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ENCOUNTER DERIVED BY PUBLIC SENTIMENTS: WHETHER PART OF CRIMINAL JUSTICE SYSTEM

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I. ABSTRACT

The article talks about the complex relationship between the encounter or extra judicial killings by law enforcement agencies and relative public sentiments, exploring how encounter has been influenced by the popular opinion, being legitimatized and at times being challenged for its validity in the Indian Criminal Justice System. A troubling dynamic is being witnessed due to the convergence of public opinion, political expediency, and law enforcement culture where these extra judicial killings have been normalized in spite of clear constitutional violations and legal prohibitions. The author's prime focus is to analyse the driving factors behind these fake encounters where public sentiments are involved and its reason for variations at regional level through out India. Our Criminal Justice System is the outcome of Adversarial justice System where every person has the right to produce evidence in his favour and to defend himself with all the fair opportunities, and encounter takes away all such opportunities so it must be in accordance with law.

II. KEYWORDS

Extra-judicial killings, Police encounters, public sentiment, Criminal justice system, and Human rights violations.

III. INTRODUCTION

Encounter is basically done in pursuance of self-defence by the police personnel while chasing the accused or meanwhile arresting them as the law prescribed. What is particularly worrisome is the cases of fake encounters in which the law enforcement claims that suspects have fired first, which compelled the officers to respond with lethal force, while this narrative has been often criticized and suggested as staged

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execution and not as spontaneous confrontations. Why actually the public support these encounters which is fundamentally wrong and in violation of human rights as well fundamental rights, as right to life is supreme right which is being protected under international and regional laws. The Constitution of India under Article 21 states that "*no person shall be deprived of his life or personal liberty except according to procedure established by law*"³.

India has ratified the International Covenant on Civil and Political Rights (ICCPR) under Article 6 of the same, India is legally obligated to guarantee that no one is unjustly deprived of their life and that each citizen has an inherent right to life.⁴ The Indian criminal justice system provides opportunity of fair trial to every accused; the justice served at gun point by police personnel derived by public sentiments are questionable which is by-passing the judicial system altogether is legally as well as morally wrong. The public at times support these encounters as they believe that judicial proceedings take a lot of time to serve justice and even it is said that justice delayed is justice denied.

These fake encounters supported by public portray the loss of faith in the Indian judicial system. Even the accused takes the benefits of loopholes of judiciary, get free from the clutches of the legal system and roam freely in the society. These incidences lead to the frustration among the public at general when these encounters are done, they feel validated as the justice is being served at gun point. But this is against the rule of law which is antithesis to arbitrariness and this arbitrariness of state is more like "*rule by law*" than "*rule of law*" which is a clear deviation from due process.

A. RESEARCH QUESTIONS

1. To what extent do public sentiments influence the legitimization and continuation of police encounters in India despite their constitutional invalidity under Article 21 of the Constitution of India?

³The Constitution of India 1950, Article 21.

⁴International Covenant on Civil and Political Rights 1976, Article 6.

2. How do regional political cultures and law enforcement practices contribute to variations in the frequency and justification of encounter killings across Indian states?
3. Why have judicial guidelines and NHRC directives failed to ensure accountability in cases of alleged fake encounters?
4. How does popular media and political rhetoric shape public perception in favor of extra judicial killings?
5. What structural reforms are necessary to reconcile public demand for swift justice with constitutional guarantees of due process?

B. RESEARCH OBJECTIVES

1. To critically examine the constitutional and human rights implications of police encounters in India.
2. To analyse the relationship between public sentiments, political populism, and normalization of extra judicial killings.
3. To study regional variations in encounter practices and identify institutional and political drivers behind these patterns.
4. To evaluate the effectiveness of Supreme Court guidelines and NHRC mechanisms in ensuring accountability for fake encounters.
5. To propose practical policy reforms that strengthen due process while addressing public dissatisfaction with delays in the criminal justice system.

C. RESEARCH HYPOTHESES

1. Public support for police encounters significantly weakens adherence to constitutional due process safeguards in India.
2. States with strong populist political narratives demonstrate a higher incidence of encounter killings compared to states with stronger judicial oversight mechanisms.

3. Judicial and NHRC guidelines fail in practice due to lack of independent investigative structures and prosecutorial autonomy.
4. Media glorification and cinematic portrayal of encounter specialists contribute to the social normalization of extra judicial violence.
5. Strengthening accountability mechanisms and judicial efficiency reduces public demand for encounter-based justice.

IV. REGIONAL VARIATIONS OF ENCOUNTERS IN INDIA

Police encounter which is extra judicial killings happens due to different reasons in several states across India. If we see the numbers are quite worrisome, how the police are tackling the situation to maintain law and order in different states, by themselves violating the basic human rights of a person.

