

Extra-Judicial Encounters Through the Lenses of the Judiciary with Focus on Uttar Pradesh

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ABSTRACT

The aim of this essay is to make a critical evaluation on the extra judicial killings in the perspective of the judicial system in India, mainly in the state of Uttar Pradesh, which has witnessed instances of extra judicial killings and has been widely discussed in public discourse. Extra judicial killings basically involve situations whereby the law enforcement agencies opt not to use the judicial process in delivering justice, thereby raising a concern over human rights, the rule of law, and democratic values. The discussion in this essay seeks to establish that the judicial system, being a democratic safeguard, has reacted positively in instances that may relate to extra judicial killings and misuse of power. By scrutinizing specific quotes from notable supreme court rulings, this essay considers that the judicial system shapes public discourse in relation to accountability, transparency, and reform in the police force, or otherwise. Notably, this essay considers the state of Uttar Pradesh and the political-social situation that allows for extra judicial killing, with the judicial system either sanctioning or opposing state violence through specific rulings. Through the use of case laws and theoretical frameworks, this research article will critique the process of indeterminacy of the judiciary in preventing extra-judicial killings and explore its implications in relation to human rights, justice, and the future of law and order in the policing of the state. It will finally argue that a strong and interventionist judiciary is required for the exposure of abuses and enforcement of the rule of law against extra-judicial killings.

Keywords: Extrajudicial Encounters, Rule of Law, Zero Tolerance Policy, Impunity, Judicial Oversight, Fake Encounter, Judicial Pronouncements.

INTRODUCTION

In India, 'encounter killings' (encounters) or the unlawful deaths of apprehended individuals by police, are a major subject of discussion in the political and legal worlds. In addition to the term itself masking the murder of apprehended individuals without the requisite legal or

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constitutional process, it also undermines and violates the absolute principle of due process protected by Article 21 of the Constitution of India that ensures every individual has a legal right to life and personal liberty.

The most significant contradiction in the ongoing discussion regarding these encounters is the fact that different portions of society view these encounters as a way to give immediate Justice to victims and families who have been victimized over an extended period of time, due to victimization from crime and criminal activity, while at the same time viewing the ongoing emergent nonofficial encounters as an exposure of the vulnerability of the Rule of Law and unrestrained Executive power.

While law enforcement authorities justify encounters in the name of combating organized crime and rising violent crime, opponents argue that they are vigilante operations that occur at the behest of the State. The ongoing tension between the notion of Public Security and the concept of Constitutional Morality serves as the backdrop for the continuing national discourse regarding extrajudicial killings.

In India, there has always existed a multi-layered and multi-faceted phenomenon of encounters. Take, for instance, the case in Punjab during the 1980s and 1990s, when encounters became a routine affair in counterinsurgency operations by the police. Then there are encounters in Jammu & Kashmir and North-Eastern states that have often been recorded in reference to counter-terrorism and counter-insurgency efforts most commonly under the Guaranteed Forces (Special Powers) Act. Not to forget are the occurrences in Urban India itself, with highly publicized encounters in Mumbai against organized crime gangs when encounters first made an appearance in late 1990s, and then Batla House encounter in Delhi in 2008 that has still much to be said on. Then there has been most recently a police encounter in a rape & murder case in Hyderabad resulting in killing all four accused men in an encounter, marking a disconnect between the longing for justice by citizens on one hand and a drag on justice with regards to criminal justice delivery systems on the other, while at the same time reviving a controversial debate between necessary instant justice via police action and an instance of an illegal overreach by police.

In the larger national landscape, Uttar Pradesh occupies a particular and distinctive position. As India's largest and most populous state, distinguished by considerable socio-economic diversity, a lack of political stability, and high levels of crime, UP has been at the center of debate over the concept of "encounters." Government data and independent investigations in recent years have indicated that UP has among the highest numbers of alleged police encounters in the country. The political leadership openly embraces and links encounters to their "zero tolerance" towards crime and organized gangs, projecting the killings as inevitable and in the interest of public safety. Political discourse suggests that encounters serve as deterrence, creating an aura of authority and fear among criminals. This compromising has appealed to large sections of the public, who believe encounters are a form of justice against a failing system of justice.

