladesh also being presented followed by some cases and examples. Explanation of RAB and their establishment is also presented along with some data consists of the violations of human rights by the law enforcement agency. Chapter three presents, conceptualization and the definition of the different concepts this study possess, for example, human rights, extrajudicial killings. Chapter four explains the theoretical framework with a historical overview of the colonial rule and the law for an enriched understanding of the research question. Chapter five presents the methodology which incorporates an explanation and a discussion of the used method in this study, i.e., Van Leeuwen's discursive construction of legitimacy. Chapter six presents the materials and analysis of the empirical data along with an explanation of the theoretical connection of the analysis. Discussion and final remarks with a concluding reflection of the study are presented in chapter seven. It summarizes the analysis results in order to able to answer the research questions with a recommendation for further research.

2. Literature Review

Literature related to extrajudicial killings, various reports from different organizations, several newspaper reports have been reviewed in this section in order to uplift the primary concern of this study. This literature review chapter has been divided into few sections, for example, a description of the legal system in Bangladesh, how gradually this legal system evolved from the British period until the present day. A description of human rights and the violation of human rights by the law enforcement agency has also been made along with focusing on a defining RAB and their responsibilities for a better understanding of the topic.

2.1 Legal System

Bangladesh judiciary system has a history over thousands of years. The present structure of Bangladesh judiciary has been a result of a gradual process of a different period of Indian history although some of the features of Bangladesh Judiciary System has remained same as the pre-British period of Hindu and Muslim administrations (Pandey and Mollah; 2011: 06). Bangladesh judiciary system has a long history of governance since British colonialism period, and the present judiciary system is the result of a gradual development process of different periods of Indian history.¹ Although Bangladesh is an independent country now, however, it was ruled by Lords, Kings, Emperors, Sultans, Zamidars when it was a part of Indian subcontinent over few hundred years (Mollah, 2011: 01). The process of the development of the legal system is considered as a mixed system which rooted in Indo-Mughal and English law, and the structure, legal principles, and the concepts remained same from the colonial era (Pandey and Mollah; 2011: 06). The present judiciary system is considered as the replica of British and Pakistan governing system where an attempt of controlling the judiciary through various techniques including appointment, occupation and so on was involved. The practice of controlling the judiciary continues, furthermore, executive interference over the judiciary has been a widespread practice in Bangladesh too (Mollah, 2012: 61).

After independence, Hindu period, Muslim period, British period considered as the most significant periods of the legal history of Bangladesh, therefore many foreign powers ruled and left a governance legacy of colonial domination which Bangladesh inherited adequately along

¹ <http://www.judiciary.org.bd/en/judiciary/history-of-judiciary>

with the continuation of practicing it which affects the government and the politics of the society (Mollah, 2011: 137 and 2015: 416). In all those periods of governance, the governing system and the administration specified by repression and dictatorship (Mollah, 2011: 137).

In 1971, Bangladesh appeared as an independent country although there was hardly any change in any laws and the judiciary system. Bangladesh introduced the Constitution of the People's Republic of Bangladesh in 1972 which is considered as the fundamental foundation of the state as well as the judiciary system that provides structure and the function of the supreme court. The subordinate judiciary system is the combination of Criminal Procedure Code 1898 and Civil Court Act 1887. Labour Court, Juvenile Court, Administrative Tribunal and so on. Has some other special laws too. Most of the law originated from the English Common Law though most of the law are statutory laws approved by the parliament and interpreted by the Supreme Court. However, the rule of law is the most fundamental features of the legal system of Bangladesh. "Everyone is equal before the law and entitled to equal protection of law, and there cannot be any discrimination on the ground of religion, race, sex, etc. and no one can be detrimentally affected in life, liberty, body, reputation or property except in accordance with law in Bangladesh" (Mollah, 2011: 14-15).

2.2 Human Rights

The state creates useful laws and relevant institutions in order to integrate a right based rational society where people are allegedly living (Aziz, 2015: 131). The beginning of Bangladesh as an independent country was created through the violation of democracy and human rights (Mollah, 2016: 424). After the separation in 1947, Bangladesh remained under Pakistan and had ruled by Pakistan. Deprivation and all sort of discrimination made Bangladesh fight for the rights. People were deprived of political, social, economic, educational, employment and other fundamental human rights (Mollah, 2016: 424). Rights to life, liberty, conscience, right to freedom of movement and speech and freedom from torture are considered as the inseparable conditions for the physical, mental, intellectual, cultural development of a human being (Aziz, 2015: 131). The deprivation of their fundamental human rights created an example in the world's history for a country to fight for their rights and get an independent, sovereign state. Bangladesh achieved their independence after nine months of battle against Pakistan on 16th

December 1971 (Mollah, 2016: 424). Although, during the independent war many people sacrificed their lives to protect the rights of the citizen, however, the present situation of countries overall legal system is even worse than things were 30 years ago (Momtaz, 2003: 101). The journey started after the country's independence with a constitutional and political commitment to protect human rights for its citizen (Aziz, 2015: 132). According to Brysk and Calif (2002), "Human rights are a set of universal claims to safeguard human dignity from illegitimate coercion, typically enacted by state agents" (Uddin, 2017: 209), through violation of human rights in Bangladesh has become one of the most significant concern worldwide. In Bangladesh, the practice of violating human rights have started after the independence and continued until today. Although the commitment of safeguarding the rights of the citizen was made, however a severe disregard towards the commitment Bangladesh made has been witnessed over many years with different intensities of violation of human rights (Aziz, 2015: 133).

Law enforcement agencies mainly the Police and Rapid Action Battalion (RAB), makes the protection and promotion of human rights in Bangladesh difficult as according to Uddin, they are precisely involved in human rights violations (Uddin, 2017: 209) even though, the constitutional framework of the state guarantees to secure individuals right (Aziz, 2015: 131). The criminal justice system of Bangladesh is criticized for arbitrary arrests, custodial tortures and unlawful detentions by law-enforcing agencies (Das et al., 2016: 02), although when someone is suspected as a criminal, he or she has the legal and constitutional right to have justice (Aziz, 2015: 131). The culture of practicing impunity keeps the violation of human rights persistent in Bangladesh, and the national human rights commission have also become unsuccessful in controlling the culture of impunity in Bangladeshi politics too (Uddin, 2017: 209). Police remand connected with violent torture, inhuman punishment or even death (Rafiqul and Solaiman, 2003: 01). The practice of violation of Human Rights in Bangladesh took a massive place over the years. Since the time of the establishment (2004) of RAB until now they have been continuously executing extra-judicial killings within the consent of the state. Rapid Action Battalion is known as state killers in the name of so-called "crossfire," "encounter," "shootout" or "gunfight" (Habib, 2015: 69). However, RAB was successful to some extent in arresting some criminals, but often they are alleged to many killings and tortured detainee till the death without any trial (Aziz, 2015: 132).

On the other hand, Bangladesh judiciary is one of the most powerful institutions that play a leading role in protecting and establishing human rights and the rule of law. One of the primary functions of the judiciary is to protect human rights undertaken by the Constitution and law (Begum, 2016: 10). According to the Constitution of Bangladesh, "unlike any other common law countries, the Supreme Court of Bangladesh has the power not only to interpret laws made by the parliament but also to declare them null and void and to enforce fundamental rights of the citizens." Supreme court holds the maximum power including the ability to generate a law for the investigation or punishment for any disrespect to the law (Constitutions of the People's Republic of Bangladesh, 1972). To justify the extra-judicial killings, law enforcement agencies in Bangladesh uses the legal shield to legitimize their action (Aziz, 2015: 131).

Legitimacy is "people's beliefs about the right of justice institutions to hold power and influence," and it is formed by two significant factors, i.e., Obligations to obey and moral alignment. When legal authorities have a right to control behavior which is also considered as showing respect to the authority is known as obligations to obey, and moral alignment is the belief that expects legal authorities to act consistently with the public values and morality (Jackson et al. 2015 in Cheng, 2016: 212). Procedural justice and legitimacy are interconnected where the legal system and the authority are supposed to reflect the values and the norms of the mass citizen (Cheng, 2016: 212). In Bangladesh, the legitimacy of the justice system and their action towards securing the rights of the citizen sometimes are not positively interconnected. Max Weber conceptualize legitimacy as, "a quality possessed by an authority, a law or an institution that leads others to feel obligated to obey its decisions and directives" (Cheng, 2016: 212). Committing extra-judicial killings by law enforcement agencies in Bangladesh is seen as an act of safeguarding the nation from critical situations. Law enforcement agencies possess their confidence and effectiveness in criminal control in order to legitimize extra-judicial killings. Mainly, authority express the sense of safeguarding people and possess the power when everyone feels obligated to the authority. However, authority legitimizes extra-judicial killings with an asserted meaning of the power and position they hold which make people obey their order. Alternatively, law enforcement agencies in Bangladesh incorporate the idea of power and domination which force people to obey them. Instead of being obligated to proper law or institutions, people feel pressurized to listen to law enforcement agencies as denying the order of the authority might lead them to lose their life when law enforcement agencies have a legal shield of protecting themselves and legitimizing

their action through the right of self-defense. Constructing legitimacy in extrajudicial killings express the power access and the domination, law enforcement agencies practice when people are forced to obey them. The power and position of authority hold which manipulates them to justify their action of violating the right of the citizen (Kamruzzaman et al., 2016: 22).

According to Kamruzzaman et al. (2016: 22), law enforcement agencies in Bangladesh are given an extreme power which makes them deny the existence of the Court of law and giving the judgment of a death penalty to a criminal suspect (Kamruzzaman et al., 2016: 22). There have been few cases found where police arrested suspects under section 54 of the Code of Criminal Procedure and filed the name in a case although the name of the person was not found in FIR (First Information Report). Hence, to get information from the suspects sometimes an unfortunate detainee is charge-sheeted without any magistrate order of arrest as section 54 of the Code of Criminal Procedure allows police to arrest someone based on the suspicion (Aziz, 2015: 136).

2.3 Legal shield to Legitimize Extra-Judicial Killings

To legitimizing extra-judicial killings law enforcement agencies in Bangladesh, use many loopholes as a legal shield. There are a few acts which are often used as a protection for the law enforcement agencies to validate their action. For example, under the section 174 of the Code of Criminal Procedure 1898, police can register a complaint of accidental or unnatural death instead of homicidal death. An executive magistrate is also empowered by the same provision to investigate the incident, however, in many cases, law enforcement agencies and magistrates conspire to evade the extrajudicial killings. Furthermore, police refuse to record any complaint if any state actor is involved in extra-judicial killings. Complainants, as well as his family, often get threatened by police too to avoid receiving complaints (Aziz, 2015: 135). However, extrajudicial killing is considered as a violation of the constitution of Bangladesh and also the violation of the UN's Universal Declaration of Human Rights (Habib, 2015: 69). The constitution of Bangladesh assures a series of fundamental rights for example right to life, right to liberty, equality before the law, right to property, freedom of occupation, safeguards against arbitrary arrest and detention, and protection in the realm of trial and punishment to the citizen (Uddin, 2017: 210). However, in practice, to legitimize the action taken by law enforcement

agencies, authority technically involve victims in false allegations including labeling them as suspects or accused the persons in criminal cases (Aziz, 2015: 135). Bangladesh penal code section 96 to 106 declares the right of own defense. This section gives the right to a person to protect his life and properties as well as people whose life and belongings are also under threat. As a consequence of this penal code, anyone can cause death or harm to others if they feel threatened or fear of life. Law enforcement agencies use this penal code as one of the most effective defenses to legitimize the extra-judicial killings. In their private defense mechanism, they exercise 'crossfire' in order to defend and secure their own life (Kamruzzaman et al., 2016: 22) which eventually becomes legal protection to exercise and legitimize extra-judicial killings.

Example from different reports of law enforcement agency attempt to legitimize their work: It is a conventional technique and practice by law enforcement agency to claim that criminals were shot and killed in "crossfire" after committing extrajudicial killings in any press statement. However, most of the investigation reports address physical torture and impunity and victims have been executed during the custody. Dead bodies often have marks indicating they had been tortured. People who survived they confronted about physical torture too (Human Rights Watch, 10.05.2011). A report published in Swedish radio on 4th April 2017 where a high-rank RAB officer was being interviewed and provided detailed information of how has RAB been responsible for extrajudicial killings and enforced disappearance. The officer explained most of the extra-judicial killing operations are presented with the positioning of weapons on the victims to present the killing was an act of self-defense. Furthermore, abduction of a victim often involves pretext of protection or safeguard them. This officer also claimed that he has also been involved in more than dozens of killings (FIDH, 2017).

2.4 RAB was introduced to stabilize the government, deal with corruption and provide internal security with an extensive power to reduce criminal and terrorist activities (O'Connor, 2013: 01-02). It was formed by the last BNP government (Bangladesh Nationalist Party) in 2004 to fight serious crimes with the help of the police forces (Aziz, 2015: 132). Rapid Action Battalion (RAB) was established through "the Armed Police Battalions (Amendment) Act, 2003 and published in Bangladesh Gazette on July 12, 2003 (Momtaz, 2003: 103). They were designed as a composite force combined with the elite members from the military (army, air force, navy), police and other elite forces of Bangladesh (Human Right Watch, 2011: 06-07). To some extent, for example, arresting renowned criminals or in different missions RAB was

successful, but in many cases, they were alleged to have tortured detainees. Alternatively, they got attention for violating human rights and using legal shields to legitimize their action.