According to official Ministry of Home Affairs data submitted to Parliament 2017-2022, 655 cases of encounter killings were registered with the NHRC across Indian states, some of them has been discussed below in the table below⁵.

| No. | States | No. Of encounter cases | Percentage of encounter |
|-----|---------------|------------------------|-------------------------|
| 1. | Chhattisgarh | 191 | 29.16 % |
| 2. | Uttar Pradesh | 117 | 17.86 % |
| 3. | Assam | 50 | 07.63 % |
| 4. | Jharkhand | 49 | 07.48 % |
| 5. | Maharashtra | 26 | 03.96 % |

⁵Government of India, Ministry of home affairs (Lok Sabha Unstarred Question No. 991), available at: <https://गृहमंत्रालय. सरकार.भारत/MHA1/Par2017/pdfs/par2022-pdfs/LS-08022022/991.pdf> (last visited on 02 October 2025)

A. Chhattisgarh: Encounter against insurgency

According to NHRC from 1998 to 2018, in span of twenty years 239 encounter deaths has been registered while dealing with counter insurgency in the state.⁶ The Maoists are claimed as armed rebellion so the encounter is being justified by the security forces, though the various reports suggest that in such encounters various civilians and innocents are being killed which is clear violation of human rights. The independent investigations of counter insurgency encounters are challenging due to remote locations, difficulty to access the affected areas, and victims from tribal families are not very aware of their human rights violations.

B. Uttar Pradesh: Populist Policy

It is critically being called as '*encounter raj*' ⁷model of instant justice being served in the form of rising number of encounters in the state as populist policy against crimes, which is a danger to democracy. The National Crime Records Bureau data 2023⁸ supports this criticism, that Uttar Pradesh consistently records the nation's highest numbers with 66,381 cases, for various crime categories despite thousands of encounters. Around 15000 police encounters were recorded in Uttar Pradesh from since 2017 under administration of Chief Minister Yogi Adityanath in which 256 hardened criminals were killed in encounters.⁹

C. Maharashtra: Encounter specialists

The encounter culture in Mumbai was on peak in 1980s and 1990s when organized crime controlled significant portions of the city's economy. The 1991 Lokhandwala

⁶ The State of Encounter killings in India, *available at*: https://www.ecoi.net/en/file/local/1457651/1226_1549878602_encounterkillingsindia.pdf (last visited on October 21, 2025).

⁷Encounter Raj is a danger to democracy - PUCL Uttar Pradesh, *available at*: <https://share.google/PPsPshUkVRUfkalQm> (last visited on October 21, 2025).

⁸Crimes in India 2022, *available at*: <https://www.india.gov.in/official-website-national-crime-records-bureau> (last visited on October 21, 2025).

⁹ Over 15,000 police encounter since 2017, 256 'hardened criminals' eliminated in Uttar Pradesh, *available at*: <https://www.thehindu.com/news/national/uttar-pradesh/over-15000-police-encounters-since-2017-256-hardened-criminals-eliminated-31960-criminals-arrested-in-uttar-pradesh/article70162995.ece> (last visited on October 21, 2025).

Complex shootout, where more than 400 armed police confronted gangster Maya Dolas, it was later dramatized in the 2007 film "Shootout at Lokhandwala".¹⁰

D. Assam and Northeast India

The states of North East have experienced extensive encounters since 1958 AFSPA operational in these regions under the guise of counter insurgency operations.¹¹ In 2012, to investigate six encounter cases in Manipur, a three-member commission headed by Justice Santosh Hegde (retired) was appointed by the Supreme Court.¹² The commission found that all six killings were not genuine encounters nor were they justified under the right to self-defence. Despite these findings, implementation of recommendations for compensation and prosecution has been minimal.

V. THE ROLE OF PUBLIC SENTIMENTS IN LEGITIMIZING ENCOUNTERS

A. Public support

Extra judicial killings are supported by public due to lack of trust in formal justice system which takes a lot of time, revealing the inefficiency of legal institutions. According to National Crime Record Bureau data for 2020 on Crimes of Murder with Rape or Gang-rape, there is pendency of cases 48.8% with the police and 96.6% with the courts.¹³ For example the killers of L.N. Mishra were convicted after 40 years. According to 2013 report of Justice Verma committee,¹⁴ there is systematic failure in addressing crime against women so encounter seem a swift resolution. For example, the Nirbhaya case was addressed by fast-track court it took six years for conviction as

¹⁰5 cop films inspired by 'Encounter Specialist' Daya Nayak, *available at:* <https://www.indiatvnews.com/entertainment/news/daya-nayak-films-inspired-2025-07-30-1001267> (last visited on October 21, 2025).