Although this is assumed to be a popular measure, this is, in fact, a grave constitutional concern. These encounters in Uttar Pradesh have been criticized for instances of "lawlessness and the lack of rule of law on the part of the state" by both civil society groups and human rights advocates, and domestic and international monitoring agencies. The "staged" or "fake" encounters, in which people allegedly get summarily killed and then get framed for dying in an armed conflict, add further confusion regarding whether one's death due to an encounter is indeed constitutional and legitimate. The National Human Rights Commission in many cases outside of Uttar Pradesh called for an inquiry into "staged" encounters and accountability on this matter. The same came into question before the Allahabad High Court, in instances in which suspected victims possibly died in encounters, questioning whether "state-sponsored killing was itself a valid and proper discharge of the policing functions, or may perhaps constitute a disturbing manifestation of arbitrary use of power" on the part of the state.

The study aims to explore how the judicial system has responded to the challenge posed by state Violence. It aims to question the successes achieved by the judicial systems in ensuring the dominance of the rule of law and upholding the basic rights, along with the approach of considering judicial mediation as subordinate to the ideals of populism and state opposition. Finally, the study on the meetings in Uttar Pradesh is about more than just the state, it is about the future that the Indian constitutional state holds as it tries to determine if it can establish itself as a counter-majoritarian body that maintains the rule of law, or if it can sacrifice the very principles that will ensure speedy justice.

STATEMENT OF PROBLEM

Extrajudicial killings, commonly referred to as 'fake encounters,' undermine the rule of law and violate the Constitution's guarantee of the right to life and personal liberty (Article 21). For some time now, the state of Uttar Pradesh has drawn national media attention for the alarming rise in police extrajudicial killings, and many police officers have been proud of this police action, believing they are controlling crime properly by keeping the streets safe. But this practice raises serious concerns about legality, ethics, and human rights, especially when procedures of due process are bypassed or if there is a lack of mechanisms for holding parties accountable.

The Supreme Court of India has provided specific legal protections through its order in *PUC v. Maharashtra* (2014) and subsequent cases and provided legal standards under the Protection of Human Rights Act 1993 and the Indian Evidence Act 1872, which compile law and human rights. Despite this, there exists a significant gap between the state-of-the-art legal protections for extrajudicial killings on the one hand, and the realities of extrajudicial killings happening through police action in Uttar Pradesh on the other. Nearly all extrajudicial killings reported in the state may raise questions about whether the police reports accurately depict the actual circumstances, the condition and availability of evidence, and the absence of independent or judicial review.

This inquiry aims to examine how the Indian legal system is dealing with and responding to encounters in Uttar Pradesh, in which the current legal structure is being invoked. Of particular interest in this investigation is how effectively the Indian Evidence Act and the Protection of Human Rights Act, in respect of encounters, are being invoked, and the extent to which the legal institutions in India are active players in upholding justice and the rule of law. The issue with this problem is in its irregular invocation of procedural justice, acceptance of extrajudicial executions, and the impotence of legal and human rights agencies in seeking justice and restraining these encounter procedures.

Therefore, the foremost question this investigation seeks an answer to is: to what degree is there an apparent gap between the procedural legal protection against extrajudicial encounters, a seeming conflict in implementation, and the judiciary's fill of the gap. The objective is to

critically evaluate the degree to which the legal structures are available and are being applied, especially in a country where the extrajudicial encounters are continually excused by the need for speedy justice.

RESEARCH QUESTIONS

- ❖ How has the judiciary in India viewed extrajudicial encounters, specifically in Uttar Pradesh, in light of a wide range of legal and constitutional protections?
- ❖ What is the responsibility of judges when assessing law enforcement's culpability in violating the right to life and due process through encounters?
- ❖ How effectively does the Indian Evidence Act, 1872 evaluate law enforcement's reliability and admissibility of evidence presented in judicial proceedings regarding encounters?
- ❖ How does the Protection of Human Rights Act, 1993 provide for judicial review and safeguarding of human rights in allegations of extrajudicial killings?
- ❖ To what degree do judicial opinions show consistency in championing constitutional protections and rights in encounters occurring in Uttar Pradesh?
- ❖ What barriers to effective adjudication do courts face in encounter cases due to evidentiary gaps, institutional shortcomings, or procedural difficulties?
- ❖ How did judges and the judiciary generally respond to allegations of extrajudicial killings, balancing emphasizing the need for public security while also balancing their responsibility to uphold the rule of law and protect citizens' fundamental rights?
- ❖ What are the factors in the existing framework of laws that are impeding the possibilities of adequate judicial analysis of the case of encounters in the context of Uttar Pradesh?

- ❖ What role might practices and frameworks be encouraged to play in ensuring the role of accountability, and the promotion of human rights, in relation to allegations of extrajudicial killings?