Concerning the political unrest, instability and the rise of criminality the country encountered during the time of caretaker government, Bangladesh government granted RAB, a paramilitary security force to stabilize the situation (O'Connor, 2013: 01-02). Many studies identify in what extent violation of human rights takes place in Bangladesh. Showing various cases and different statistical data causes no doubt about the gross violation of human rights in Bangladesh (Rafiqul and Solaiman, 2003: 01). Asian Human Rights Commission reports found out gross abuse of human rights has incredibly been increased in past few years. For example, disappearance, deprivation of the right to life by extrajudicial methods-killing suspects in the excuse of crossfire and encounter and torturing the detainee in custody (AHRC, 2011). According to Rafiqul and Solaiman, "There appears to be an unholy nexus between law enforcement agencies and empowering magistrates in dealing with cases of suspicious arrest without warrant, which has been causing custodial deaths and injuries to numerous innocent citizens" (Rafiqul and Solaiman, 2003: 01). Law enforcement agencies use legal defense to protect themselves from legal prosecutions. Section 54 of the Code of Criminal Procedure (Cr. P.C.), section 86 in the Dhaka Metropolitan Police Ordinance (DMP Ordinance), Special Powers Act, 1974 give all the powers to police and the authority to arbitrary arrest from 'reasonable suspicion' and torture in custody. Those ordinance work as a shield for law enforcement agencies when they involve themselves in extra-judicial killings (Aziz, 2015: 135-136). Furthermore, this practice of committing extra-judicial killings is entirely contradictory to the international provision and treaties Bangladesh government accepted to secure the rights of the citizen.

2.5 Fundamental Human Rights and the Legal Boundaries against Extra-judicial Killings: The Constitutional Provisions

Security forces throughout the world have indeed become a very unsuccessful agency for providing security; alternatively, they got worldwide attention for confronting asymmetrical threats which are very unlikely to any modern history. Security forces in developing countries, for example, Bangladesh, Indonesia, and Malaysia are struggling to meet internal security needs (O'Connor, 2013: 01-02). Over the last few years, the Bangladesh government has been

criticized internationally for the role of law enforcing agencies. Their action made the whole legal system of Bangladesh questionable. Not following the proper law instead, they took the attention of international media for violating the rule of law and human rights by practicing extra-judicial killings. In Bangladesh, half of the population lives below the poverty line, and they are the victims of human rights violations by those law enforcing agencies who do not have access to justice (Momtaz, 2003: 101). A democratic government's prior concern should be ensuring each citizen's "right to life" (Rahman, 2014) and every person has legal and constitutional right to live, even if the person is considered as a criminal.

Part three of the Constitution presents eighteen fundamental rights that have been given to the people. Supreme court is responsible for protecting each of those rights for a citizen in Bangladesh. Neither any person nor authority can create any law which is not appropriate with the provisions of these fundamental rights (Constitution of the people's republic of Bangladesh, 1972).

Article 26 announces,

1. All existing law inconsistent with the provisions of this part shall, to the extent of such inconsistency, becomes void on the commencement of this Constitution.
2. The State shall not make any law inconsistent with any provisions of this Part, and any law so made shall, to the extent of such inconsistency, be void (Constitution of the people's republic of Bangladesh, 1972).

Article 31 states, each person has the right to get the protection from the law (Constitution of the people's republic of Bangladesh, 1972). The constitutions of the People's republic of Bangladesh ensures the equality of all citizen comes before the law (Article 27), which appears to be the principle of a democratic state and policy. It signifies to protect each citizen from any discrimination concerning religion, caste, sex, education, work and so on (Habib, 2015: 71). Article 31, 32 and 33 mentioned about rights to protection of the law, right to life, personal liberty. Each citizen is entitled to have the freedom to safeguard as to arrest and detention (Habib, 2015: 72). Article 36, 37, 38, 39, 40 and 41 signify the freedom of movement, freedom of assembly, freedom of association, freedom of thought and conscience, freedom of profession or occupation and freedom of religion (Constitution of the People's Republic of Bangladesh, 1972). Article 11, 44 and 102 guarantees human rights and freedom and fundamental rights of

people. Moreover, this constitution is the expression of the will of people, and it is also considered as the supreme law of the state (Halim, 1998).

Bangladesh constitution also guarantees internationally recognized human rights, for example, rights to life, freedom from torture, freedom from slavery, right to a fair trial, freedom of speech, freedom of thought, conscience and religion and freedom of movement (Uddin, 2017: 210). Although, it is quite bright enough to see how the Constitution of Bangladesh continually concerns of protecting human rights or fundamental rights of a citizen, however, the actual scenario in Bangladesh does not resemble the practicality of having a constitution that emphasizes the rights of a citizen.

Domestic state and non-state actors have put an effort to make the local judiciary to execute the international human rights norms once a country ratifies the international agreement about human rights. In international human rights treaties, it has mentioned that human rights principles are assessed at domestic and international levels, in fact, national institutions are responsible for protecting and promoting human rights for the citizen. However, Bangladesh established a Human Rights Commission (HRC) in 2007 during the time of caretaker government headed by Fakhruddin Ahmed (2007-2008). An ordinance was announced on 9th December 2007 entrusted with some functions by Human Rights Commission. The elected government (Hasina Government 2009-2013) accepted the ordinance that was made by the caretaker government and pass the National Human Rights Commission bill in 2010 (Uddin, 2017: 210).

In order to secure human rights, Bangladesh government has taken many initiatives over a few years along with constitutional and political orders. Ratification or accession, legislative or policy measures, administrative measures, reporting to the treaty bodies and judicial interpretation are the most critical factors for a country to implement human rights. Bangladesh has ratified many national, international human rights treaties, for example, International Covenant on Civil and Political Rights (ICCPR) in 1966, International Covenant on Economic, Social and Cultural Rights (ICESR) in 1966, Convention against Torture, 1984 and so on (Begum, 2016: 08). The concern behind ratifying various treaties about human rights was to secure the life of a citizen as fundamental rights in some point differs from human rights. Fundamental rights have legal sanctions and can execute in a court of law whereas, human rights are not enforceable to the court of law neither they have the sanctity (Uddin, 2007: 210). Furthermore,

fundamental rights derive the sanctity from constitution meanwhile human rights from the conscience (Uddin, 2007: 210). In order to guarantee the rights of the citizen, the state needs to take responsibility for legislative measures. Out of the nine most important human rights treaties Bangladesh has ratified eight, and the country did its best and had no lack of taking the initiatives to sign or ratify the international conventions on Human Rights.

2.6 Number of Extra-Judicial Killings (from several human rights reports)

Rest on various human rights reports it was found, over 80 cases of disappearance were reported in 2017, with seven later reported killed and rest are missing. More than hundreds of reports were filed for enforced disappearance though it is suspected that many other cases probably have not been reported to the authority (Human Rights Watch, 2018). RAB has been responsible for more than 800 killings over past 10 years- BBC report presented, Rapid Action Battalion (RAB) had made nearly 1600 extrajudicial killings since 2004 in Bangladesh (Anbarasan; 2012). RAB was established to stop crime by making a practice of killing criminal suspects (Human Right Watch, 2006). This number of killings also includes disappearance and so-called fake encounters where people are shot dead (Anbarasan; 2012). According to a Dhaka based human rights organization Odhikar, "Bangladesh law enforcement agencies have disappeared over 320 people, including suspected criminals, militants, and, more recently, opposition members. Of these, 50 were later killed, and dozens remained disappeared. The rest were either released or formally produced in court as recent arrests" (Human Rights Watch, 2017: 01). The situation of gross violation of human rights remained same even after the promise ruling party Bangladesh Awami League made in 2009 to end such abuse as an election manifesto (Human Rights Watch, 2017: 01). Although, various studies found out this unlawful practice has outstretched to a new level during the caretaker government and continued till the present Awami League government (Dr. K. M. A. Malik, 2010 in Aziz, 2015: 132). The number of extra-judicial killings over one decade left the whole world surprised and shocking. May 12, 2010, at least 190 persons had allegedly been extrajudicially killed. 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 AHRC 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 2011 in Aziz, 2015: 132).

Extrajudicial killing considered as a threat to Bangladesh which indeed hinder the growth and development of the country. One of the major concerns of the country in the present seems to be the violation of Fundamental Rights and Human Rights of its citizen (Aziz, 2015: 134). A various and inconsistent form of government is a reason for persisting this violation in Bangladesh. However, the culture of impunity has also become a common practice in preventive detention. Many studies said, "Bangladesh government failed to stop this endemic problem" (Das et al., 2016: 02). According to Donnelly, modern states are obliged to protect and promote the human rights for their nationals within their territories (Donnelly, 2013: 129). In order to secure human rights Bangladesh has taken many initiatives; unfortunately, a weak justice system and policing which are often submissive to the government (Aziz, 2015: 132) makes the situation unfavorable for its citizen.

The enormous number of extra-judicial killings and violations of human rights proves lack of proper legislative policy, administrative and institutional measure has resulted into the failure of securing human rights in Bangladesh (Begum, 2016: 01). A recent country report on human rights (2016) by United State Department of State explored extra-judicial killings, arbitrary or unlawful detentions and forced disappearance by government security forces are the most significant human rights problem Bangladesh is facing (Country Report for Human Rights Practices, 2016). Other human rights problems, for example, torture and abuse by security forces, arbitrary arrests; weak judicial capacity and independence; lengthy pretrial detentions; politically motivated violence; official corruption; and restrictions on online speech and the press. Many reports have found about extensive impunity for security force abuses. The fact that surprises the world that, the government has taken insufficient action to investigate and prosecute cases of abuses and killings by security forces, including Rapid Action Battalion (RAB). In some of the cases, the government blamed if a victim is extremist attacks that increase the impunity of attackers (Country Report for Human Rights Practices, 2016). In Bangladesh, police were never a friend of people and not even the protector of human rights (The Daily Star, August 24, 2003: 06) instead they often get blamed for violating rights of the people. They are considered as patrons of criminals (The Daily Star, August 24, 2003: 06

2.7 Knowledge Gap

This literature review is an attempt to find out the most relevant resources for this study as well as to find the knowledge gap of what has not been studied in this discipline. Indeed, there are quite a lot of works have done before on the issue. Surprisingly, the core idea for all those studies is not the same as this study. There are few studies have found that worked with human rights and policies in Bangladesh with a particular focus on the role of National Human Rights Commission. Uddin (2017) in his paper "Human Rights Abuses in Bangladesh Policing: the protection Capacity of National Human Rights Commission" explained the reason why the National Human Rights Commission in Bangladesh fails to make the political system particularly law enforcement agencies accountable. His paper mostly focuses on reasons that made National Human Rights Commission failed on breaking the culture of impunity in Bangladesh politics mostly why NHRIs (National Human Rights Commission) fails to make the political system especially the law enforcement agencies accountable (Uddin, 2017: 210). M Rafiqul and SM Solaiman in their paper, "Torture under police remand in Bangladesh: A culture of impunity for gross violations of human rights" precisely focused on Bangladesh police and their activities for violating human rights; however, these information helps the reader to understand the intensity of the violation in Bangladesh. In most of the research, many cases are found as an example to what extent violation of human rights takes place.

Considering all those issues brought up by different researches over many years, this paper found the gap of studies what has not been studied or discussed in a considerable number. Many of them tried to find out the reason why Bangladesh failed to reduce the violation of human rights. Some of them talked about different mechanism and implementation process to make several human rights treaties successful. However, the question that keeps this research going was found missing in most of that literature that had been reviewed. Bangladesh never hesitates to take any initiatives for ratifying international treaties about human rights.

There is a distinguishable difference between those articles and what this study is intended to do. Researches that criticize the role of National Human Rights Commission whereas this study intends to know the legitimation process of extrajudicial killings. In that case, the primary intention is to know, how have extrajudicial killings been legitimized by the authority of the democratic constitution. This study precisely focuses on the process of construction legitimacy

in extrajudicial killings followed by the cases of disappearance and custodial death by the elite force of Bangladesh for getting a more profound understanding of the raised aim of this paper.

3. Conceptualization of the Term

3.1 Human Rights: Concepts and Definition

The definition of the Human Rights is a consequence of a philosophical debate that has been discussing for over few thousand years. Getting a universal definition of human rights is difficult, generally, it is the right of a person where a person can be treated as a human being. Article 1, UDHR (1948) mentioned, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" (Article 1, UDHR 1948).

Louis Henkin mentioned, "Human rights are claims which every individual has or should have, upon the society in which he/she lives. To call them human suggests that they are universal: they are due of every human being in every human society. They do not differ with geography or history, culture or ideology, political or economic system, or state of development. They do not depend on gender or race, class or status. To call them 'rights' implies that they are claims 'as of right,' not merely appeals to grace or charity, or brotherhood, or love; they need not be earned or deserved. They are more than aspirations, or assertions of 'the good,' but claims of entitlements and corresponding obligation in some political order under some applicable law, if only in a moral order under a moral law" (Henkin, 1981 quoted in Habib, 2015: 71).

Universal Declaration of Human Rights (UDHR) has complete 30 articles that include various aspects of human life to protect the fundamental rights of an individual. Social, political, economic, civic, cultural rights are considered as fundamental rights (UDHR, 1948). Protecting all those rights for a human being is considered as human rights. For instance, "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control" (Article 25, UDHR 1948).

Many scholars have given many definitions of human rights. The concept of the rule of law associated with almost every definition of human rights. However, the fundamental component of human rights includes the following,

1. The right to life, liberty, property, dignity and security of an individual
2. Civic and political rights of individual
3. The Rule of law
4. Liberty of conscience
5. Access to information and justice globally and
6. Freedom of association (Mollah, 2016: 430).

3.2 Extra-judicial killing

This paper shows its concerns about Rapid action battalion in Bangladesh and how their extra-judicial killings make the legal system vulnerable. Many scholars have defined it in many ways; however, there is hard to be found as an exact definition of extrajudicial killings. Extra-judicial killing is a type of murder or killing of a person by governmental authorities without the authorization of any legal or judicial process. Rodley (2009), "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" (Habib, 2015: 72).