¹¹ *Supra* note 6.

¹² Hegde Committee report on AFSPA, *available at:* <https://www.thehindu.com/news/national/hegde-committee-report-on-afspa/article4945143.ece> (last visited on October 21, 2025).

¹³ Crime in India 2020, *available at:* [\(last visited on October 21, 2025\).](https://www.data.gov.in/ministrydepartment/National%20Crime%20Records%20Bureau%20(NCR%20B))

¹⁴ Justice Verma Committee Report recommendations and Criminal Law (Amendment) Act, 2013, *available at:* <https://cafi-online.org/iec/JusticeVermaCommittee-and-Criminal-Law.pdf> (last visited on October 08, 2025).

the crime committed are so grave in nature that public seek immediate justice for it and encounter of those criminals gave them sense of instant justice served, witnessed in celebrations of high-profile encounters and the glorification of 'encounter specialists.'

B. Political and populist appeal

Political leaders grasp the frustration of public against crime for promoting encounter as strong governance and showing zero tolerance against crime. One such instances can be witnessed by Uttar Pradesh Chief Minister Yogi Adityanath's famous declaration- "Agar apradh karenge to thok diye jayenge" (If you commit crime, you will be knocked off). While in 2017 the encounter statistics has been endorsed as achievement for upcoming election, which is in contrary of a serious and grave human rights violations.¹⁵ Then there is political affiliation of some criminals which uses the power politics for their acquittal, which is more like the system is serving and protecting those accused to whom it has to punish.

C. Popular culture and role of media

Encounter is being glorified and depicted as the heroic acts of vigilante justice in the movies which shapes the public perception about normalization of these encounters. In these movies such as *Ab Tak Chhappan* (2004), *Risk* (2007), *Department* (2012), *Dabangg* (2010), and the *Singham* franchise the protagonists bypass the legal system to deliver instant justice and create a popular problematic narrative among public.¹⁶ With the help of few case studies, we will see how the encounters are widely supported by the public and police officers were termed as hero of the society, though it is intrinsically wrong as it is against the principle of natural justice.

VI. CASE STUDY 1: HYDERABAD GANG RAPE AND ENCOUNTER 2019 17

¹⁵Police encounter as (unstated) state policy, *available at*:

<https://www.nationalheraldindia.com/opinion/police-encounters-as-unstated-state-policy> (last visited on October 08, 2025).

¹⁶ *Supra* note 10

¹⁷ Encounter killing in Disha rape-murder: Case should be filed against police says Vrinda Grover, *available at*: <https://www.thehindu.com/news/national/telangana/encounter-killing-in-disha-rape/>

A veterinary doctor aged 26 years was brutally gang raped and then her body was burned by four men in Telangana, this incidence led to nationwide protest and outrage demanding the capital punishment. Then police encounter of the four accused men led to a lot of public appreciation, flowers being showered on the police, celebration of justice being served and # justiceserved started trending on the social network.

VII. CASE STUDY 2: VIKAS DUBEY ENCOUNTER 2020 ¹⁸

Vikas Dubey, a gangster evaded conviction even though having a long criminal history due to his political affiliation. Police claimed that he was being shot dead as he was trying to escape and due to his political connections, he would be using the loophole of the system to escape again. So, in the eye of public the act of police encounter was appreciated as for the public it is the end of the gangster and relief to the society. Three member judicial Committee headed by Justice B.S.Chauhan was appointed by the Supreme Court for independent investigation of the matter, where it was found that it was as a fake encounter, later the apex court closed its hearing in 2022 on this matter and the Government of Uttar Pradesh was directed for the implementation of the committee recommendation.

VIII. CASE STUDY 3: MUMBAI ENCOUNTER SQUAD¹⁹

Police officers like Daya Nayak, Pradeep Sharma, Vijay Salaskar, Praful Bhosle and Ravindra Angre, are some of the names which created fear among the Mumbai underworld due to their encounter record in 2000's encounter were at peak under these officers. Several officers faced corruption charges and allegations of links to the same underworld they supposedly combated. Around 250 gangsters were hunted in encounter killings in Mumbai from 1999 to 2002. This shows how easy it was for

¹⁸[murder-case-should-be-filed-against-police-says-vrinda-grover/article68602177.ece](https://www.lawfoyer.com/murder-case-should-be-filed-against-police-says-vrinda-grover/article68602177.ece) (last visited on October 10, 2025).