SIGNIFICANCE OF THE RESEARCH

Encounter killings represent a dangerous trend in contemporary Indian society, threatening the constitution and human rights. The significance of this current research work consists in its conceptual and objective analysis of this experience, with a particular emphasis on the judicial treatment of case studies in the state of Uttar Pradesh, which holds the leading position in terms of the incidence of encounter killings in contemporary India. The Indian state is traditionally characterized by its strong legal and constitutional traditions, but the permanent trend of encounter killings and the general indifference of society towards this circumstance may be perceived as failure of the constitution.

State violence is becoming increasingly normalised within society. In many cases police encounters are viewed as an acceptable way of providing "instant justice" and combating criminal activity. This creates a unique role for the judiciary which has a constitutional responsibility to monitor executive overreach and protect individual freedoms. By studying the way in which the judiciary has responded to killing due to police encounters in Uttar Pradesh, it will be possible for the research to determine whether the rule of law, justice and accountability have been upheld by the judiciary or if it has assisted in the erosion of civil rights.

Furthermore, the research will provide an important legal basis for examining the impact of several statutes, including the Indian Evidence Act (1872), the Protection of Human Rights Act (1993), etc., on how the courts treat police encounter cases. The abovementioned statutes clearly recognise the necessity for protecting people against arbitrary acts by the state and constrain the use of state powers to lawful means of dispensing justice. However, the way in which these provisions have been interpreted and applied by the judiciary in practice appears to vary and be inadequate in many instances. This study is intended to examine the gap between the theory and the practice of the judiciary cases and the implications of the meaning of the law itself in the relation of an encounter case and the scope of the power of the law itself.

Further, this particular research also participates in the discourse of human rights in India, as it examines the role of the judiciary in cases of violence committed by the state. This implies examining the effectiveness of the judiciary in these cases, as well as exploring other institutional players (such as human rights commissions, investigative agencies, and so on) who ought to be dealing with these human rights violations. Consequently, this particular research engages with scholars of law, as well as politicians, human rights scholars, and law enforcers who ought to be dealing with the issue of abuse of power. In terms of policy and reform, this particular piece of research may initiate training programs and policies, as well as the development of laws, based on the identification of deficiencies in procedures, aimed at proposing remedial and preventive strategies to ensure greater scrutiny of encounters and the increased transparency of these procedures.

The study is of significant Academic Value, particularly with respect to the focus on a specific geographic area of the country but also issues that have a wider impact on all states; the research is an Important Contribution to the body of Law Legal Research. While extrajudicial killings occur in all parts of India, the high frequency and relative normalization of such killings in Uttar Pradesh is of particular concern for the research topic of this paper.

In addition to contributing to the body of Law Legal Research through the analysis of encounter killings within India, the above-mentioned study is also a Significant Contribution by providing a thorough review of how "established legal prisons in India respond to" (as one example) the problem of extrajudicial killings in India.

This study is both timely and necessary. It provides a more comprehensive understanding of the Judicial System and Legal Institutions within India with respect to the occurrence of extrajudicial killings, and the need for Justice and Accountability as well as Respect for the Rule of Law.

SCOPE AND LIMITATION OF RESEARCH

Scope of the Research

This study focuses on how courts across India, especially in Uttar Pradesh, approach and oversee the conduct of police in enacting expedited police power (EPPs), as there has been far more recorded use of EPPs in Uttar Pradesh than anywhere else in India.

The study focuses on the ways in which the courts (both the Supreme Court and High Courts) interpret, enforce and respond to EPPs through the issuance of Supreme Court and High Court judgments, the utilization of public interest litigation (PIL) to hold law enforcement accountable, and the development of court-created guidelines for law enforcement officers to ensure accountability and legality of their actions when using EPPs.

The study proceeds from a legal definition of EPPs to examine the judiciary's responsibility as the ultimate guardian of various rights guaranteed by the Indian Constitution, including the rights to life and personal liberty found in Article 21, and make recommendations for how courts can respond to the EPP requirements of law enforcement while also protecting human rights.

The study will also investigate the encounter in the context of human rights and constitutional laws, and it will take into consideration both the international standards governing the judiciary, as well as the laws in the country. Implicit in all these, would be the consideration of India's treaty obligation with respect to rights within the International Covenant on Civil and Political Rights, as well as the guidelines on measures that can be taken for the elimination of extrajudicial, summary, and arbitrary executions as given by the United Nations.