According to Aziz, there can be two ways to understand extrajudicial killings which surprisingly involves state too. Firstly, killing within the law and secondly, killing beyond the law. Killing within the law signifies the killing from the judicial process, by the court processing and sanctioned death penalty by the criminal justice process to an accused. Additionally, killing beyond the law is the killings by law enforcement agencies without going through any legal process (Nesar Ahmed, 2009 quoted in Aziz, 2015: 132). Killings executed outside of the judiciary process and with the support of state officials and other authorities, for example, police or militaries is known as extra-judicial killings (Rodley (2009) quoted in Habib, 2015: 72). "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 is considered as extrajudicial killings" (Sinaltrainal v. Coca-Cola Co., 2009 quoted in Habib, 20015: 72). It is a way of practicing impunity in various forms that persistence the violation of human rights in Bangladesh. The killing of a person by government authorities without the sanction of any legal orders is known as extra-judicial killings (Aziz, 2015: 132).

4. Theoretical Framework

4.1 Law and Colonial Rule

Active colonialism demands a process where it can both maintain and control a country and resolve a dispute within it. Colonial power everywhere established an own system of law to extend the power over people by disregarding other mechanisms which are appropriate for 'native' only (Joiremna, 2001: 571). In Nineteenth and early Twentieth century, the law was considered as a tool of "civilizing mission" of British Imperialism (Merry, 1991: 890).

Colonialism and Imperialism are often used to express the same meaning. According to the Oxford English Dictionary (OED), the word Colonialism comes from Roman 'colonial'. Colonia means farm or settlement which allude to Roman who settled in other lands but maintained their citizenship (Loomba, 1998: 19). Colonialism is a source of domination. Loomba (1998) mentioned, "there is no hint that the 'new locality' may not be so 'new' and that the process of 'forming a community' might be somewhat unfair" (Loomba, 1998: 20). Many examples from the past particularly in the period of colonial conquest and control provide an understanding of the process of domination. Colonialism is a connection between people, overpowering and domination (Loomba, 1998: 20).

The history of British Colonialism in India was based on power and domination from the beginning (Hussain, 2003: 04). The rule of law considered one of the most critical facts of colonization (Hussain, 2003: 04). The process of 'forming a community' in the new land inevitably meant un-forming and re-forming the existence community. This process of colonialism also includes a wide range of practice for example; law, trade, settlement, plunder, negotiation, enslavement, warfare, genocide. It is defined as conquest and control over other people's land and goods (Loomba, 1998: 20). British colonialism in India is considered as an example of colonial power and domination. According to Merry (1991: 890), "British law represented to the colonizers in India and Africa a substantial advance over the "savage" customs of the colonized. The way European societies expanded and endeavored to dominate culturally distinct societies indicates much about the nature of European society itself and about the ways it seeks to achieve control over other societies. The role law played in the establishment of colonial control in the past and at the periphery, but in doing so, it provides insights into processes of domination in the present and the core" (Merry, 1991: 890).

Colonialism is a process which involves an extensive transfer of laws, legal institutions and culture from one society to another. The central feature of this colonialism process is when one society attempts to rule and to transform another. The courts, legal system and police are established by the colonial power (Merry, 1991: 890). John Brewer and John Styles, the editors of *An Ungovernable People*, have shown "seventeenth and eighteenth-century Englishmen's conceptions of government were intimately bound up with their experience of the law. This sense of the political nature of the law (and the legal nature of politics) was in part a direct consequence of the state's use of the courts as the chief means of exercising authority . . . Good governance was equated with justice and the fair dispensation of the law with good government: in this sense, the "rule of law" was no empty phrase" (Hussain, 2003: 04).

This transfer of laws, legal institutions do not exclude its particular socio-cultural organizations and legal culture. As a result of this, dual legal system arises for colonized people and colonizers. The dual legal system starts playing a predominant role in Asia, Africa, Latin America and the Pacific. Post-colonial countries are now struggling to get a unified legal system out of this duality (Merry, 1991: 890). Post-colonial theory is viewed as an issue "that concerns exposing the underlying orientalist assumptions in national and international laws that affirm essentialized constructions of cultural difference and inform many countries flawed policies of multiculturalism" (Eve Darian-Smith, 2013: 248). Scholars from the global south mainly criticized the Eurocentric ground of international law (Eve Darian-Smith, 2013: 248). However, post-colonial theories do not contain a unified form of understanding as it does not contain a complete whole of intellectual understanding.

Furthermore, what connects them is a shared intellectual legacy that emerged among non-Europeans after the Second World War, even though they have a different focus or analytical framing. As a result of this, post-colonial legal theories are considered as a matter of interest that accept the unequal power relations between global North and global South rather than showing respect to their interdependence. Moreover, post-colonial legal studies also concern historically structured ethnic and racial divide (Eve Darian-Smith, 2013: 248).

The relationship between state and traditional law have been examined many times since the establishment of colonial legal institutions. A diverse pattern of institutional structure and behavior have discovered as a result of the presence of a dominating foreign power comparing to

the pattern before colonialism (Joiremna, 2001: 571-572). According to Anghie, "The colonial and postcolonial realities of international law have been obscured and misunderstood as a consequence of a persistent and deep-seated set of ideas that has structured traditional scholarship on the history and theory of international law" (Anghie, 2006: 739).

The rule of law was the central and distinctive factor of English politics (Hussain, 2003: 04). Legal institutions often influence the usefulness of the rule of law. Legal scholars, politicians, policymakers put emphasize on the effectiveness of legal institutions as they claim the rule of law is connected with democracy and capitalist development. However, it has been proved by many previous studies that an independent and prosperous country requires the effectiveness of the legal institutions along with the proper rule of law (Joireman, 2001: 572). Strong legal institutions also guarantee a better human rights record and deepen democracy within countries (Carrothers 1998; Coliver 2000 quoted in Joireman, 2001: 572). The rule of law is one of the most fundamental aspects which keep democracy moving and protect the human rights (Momtaz, 2003: 101). A competent legal institution also demands the proper rule of law. The effectiveness of the legal institutions is essential when it comes to protecting citizen's right. Countries which guarantee its citizens right and physical protection are less likely to be involved with violent activities. Those countries are proved to have a better representation of democracy who have an equal treatment under the law to secure its citizens right (Dowty and Loescher, 1996 quoted in Joireman, 2001: 572).

The division between favorite justice and the rule of law was consummated through challenges to authority during British colonialism. General and Ideological meaning of the rule of law not only a prominent form of a modern politics but also recognized as intermediate and distinguishing features of English politics, morality, and civilization (Hussain, 2003: 04). In comparison with the civil law, English common law system developed to protect the right of the citizen and limit the power of the state to acquire resources whereas civil law developed in a context of a growing empire in need of statue (Joireman, 2001: 573). During British colonialism, they set a system of law which regulates people's life by controlling most crucial part of their daily life. "Disobedience" and "disagreement" are two universal concepts that remained a distinguishable factor of colonial governance. The strong demand for governance of conquest and power made the authority put emphasize on the rule of law and legal protections (Hussain. 2003: 05). The primary idea of developing common law was to protect individual rights from the state (Joireman, 2001: 573) whereas in practice executive power exercise abolish the status of the

rule of law (Hussain, 2003: 05). However, English common law system is considered as one of the most superior legal systems due to its origin (Joireman, 2001: 574) and Bangladesh legal system acquire this supremacy from the time of colonialism. Therefore, if English common law were followed correctly, would result in judgment for the people (Joireman, 2001: 574). British established their supremacy with nonwhite populations over the globe with a racialized uniformed political system where legality did not get questioned and became the critical factor of state legitimacy (Hussain, 2003: 05).

Law entitles the development of colonial power and provides a solid ground for a colonial state. Furthermore, colonialism is also considered as the construction of modern law. Colonialism is an expression of power and knowledge discourse, and it is viewed as a source and a representation of western ideas and practices (Hussain, 2003: 06). The Rule of law in colonial process remained diverse in many places. In colonial state law was considered as a tool to protect land and labor from the exploitations of settlers. The use of law in the colonial process, therefore, a way to establish control through law (Merry, 1991: 891). Hussain (2003) postulated, "if the rule of law was the settled theoretical standard of colonial politics, the institutional practices of the colonial state constantly fell short of such a standard" (Page-07). Some arguments say, British India was the jurisdiction of conquest and was responsible for the establishment of political legitimacy (Hussain, 2003: 07). They settled a new form of regulation where the state will register the effects of conflicting stimulations. For example, in India, the British developed an elaborative and strong judiciary system. This system required a certain "act of state" would be beyond judicial inquiry. Regulation iii, 1818 mentioned, "Whereas reasons of state . . . Occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding" (Hussain, 2003: 07).

Globally, good governance, the rule of law and democratic practice lie on an independent judiciary. Independent judiciary is considered as a foundation stone for all those principles that build a prosperous nation (Mollah, 2012: 61). Mollah (2015) discovered the colonial rule consumes the structure of Bureaucracy in Bangladesh. Post-colonial reform efforts are hindered by the inheritance and the legacy of colonial rule. Mollah claimed, "As an adverse effect of colonial rule politicization of administration and civil-military elitism has coexisted in bureaucracy that relaxes the accountability of administration. As a result, dominating bureaucratic

role exhibits with rampant corruption in Bangladeshi governance" (Mollah, 2015: 416). According to Merry, "when police or courts handle cases are particularly important in introducing the culture of a dominant group" (Merry, 1991: 892).

According to Habib, the present situation of the human rights in Bangladesh has become critical since the establishment of RAB in 2004 (Habib, 2015: 69). The UN report on human rights suggests that security forces killed 135 people in Bangladesh between January and September 2015 and 90 people were killed by police. Rapid Action Battalion (RAB) was also identified as responsible for mass killing in Bangladesh. (United Nation, 2016). It has been very common in Bangladesh to read occurrence and news about RAB and Police killing terror in a newspaper in the very first hour of a day (Habib, 2015: 69). Nowadays, those extra-judicial killings left no surprising expression for people. Securing democracy, the rule of law, press freedom, human rights has been a responsibility for the state to guard. Bangladesh is criticized for those extra-judicial killings since 2004. Law enforcing agencies in Bangladesh violates the human rights with a concern of government (Habib, 2015: 69) whereas Bangladeshi citizens are guaranteed 23 fundamental rights (Habib, 2015: 69) in the Constitution. In the Constitution, few articles for example 26 to 47A specified fundamental rights, and article 31 and 32 of the Constitution are advised to secure and protect those fundamental rights for the citizen (Habib, 2015: 69). Based on many reports about violation of human rights in Bangladesh a bright and vivid argument can be generated that, Bangladesh judiciary has not been successful in protecting human rights for the citizen. Bangladesh has always been struggling to achieve justice, democracy, and the rule of law. The rule of law is one of the fundamental principles of the constitution of Bangladesh (Rahman, 2014). From the beginning until now many political parties took place the chair of a government, but the actual scenario has hardly been changed. Establishment of the rule of law is one of the most challenging things in Bangladesh. Instead, the actual condition of the rule of law is getting worst day by day (International Covenant on Civil and Political Rights: Article 2, 2014). The standpoint of this discussion brings a question to the role of Bangladesh judiciary. Post-colonialism theory puts light on the argument of the role of Bangladesh judiciary which is questioned. Although Bangladesh is now a post-colonial independent country, therefore Bangladesh is still practicing the colonial rule of domination.

United Nations claimed that the criminal justice system in Bangladesh had embraced the colonial policies. It has hardly been changed since the British colonialism era (United Nations,

2005). Therefore, colonial rule influences the governance of Bangladesh although Bangladesh is a post-colonial independent country (Mollah, 2015: 417).

The legal system in most of the third world countries has been rooted in the past. Gradual development in the legal system takes place from the necessity of change with the help of experience. Ordinary people demand to have a changed system which differs from the past. Despite the fact, it can hardly say the governance of Bangladesh performs the best for its citizen. Mollah (2015) discovered the similarity among Bangladesh, Pakistan (1947-1971) and British India (1601-1947) governance system as those countries have the same colonial history and colonial system of governance in those countries persistent to be influenced by the Westminster model of governance. Nevertheless, Bangladesh indeed remained very unsuccessful in constructing an independent judiciary. Bangladesh embraced the west minister model of governance; however, it did not become successful like those Westminster countries because their inherited structure, status and behavioral formation of bureaucracy influenced and dominated post-colonial governance (Mollah, 2015: 416).

4.2 Theoretical Connection

This section explains how post-colonial theory are connected to the study and aims to show the ground where the oppressive practices came from. This theoretical aspect is intended to explain the aim and the research questions of this paper, mainly to enlighten the understanding of how Bangladesh government legitimize extrajudicial killings which are recognized as a democratic country and expected to act in accordance with the constitution. This theoretical explanation has been derived for validifying the arguments this study put forward. Moreover, this paper aims to know the legitimation process of extrajudicial killing from a post-colonial viewpoint where the rule of law is submissive as the number of violations of human rights is too high in Bangladesh.

The theoretical formulation of the Rule of law circulates in two categories. Two basic categories of the rule of law are,

1. Formal Versions
2. Substantive Versions

In every Democratic country, the rule of law circulated through formal and substantive versions (Z. Tamanaha, 2004: 91). Formal versions of formulating the rule of law direct the system in which a duly authorized person circulated the law. Formal conceptions of the rule of law do not attempt to find a judgment on the actual content of the law. Notably, the formal perception of the rule of law however, was not concerned about clarifying whether the law was a good law or bad law rather, the perception of formal versions of the rule of law was to meet the criteria within themselves (P.Craig, 1997: 01). Furthermore, substantive versions of the rule of law approach something beyond the idea of the regular versions of the rule of law. Substantive versions of the rule of law acknowledge the formal version of the rule of law formulations; however, it also included some rights which either should be based on or derived from the rule of law. This category is considered as the basis for various rights in order to distinguish between good which meets the specific requirement for such rights and lousy law which do not (P.Craig, 1997: 01).