¹⁸SC closes pleas in Dubey encounter inquiry, *available at*: <https://www.thehindu.com/news/national/sc-closes-pleas-in-dubey-encounterinquiry/article65671976.ece> (last visited on October 14, 2025).

¹⁹Mumbai's encounter specialists out of favor, *available at*: <https://archive.ph/20120712013022/http://ibnlive.in.com/news/mumbais-encounter-specialists-out-of-favour/61960-5.html> (last visited on October 15, 2025).

Mumbai police to play with the bullets and bypass the legal system. These police men were seen as hero of the society by the general public as they were cleansing the filth of the society. Those police men with unlimited power and abuse of system were turning into gangsters in the uniform. Most of these officers came to know the taste of their own fruit as some of them found involved in the underworld connection and some were suspended.

IX. CASE STUDY 4

Fake encounter of thirty years accused suspect of rape of a six-year-old girl²⁰ whose body was found in the house of the suspect and postmortem report confirmed the death of the girl by sexual assault and strangulation. This led to the huge protest by the public in demand of justice, where the pressure is created on the police by politicians making such statements to catch the rapist and murder them. Later on, when the body of the suspect found on railway tract and claimed as suicide arises serious question over the death of the suspect and dispensing instant justice in case of rape crimes.

X. LEGAL FRAMEWORK AND ABSENCE OF SPECIFIC LEGISLATIONS ON ENCOUNTERS

The death of any person involves taking away of life which is deprivation of the most important Fundamental right as guaranteed by our Indian Constitution under Article 21 and violation of human right of an individual. So, any such death of an individual happens to be by the police personnel must be taken place in extraordinary situation and must be in accordance with the law of the land, and if such misuse is being found must be held liable even though they are falling under the statutory control.

The exceptional circumstances in which the police officers can cause death of any person are mentioned following though these are the provisions which are misused by the police officers causing fake encounters and taking the shield of these statutes to absolve themselves from the liability. The onus is on the police to prove that this is

²⁰Hyderabad rape suspect found dead: Is it murder or suicide? available at: <https://www.bbc.com/news/world-asia-india-58592995> (last visited on October 14, 2025).

not a case of fake encounter where the police tried to take defence of the aforesaid statutes.

A. Section 43(4) of Bhartiya Nagarik Suraksha Sanhita 2023

*“Nothing in this section gives a right to cause death of a person who is not accused of an offence punishable with death or imprisonment of life.”*²¹

This provision is regarding the arrest of such accused person and not causing death of such accused persons which is unexplained and unnecessary. Most of the cases of the fake encounters are taking place by misusing these provisions.

B. Section 17 of Bhartiya Nyaya Sanhita 2023

*“Nothing is an offence which is done by any person who is justified by law, or who by reason of mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.”*²²

It provides immunity from any liability where act done, or act done due to mistake of fact which he himself believes done in good faith is justified.

C. Section 19 of Bhartiya Nyaya Sanhita 2023

*“Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.”*²³

If an act done causes potential harm without criminal intent but in good faith to prevent greater harm to person or property is not an offence. Doctrine of necessity which is a legal defence invoked in the case of Gullapalli Nageswara Rao & Ors. v. APSRTC & Anr²⁴ where in a specific situation the authority is allowed to take certain actions which are normally prohibited by law, means which is otherwise not lawful is made lawful by necessity.

²¹ Bhartiya Nagarik Suraksha Sanhita 2023, s. 43

²² Bhartiya Nyaya Sanhita 2023, s.17

²³ Bhartiya Nyaya Sanhita 2023, s.19

²⁴ Gullapalli Nageswara Rao v. APSRTC, (1960) 1 SCR 580

D. Section 34 of Bhartiya Nyaya Sanhita 2023²⁵

"Nothing is an offence if it is done to prevent harm to oneself or others, or to protect property from imminent danger, as long as the action is proportionate and necessary."

The right to private defence outlined in Section 34 to 44 of Bhartiya Nyaya sanhita delineate circumstances under which the right to private defense permits the use of deadly force.

E. Section 218 of Bhartiya Nagrika Suraksha Sanhita 2023²⁶

The procedure for prosecuting public servants, requiring prior government sanction to take cognizance of an offence allegedly committed by them in the discharge of their official duties.

The immunity that is provided in this action is only applicable to those acts which are done in the course of official duty. The differentiation between official acts and acts done in the garb of official duty for personal benefits were made in 2019 by the three-judge bench of the apex court²⁷. The honourable court said that it does not require a prior sanction to initiate criminal proceedings against a public servant if the act done for the personal benefit.