Uttar Pradesh is taken as the primary regional case due to the large number of encounter killings in the state and even the coverage of the showdown between the judiciary and the executive on this issue. The study relies on regional data, police reports, the media, and civil society reports in an attempt to provide a balanced and comprehensive view of the issue in the region in question. And, based on this, through judicial scrutiny, the study seeks to examine the trends in police behavior, the explanations provided by the officials regarding the engagements, and judiciary initiatives regarding compliance with norms among police officials in the region based on judicial scrutiny. The study challenges and tackles, in a certain sense, the aspects of legality related to police activities in one of the largest and law and order most sensitive states in India in general.

The study will further help shape broader discourses on police accountability, the role of the rule of law within it, and issues related to police ethics. In a case study of police interactions

within the state of Uttar Pradesh, this paper will examine issues of judicial enforcement of directives on police presence within a criminal environment, and systemic processes that might not be easily remediated through police reform, or other judicial mechanisms for police accountability. The aim is to endeavor, through empirical aggregations, judicial oversight, and systemic analyses, to develop a framework for best practices and judicial police reform for the role of police commitments and constitutional standards within the masses of the Indian state.

Limitations of the Research

Despite such broad research, however, certain limitations apply. Among the most significant limitations arises out of encounter killings and the lack of good data because of inaccurate and incomplete records by the police and, more importantly, due to biased ideological or political motivations. Moreover, it may well be true that the police are involved in several hundred encounters, be it unreported or reported in such a way as to highlight their own activity, thus preventing even an accurate analysis from taking place.

The literature is produced mostly by secondary materials, such as court documents, official government reports, NGO reports, and journalistic inquiries. While useful, secondary materials might, by their very nature, carry certain biases and/or partial accounts, restricting the depth of understanding available on the development of procedures and what is actually taking place in practice on the ground. Nor do we have primary data, for example, police, victim's family, lawyer, and/or magistrate interviews, which would restrict our capacity to grasp the complexity of certain police tasks and challenges to fulfil obligations.

In that being regional and specific to Uttar Pradesh is necessary for an in-depth case study, this also makes it less possible to generalize from this information in terms of its implications. Policing, encounters by police, as well as judicial reactions, are very different from one state to another in India, and it is likely that Uttar Pradesh is no different from other states in terms of its legal or social dynamics. Thus, one can only caution that these implications are to be considered in the political and social atmosphere that prevails in Uttar Pradesh.

Moreover, with regards to judicial interpretations and policy guidelines, these are liable to change with the passage of time and emerging judicial cases, as well as state policies and so forth. Moreover, it can also impact the level to which specific court judgments and guidelines,

as mentioned within the study, would prove significant, especially in light of the emerging trends and controversies related to police encounter killings within the state of Uttar Pradesh. Finally, while the study makes an attempt to analyze compliance with judicial guidelines, the large systemic and institutional hurdles, including, for instance, bureaucratic lethargy and state intervention, render it very difficult to analyze, in a comprehensive fashion, the effectiveness of judicial oversight.

All in all, this study is rich in analyzing judicial responses to extra-judicial killings, focusing on Uttar Pradesh. Limits pointed out above call for cautious care in interpreting its findings. Given these constraints, further empirical evidence on encounter killings in India needs complementing through primary fieldwork, longitudinal research, and comparative studies across states to deepen our understanding and possible policy recommendations.

OBJECTIVES

- To consider the review of constitutional provisions, statutory regimes, and human rights standards relevant to extra-judicial situations in the context of India.
- To study major judicial decisions on extra judicial killings, with emphasis on reasoning, legal principles, and directions that have been evolved by the judiciary.
- Assess the contribution of the judiciary in holding a law enforcement agency accountable, to determine if the rule of law is upheld when extra-judicial killing is suspected.
- To identify, understand, and analyze judicial trends in its approach to police action- from the view of acceptance claim or rationale- to conduct strict scrutiny and pass orders for the benefit of rights.
- To underline the gaps and difficulties of executing judicial directives.

RESEARCH METHODOLOGY

The method adopted in this study is a doctrinal or library-based method. The study uses judicial pronouncements, elementary principles under statutes, and constitutional obligations to study

the judicial outlook on extra-judicial incidents. The method is analytical. The study relies on the judicial argument, applicable constitutional provisions, and the evolution of judicial pronouncements on matters pertaining to issues arising from an extra-judicial incident/incident/s. There is an evaluation of court decisions. The study only refers to judicial decisions on Indian courts, and most sources are publicly available.