Rights of dignity and Justice is a substantive form of the rule of law (Z. Tamanaha, 2004: 91). The rule of law is an essential aspect for any democratic country. Human rights supporter believe that the rule of law can stop human rights abuses (Ellis, 2010: 191-192). Furthermore, the rule of law can be practiced to recover the damages occurred by human rights abuses into a country (Ellis, 2010: 191-192). The substantive approach of the rule of law is connected with the concept of human rights. The post-colonial practice of domination is persistent in many countries, and Bangladesh is one of them. Bangladesh is a country where human rights are threatened and abused. Post-colonial practices of domination abuse the substantive form of the rule of law by practicing extrajudicial killings. Law enforcement agencies incorporates post-colonial behavior of domination and threatened the rule of law of the country by violating the rights of the human. Within the substantive approach of the rule of law non-derogable rights are often discussed. According to Ellis, "where a non-derogable right is systematically threatened, curtailed or derogated from, the rule of law cannot be said to exist" (Ellis, 2010: 192).

This study will be following Van Leeuwen's theory of legitimation as the method of analysis. It plays the foremost role in understanding extrajudicial killings in Bangladesh and how has it been legitimized by the authority. The process of legitimizing extrajudicial killings also delegitimizes the legal practices which is aim for protecting the rights of the citizen as well as the substantive form of the rule of law. Van Leeuwen's four major categories of legitimation

has been used to explain the discursive construction of legitimacy in extrajudicial killings. This method is used to enhance the understanding of the process of legitimizing extrajudicial killings which simultaneously functions to delegitimizing the socio-legal practices and commitment that has been introduced in the Constitution of Bangladesh to protect the rights of the citizen. Post-colonial theory is hereby to support the arguments to carry out the method to investigate the legitimacy process of extrajudicial killings by the authority which resulted in breaking the substantive form of the rule of law.

5. Methodology

To explain the research question, this study followed critical discursive analysis of legitimacy developed by Van Leeuwen (Van Leeuwen and Wodak, 1999, Van Leeuwen, 2008). Process of analysis is followed by various cases of Rapid Action Battalion and extrajudicial killings in Bangladesh. Cases about RAB and their extrajudicial killings have been used as a centrepiece of this study to disclose how the legitimacy of extrajudicial killings are constructed. To develop an understanding of the construction process of legitimizing extrajudicial killings, Van Leeuwen's legitimacy analysis method has been used to explain the collection of news reports, articles, reports from various human rights organization, few audio clips of interviews and phone conversation.

This study also followed a systematic literature review proposed by Tranfield et al. (2003) which focuses on the method and guidelines for the literature review. Systematic literature review is different from other ways of reviewing literature as it includes details information of the literature which makes the process more analytical and rigorous (Urinboyev et al; 2016: 524). This study continues searching for proper and appropriate materials through Zotero, EBSCO, Google Scholar. Primary searches were proceeded in BOOLEAN with different combinations of keywords for example, legitimacy, rule of law, Bangladesh, democracy, law enforcement agency, RAB, violations of human rights.

5.1 Critical Discourse Analysis

Discourse plays fundamental role in explaining controversial actions in different organization, multinational companies and so on (Vaara and Tienari, 2008, P-02) and critical discourse analysis has been used in significant advances in linguistic analysis in order to legitimate controversial actions (Van Leeuwen and Wodak, 1999 and Vaara and Tienari, 2008).

Theo van Leeuwen's 'discursive construction of legitimation' has been used to enhance the understanding and unfold the process of how legitimacy in extrajudicial killings is being constructed in Bangladesh in different institutional practices through investigating different reports from various sources. Individual experiences and opinion of the situation have also been considered as a tool for discourse analysis to gather an understanding on the role of Bangladesh judiciary for protecting human rights. Reports about RAB and extra-judicial killings from different Bengali and English newspapers have been analysed through Van

Leeuwen's critical discourse analysis technique to understand the legitimacy construction of extra-judicial killings in Bangladesh.

5.2 Discursive Analysis of Legitimacy

Legitimacy has been the central issue in organizations, institutions and different multinational corporations (Vaara and Tienari, 2008, P-01) as well as in this study. Discursive perspective of legitimation refers to cases which are being examined to support the arguments of legitimizing extrajudicial killings in Bangladesh. This study focused on discursive strategies which is used to construct legitimacy for extra-judicial killings. Following the approach, this study integrated and described four particular ways of discursive legitimation strategies developed by Van Leeuwen. The discourse analytical approach has been developed based on the work in systematic-functional discourse analysis which represents the recontextualization of social practices (Van Leeuwen and Wodak, 1999, P-85).

Analysed documents i.e. news reports, audio clip, reports from several human rights organizations for this study represent a variety of ways how has extrajudicial killings have been legitimized. Incorporated discourse analytical approach used a set of categories developed by Van Leeuwen where four major categories of legitimation identified along with a number of sub-types. Those categories are presented below,

1. Authorization
2. Moral Evaluation
3. Rationalization
4. Mythopoesis (Leeuwen and Wodak, 1999: 104-108, Leeuwen, 2008).

Understanding the discursive construction of legitimation Van Leeuwen's method reflects on the problem that face legitimation. It is used to legitimize or delegitimized the problems. Proposed four strategies of legitimation is discussed in this chapter and all gathered documents will be subjected to do analysis through those four categories of legitimation in following chapter. When the authority plays a role in legitimizing something by the reference of tradition, custom, law or even people in whom institutional authority is placed is known as authorization. It is classified in some sub-categories for example, personal authority, expert authority, role

model authority, impersonal authority, the authority of tradition and the authority of conformity. Each category will be described in next section following the case of RAB and the extrajudicial killings. The legitimation what comes from a moral value system is called moral evaluation. Rationalization is constructing legitimation by the reference to the goals of institutionalized social action and mythopoesis is when legitimation carried out through history, record, reports which result in rewarding someone legitimate actions and punishing for non-legitimate actions (Van Leeuwen; 2008:105-106).

Language is the only medium for those news reports and an attempt has been made to see how extrajudicial killings have been legitimizing through a discursive analysis of the text. Textual analysis of the language represents a conscious attempt to explain the process of legitimizing extrajudicial killings and bring a shed to the understanding of concept of power and domination.

5.3 Choice of Material

Empirical data has been collected through different reports published in Bengali and English newspapers in several years. Aim of this paper is to gather an understanding of the legitimacy construction of extrajudicial killings therefore, newspaper reports have been collected to carry out Van Leeuwen's method of legitimacy. Electronic and printed media have been chosen to collect empirical evidence as the research question aspires to know how the extrajudicial killings are treated in Bangladeshi media which is considered a way to legitimize the unlawful killings committed by the law enforcement agency. Media plays the vital role in legitimizing extrajudicial killings in Bangladesh, furthermore media is controlled by the authority in order to legitimize the actions authority takes using the power they hold. Sample selection of this empirical materials were therefore assessed to be the most relevant evidence for the study. Few prominent newspapers were selected to conduct the analysis. Details information including the name of the sources can be found in the following section. Collecting empirical materials has been very challenging in this study, however news reports concerning extrajudicial killings and law enforcement agency were filtered out to conduct the analysis following the Van Leeuwen's method of legitimacy. Difficulties getting the empirical evidence narrowed down the scope of this study, nevertheless the data collection process was as methodological as possible with the proper source of collecting the empirical evidence. News paper were selected based on the popularity. The possibility of reaching out to the mass audience was also a criterion to select

those news papers for their reports to analyze. How the extrajudicial killings are treated in the media and how it is being legitimized by the authority is the question lead the way to find different news reports published in prominent newspapers in Bangladesh. However, some online sources (details in the following section) of other newspaper has also been analyzed.

5.4 Data Collection

16th September 2014, Tuesday a report published on a blogpost titled by **র্যাবে অভিযোগের স্তুপ** (Piles of complains at RAB). **গুম খুন ও নিখোঁজ রহস্যে জঙ্গি নির্মূলের সাফল্য ম্লান** (disappearance and extrajudicial killings fade away the success of terrorist control), **নিখোঁজ আতঙ্ক: হয়নি রহস্যের কূলকিনারা** (The missing panic: an unsolved mystery), **ওরা কী আর ফিরবে না?** (Will they ever get back?), **সেই ‘জাহাজবাড়িতে’ ভুতুড়ে অন্ধকার** (darkness around the houses), **বড় অপরাধে ছোট সাজা পুলিশের** (Police gets less punishment for committing serious crimes), **গুম-নিখোঁজরা যাচ্ছে কোথায়?** (Where are those missing and disappeared people?), **তালিকাভুক্ত নিখোঁজরা গেল কোথায়!** (Where are the listed disappeared people!) are various reports published in ‘**প্রতিদিনের সংবাদ**’ (Everyday News) in several years i.e. 2014, 2016, 2017, 2018.

In **কালের কণ্ঠ** (Voice of the future), another daily newspaper in Bangladesh published a news report on 16th April 2016. **ডন ভাই’কে খুঁজছে র্যাব** (RAB is looking for Don) titled news report published a report about RAB and extra-judicial killings. An interview of a RAB officer is published in **দৈনিক প্রথম আলো** (Daily Prothom-Alo) where the officer confronted about RAB and their extrajudicial killings stated, “there is no such things as extra-judicial killings in Bangladesh”. He claimed himself as a representative of the government and uttered strong arguments against extrajudicial killings. 20th October 2017 ‘**প্রতিদিনের সংবাদ**’ (Everyday News) published report on ‘**সন্দেহের’ বলি নিরপরাধ মানুষ** (Innocent people are sacrificing lives by being the suspect).

In addition to these reports, this study collected reports from various national and international sources. Reports published in international media for example, The New York Times, Sverige

Radio, The Daily Star (A Bangladesh based English Newspaper), New Age (A South African Newspaper) had also been collected and analyzed through discourse analysis.

Other than the news reports, this study also conducted telephone interview among RAB officers. Three RAB officers and an UN expert have been interviewed and gotten the opportunity to share their belief and opinion towards RAB and extrajudicial killings. An unstructured questionnaire was set for interviews and participants were able to express their thoughts about the aim and research question of this study.

In a set of unstructured questionnaires, each participant was able to answer in a very descriptive way as we know qualitative studies tend to be concerned with description or words rather than numbers (Bryman, 2008, P-35). Telephone conversations were recorded later transcribed for the purpose of the study. Participant's point of view plays most significant role in a qualitative study however the set of questionnaires let the expressive part open for the participants to get their own thinking about RAB and extra-judicial killings.

5.5 Ethical Considerations Ethical considerations are one of the most fundamental concern of doing a research. According to O'Reilly, "every social researcher must consider the ethical implications of conducting research which in myriad predictable and unpredictable ways may impact on the social world, on those involved in the research (including oneself), as well as on those not directly involved" (O'Reilly, 2009: 57). Ethical issues arise at different stages of a social research (Bryman, 2008, P-129). In order to be ethically correct, this study explained the purpose of this study to each participant who have been interviewed. Each participant had been given a description of the study, how the data is collected, how collected data will be analyzed and be presented. They were also aware of the role of the researcher and the purpose of this study. It has been guaranteed to the participants about every information will keep secret and being completely anonymous. They have also been promised about information which will not be used without their consent. There will not be any use of information without their approval. Moreover, permission had been taken from each participant before conducting interviews.

6. Presentation of the Materials and Analysis

Mostly the electronic/online version and a few printed versions of newspaper content are going to be analyzed in this chapter. Published news materials have been chosen to conduct the analysis.

6.1 Four strategies of Legitimation and Reports Analysis

6.1.1 News Paper Reports Analysis

Data consists of a set of extensive news reports from various Bengali and English new paper especially reports that address the issue of extrajudicial killings by the law enforcement agency in Bangladesh. According to Fairclough (1995), "media acts as both a projector and stimulator of more general modification processes by creating discursive practice (Lavrusheva, 2013:34).

6.1.1.1 *Authorization*

Authorization is a legitimation when the authority confirms it. It occurs in personal and impersonal level. When the reference includes the presence of an authority or if the process of legitimation states authority as a subject even if the source of authority is personal or impersonal, it is considered as authorization. Furthermore, Authority is considered as a source of power in whom traditional power has been conferred (Van Leeuwen and Wodak, 1999:104). When one answer to the spoken or unspoken "why" questions for example, "why should we do this" is "because I say so" is considered as personal authority where "I" is the expression of someone in whom authoritarian power is vested and "say-so" or "because so" where authority is given (Leeuwen, 2008:106).

From various newspaper reports following statements have been picked up as an example of personal authorization of legitimacy. Some relatives of the deceased family say police arrested their family members and they later found shot dead. In most of the cases local police and law enforcement agencies (RAB) work from the information, they get secretly. Nevertheless, based on the information they raid houses where alleged criminals can be found and take them under fire engaged in "shootouts" (Al Jazeera News, 22.05.2018).

- A police superintendent Babul Akter's wife murderer suspect Musa was arrested by the law enforcement agency because Musa was accused of being the predominant master planner of the murder with 7/8 other hit men. Musa's wife went to a local police office to file a General Diary on her husband's missing, and she was advised to go to another police station being incapable of filing the general diary. Musa's wife informed the newspaper "The Daily Star" reporter, she was visiting her parents along with her kids. "One night my husband called over the phone and told me that he would visit me a day later," she said. Next morning a group of white dressed police went to their house and asked her to call Musa over the phone and she was commanded by those police officers to ask him over her parent's place. She claimed, "They asked us to talk to Musa in such a manner that he did not suspect that policemen were with us." While Musa's wife was talking to Musa over the phone, he informed his wife that he is near to his house and that "policeman gives an instruction to other law enforcers to arrest Musa," she stated (The Daily Star, 01.07.2016).
- "A group of people, who said they were from DB, came to Imrul's house in the early hours of Saturday and picked him up. At first, police wanted to see his national ID card. After they confirmed his identity, they took him with them, said by the brother of a victim who has been forcefully abducted and killed by the law enforcement agency. His family was informed next day by an unknown caller that Imrul was severely injured by an "accident," and he had been taken to the Dhaka medical college, and they found him dead when they went to the hospital (Bangladesh Politico, 20.01.2015).
- "RAB took him away unlawfully from an eggplant field near his house and killed him. I want justice after proper investigation," Motiur (who has been abducted and later killed by RAB)'s Father said (The Daily Star, 17.01.2015).