However, these provisions establish narrow parameters that genuine encounters rarely satisfy. There are incidences where police taking bribe for such encounter in relation to rivalry gang benefits. It has been also found that policemen often commit these extra judicial killings for monetary rewards from the government. For example, the Uttar Pradesh government put a reward for encounter against suspected criminals. Such acts by government are quite questionable as these are in violation of constitutional values.

XI. JUDICIAL INTERVENTION IN THE MATTER OF FAKE ENCOUNTERS AND LEGAL GUIDELINES

²⁵ Bhartiya Nyaya Sanhita 2023, s.34

²⁶ Bhartiya Nyaya Suraksha Sanhita 2023, s. 218.

²⁷ Union of India v. Rina Devi, (2019) 3 SCC 572.

The Supreme Court has ordered the Chhattisgarh police to not cremate and preserve the body of the moist leader Katha Ramchandran Reddy who has been killed in the alleged fake encounter and seeking a Central Bureau of Investigation probe into the matter ⁴. This is one such recent example, such intervention by the supreme court as preserver of the values of the Indian constitution shows the seriousness of the rising issues of the fake encounters which is eroding the values of the criminal justice system of India.

The apex Court has criticised the fake Encounters by Police in several cases, in *Prakash Kadam Vs Ram Prasad Vishwanath gupta & Anr.*²⁸, it was said that if the police is found guilty of extrajudicial killings in trial, then death sentence must be given to them. While in case *Om Prakash Vs State of Jharkhand*²⁹, it was said that the extra judicial killings are not lawful under our legal system and it is nothing but are the state sponsored terrorism. In the case of *E.P. Royappa Vs State of Tamil Nadu &Anr.*³⁰, the apex court said that the arbitrary act of the state is not in the consonance of Article 14, when the arbitrarily force of state lead to death in the encounter , it denies the protection of law to the accused which is provided under Article 14 of the constitution.

In case of *Extra Judicial Execution Victim Families Association (EEVFAM) and ors. Vs Union of India and Ors*³¹, it was stated by the apex court that the force used by the police in their self-defence must be proportional if they go beyond excessive punitive measures then the protector that is police becomes the aggressor and punishable in the eye of law. Sadly, because of the extreme force used by the police led to the death of the offender.

Even earlier the supreme court has directed guidelines regarding encounters in various cases and analysed how the constitutional values is being diluted in context of an individual even though that person is accused of committing heinous crime, yet he has right of a fair trial. The execution of these accused by the police termed as state-

²⁸ *Prakash Kadam v. Ram Prasad Vishwanath gupta & Anr*, (2011) 6 SCC189.

²⁹ *Om Prakash v. State of Jharkhand*, (2012) 12 SCC 72.

³⁰ *E.P. Royappa v. State of Tamil Nadu &Anr*,1974 SCC (4) 3.

³¹ *Extra Judicial Execution Victim Families Association (EEVFAM) and ors. v. Union of India and Ors*, 2016 (8) SCJ 419.

sponsored terrorism by the Supreme court and such extra judicial killings must be curbed.

XII. PEOPLE'S UNION FOR CIVIL LIBERTIES & ANR VS STATE OF MAHARASHTRA AND ORS³²

In this case the Supreme Court examined 99 Mumbai Police encounters between 1995 and 1997 resulting in 135 deaths. The sixteen point guidelines given by the supreme court in this landmark case, by bench of then Chief Justice of India R M Lodha and Justice Rohinton F Nariman for the standard procedure to be followed for effective independent investigation related encounter deaths.

These guidelines require that all information about anticipated police operations be recorded either in writing or electronic form, no need to reveal operational details by such recordings, that might compromise safety. When police use firearms resulting in death, an FIR must be registered immediately and forwarded to the court without delay. To ensure impartiality the investigation must be conducted by an independent agency or officers from different police Stations or a specialized unit like state criminal investigation department.

To determine whether the force used by police was justified or not, a mandatory magisterial enquiry regarding the circumstance under which encounter death happened has to be completed in three months. Then NHRC has to be notified within 48 hours of any encounter death so that the commission can analyse the case files and intervene if they find it necessary. Medical Examination of the deceased and forensic test for gunpowder residue on hand for verification of armed confrontation.

The Court emphasized that compensation must be granted to dependents of deceased victims when police officers are found culpable based on investigation results. Additionally, no out-of-turn promotions, gallantry awards, or commendations should be granted to officers involved in encounter killings until independent investigation establishes the encounter's legitimacy. The Supreme Court has said that all these norms should be strictly followed in all encounter death cases under Article

³² People's Union for Civil Liberties v. Union of India and another, (1997) 3 SCC 433.