SCHEME OF STUDY

1. Constitutional Framework and Judicial Oversight

The Indian constitutional tradition is the foundation for the judicial review of unc Juded encounters. The fulcrum of this is Article 21 of the constitution that provides that "no person shall be deprived of his life or personal liberty except according to the procedure established by law." While a literal reading of the "procedure established by law" suggested a formalistic approach in construing the constitutional provision, the Supreme Court opted for a just, equitable, and reasonable procedure in *Maneka Gandhi versus Union of India* in 1978. Such encounters without a judicial trial or trial by due processes are thus not acceptable.

The judiciary also uses article 14, which promotes equality in the sense that it provides equality before the law as well as equal protection for the laws. Cases concerning encounter killings, whereby the state selectively kills people outside the judicial system, are violating this right. Indeed, article 22, which also defends the rights of people who have been arrested, becomes meaningless if the state kills people who are suspects.

Apart from the fundamental rights, the Directive Principles of State Policy complement the constitutional scheme. Article 39A ordains equal justice and legal aid, and Article 51A(a) imposes a duty on every citizen, including the state authorities, to uphold the Constitution and the rule of law. Encounters, which bypass the process of trial, tend to denigrate these provisions.

The guidelines have strengthened judicial oversight. *People's Union for Civil Liberties v. State of Maharashtra*, a case filed following reports of several staged encounters in Mumbai, the Supreme Court suggested 16-point guidelines which included:

- Synopsis: Forced registration of FIRs in all encounter fatalities.
- Independent investigation by CID or other police stations.

- Magisterial enquiry under Section 176(1A) of the Code of Criminal Procedure, 1973.
- The reporting of all encounters with the NHRC has to be done within 48 hours.
- Supervising post-mortem and collection of evidence from the deceased body by a judicial magistrate.
- Periodic reporting of encounter cases to the courts.

By ensuring institutional accountability via procedural safeguards, the judiciary affirmed the constitutional tenet that the state cannot be the judge, jury, and executioner.

2. Judicial Attitude: From Implicit Approval to Critical Scrutiny

There has been a change in the attitude of the Indian judiciary through different epochs in Indian legal history.

(a) Early Judicial Reluctance

In the subsequent years post-independence, and especially during the 1970s and 1980s, there was no hesitation in legitimizing encounters as a necessary evil to address dacoity in central India or urban crimes in other areas. Judges felt that police accounts of “firing in self-defense” needed no further scrutiny in court. Such judicial pusillanimity led to making encounters an acceptable instrument of policing in Uttar Pradesh, Andhra Pradesh, and Maharashtra.

(b) Human rights-focused approach

The judicial perspective, however, underwent a change in the 1990s, in view of the discourse of human rights around the globe and the expansion of jurisprudence under Article 21 of the Indian Constitution. In *Naga People’s Movement of Human Rights vs. Union of India*, 1997, for instance, although the Supreme Court upheld the constitutional validity of AFSPA, it made it amply clear that the use of power by the armed forces must be in accordance with the principle of necessity and proportionality.

(c) Institutional Frameworks for Accountability

This shift became most apparent in *PUCL vs. State of Maharashtra* (2014), wherein for the first time, a systemic structure to regulate encounter investigations was established by the Court. This constituted a shift in judicial philosophy from adjudicating on a case-by-case basis to

structuring judicial regulation to ensure that every encounter was subject to the test of legality and accountability.

This is an indication that the judiciary has gradually evolved from accepting to scrutinizing, ending in realizing that there is a constitutional crisis in encounter killings as opposed to it being used for policing.

3. Case Law Analysis: Judicial Responses to Encounters

- ❖ *Om Prakash vs. State of Jharkhand* (201) The Supreme Court labeled extra-judicial killings “state-sponsored terrorism” and asserted, “This erodes the rule of law and creates a culture of violence and immunity from accountability.” The Supreme Court asserted categorically that encounters cannot be used in place of the criminal justice system because, in that case, the state itself becomes “a lawless state.”

❖ *Prakash Kadam v. Ramprasad Vishwanath Gupta* – Here, the court dismissed the “superior orders” defense and held that police personnel cannot protect themselves on the basis of orders from above. Police personnel were reminded that their foremost loyalty is to the Constitution itself and not to expedient orders. Most significantly, the court tagged fabricated encounters to the most serious type of murders.