Examples of Impersonal Authorization has been extracted from many news reports and presented below:

- "We have to make sure no clue is left behind. No ID cards that slip-off. We have to wear gloves; we cannot leave footprints behind and have to wear covers on our shoes

to prevent that. We cannot smoke during these operations," Explained by a RAB officer on an interview in Swedish Radio (FIDH, 10.04.2017).

- "The joint forces of RAB, BGB and police are carrying out atrocities in some areas of Chapainawabganj. They have ordered from the government to kill. They raided some villages of Shibganj-Kansat and killed opposition leaders and activists, torched many of their houses," BNP's Joint Secretary General Ruhul Kabir Rizvi said to the Daily Star Reporter (The Daily Star, 17.01.2015).
- "we are Police, open the door"-RAB and other Police officers replied when they were knocking at a suspect's house at 2 am in the morning. 12-14 RAB officers entered the house and started looking for the person named Adnan. Without having any legal warrant, they started searching the whole house and locked in all other members in a different room. After the searching was completed RAB officer took Adnan with them and when his father asked, "why are you taking my son?", they replied, "we have the order to take him, and we will send him back soon." Adnan never returned (Blog post, 16.09.2014).

Authorization legitimization process involves a commanding, dominating negative tones in the text which represents a critical situation towards the debated issue (Lavrusheva, 2013:49). 4th December 2013 RAB arrested seven people threatening them to mention their power and commanded them to listen as they are from high positional authority. Victims and their family often don't raise their voice as they get threaten of losing the person who had been arrested by the law enforcement agencies (Blog post, 2014). The authority accesses power to practice authorization legitimization for extra-judicial killings by threatening them, scaring them, dominating them with a negative and commanding tone. In 2014, 44 extrajudicial killings occurred in first 41 days of the year. In 2004 and 2006, extrajudicial killings occurred respectively 377 and 362 (Blog post, 2014). Authority often threatens people for speaking out. Many people are the victims of enforced disappearance. Only in 2017 more than 80 cases of disappearance have been reported with seven people later reported killed and seventeenth reported missing. Most of the time, many cases which have not been reported as police often deny filing a case when they see law enforcement agency or police are involved in such cases (Human Rights Watch, 2018).

Following are the few examples found from various reports which speculate how those commanding and dominating tones influential in texts.

- February 28, 2013, an eighteen years old law student named Fazal was arrested by the police during a protest against the government when he was going to a restaurant for his breakfast. The conversation and the situation had been described by the victims as follows,

"I was sitting on the floor with the others. The SI said, "He has not been shot. Bring him out." They grabbed me by my collar and pulled me to the back of the police station. It was an area where they bathe. It was early in the morning, and there were some policemen there, a little further away, brushing their teeth or shaving. Then the policemen started loading their rifles in front of me. I asked, "What is my fault?" I begged them to spare me. They said, "Keep quiet. Stand with your eyes shut. We are going to shoot. If you talk too much, we will shoot you in the chest." One of the men said, "Give us five lakh taka [US\$6,300]. We will let you go." I heard five lakhs and kept quiet. I knew my family could not give five lakhs. They started hitting me with rifles. The SI who was supposed to shoot me said, "Blindfold him." They tied my eyes. I knew they were shooting me. I heard the sound. Then I woke up I found myself in the verandah (Balcony), bleeding. I realized I had been shot" (Human Rights Watch, September 2016). Fazal was found shot below his knee and his leg had to be separated to keep him alive.

- On the same day, there were many other people had also been arrested by Police and law enforcement agency. A 45 years old bookseller was picked up by police during the protests and was also gunshot in his leg (Human Rights Watch, September 2016).
- "they brought him and committed cold-blooded murder," A victim's brother in law said. In March 3rd, 2011 some white dressed RAB personnel abducted Rasel Ahmed Bhutto from his friend's shop. His family said, they were able to find one of their relatives who work in the army, and they made him contact RAB to extract a promise from RAB officers that Bhutto would not be killed in a crossfire. On March 10, 2011, Bhutto was sent back to his family shot and killed (Human Rights Watch, 10.05.2011).

Police and law enforcement agency always claim self-defense as the reason for gunfire to control the situation. Police confronted they had fired blank rounds to self-defense and control (Human Rights Watch, September 2016). Police and Law enforcement agency use the legal shield of protection and self-defense authorized by the government. Code of Criminal Conduct, Bangladesh Penal Code, Police Regulation of Bengal (PRB), Dhaka Metropolitan Police Ordinance and Special Power Act 1974 support authority to arrest someone without any order from the magistrate if that person seems a threat to Police and authority. Those ordinances also allow police and law enforcement agency to have their right of self-defense which empowered them to kill or arrest anyone without any legal prosecutions. Furthermore, they are allowed to gunshot in order to protect them and others (Kamruzzaman, 2016: 22 and Aziz, 2015: 136).

Authorization legitimation process plays the most crucial role in legitimizing extrajudicial killing in Bangladesh. It is firmly connected with official legal documents which support and works as a legal protector to all those illegal actions by police and law enforcement agency. Authorization legitimation is often practiced by the government officials, influential people, well-known public figure, police, law enforcement agency and so on. They are considered as constant legitimation sources who can access the authority power and administer their power in order to legitimize extra-judicial killings.

Media notes are sometimes published in the form of speech from powerful and influential authority as an official representation of a document. Akran, a 32 years old farmer was shot in his leg by a police officer deliberately. The police officer denied his allegation and told Bangladesh Human Rights Organization that, "a dangerous criminal like Akram had no right to live" (Human Rights Watch, September 2016). Critic advises towards the discussed issue, i.e., criticizing extra-judicial killings by an influential government officer prompt a sensitivity concerning the killings and abductions by the law enforcement agency. It is a part of the legitimation process to criticize the situation by either an influential person or governmental body and suggestions of various solutions to let people rely on the process. Most of the time command comes from highly official government figures who are entitled by different phrases indicating their power and positions. Director General, Brigadier General, Lieutenant Commander and many other titles indicate the position and power within a governmental body. This process of authorization legitimation helps people depend on government and believe in their so-called manifesto to eliminate extra-judicial killings. For example,

- "we are living in a democratic country, and the court is actively working. Most importantly, media is getting unlimited freedom, and this is why you are asking me this question. All these are signs of dynamic and active democratic country". Director General of RAB Benazir Ahmed replied to the question "killings have been ongoing for the sake of terrorism and an inadequate criminal justice system. How will you explain the situation now" asked by a journalist in an interview (Daily Prothom Alo, 2018)?
- "RAB and its activities are seen very positively in Bangladesh as well as national media in almost all cases. Most of the time, the Bangladesh national media portrays the real scenario, sometimes they may not be able to portrait real picture due to the lack of enough information about our activities" (A RAB officer (identity is hidden) answered in an interview with the researcher, see appendix 9.3).

6.1.1.2 *Moral Evaluation*

Moral evaluation legitimation is completely based on values. This legitimation process is not only imposed by the authority instead it is a process of legitimation that gets the foremost support from the authority legitimation. Furthermore, sometimes moral evaluation is stated by "good" or "bad" those words to get a strong argument to moralize some actions with the combination of authority power (Van Leeuwen, 2008: 109-110). This legitimation process is aimed to make society see and think of the negative situation and bring moral support to the problem by introducing some new practices for example, law enforcement agency in order to legitimize controversial issues (Van Leeuwen and Wodak, 1999: 108).

Moral evaluation incorporates some emotional terms in the text, and the main reason for moral legitimation is to delegitimize the criticism rather than legitimizing (Van Leeuwen and Wodak, 1999, Vaara et al., 2006 in Lavrusheva, 2013:59). Bangladesh security forces killed more than 30 alleged drug dealers in gunshots within a week. On 22 May 2018, a report published in Al Jazeera News showed the evidence of extra-judicial killings of 30 drug dealers have done by RAB officers since those all of them who had been killed were alleged on trading Narcotics in early May. Concerning the issue law enforcement agencies motivational statement involved declaring to safeguarding nation and young citizen from drugs and drug business (Al Jazeera,

22.05.2018). Musa, a suspect who was alleged of being the sole planner of the case of Police officer's wife murder, had been abducted by Rapid Action Battalion and had been missing since then. Furthermore, the police denied their action of arresting Musa and added that they are looking for Musa to reveal the reason for the murder (The Daily Star, 01.07.2016). While law enforcement agencies were accountable for Musa's disappearance, however, their constant attempt of legitimizing their action of alleged disappearance of Musa was to resolve the murder case and find the proper criminal in order to get the victim's family proper justice. In moral legitimization, discourses legitimated through moralization and law enforcement agencies obtain moral legitimation through a firm declaration of safeguarding nation and the rights of the citizen where media plays one of the most critical roles in constructing moral legitimization of extrajudicial killings. According to Van Leeuwen, "moral evaluation is linked to some specific discourses of moral value." Mainly, distinct and debatable discourses are not being produced; instead, those discourses are indirect by 'adjectives' such as, 'healthy,' 'normal,' 'natural,' 'useful' and so on (Van Leeuwen, 2008: 110).

Bdnews24.com published a report on Narayanganj seven-murder in 16th January 2017. The court declared the death penalty to 26 RAB officers including former Narayanganj City Corporation counselor and three former RAB officers along with nine other officers who have been punished various prison terms (bdnews24.com, 16.01.2017). Although the government had taken the initiative to bring justice for victims' family, however, until the court's order is consummated, it is yet to confirm the justice has been given. Those types of media reports work as a trigger to manipulate and convince people for having faith in the legal system which is a way of moral legitimization.

In moral legitimation, the nature of a text has been changed from moral discourses to generalized motives what generates a moral concept that seems hard to separate from the system of interpretation. As a result, discourse studies identify them with commonsense knowledge as it is difficult to find a clear and detailed method of understanding moral legitimation (Van Leeuwen, 2008: 110). Using the word "crossfire" has always been the attempt to legitimize their action of extra-judicial killings morally. Barrister-at-Law Arafat Hosen Khan told a reporter of The Daily Star, "We live in a democracy where our constitution protects and ensures fundamental rights for every individual in our country. Extra-judicial killings in the name of "Crossfire," "gunfights" or "encounters" constitute a blatant violation of fundamental rights that are

enshrined in Articles 27, 31, 32 and 35 of the constitution" (The Daily Star, 17.05.2010). Crossfire, gunfights, shootout or encounters are few fabricated words to get attention from the mass people to get moral support for legitimizing extrajudicial killings which is supported by Habermas, "widely used to ensure much loyalty" (Van Leeuwen, 2008: 110). Crossfire, gunshot, encounters those words create sensation among audience to prove law enforcement agencies guiltiness towards extrajudicial killings.

Moral evaluation is based on some ground which creates the moral sensation to people. Whether (or not) the act is something illegal or illogical, morally justifiable background brings the act under the shed of legitimization. Van Leeuwen and Ruth Wodak's study disclose an example of moral evaluation, "Viennese magistrates legitimize the refusal of applications from immigrant workers to be reunited with their families by invoking issues of health and hygiene, for instance by arguing that the dwellings of immigrant workers cannot fulfil the "public hygiene conditions (Van Leeuwen, 2008: 110).

Following are some quotes extracted from various newspaper reports:

- "my driver was fixing the cars as it suddenly stopped working in the middle of the street at night. Suddenly a few young boys came on a motorcycle, and they hijacked my car by showing arms. I filed a case in the nearby police station and could gather enough faith and patient upon them, so I decided to file a complaint in RAB-2 headquarter as RAB is efficient and quick"- said by a victim of a car hijacking (Chowdhury, 2014).
- 22nd July 2014 a three years old kid was kidnapped. Kidnappers demanded ransom worth 50 thousand takas. They threatened to kill the boy if the family does not give the money. Kidnapped boy's family filed a complaint in RAB-3 office, and Rapid Action Battalion effective action successfully rescued the kid after two days (Chowdhury, 2014).

Director General of Rapid Action Battalion announced, "RAB not only take complaints but only proceed an action to bring justice immediately. RAB is successful in many ways particularly they work for normal people to get them the proper right and the justice. Elimination of Drug business along with reducing illegal weapons business, terrorist activities have been controlled all over the country by RAB in last few years". He also claimed that those are the reasons

why people have faiths and believe in the Rapid Action Battalion (Chowdhury, 2014). RAB officers stated that they get many complaints every day in each of the headquarters of Rapid Action Battalion. However, they are mostly involved with task had given by the state and the government which sometimes delay in solving other problems of the general people.

Although, RAB has solved some cases inefficient ways furthermore, referring to this is a way to get moral support which allows them to commit extrajudicial killings presenting the moral, logical side of the killing. Misrepresentation is also an essential fact in moral legitimation. Authority misrepresents news, facts about the Rapid Action Battalion to obtain the moral support and build a trust bridge between ordinary people and the authority. Above examples, it is explicit to understand that media and RAB officers exhibit their actions to mass people in order to generate positive moral support which will support them to nourish their activities of extrajudicial killings. The strategical way of promoting the positive outcomes of every operation RAB has conducted is a way of legitimizing what RAB is practicing in the name of safeguarding the nation.

Critical discourse analysis not only analyze and represent how social practices evaluated in the text, but it also analyzes text representations and evaluations by the mass viewers. Moral evaluation is a significant element of how discursive practice legitimize or delegitimize social actions (Van Leeuwen, 2018: 147). Case studies and text representation in media shows Rapid Action Battalion has been successful in many operations in eliminating drugs, hijacking, kidnap, however representation of texts often doesn't include the violence they produce to safeguard the nation by committing a crime of killing the criminal. Moral evaluation legitimation process has a secure connection with authority legitimation although a distinctive fact is underlying between two of those categories. In the past, all types of legitimation were considered as authority legitimation, and it was based on the authority, however, in present days legitimation process become stronger in correlation with moral support (Van Leeuwen, 2018:147).