141³³ of the Indian Constitution which says law declared by the apex court will be binding on all other courts in India territory.

The implementation has been inconsistent despite these comprehensive guidelines of the Supreme Court, investigation of involved Police officers is often conducted by the same police department which clearly undermines the independence and impartiality. Magisterial inquiries when completed, often became rubber-stamp police versions of events without thorough examination of evidence. The NHRC lacks enforcement powers and can only recommend not compel action against perpetrators.

XIII. NATIONAL HUMAN RIGHTS COMMISSION GUIDELINES

The National Human Right Commission has taken *Suo moto* cognisance of the incidence that happened on 14th April 2025 about the death of the arrested accused in connection with kidnapping, rape and murder of the minor girl in Hubballi, Karnataka.³⁴ The commission has issued notice to the police authorities for a detailed report in the matter as it appears to be serious violation of human rights of the alleged suspected perpetrator. As the public protested due to rape of minor girl, in front of the police station then within short span the police nabbed the suspect, and he was killed in gunshot.

This is one such recent example where the national human right commission has actively taken matter into the consideration for upholding the human rights even though the large public perception of alleged suspected perpetrator encounter is in the form of instant justice, as the rights of alleged suspected perpetrator matters too; as he is human first and the judiciary will decide the quantum of punishment. The justice should be served in a proper way that is judicial trial and police are not in the authority to serve justice that instantly.

³³ Constitution of India 1950, art. 141

³⁴ NHRC, India takes *suo motu* cognizance of the reported abduction, rape, and murder of a minor girl and the death of the arrested accused in a police encounter in Hubballi, Karnataka, *available at*: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2125449> (last visited on October 19, 2025).

In 1997 the then chairman of National Human Rights Commission, M N Venkatachaliah raised concerns to the Chief Ministers of states regarding the increasing cases of the fake encounters of alleged suspect rather than following the due process of law.³⁵ Justice Venkatachaliah emphasised that under Indian law the police officers are not conferred with any right which take away life of another person and if such act is done, then the police officer would be committing the offence of culpable homicide whether or not unless it is proved that such killings was not an offence under the law.

The NHRC guidelines require police stations to maintain registers recording all information about encounter deaths, with such information triggering immediate investigation to determine if an offense was committed and by whom. When officers from the same police station are involved in an encounter, the case should be referred to an independent investigation agency such as the State CID. Compensation can be granted to dependents of deceased victims when police officers are prosecuted based on investigation findings.³⁶

In 2010, GP Mathur then chairman of the National Human Rights Commission extended guidelines. The updated directives emphasized that investigation of encounter deaths cannot be conducted by police officers from the same police station where the involved personnel are posted, and that magisterial inquiries must be completed within mandated time frames.

The office of the High Commissioner for Human Rights (OHCHR) has observed that there is reluctance on account of police officers about informing victim's family regarding death, postmortem report is in complete defiance regarding guidelines given by the Supreme Court.

Between 2007 and 2012, the NHRC awarded monetary compensation totalling Rs. 10.51 crore in 191 cases where encounters were determined to be fake. However,

³⁵ Guidelines on cases of encounter deaths, available at: <http://www.nhrc.nic.in> (last visited on 20 October 2025).

³⁶ The State of Encounter Killings in India: Target, Detain, Torture, Execute, available at: https://www.ecoi.net/en/file/local/1457651/1226_1549878602_encounterkillingsindia.pdf (last visited on 21 October 2025).

compensation represents only a fraction of justice for victims' families, who often seek accountability, prosecution of responsible officers, and acknowledgment of wrongdoing rather than mere financial redress.³⁷

The effectiveness of the commission is hampered, as section 19 of the act³⁸ limits the jurisdiction over armed forces which can merely seek reports from central government and make recommendations on that which may or may not be implemented. State governments delay acting on the recommendations of the commission which further delay the cases for years. The commission weakens to bring systematic change through its findings as there is lack of power to compel prosecution of officers and police reforms.

XIV. IMPLICATION OF FAKE ENCOUNTERS

A. Undermining rule of law

Encounter killings fundamentally erode the concept of rule of law which establishes that even accused of heinous crimes receive due process before punishment. Right to fair trial, presumption of innocence and requirement of proof beyond reasonable doubt are the core principle of justice system. Extrajudicial killings eliminate this protection of the accused entirely and substituting it with summary execution instead of judicial determination of guilt, which goes beyond individual cases and affect the societal attitude towards law and justice. When Police do it frequently then it establishes that these legal procedures are not mandatory and can be used as an option, which further exacerbated as politician celebrate as justice done and media glorifies these police officer as encounter specialists.