- ❖ *(Extra Judicial Execution Victim Families Association (EJEVA) v. Union of India* (2016, 2017, ongoing) –

Popularly referred to as Manipur Encounter Case, this case included more than 1,500 cases of fake encounters by the Security Forces carried out under AFSPA. The Court directed CBI inquiries and held that there are three principles:

- No immunity conferred under existing laws or laws like the AFSPA.
- Each case of encounter must be separately investigated.
- The guarantee of life under Article 21 is beyond the realm of counterinsurgency operations. In this case, the courts have shown that the emergency will not lessen the primary rights.

- ❖ *Nilabati Behera vs. State of Orissa* –

Although it does not directly relate to encounter situations, this case set the precedent concerning constitutional compensation regarding deaths in custody. This decision formed the basis upon which encounter deaths would receive constitutional compensation, owing to the breach of Article 21.

❖ High Court Interventions

The role of the High Courts in this aspect has also been of equal significance. The Andhra Pradesh High Court in the case of Andhra Pradesh Civil Liberties Committee vs. The State of A.P. in the year 2009 had directed that mandatory FIRs should be registered in police encounter cases. The Telangana High Court has taken suo motu notice in the case of the Hyderabad encounter of rape accuseds in the year 2019.

These, together with other cases, demonstrate “the dynamic tilt of the judiciary”: there is a presumption of illegality in all police encounters, which have to be disproved through impartial inquiry.

4. Tension between Security Concerns and Rule of Law

Often the reason given is that encounters are needed in order to deal with the threat of terrorism, insurgency, or hardened criminals. In a province like Uttar Pradesh, thousands of encounter cases have been documented as a “crime control measure.” The population is presented with a justification presented by the administration in relation to the inefficient justice system.

However, it is reiterated by our judiciary that constitutionalism cannot and should not become a sacrifice to expediency. In the case of *EJEVA vs. Union of India* (2017), it is clearly mentioned by the Supreme Court that terrorists and insurgents are also entitled to “due process” under the Constitution. Our judiciary opines that policing in India must function under “rule of law” instead of “rule of lawlessness”.

This dispute highlights an important theme: “the judiciary is committed to protecting constitutional morality, but the executive is driven by the necessities of security.” The judicial perspective is adamant that the legitimacy of state power is not contingent on its results but on its adherence to justice.

5. Comparative Jurisprudence and International Human Rights Norms

The Indian judiciary has taken succor from international human rights instruments. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) administered by the UN require that lethal force may be applied only when strictly unavoidable in the protection of life. Article 6 of the ICCPR, signed by India, provides for the natural and inalienable right to life, which cannot be made subject to arbitrary deprivation.

International precedents have also proved to be influential. The European Court on Human Rights, in cases such as *McCann v. United Kingdom* (1995), has placed a strong emphasis on achieving a high degree of proportionality between force and the actions undertaken by public functionaries. Indian decisions have followed suit to harmonize national decisions with international human rights principles.

The National Human Rights Commission has had a bridging role, providing guidelines on the mandatory reporting and scrutiny of each incident. Recommendations by the NHRC are often raised by the courts, thus inscribing international standards on human rights within the national constitutional laws.

6. Critiques of Judicial Intervention

Despite constitutional jurisprudence, the following problematic areas still exist:

- i. Implementation Gaps – Directives issued in *PUCL v. State of Maharashtra* are routinely flouted. In fact, police reports in several states continue to report such encounters as acts of self-defence without independent verification.
- ii. Institutional Bias: Investigations are normally conducted by state-controlled agencies, hence raising a number of concerns about impartiality. Genuine independence is seldom found; therefore, many complaints concerning cover-ups abound.
- iii. Delayed Justice – Despite years of monitoring, the *EJEVA* case has seen very few prosecutions. This delay undermines the deterrent effect of judicial intervention.

- iv. Over-judicialization: Some of the critics complain that judicial micro-management in encounters blurs the line separating the judicial and executive functions.
- v. Policing Realities – Proponents of encounters argue that undue judicial oversight demoralizes police forces that have to combat violent crime. These critiques highlight the paradox whereby judicial interventions are robust on paper but turn out to be quite uneven in their real efficacy.

7. Emerging Trends and Recent Judicial Directions

Recently, there have been several judicial developments in victim-oriented justice, as well as long-term supervision. The current case of EJEVA, being overseen by the Supreme Court, represents an extraordinary level of judicial tenacity.

The High Courts have similarly taken the initiative. The Andhra Pradesh and Telangana High Courts have asked for early judicial intervention in encounters. This is in recognition of the risk of late intervention. The Madras High Court has indicated the requirement for the presence of the judicial magistrate in post-mortems to avoid the tampering of evidence.