6.1.1.3 *Rationalization*

Rationalization is the legitimacy process introducing to the usefulness of some specific practices. Instrumental rationalization legitimation is the utility of the social practices by the reference to their goals, uses, and effects. Theoretical rationalization is the practice of the facts of

life, and the practices occur by the reference to a natural order of things. Commonsense knowledge is the fundamental ground for rationalization legitimacy although, morality plays an implicit role in rationalization legitimation. Furthermore, rationalization legitimation would not flourish without the moral support nevertheless it implicitly works (Van Leeuwen 2008:113 and Van Leeuwen & Wodak, 1999: 105). Rationalization is considered to be firmly connected with moral legitimation (Van Leeuwen, 2018: 147) as authority apply the moral support to rationalize their action and practices and it plays an unavoidable role in constructing rational legitimation of social practices by representing a blended formulations and structure of the text (Van Leeuwen, 2018: 148).

Other than authorization legitimation rationalization also plays a very important role on legitimizing extrajudicial killings. In this process authority uses tricks and techniques of getting a logical support of doing extrajudicial killings which convince citizen to reinforce the choice of killing outside of the judiciary system. Rationalization involves presenting prevailing negative consequences of previous practices as well as it presents predictable and expected benefits of controversial social practices in order to legitimize the practice (Lavrusheva, 2013: 43). To legitimize extra-judicial killings represented texts includes the benefits and usefulness of law enforcement agency in Bangladesh particularly, highlighting the damage caused by terrorist and criminal gangs in absence of law enforcement agency. Rationalization legitimation process usually includes a few frequent phrases indicating the rational side of the social practice (Lavrusheva, 2013: 43). "clearly the rationale", "clearly indicates", "is a clear reflection of", "requesting further information" and so on are mostly used phrases to present extrajudicial killings through text to legitimize it in rational ways. Rationalization of texts are presented according to Lavrusheva, "firstly, the problems are presented; secondly, the current situation and its drawbacks are explained; afterwards suggestions for further improvement are discussed and concluded by the final recommendations" (Lavrusheva, 2013: 43). Rationalization legitimation strategy and its distinctive characteristics are extracted from few news reports and presented below,

- 26th July 2016 Rapid Action Battalion Conducted an anti-terrorist mission "Operation Storm 26". Nine terrorists died in this mission and media and government press presented news formulated with text which expressed the rational part of the operation to legitimize the killing of nine terrorists. "these group of terrorists were providing training sessions under the international terrorist organization "ISIS" and the had been planning

and mind mapping for the next violence. Found evidence clearly indicates their activities as a terrorist and RAB's operation resulted to their commitment of safeguarding the country" (Everyday News, 25.07.2017).

A Human Rights organization in Bangladesh found out, since 2007 until the present day the law enforcement agency had abducted 540 people. This report shows, 78 people later found dead, and 347 people are still missing. This report also reveals, in 2017 50 people disappeared in the first nine months of the year. Based on the report, the director of law and media branch of Rapid Action Battalion proclaimed, "there are many reasons for people to be disappeared. Some may have self-hiding to make the opposition party accountable for their disappearance; some may have arrested in the anti-terrorist operation. RAB's responsibility and commitment to the oath of making this country secure will search for the missing person to rescue them" (Everyday News, 9.12.2017). Sometimes a statement from a high official and influential person is represented in the media in order to bring faith in their activities and validate the action (Lavrusheva, 2013: 44). To rationalize their action of disappearing and illegal abduction of many people Rapid Action Battalion, however, commits to search for the missing person which in a way build trust among the victims towards RAB and their responsibility of securing the nation. To legitimize RAB and their action of practicing extrajudicial killings there are few legal act and ordinance thorough how RAB claim their responsibility towards the act.

Texts in the media represented objectively by acknowledging the disadvantages and advantages of a debatable issue in order to legitimize all issues connected to the social practice (Lavrusheva, 2013: 44). For example, many RAB high officials repeatedly call for the press conference and confront their action acknowledging the disadvantages followed by a prime concern for the advantages they made. Director of RAB delivered speech presenting a remarkable number of terrorists' arrest and elimination of terrorist activities is a way of rationally legitimatizing the practice of killing beyond the legal system whereas most of the time their speech skillfully avoid how has this operation been conducted or what is the actual number of people died in those operations. RAB officer announced,

- "RAB is the most successful organization among all other administrative force to reduce terrorist activities in Bangladesh" (Everyday News, 30.04.2017).

- "We are working on the list of disappeared people, and soon we will publish the name of all people who had been disappeared. RAB team is working on searching and finding them following the list of disappeared people" (Everyday News, 15.03.2017).

RAB enlisted 261 disappeared people however, RAB had not been successful in finding disappeared people although a usual self-defend technique of justifying their action is "other than finding disappeared people RAB have been working within governmental projects of safety and so on" -said by the Media director of Rapid Action Battalion (Everyday News, 15.03.2017).

They acknowledge their achievement and enlighten it to the mass people to cover up the action of unlawful killings and enforced disappearance. Presentation of text can establish legitimacy for a particular issue. However, news about extrajudicial killings presented in media admitting the positive and negative effects of practicing extra-judicial killings. Furthermore, this representation of texts legitimizes this action as a social practice as text representation often emphasizes positive outcomes more than negative. RAB officials are acknowledging their negative results also represented in texts which manipulate people to believe extrajudicial killings is for the betterment of the society.

The text is presented in a way for people to see specific changes and activities have been made to produce a better situation. To rationalize specific changes and activities media opens an option of expert talk or supervision by some knowledgeable and influential person to supports, explains and assessed new changes and recommend suggestions for further development (Lavrusheva, 2008:44). In Bangladesh media, it is a widespread practice to take an expert to advise in any issue that creates debate through talk show, column writing, interview and so on. It is often considered that experts and knowledgeable advice from an influential person will open up the door of clarification for people. Extra-judicial killings in Bangladesh undoubtedly one of the most arguable issue and to rationalize extrajudicial killings by law enforcement agency, expert text plays a very influential role in manipulating and diverting people's thought. As a consequence of this rationalization process, texts from expert's advice place a brick into the pillar of legitimizing extra-judicial killings.

Criticism is often made by the government and government officials to promote awareness to substantiate that government has been aware of the condition and have been taking actions. The promotional text of government activities simultaneously shows the success and failure in

the text in order to rationally legitimize the issue. To rationalize extrajudicial killings the state or the government influence media or social media to spread negative aspects of various problems, violence and controversial issues which involves law enforcement agencies to commit different actions which can go beyond the legal system as a regular practice. In Bangladesh media, terrorism, the effect of terrorism, the consequences of being terrorist issues have been prompted a lot. Everyone knows how it is to be involved in terrorism and how it resulted in the society. However, when any terrorist died in extra-judicial killing by the law enforcement agency the praise and applause go to the law enforcement agency instead of the person who is killed in a "crossfire" or "gunshot" without having the chance of self-defence. Top terrorist Marjan died in crossfire with RAB and his family denied to get his dead body. His mother said, "my son got punished for what he did, and he deserved this. He caused harm to the country, and this is how justice should be given. I am happy" (Everyday News, 15.01.2017).

Sometimes rational legitimation process incorporates an adverse representation of the text on a specific issue which is practice by Rapid Action Battalion. In this process, they rationalize what is wrong and de-rationalize other social issues which are not similarly threatening the country are. For example, people claimed many times the law enforcement agency had abducted their family members, and the law enforcement agency is failed to unfold the mystery of people being disappeared leaving no clue. However, most of the time law enforcement agency blame influential terrorist activities to avoid the risk of being accountable for the disappearance. Although, the family claimed most of the disappearance occurred by a police or law enforcement agency presenting their identity and power which makes a person to obey their command. Police and Authority claim terrorism the reason why people are disappearing always, as it has created a lot of chaos and violence in Bangladesh recently moreover, this reason is trustworthy to people even if police and law enforcement agency execute the abduction. Police suspect the young generation willingly joins a religious extremist organization to make a change and create a revolution in the society for the more useful social system (Everyday New, 06.01.2017). Law enforcement agency consistently indicates terrorism as the reason for disappearance when people deliberately choose to disappear in order to legitimize their partial or complete responsibility for illegal abduction although there is evidence in many cases RAB officers abducted people with the help of their authority power (Everyday News, 06.01.2017, 16.09.2014, 17.01.2015).

Rationalization legitimation process is partly based on authorization. According to Lavrusheva, "Unlike authorization, rationalization does not establish legitimation of the changes by simple reference to an opinion leader, but by reference to his opinion on and justification of the actual processes, its consequences and benefits" (2013:45).

6.1.1.4 *Mythopoesis*

Mythopoesis is when legitimation is achieved through storytelling, and the story consists of past or future reference to obtain trust and confidence (Van Leeuwen, 2008: 117). Authority and law enforcement agencies in Bangladesh also create a first ground referencing to the past or future events or operation to legitimize extra-judicial killings. In this category, legitimation process develop through storytelling (Van Leeuwen; 2008:118) which incorporates different types of phrases referring to past or future tense for example, "in the future", "in past years", "historically", "a decade ago", "looking from the beginning", "until recently" and many more to acknowledge the process of constructing the story (Lavrusheva, 2013:55). Van Leeuwen and Wodak (1999), addressed Bureaucratic documents are not considered as stories, although those documents are presented in a way that looks like stories (Van Leeuwen and Wodak; 1999: 110). Mythopoesis has great influence in Bangladesh to legitimize extrajudicial killings as media grasp lots of influence and power. Nonetheless, the process of legitimizing extrajudicial killings creates a surface with eye-catching and fabricated phrases which manipulate people and their beliefs.

Printed media text feature drama, eye-catching words mainly it entertainingly uses text to awaken the reader's interest regarding the issue. In mythopoesis or narrativization legitimation process dramatic and entertaining text grasp prompt attention and make the legitimation process faster. Historical overview from the past events and activities from the present condition are a general way of presenting the text to compare the growth and development of the situation. Definite dramatization of text gain truthfulness and analytical support to legitimize specific issues (Lavrusheva, 2013: 56). Few examples are extracted from a different newspaper for example, "RAB is searching for Don" named news titled in a daily newspaper 'Kaler Konto' on 8th September 2017. This report narrated a story of Don being involved in terrorism and presented past examples of violence where Don was involved either as an assistant or a leader. Elaborate presentation of few terrorist attacks by the leadership of Don had been highlighted

in the text. Texts exaggerate Don and his terrorism and how had planning been executed to create destruction (Kaler Konto, 08.09.2017). News reports rely on past successful mission of eliminating counter-terrorism. Few examples from the past successful operations had also been included to narrate the report more dramatic for the reader's interest. Stories about past successful practices were objectified to acquire a sense of proper and established form of behaviors combined with a meaning of practicing proper justice.

In this study, most of the resources are based on print or electronic media texts. The text which includes future estimations is considered as a strategy of narrative legitimization (Lavrusheva, 2013: 56). Resources that have been analyzed for this study, mostly narrate news on extra-judicial killings based either on future estimations or comparison of past and present successful missions. Most of the news produce text by presenting previous successful effort of controlling terrorism and extrajudicial killing along using future references in order to justify the action. Comparison between past and present events is one of the most effective ways to narrate a story to legitimize it. Successful completion of the operation is another way of narrating text into print media to obtain moral support. The intention of presenting a comparison is to acknowledge disadvantages and disparity. The text includes the failure of previously taken actions and the negative consequences of the problem to justify the practice which is questioned by international media. The text projects the significant result of assimilating new practices and perspective to assemble the moral support and trust.

Almost in every news report emphasized on past events with the text issued by "in past years" or "a decade ago." Summary of past practices of extra-judicial killings has been found in many reports. A common generalization is drawn after presenting the text which summarizes the previous actions and approaches concerning extra-judicial killings by law enforcement agency in Bangladesh. To legitimize new approaches and actions narrativization process of legitimization includes discussion about previous events happened a long time ago. For example, the director general quoted many times that RAB has been successful in almost all operations and RAB has gained people's faith for getting proper justice to people. He claimed, "RAB always works for normal people from the country to bring them the justice, and they depend on RAB" (Blog post, 16.09.2014).

Exaggeration of emotionally highlighted texts is another technique of narrativization. Produced text emotionally strikes people to believe in the story and have respect and faith in the activities

which has been criticized. Law enforcement agency in Bangladesh has been criticized many times for their extra-judicial killings. Texts are highlighted in the newspaper concerning some emotional stories of police or law enforcement agency being a friend of the citizen are tricky ways to divert the attention from the original scenario of the situation. "Humanitarian Police, dreadful Police" named one news published in a daily newspaper on 25th January 2017. Several cases of police being emotional, physical support to victims had been presented in this news. Pictures of a police officer crying holding a dead body in a road accident had become viral in social and electronic media. 11th December 2016 four people died in a bus accident, and twenty-three people became severely injured. A police officer caught on camera crying when he was holding a four years old kid's dead body during the rescue process. Therefore, this news and picture worked like a spark among people and their belief towards police and law enforcement agency (Everyday News, 25.02.2017). Negative perception, thinking often goes away when the text highlights some story based on humanity, morality. Legitimization process of extra-judicial killings has been getting such kind of textual support from the authority level of Bangladesh to deceive people about law enforcement agency and their extra-judicial killings.