B. Family of victims

Beyond constitutional concerns, encounter killings inflict devastating harm on victims' families. When police kill individuals who are later proven innocent or whose guilt was never established, families lose loved ones without recourse. They

³⁷ How fair is Compensation for Human Rights Violations in India? available at: <https://hrdc.net/how-fair-is-compensation-for-human-rights-violations-in-india/> (last visited on 21 October 2025).

³⁸ The protection of Human Rights Acts, 1993.

may be stigmatized in their communities as relatives of “criminals” even when the label was falsely applied.³⁹ There is economic hardship also if the deceased is the primary breadwinner, and even the family do not get job due stigma. These families also face intimidation at every stage while seeking justice and even FIR against involved officers are often refused by the Police. When FIRs are registered, investigations are assigned to officers from the same department, creating conflicts of interest. Witnesses may be threatened or bribed not to testify; evidence may be manipulated or destroyed.

The judicial inquiry processes meant to provide accountability and compensation often fail to deliver either. Magisterial inquiries may take years to complete and frequently endorse police versions of events without thorough investigation. NHRC recommendations for compensation are sometimes ignored by state governments or implemented only after protracted delays.⁴⁰ Even when compensation is eventually paid typically Rs. 5 lakh represents inadequate acknowledgment of both the loss suffered and the role of state night in causing it.

C. Normalisation of violence

Perhaps the most insidious consequence of encounter killings is the normalization of state violence as an acceptable response to crime. When encounters receive public celebration, media glorification, and political endorsement, they cease to be viewed as aberrations and instead become expected practice. This normalization has intergenerational effects. Children who grow up watching films celebrating encounter specialists, seeing politicians promise to “shoot criminals” and observing public celebrations of extrajudicial killings learn that violence particularly violence by those in power is normal and praiseworthy.⁴¹

This spill overextends beyond policing to broader social relations. Vigilante violence, including mob lynching's related to beef consumption, “honour killings” and attacks on interfaith couples, shares underlying logic with police encounters: that certain

³⁹ Fake Encounters in India: an Examination of Human Rights Violations and Its Legal Implications, available at: <https://ijrar.org/papers/IJRAR23B4305.pdf> (last visited on 21 October 2025).

⁴⁰ *Supra* note 37.

⁴¹ *Supra* note 16.

transgressions justify summary punishment without legal process. When the state models extrajudicial violence, citizens may feel licensed to engage in similar behaviour.

XV. POLICE PERSONNELS TAKEN INTO ACCOUNT FOR FAKE ENCOUNTERS

1. The Supreme Court appointed an independent inquiry Commission in 2022 headed by the Supreme Court Judge VN Sirpukar enquired into the encounter death by the Hyderabad police of the four accused of gang- rape of veterinary doctor.⁴² In 2022 , ten policemen were booked for murder as the encounter was fake and it was directed to register First information Report against the police personnel. The commission found out that the police deliberately fired upon the four accused with intention to kill them in encounter. While the narrative of police was that the accused snatched the weapons of the police and started firing on them, despite warnings from the police there was continuous firing and refusal to surrender led to the death in encounter.
2. A special Central Bureau of investigation Court in Mohali, Punjab on 04.08.2025 sentenced life imprisonment to five retired Police Officers in thirty years old case of fake encounters of seven youths in 1993. The involved police officers were sentenced with rigorous imprisonment for Criminal Conspiracy, murder and destruction of evidence. Each has to pay Rs3.50 lakh fine which will be given as compensation to the family of deceased.⁴³ The accused police officers were found guilty of staging two encounters where the victims include three Special police officers (SPOs) who were picked up illegally and then tortured and shown as killed in encounters. In spite of the identity of victims were known, all were cremated as unclaimed.

⁴²Explained | Police encounters in India: cases, convictions and court orders, *available at:* <https://www.thehindu.com/news/national/explained-police-encounters-in-india-cases-conviction-court-orders/article65463140.ece> (last visited on October 20, 2025).

⁴³ Press Release CBI Court Sentences Five Retd Police Officers to Life Imprisonment with a Fine of Rs. 3.5 Lakh each in a Fake/Stage Managed Encounter Case, *available at:* <https://cbi.gov.in/press-detail/NzE3OA==> (last visited on October 20, 2025).

3. Central Bureau of Investigation Court convicted seventeen Uttar Pradesh Police personnel to life imprisonment, found guilty in fake encounter of a 24 yrs old man in 1992. Jaswinder Singh Jassa, the police picked the victim from Delhi then killed him in fake encounter, later branded him as terrorist. It was a planned conspiracy and not a mistake by police, constituting a criminal offence.⁴⁴ The apex Court directed the Central Bureau of Investigation to inquire into the genuineness of the encounter as it was found that it was a fake encounter and the policemen were sentenced for abduction, murder and criminal conspiracy.