The judiciary is increasingly resorting to international principles of human rights, thus tightening the normative regime of accountability. This is a move towards the idea of globalized constitutionalism, whose logic is to interpret national law in the context of international commitment.

8. Synthesis of Judicial Lens

The involvement of the judiciary in encounter jurisprudence may be synthesized into the following three analytical perspectives:

- Constitutional Perspective: Grounding decisions on Articles 14, 21, and 22 to prevent anyone from being denied "life" without due process.
- Accountability Lens - Making FIR mandatory, judicial inquiries, compensation, and individual liability for officials.
- Human Rights Lens – Integrating UN principles and ICCPR obligations into domestic standards of policing. These cases show how the judiciary looks at encounters not as

mere police occurrences, but as constitutional emergencies through which the strength of the Indian democracy is challenged. There is no warrant for killing citizens in the name of security and control of crime, no matter what the reasons are.

FINDINGS

Judicial Condemnation of Extra-Judicial Killings

The judiciary has maintained a strong and unanimously negative stance against extra-judicial killings. It has been made clear in courts that encounters in a manner beyond the legal framework are unconstitutional and an act of murder. In *Prakash Kadam vs. Ramprasad Vishwanath Gupta* (2011), the Supreme Court made it clear that encounter killings planned and carried out by the police in a bid to disguise them as murders of criminals actually amount to 'cold blooded killings' and must be dealt with at par with any other murder case. In another case, *Om Prakash vs. State of Jharkhand* (2012), it was held that fake encounters are a grave misuse of authority and must face stiff criminal charges. It has been made clear in court orders that it is not within any wing of the authority, including the police, to choose its citizens on whom it wants to seal their fate with death.

Article 21 as the Cornerstone

The core of judicial rationalism is Article 21 of the Indian Constitution, which enshrines the guarantee of life and liberty. The judiciary has time and again asserted that it is a universal right, to which even those who commit grave offenses, terrorists, or habitual offenders are entitled. The axiom that "no person shall be deprived of his life or personal liberty except according to procedure established by law" is the cornerstone of constitutional guarantees. The state's propensity to substitute encounter killings in place of due process contravenes not only Article 21 but also shakes the very foundation of democracy in its judicial system. The judiciary has emphasized that no punishment should be meted out without a judicial trial, thus again reaffirming that encounters cannot be another system of justice. This stand of the judiciary is an attempt to save the integrity of the justice system by making sure that even those who are most maligned and alienated are not denied their basic rights.

Shift in Judicial Attitude

One significantly positive development in the judicial response to encounters is that it has evolved over the years. Initially, when encounters came before it, the judicial system seemed

to have its guard down in terms of being receptive to police versions, especially when it came to encounters related to gangsters or terrorists. This did lead to an enabling environment being cultivated in which extra-judicial killings became almost unchallenged. However, in *People's Union for Civil Liberties (PUCL) vs. State of Maharashtra (2014)*, there came the landmark judgment that led to a complete paradigm shift. In this instance, India's Supreme Court laid down guidelines in terms of an exhaustive 16-point program to investigate deaths in encounters. These guidelines included filing an FIR against police officials, conducting an independent inquiry by the magisterial inquiry, and reporting to the National Human Rights Commission. Such an order indicates that it is slowly becoming more rights-oriented in its methodology, in which encounters are to be scrutinized.

Systemic Non-Compliance with Judicial Guidelines

Still, despite the presence of such detailed guidelines, the extent of implementation on the ground remains rather questionable. In several instances, encounter killings have been presented as impromptu instances of self-defense by the police forces to sidestep the filing of independent FIRs. Magisterial probes stay away from independence and transparency to the extent that they merely become a formality. In fact, the NHRC itself has expressed reservations about the lack of effective implementation of its directives on the part of the state governments. The distance between judicial directives and the implementation of the same by the executing authorities remains quite apparent in the state of Uttar Pradesh and the following points indicate the same: There have been instances of encounter deaths that have been represented to the effect that the accused initiated the attack on the police, so that the police had no option but to undertake the encounter killing in those instances. However, the lack of an independent probe raises questions about the so-called truth about the encounter killing itself.

Uttar Pradesh as a Case of Judicial-Executive Tension

The state of Uttar Pradesh presents one of the strongest examples of the conflict between the rights-oriented view of the judiciary and the government's crime control discourse. Since the year 2017, UP has recorded thousands of police encounters, in which hundreds of so-called criminals have lost their lives. These encounters have been presented by the state government as their success in establishing law and order in their state and presented as a warning to would-be gangsters and criminals. Politicians have appreciated the police for their "strong actions."