Example from the past presenting evidence of police and law enforcement agency has been punished for committing the crime is another way of constructing legitimacy. Based on a national newspaper report, from 2011 to 2016 77 thousand police have been punished for committing the crime (Everyday News, 25.02.2017). However, various actions against police or law enforcement agency did not stop them from committing extra-judicial killings instead that news benefit extrajudicial killings or other crimes to be legitimate. Furthermore, actions taken against police and law enforcement agencies are for presenting to people about the access and availability of justice throughout all groups and classes of people and obtain faith over the administration (Everyday News, 11.02.2017). As a result of this, even when extra-judicial killings happened by the law enforcement agency having mass peoples believe in such incidents consume time as there had always been an impression made by the electronic and print media.

6.2 Theoretical Explanation of the analysis

From the theoretical perspective, legitimation practices of extra-judicial killings are neither a symbol of a free state nor can fit in the universal definitions of the rule of law. Aristotle said, "The rule of law is a system of government by laws and not of men" (Ellis, 2010: 192). The

supremacy of law and law identifies a free state should be superior, non-arbitrary and prosecuted by an independent judiciary. Thus, the judiciary should treat each equally in order to act independently (Hayek in Ellis, 2010: 192-193).

Authorization, Moral Evaluation, rationalization, and narrativization are four different categories of legitimizing extra-judicial killings in Bangladesh. The legitimacy construction process neither treats individual equally, nor the Judiciary practices an independent and non-arbitrary form. The success of the proper rule of law based on democratic practices of a country and the foundation of democracy depends on active and modern law enforcing agencies and how far they show respect to the system and how they take the human rights and the rule of law into their consideration (Momtaz, 2003: 101). However, the condition of the rule of law in Bangladesh is hereby associated with the role of the judiciary and legal system. The rule of law is an indivisible concept which incorporates law and independent judiciary at the same time (Craig, 1997: 08). The textual analysis of the process of legitimizing extra-judicial killings by the law enforcement agencies in Bangladesh reveals the construction process of legitimizing extra-judicial killings and the effect of colonial influence.

Colonial rule influences the governance in many post-colonial countries, and Bangladesh is one of them. Most of the developing countries dominant features of the governance lies in their inherited colonial legacy. According to Younis and Mostafa (2000), "numerous foreign rulers ruled the Indian subcontinent for over centuries and left a governance legacy, which for many years after independence has affected the government and politics of these societies. Despotism characterized the system of government and administration under the reigns of Mughal Emperors, Hindu Kings and other Rulers of British India, however under various conditions British rule created a new and stable government in the Indian subcontinent" (Younis and Mostafa (2000) in Mollah, 2015: 417). Bangladesh has undoubtedly become one of those countries which adopted the colonial rule to govern the citizen.

One of the most remarkable tradition of British colonial rule Bangladesh has been adopted which is the presence and persistence of Civil-military elitism in Bureaucracy. Within bureaucratic governance, to maintain their supreme power and status in the general society administrations express a striking toughness under various circumstances. Thus, Bangladesh continues practicing colonial rule even after the independence in 1971. The administrative structure derived all those fundamental features of colonialism. Furthermore, the post-independent struc-

ture in Bangladesh is considered as a replica of Pakistan and British governing system of dominating role of policymaking, legal actions and so on. According to Mollah, "Civil-military bureaucrats and politicians became allied forces with bureaucracy in the forefront like Pakistan who dominated the administration and governance in Bangladesh and continuing today. Even after the restoration of parliamentary democracy, bureaucracy resumed influencing the governance system due to the confrontational politics between the position and opposition political parties and division of bureaucracy along party lines" (Mollah, 2015: 421-425). Continuation of colonial practices enables the legal and administrative officers to exercise their power. Disregarding the rights of an individual is a practice of colonial influence which demolishes the status of the rule of law in Bangladesh. In a democratic country, rights are advocated by the court as a representation of an active legislative body (Craig, 1997: 08). Joseph Raz, a prominent legal positivist, highlighted the role of institutions and the importance of limiting the arbitrary practice of power. He stated that "an independent judiciary must be guaranteed, courts must be accessible, and state actors should not have the discretion to bend the law" (Raz in Ellis, 2010: 194). The court is responsible for deciding any legal decisions or examinations based on the appropriate measures of justice and what rights people hold. The legal system in Bangladesh undoubtedly do not evolve naturally, nor it reflects the majority of citizen's values and demand. Justice is sometimes considered on the decision of what rights people have and how the court has directed those rights. Therefore, the law is connected with the role of the court in the protection of the fundamental rights of an individual (Craig, 1997: 08).

A common practice is to exercise power and positions in Bangladesh. Based on that evidence found from the textual analysis an understanding can be asserted that Bangladesh judiciary and other legal institutions practice the colonial power of dominance. Judiciary's role in protecting the fundamental rights of an individual is often found as null. Human Rights Watch declared in a report, "although the government has made many commitments to end the killings and to punish perpetrators, no RAB officer or official has ever been prosecuted for a "crossfire" killing or other human rights abuse. "Crossfire" is a blanket term used to justify most of the unit's killings" (Human Rights Watch, 10.05.2011). In Authorization, authority practices domination and power over anyone. A Human Rights Watch Report revealed a conversation on 10th May 2011 between a RAB officer and a victim's mother whose son was abducted by the RAB officers.

- "I asked them how much money they got to kill my son and told them that they could kill me in crossfire as well. One RAB officer then grabbed my neck and said, 'Get out

of here, bitch. If you do not shut up, people here will kill you.' I asked him what he was doing there and if it was not his job to protect me. He then calmed down, asked me to leave and said that I could collect Pappu's body at Mitford hospital". Mother of Azad Hussein Pappu, killed by RAB on February 28, 2010 (Human Rights Watch, 10.05.2011).

From the above examples, it is clear to see how has RAB been practicing the arbitrary power of domination. A question arises to the judiciary system for those arbitrary acts, impunity practice about the role of protecting the rights of a citizen. According to the Constitution of the People's Republic of Bangladesh, article 31 guarantees the right to protection of the law (Constitution of the People's Republic of Bangladesh, 1972) although, in citizen do not get protected by the law as the authority itself works within the law. The legal power authority holds which allow them to dominate and control people whereas within a framework of a democratic country Bangladesh judiciary is accountable for safeguarding the rights of the citizen. In the Constitution of Bangladesh mentioned in article 7.1 and 7.2 that, all power of the state belong to people and their exercise is now shall be affected only under and the authority of the constitution. Those article in the constitution expresses the power Bangladesh judiciary possess. Article 7 expresses the core role of constitutional supremacy. It says,

1. All powers in the Republic belong to the people, and their exercise on behalf of the people shall be effected only under, and by the authority of, this Constitution.

2. This Constitution is, as the solemn expression of the will of the people, the supreme law of the Republic, and if any other law is inconsistent with this Constitution and other law shall, to the extent of the inconsistency, be void (Constitution of the people's republic of Bangladesh, 1972).

According to Mollah (2006), "Though the provision of article 7 gives an umbrella-coverage of constitutional supremacy to the whole constitution, article 26 gives a double sanctity on the provision of fundamental rights" (Page -18). It says,

1. All existing law in consistent with the provisions of this part (Fundamental Right) shall, to the extent of such inconsistency, become void on the commencement of this constitution

2. The state shall not make any law inconsistent with any provisions of this part, any law so made, shall, to the extent of such inconsistency, be void (Halim, 1998).

Despite having several constitutional act to safeguard the rights of the citizen, extrajudicial killings continues because often the government authorizes the law enforcement agencies action. According to the Human Rights Report (2017), "The policy of the present government is to arrest someone and "disappear" them. Some of the government forces are very rude and cruel. However, it is the government policy that I blame."

–Father of Adnan Chowdhury, a Bangladesh Nationalist Party supporter who has been “disappeared” since December 2013 (Human Rights Watch, July 2017, P-01).

What people believe about their right to justice to hold power and influence is defined as legitimacy (Jackson et al. in Cheng, 2016: 212). People's perception of legitimacy directed to legal authorities and the cooperation between legal authorities such as police, the courts and the people (Cheng, 2016: 212). Legitimacy practices in Bangladesh, however, clashes with the ideal thought of how legal authorities should reflect the majority of people's demand and values. The legal system should work naturally, and legal authorities are responsible for reflecting the values and norms of the citizen they govern (Cheng, 2016: 213). However, in Bangladesh, the actual scenario is the opposite of how it has been framed in books, legal documents. Odhikar, a human rights organization working in Bangladesh to monitor different aspects of human rights condition in Bangladesh stated, the law enforcement agency has been very unsuccessful in giving an elaborate report about missing or killed persons. They have never taken any initiative on the circumstances of death to explain the reason for conducting an extra-judicial killing other than the same stereotype story of "crossfire" or "gunshot" (Odhikar, 12 November 2008).

A report from the international crisis group which works for preventing conflict worldwide mentioned, a dysfunctional criminal justice system plays more effectively which weaken the rule of law. Over vigorous activities by the authority, law enforcement agencies are diminishing government's legitimacy rather than taking actions and legal punishment for police and law enforcement agency who legitimize violence and extrajudicial killings (Asia Report, 11 April 2016). To establish the status of the rule of law every country follows two ways formulations process of the rule of law. Formal and the substantive conception of the rule of law are two basic categories of constructing the rule of law in a democratic country. However, the status of

the rule of law in Bangladesh has also been questioned as a consequence of the practices of the extra-judicial killings.

Two reasons why someone should consider the rights-based substantive formulations of the rule of law along with the incorporated values of formal conception of the rule of law. First, any value would fit into the theory of justice, and second, those values will be purposeful in order to answer or solve any right based conception of the rule of law (Dworkin in Craig, 1997: 7). The construction process of legitimizing extra-judicial killings shows the categories of formulating the rule of law in a country have also been destroyed. Dworkin classifications about the rule of law addressed that, the government should never exercise any power against individuals. The government is empowered to exercise power only when rules are made accessible to everyone, and people are well aware of those rules. The rule of law is an expression of an ideal way of practicing the rights of the individual. Dworkin's second conception of the rule of law expresses, each has their moral rights which are identified as positive law, and it can be implemented as law based on individuals demand through judicial institutions (Craig, 1997: 07). However, the legitimation process of extra-judicial killings has been exposed as a threat to non-derogable rights. Non-derogable rights are considered as some fundamental rights which cannot be limited nor detached. "The right to life, the right to be free from torture and other inhumane or degrading treatment or punishment, the right to be free from slavery or servitude and the right to be free from retroactive application of penal laws (i.e. using a law to prosecute a crime that happened before that law was introduced) are the elements of non-derogable rights" (Human Rights Definitions, September 2011). Extrajudicial killings violates the basic feature of the rule of law.

However, the presentation of texts in the newspaper has also been controlled by the authority in order to manipulate the audience's belief. Texts presentation in a way helps to construct legitimacy in extrajudicial killings. The analysis shows Bangladesh judiciary does not play an independent role in securing the rights of the citizen. It is clear to understand how have extra-judicial killings been continued in Bangladesh by the law enforcement agency and minimal actions had been taken officially by the judiciary to punish the assailant. This practice is not an independent act instead it is colonial domination of the powerful to the powerless. Examples of colonial practices of dominations have been found in the analysis and the presentation of the

text. All four categories of legitimation analysis have represented different ways of constructing extra-judicial killings.

It is clear to generalize, in Bangladesh, the legitimation process of extra-judicial killings took place instead of legitimizing legal context. Obligation to obey and moral alignment is said to be two essential components of understanding legitimacy where obligations to obey represents the beliefs when legal authorities have the right to control behavior which makes people obey the legal authorities and moral obligations is considered when legal authorities and their activities reflect people's values and morality (Cheng, 2016: 213). However, in Bangladesh, the legal authority uses their legal power to obey their command in order to legitimize extra-judicial killings. The process of legitimizing extra-judicial killings also de-legitimizes the legal context which is constituted to echo the majority of people's desire and secure their right. Max Weber said, "legitimacy is a quality possessed by an authority, a law, or an institution that leads others to feel obligated to obey its decisions and directives." The society creates a recognition for authority by giving absolute power to exercise which makes people obligated to obey the authority (Cheng, 2016: 213). Using the authority power, the law enforcement agency in Bangladesh practices the colonial rule over the citizen.

The aim of using the postcolonial theory into this study is to enlighten where this practice of extrajudicial killings has been rooted. This study analyses the situation in Bangladesh from a post-colonial theoretical perspective to get an extensive understanding of how colonial rule influences the legal system of a post-colonial independent country like Bangladesh. The process of legitimizing extrajudicial killings raises a question about Bangladesh's criminal justice system and legal institutions to express basic principles of justice and to safeguard the citizen. Therefore, the fundamental rights of the citizen should be guaranteed by the court with the combination of an elected parliament and a structured constitution (Craig, 1997: 08). The research question also directed to the question on the role of Bangladeshi Judiciary to protect the rights of the citizen. Obtaining an understanding about how independently Bangladesh Judiciary works to protect the rights of the citizen leads this study to ascertain the status of the rule of law in Bangladesh too as the rule of law indirect that every citizen is under the law including, lawmakers too. However, in Bangladesh law never directed anything to the law and policy makers.

7. Discussion and Final Remarks

7.1 (a) Conclusion

This study explored the legitimation process of extra-judicial killings by the law enforcement agencies in Bangladesh. Media plays an essential role in the construction process of legitimizing extra-judicial killings. Produced texts in the media and the way texts are being portrayed in print, and electronic media have many influences in the construction process of legitimizing the extrajudicial killings. Extrajudicial killing is a practice of post-colonial influence of domination and power. It is clear from the analysis that extrajudicial killing is a practice which lies within power, positions. The results of this study explain the process of constructing the legitimacy in extrajudicial killings. The results from the empirical analysis conclude the construction process of legitimizing extrajudicial killings by the law enforcement agency. Impunity practice, unlawful killings, forced abduction makes the legal system vulnerable in Bangladesh, although Bangladesh is a democratic country with an independent constitution which guarantees to secure the rights of the citizen. Government's initiative to punish law enforcement officers or police for the violation of human rights and committing extrajudicial killings is noticeably weak. Following the constitution to maintain the rule of law in a democratic country requires the authority to protect the rights of the citizen and punish people for committing a crime, for example, human rights violations. Furthermore, the Bangladesh government has been criticized many times for the role they play towards law enforcement agency and the extrajudicial killings. Unfortunately, authority legitimizes extrajudicial killings by providing different ways of legal protection and support.