A. Alternative Approach

- 1. Formal System strengthening:** Public dissatisfaction with criminal justice system can be reduced by strengthening the due process. Fast track courts for special crime categories, as heinous crime against women and children has been experimented by several states. These initiatives must balance speed with fairness, ensuring that acceleration does not compromise rights of defendants or increase wrongful convictions. For example-The death penalty awarded to Ariz Khan in the Batla House case (later commuted)⁴⁵ illustrates dangers of speedy justice when trials occur under intense public pressure and media scrutiny, impartiality may be compromised.
- 2. Rigorous implementation of existing guidelines:** India must enforce existing Supreme Court and NHRC guidelines for investigating encounter deaths before creating new laws or procedures. State governments must be compelled to comply with NHRC recommendations⁴⁶ rather than treating them as optional suggestions. The power of commission needs legislative

⁴⁴ 17 UP Cops get life term for killing man in fake encounter, *available at*: <https://www.hindustantimes.com/india/17-up-cops-get-life-term-for-killing-man-in-fake-encounter/story-COEiK8KIHbBPA9coS3EpI.html> (last visited on October 19, 2025).

⁴⁵ Batla House encounter: High Court commutes Ariz Khan's death penalty to life in jail, *available at*: <https://www.indiatoday.in/law/story/batla-house-encounter-high-court-commutes-death-penalty-to-ariz-khan-to-life-imprisonment-2447985-2023-10-12> (last visited on October 21, 2025).

⁴⁶ Selected NHRC Guidelines on Revised Guidelines/Procedures to be followed in dealing with deaths occurring in encounter deaths, *available at*: https://www.mha.gov.in/sites/default/files/NHRCselectedlettersandguidelinesondeathsincustody_09042019_0.pdf (last visited on October 21, 2025).

overhaul by which authority compel for testimony, order prosecutions and penalties could be imposed for non-compliance.

3. **Accountability of Police Officers:** The police culture requires transformation by moving away from rewarding encounters to professional investigation, enhancing community relation and respecting rights of accused and treating them with human dignity.⁴⁷ This includes prohibiting promotions, gallantry awards, and special recognition for officers involved in encounters who have pending independent investigation. Then police officers who violate Supreme Court guidelines or stage fake encounters, provided with comprehensive human rights training emphasizing constitutional protections and international standards, and rewarding officers who solve cases through diligent investigation rather than summary execution, and implementing community policing models that build trust rather than fear.
4. **Responsibility of media:** Shifting public sentiment away from supporting encounters requires sustained education about constitutional rights, rule of law, and the dangers of state violence. Media organizations bear particular responsibility for how they cover encounters. Journalists should investigate encounter circumstances independently, question official narratives. Film and television industries should reconsider their glorification of encounter specialists and vigilante justice. Alternative storytelling that examines costs of extrajudicial killing, explores perspectives of victims' families, or portrays police officers who prioritize investigation over execution could help shift cultural attitudes.⁴⁸

XVI. CONCLUSION

⁴⁷ Legal accountability Of the Police in India, *available at*: <https://clpr.org.in/wp-content/uploads/2018/09/Police-Accountability-CLPR.pdf> (last visited on October21, 2025).

⁴⁸ Shaping Police-Public Interface: The Power of Media Influence" in India, *available at*: <https://ijcrt.org/papers/IJCRT2408559.pdf> (last visited on October 21, 2025).

India must reaffirm its commitment to constitutional values over populist expedience as these encounters which have been widely supported by the public, are quite contentious as they involve the human rights violations of the accused and also, they are not in the consonance to the rule of law. So, encounters should be justified through the lens of the established criminal justice system and not merely through the derived sentiments of the public. As it is said that "*two wrongs don't make a right*" raises question on the police that whether police being the non-judicial institution has the power to serve justice which is not more than the justice served at the gun point.

As Father of our nation said "*as the means so the end*" that is the means are inseparable from the ends, the methods to achieve the goal inevitably shapes the goal itself the violent means will lead to violent outcome specially from the guards of the law if doing so will erode the trust in the law of the land. Human rights are inherent in nature and not luxury which can be suspended when crime is heinous and there is public outrage against it. This protection should be taken more seriously during these times specially when to curtail state power of vengeance and made the system to adhere in accordance with law. The democratic future of India depends upon recognizing this truth and acting upon this which could transform the culture of encounters into accountable, responsive and genuine justice for all.

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