However, this official support has also faced judicial doubts. Allahabad High Court has often considered pleas challenging the constitutional validity of such killings. In more than a few cases, the Court has asked the state government to share the details of such encounters. This establishes that the judiciary is not very supportive of such encounters and considers this as a serious violation of the constitutional framework. “No government can disregard the constitutionally guaranteed sanctity of life in the name of administering the country.” This is again an indicator of a conflict between the judiciary and the executive. UP is where the conflict over encounter killings is most apparent at the national level.

Balancing Security and Human Rights

One of the most apparent findings in judicial decisions is that it is hard to ensure state security without violating human rights. The judiciary recognizes that it is not easy to control tough criminals and crime gangs in some states, such as Uttar Pradesh, which have already witnessed violence as one of the most pressing concerns. Yet it should be noted that judicial decisions emphasize that it is impossible to compromise on the human rights of citizens in the name of state security as it will ultimately result in making violence a factor of governance, thus impeding and militating against democracy and state of rule of law in a country. Findings in judicial decisions highlight that encounters are far from strengthening state security as they instill fear and skepticism in citizens against democracy and its justice systems.

Human Rights Framework and International Standards

The findings above also indicate a convergence between judicial discourse in the Indian judiciary and the norms of human rights. The judicial emphasis in the Supreme Court of India on the right to life guaranteed in Article 21 mirrors the ideals found in other global documents such as the International Covenant on Civil and Political Rights (ICCPR), which the Indian government is a party to. The United Nations Human Rights Committee has found all forms of extra-judicial killings in contravention of fundamental rights. The Indian judiciary's demand for processes of justice in investigations underscores a global convergence with the norms of human rights. But in states such as Uttar Pradesh, the persistence of reported cases of encounter killings is indicative of a mismatch in the global commitment and the ground reality in Indian policing.

CONCLUSION

The issue of extra-judicial interactions has been a significant threat to the notion of the Rule of Law, Constitutionalism, and Human Rights in general in the Indian context. Through judicial interference, it has now long been made abundantly clear in India that the Right to Life under Article 21 of the Indian Constitution is beyond violation, and no person, no matter how criminal in conduct, can be deprived of their life without due process under law. The recent cases of *PUCL v. State of Maharashtra* (2014), *Prakash Kadam v. Ramprasad Vishwanath Gupta* (2011), and currently in the case of *EJEVA*, establish the judiciary's commitment to ensuring the registration of the FIR, a free and transparent investigation, the presence of a magistrate, and compensation measures.

Uttar Pradesh is a case that exemplifies the conflict between the need of the executive and the judiciary as far as judicial control is concerned. UP has seen a number of encounters in the recent past years where the government and the police termed them as the need of the hour to re-establish law and order in the state. But the judiciary has again and again reiterated the need to establish the rule of law as failing to process them as the case is violation of Article 21.

To deal with the above challenges, the following have to be incorporated within the framework of the state's police and judicial mechanism. Firstly, autonomous investigation agencies have to be given the power to investigate all encounter-related deaths without any interference from the state police, and the NHRC should have the power to take immediate action in cases reported. The judicial oversight of all encounters in a time-bound manner by magistrates and courts will ensure timely accountability. Besides police accountability, it is equally important that the police take action against those officers who conduct staged encounters and that the laws of human rights and the constitution be an integral part of police training courses.

For example, on the legislative policy level, legal norms must establish specific criteria governing the usage of lethal force, so that no statute like AFSPA or any other "encounter policy" on the part of individual states can become an escape clause in arbitrary killings. On the other hand, "victim-oriented" policies like providing compensation, rehabilitation, and counseling to affected family members in encounter killings need to be institutionally promoted in accordance with precedent decisions in *Nilabati Behera v. State of Orissa* (1993). For transparency and accountability to increased levels, an "encounter database" reporting

judgments on encounters as well as awards of compensation must also be made publicly available.

In sum, while the judicial tradition provides a solid basis for legality, accountability, and the protection of human rights, the application of such a body of norms remains a complex task, and this is particularly true in the case of Uttar Pradesh. It is important that a multifaceted and collective effort is made through judicial vigilance, legislation, organization, and public monitoring in regard to encounters in a way that ensures that encounters will never in the future serve as tools of impunity. The enforcement of the rule of law is not a strictly constitutional consideration, but a democratic foundation.