Following are the research questions this study seeks to discover. Explanation comes along to describe each question from the above analysis.

“How do extrajudicial killings committed by the RAB are discursively legitimized by the authorities and treated in media?”

Authority practices of extrajudicial killings have becoming a common concern in Bangladesh. The discursive analysis of legitimacy directed the authority support for extrajudicial killings by the law enforcement agencies through presenting texts from different media, i.e., newspaper, television report, electronic media and so on. The textual analysis of legitimation resulted in

the apparent connection between the authority and the law enforcement agency in order to legitimize extrajudicial killings. The process of legitimizing extrajudicial killing occurs in many ways in many forms. Reports published in the newspaper, electronic media, journal or even in television are presented in a way to manipulate the audience and their beliefs towards Rapid action battalions and their actions. Even though, the extrajudicial killings are mostly done by the law enforcement agency; however, the presented text controls the audience's psychology in a way to mould the ideas and beliefs about the law enforcement agency from committing a crime to safeguarding nation. The text presents the importance of securing the nation by killing a criminal in "crossfire." It is often claimed that extrajudicial killings are happening for good, securing the society, the country whereas it is an extreme violation of human rights and unlawful practices of killings. From an interview of RAB officer published on a Swedish radio where he claimed, "the decision on the fate of those abducted by the RAB was made high up, and that enforced disappearances can be used to eliminate political opponents." How individuals were tortured interviewed RAB officer also explained in detail (FIDH, 10.04.2017). Post-colonial influence plays a significant role in committing extrajudicial killings by the law enforcement agency. Authority incorporated all features of colonial practices of domination even after it was over and continued the practice of power and domination. Colonial practices influence the authority, and the position authority holds. In a democratic country, every citizen is entitled to get their basic rights guaranteed. Article 27 of the Constitution declares the equality every citizen gets before the law and guaranteed to get the protection and treated according to the law. One of the fundamental principles of the law is, "every person is innocent before the law until proven guilty. Therefore, until it is proved in court with all the safeguards provided by our criminal justice system, that a person is guilty, he or she should not be branded a "criminal" and in no event should he be subject to the process of extra-judicial execution practiced by our law enforcers" (Khan, 2010). Committing extrajudicial killings not only a crime but also a way of dishonoring the justice system and the rule of law.

What role has the Bangladesh Judiciary system played in protecting the rights of the citizens from abusive uses of the power by RAB?

The accusation of violation by law enforcement agencies, for example, police, RAB including Border guard were not investigated neither indicted. Although Bangladesh government claims that more than 2000 RAB officers have been punished for violation and misconducting the job

responsibility however, there was not a single prosecution for disappearance, extrajudicial killings, torture or arbitrary arrests (Human Rights Watch, January 2015) besides the Naranganj seven murder Case where Bangladesh Judiciary has given death sentence to 15 RAB officers.² According to a report from United Nations Human Rights Watch, "Several countries including the US and the United Kingdom expressed concern about violations by security forces. However, they failed to call the RAB to be disbanded" (Human Rights Watch, January 2015: 05). Law enforcement agencies use many legal provisions as a weapon to legitimize their action of committing extra-judicial killings. Knowing the fact of committing a crime does not hinder the action of extra-judicial killings as Code of Criminal Procedure, Special Power Act 1974 work as a shield to legitimize the crime they are accused of. Under the section 54 of the code of criminal procedure of 1898, without any warrant or magistrate's order, anyone can be arrested based on suspicion of criminal activities. Section 86 of the Dhaka Metropolitan Police Ordinance reflects the same as the code of criminal procedure. Special Power Act 1974 is considered as the repressive law as the use of this act in the name protecting the security of the State consequences to the violation of human rights (Aziz, 2015: 136). Law enforcement agencies and authorized magistrate are often found in dealing with cases of forced abduction, a suspicious arrest which later causes custodial death and unlawful murders. This practice often leads to cause injuries and killings to various innocent citizens (Rafiqul and Solaiman, 2003: 01).

The constitution of Bangladesh has given the ultimate power to its citizen. According to Constitution, the Judiciary is one of the most powerful institutions in Bangladesh, and Bangladesh Judiciary is responsible for establishing the proper rule of law in the country. However, Bangladesh judiciary as being the most potent legal institution played remarkably less responsibility in protecting the rights of the human which caused deprivation to victims as well as an ordinary citizen to achieve the opportunities of getting justice. Since the establishment of RAB in 2004, Bangladesh government failed to show public reports of investigation and prosecution of many extrajudicial killings, custodial death, and tortures by the law enforcement agency. It proves the vulnerability of the judicial system of Bangladesh towards securing the rights of the citizen. People are deprived of their rights to access to the justice. Violation of the rights of the human has never been dealt with in accordance with the law in Bangladesh (Khan, 2010).

² <http://www.thedailystar.net/frontpage/naranganj-7-murder-verdict-high-court-bangladesh-death-reference-appeal-death-15-life-term-11-1452607>

(b) Final Remarks

The rule of law plays the most crucial role for a country to function independently. According to the definition and the substantive characteristics of the rule of law, law enforcement agency disobeys the essential features of the rule of law and the constitution. Furthermore, extrajudicial killing is considered as an act of crime which infringes various article, i.e., article 27, article 31, 32 and so of the constitution. Practicing extrajudicial killings delegitimize several acts mentioned in the constitution to safeguard the rights of the citizen. Whereas the constitution of Bangladesh provides the legislation to secure the rights of the citizen, however, in reality, authority get away with murder or extrajudicial killings as if they are above the law, supreme law and the constitution. Thus, there have not been found any single prosecutions of those cases of extrajudicial killings committed by the law enforcement agencies neither has been investigated. Punishment of law enforcement agencies for committing extrajudicial killings have never taken place (Khan, 2010). Committing extrajudicial killings shatter the status of the rule of law in Bangladesh. The practice of extrajudicial killings is a power and domination practice by the authority which weaken the justice system and the rule of law. Colonial practice of domination yet continued in Bangladesh which resulted in questioning the justice system, the rule of law of the country in safeguarding the basic rights of the citizen.

7.2 Further Recommendation for Future Research

The primary intention was to evaluate case documents and the analyze the role of Bangladesh Judiciary to protect the rights of the human. However, when the actual process of research work started, it was found out to be the hardest way to get case documents from Bangladesh while being in Sweden. The topic of extrajudicial killings by the law enforcement agencies have raised many debates, and it has become a very controversial issue in the context of Bangladesh. Surprisingly, there are not many cases that have gone up to court; instead most of the cases had dismissed from the local judiciary although when the case was either a murder case or unlawful killings by the RAB. Since, the present study is mostly based on newspaper reports to discover the legitimation process, however the future recommendation for a research would be to find out the reason why those cases have been denied from the local judiciary and analyze those case documents to see the role Bangladesh Judiciary plays being the most powerful institutions in Bangladesh to safeguard the rights of the citizen. Judiciary decision of denial or acceptance

of cases will get a broader and more in-depth understanding of the construction process of legitimating extrajudicial killings by the authority.

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9. Appendix

9.1 Questionnaire

1. How do you see the present situation human rights in Bangladesh since the establishment of RAB? What role has RAB played in improving or deteriorating the human rights situation in Bangladesh?
2. What benefits Bangladesh has gotten after the establishment of RAB? Has this specialized unit benefited the socio-political situation of Bangladesh? If so, how?
3. How has RAB and its activities been seen in Bangladesh? Do you agree with how the Bangladeshi national media portrays RAB? If so, why?
4. RAB has been accused of committing extra-judicial killings. Do you agree with this statement? Explain if you do or don't agree.
5. How do you view international criticism on the activities of RAB, especially from Human rights organizations like United Nations Human Rights Watch?
6. Why Bangladesh government failed to reduce the rate of the violation of human rights?
7. Do you think establishment of RAB was a worthwhile attempt for the country? If Yes, how
8. To what extent do you think Bangladesh Judiciary is protecting the rights of the citizen?

9.2 Interview 1 (RAB Officer-Identity Concealed)

1. It is often tempting to tell RAB has gone seriously wrong and to overlook progress and advances it has made so far when barrage of bad press is being given across national and international frontiers. This elite force is damn dubbed with some phrases like ENFORCED DISAPPEARANCES, EXTRA JUDICIAL KILLING, GUNFIGHT, CROSS FIRE, ENCOUNTER so on and so forth. Given neither the media nor the news is fake and concocted, how Bangladesh has kept up all the momentum of sustained economic growth in the last decade.

The establishment of RAB under the ARMED POLICE BATTALION ACT 1978 with few alterations and adaptations bore all the hallmarks of periodic necessity when deeply radicalized misguided youths began orchestration of terrorist activities in different corners of the country, time was terribly tightened with extensive range of abductions and violent extremism, political unrest as culmination and algorithm of gross incivilities was heightened, and religious minorities were particularly targeted in killing and extermination.

Human rights condition in Bangladesh has significantly improved with the emergence of new elite force as people are now reassured of stronger sense of security. Being highly equipped with modern arms and ammunition, RAB has tremendously contributed to protection of human rights with compliance mechanism of international human rights standard.

2. Bangladesh has leapfrogs in some sectors like expansion of social safety nets schemes and other interventions, new pay scales, allowances and wage board for employees, graduation from LDC to developing country, huge economic growth, remittance and garments industry, foreign direct investment, diplomatic relations, sports and recreation. The first and foremost condition of any development in any sector is the smooth law and order situation. The persistent progress in every sector in Bangladesh is a clear testament to the effective presence of RAB. Internal security of a country is a comprehensive idea and merely police cannot design and implement all-inclusive law enforcement. RAB is constituted of armed forces apart from police. So security was really high since its establishment and socio-economic condition has substantially improved as all people have been engaged and integrated in income generating activities.

3. Mass media have fooled people into believing that RAB emerged only to take away their basic human rights instead of ensuring them. Fault line was too subtle for mass people to see. People's impressions about RAB have been confirmed after the seven murder incidence. The fallacy is few members engaged in this incidence and the whole organization is being condemned. I have sharp contempt for any violations but not the legal entity as a whole.

4. There is no term like extra-judicial killing in any corpus of legal phraseology. It was a wrong coinage by media. No killing is justified in law. I simply disagree with the statement.

5. Law is a social phenomenon and enforcement of it is a socio-political experience. There is international standard of human rights as per universal declaration of human rights. At the centre of international human rights protection principle is the recognition basic dignity of human being.

9.3 Interview 2 (RAB Officer- Identity Concealed)

1. Present situation of human rights in Bangladesh is better than any time after establishing RAB. Abused by the security forces has been completely absent at present. Freedom of expression, women's rights and law and orders has been ensured. RAB has played a vital role preventing extremism, terrorism and drugs dealings.

2. Yes, RAB as a specialized unit has been contributed in socio-political betterment of Bangladesh. Extremism, terrorism and abuse of drugs has been reduced drastically. People of all sphere, now rely on this special force.

3. RAB and its activities are seen positively in almost all cases. Most of the time, the Bangladesh national media portrays the real scenario. Sometimes it may not be due to the lack of enough information about our activities.

4. No, RAB has not been accused for extrajudicial killings rather sometimes during operation RAB forces as well as the criminals, offenders get hurt or killed. It is now a global phenomenon.

5. Every work has criticism and some work must be criticized. The activities of all is discussed and some are positively, some are negatively presented. Thus, where there are no activities, there is no criticism. So, I see the criticism positively.

6. We are not policy or decision makers for reducing the rate of the violation of human rights rather we implement the policies taken by the government to reduce the rate of the violation of human rights.

6. No

7. Establishment of RAB was worthwhile attempt for the country and it is still so due to its contribution to the overall development of the country.

8. We are not the judiciary, so this question is not answerable by us.

9.4 Interview 4 (South Asian Director-Human Rights Watch)

1. Opinion about RAB and extrajudicial killings and the situation Bangladesh government have created after the development of RAB?

-RAB has its own internal unit where they claim, they suspect, they investigate, and they punish. It is particularly true for other forces too along with RAB:

2. Why Bangladesh government is not taking any initiative to stop the violation of human rights?

-Sheikh Hasina, Prime Minister has put herself in a situation where she needs those law enforcement agencies to work for the government. Bangladesh is a country where you don't make the security forces angry because of recent history for example, forced disappearances, abduction, unlawful killings and military power. RAB is a rotating force which incorporates police and military. Government needs their blessing in a way. One problem of the government is that Sheikh Hasina promises zero tolerance of torture, inactive local governments which seems giving RAB always a favor. When a country has a joint force like military, the police end up getting militarized. Police start resorting the military behavior with bigger weapons, not having a minimum respect for the constitution.

3. To what extent Bangladesh judiciary is protecting the rights of the human?

-Bangladesh judiciary is biased by the government and it does not work independently. Sheikh Hasina has completely stepped in the court for all her favor. She makes the court to work for the government. For example, they brought case against chief Justice Sinha because he voted against the political groups demand. It is a pathetic activity has been going on by the political group Awami League. It is very disappointing that the government interferes in legal professionals. Basic human rights also violate when people are afraid of speaking. This process starts from up to the top supreme court. Government protect those law enforcement agencies even when they do any crime. Normal people's statement and opinion are never considered seriously as they are afraid of getting killed or abducted or disappeared. There are few reasons no one speaks out because people get harassed, they get threatened. Head of Odhikar (A human rights-based organization works in Bangladesh), his son who is 12 years old was followed on his way to school by unknown people. This is one of the most dominant reason for people not to speak up about RAB as it scares the people and their safety.