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**LEGISLATIVE ASPECTS OF EXTRAJUDICIAL KILLINGS**

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**ABSTRACT**

*This paper critically examines the legislative dimensions of extrajudicial killings in India and their broader implications on the rule of law, human rights, and democratic governance. Despite constitutional safeguards and the foundational principle of due process, the rising number of police encounters — particularly in states like Uttar Pradesh — reflects a troubling shift toward "rule by law" rather than "rule of law." These killings, often portrayed as swift justice, bypass judicial scrutiny and erode the legitimacy of the criminal justice system. The study explores the violations of fundamental rights, the role and guidelines of the National Human Rights Commission (NHRC), and draws comparisons with similar institutions in Bangladesh, Russia, Nepal, and the Philippines. It also delves into the structural failures, including police impunity, political backing, and systemic inefficiencies, that enable such acts. Finally, the paper proposes legal reforms, enhanced accountability mechanisms, and improved law enforcement training as vital steps toward curbing extrajudicial executions. The analysis highlights that only a robust commitment to the rule of law, justice, and institutional reform can ensure the protection of human rights and democratic values in a civilized society.*

**KEYWORDS:** *Extrajudicial killings, human rights, rule of law, police encounters, NHRC, justice system, India, constitutional rights, legal reforms, democracy.*

## **1. INTRODUCTION**

We are slaves to the law so that we may be free, as Cicero famously observed. According to John Adams, the Massachusetts Constitution was meant to establish a "government of laws, not of men." It has been correctly stated that the Indian Constitution's core structure includes the rule of law. It is an unqualified good for people. India's ranking in the 2017–18 World Justice Project Index, which considers 44 variables among 113 nations, was a pitiful 62. Denmark came in the first place. Our criminal justice system really comes in at 66th place. Nepal is in the lead in this. Police interactions, which are now a daily occurrence, are a factor in our country's low ranking on the "rule of law" index.

The rule of law is the fundamental tenet of any civilized liberal democracy. It is the exact opposite of arbitrariness. However, it appears that the Uttar Pradesh government intends to ignore the core principles of the criminal justice system. Modeled after the regressive Maharashtra Control of Organized Crime Act, Chief Minister Yogi Adityanath presented the Uttar Pradesh Control of Organized Crime Bill, 2017 to the State Assembly in December. Uttar Pradesh has seen a rise in police encounters (MCOCA).

Such legislation is a kind of violence, although one that is sanctioned by the law, and does not advance the rule of law. Such laws effectively invalidate human rights and permit violations of due process, which is an example of "rule by law." Hitler's dictatorship and other authoritarian ones uphold the "rule of law" and are opposed to it.

The police force in Uttar Pradesh appears to have recently taken on the functions of both an investigator and a judge, and it has occasionally been effective in enforcing immediate justice. The state of Uttar

Pradesh is swiftly earning a reputation for its police encounters. Mr. Adityanath spoke to the U.P. Legislative Council in mid-February about a remarkable achievement made by the police in In as many as 1,200 confrontations since the government's inception, 40 offenders have been put to death. He thinks that pity for criminals undermines democracy. He is also reported to have said, "Bandook ka jawabbandook se diyajayega" (the gun will be replied with a gun).

## **2. HUMAN RIGHTS VIOLATIONS**

There is seldom a definitive answer to the question of whether encounter killings violate human rights. To answer this question, I would reply that they did lead to violations of the human rights of the criminal who was shot by the police. It has been concluded that the Indian Supreme Court and the National Human Rights Commission (NHRC) have a major role to play in addressing encounter death situations. Both of them have released a number of ideas and strategies aimed at shielding you from any energy misuse by law enforcement.

## **3. THE NATIONAL HUMAN RIGHTS COMMISSION**

The Uttar Pradesh government has received a notification about encounter killings from the National Human Rights Commission (NHRC). Every human individual, even the vilest criminal, is entitled to fundamental human rights and due process, which is the core tenet of the rule of law. Killings committed during encounters are often done so with the highest authority's knowledge or approval.

How such contradictions that, after a protracted period of time, the worst offenders are conveniently fired, and, occasionally, the Central Bureau of

Investigation even declines to file an appeal against such discharge, and as a result, many prosecution witnesses behave erratically, as actually happened in the Sohrabuddin encounter hypothetical scenario in Maharashtra.

The encounter culture should not be primarily the responsibility of Mr. Adityanath. Such people have already passed away in states all throughout India, and Punjab's excesses in the 1980s and 1990s, for instance, are widely known. "Surveillance by the court system in such case situations immediately led to people protesting by the country that it had to fight militant organizations, insurgents, and terrorists with one hand," Lokoro remarked in July 2016. The Supreme Court was dealing with nearly 1,500 such deaths in Manipur at the time. separated from its back, locked. This is important because, in certain cases, the murder weapon is being probed rather than other potential suspects, therefore it shouldn't be viewed as constructive criticism.

This argument is unfounded because, and this is crucial, in such situations, the investigation focuses on the smoking gun rather than the interaction or the operation. Between employing force during an operation and using so much force that it is like using a sledgehammer to kill a fly, there is a qualitative difference; one is an act of self-defense, while the other is an act of revenge.

Importantly, the aforementioned observations applied to terrorists rather than common criminals like those who were murdered in U.P. engagements. The incidents described in the U.P. don't seem to be actions of police self-defense.

These interactions reveal the government's intention to replace the rule of law with "the rule of the rifle." The Supreme Court said that the fundamental principle is in the Salwar Jugum judgement in 2011 that The

four edges of optimum appropriateness must be operated within by each orifice of the sovereign. That is the last legal ruling.

#### **4. NATIONAL HUMAN RIGHTS COMMISSION AND ITS GUIDELINES**

The National Human Rights Commission issued instructions on November 5, 1996, about a complaint filed via the Andhra Pradesh Civil Liberties Committee. After concluding that Shankaraiah was no longer involved in any illegal proceedings related to logging and that his death by the alleged accidental process was completely unwarranted, the National Human Rights Commission granted compensation to the victim's family.

In a March 29, 1997, letter to the honorable chief ministers of all Indian states and union territories, former National Human Rights Commission Chair Honorable Justice M.N. Venkatachaliah suggested a positive reaction to the Shankaraiah situation.

In that situation, the following guidelines were given:

1. When the police station's commanding officer compiles data on death tolls.
2. Incident in which the police unit and others are involved, he is asked to enter such information in the proper record.
3. In response to the intelligence report or tip, a FIR must be filed at the time of the encounter and sent to the BNSS u/s 138 court in accordance with the steps outlined in U/s 139 of the BNSS.
4. A report should be issued to the BNSS Judicial Magistrate u/s 170 and an investigation initiated by the BNSS Magistrate under section 157 in the event of deaths during the encounter.

5. The wounded defendant/victim should be given medical attention while having their statement recorded.

6. You must provide your FIR, diary, panchanama, and other documents right away.

7. According to section 154 of the BNS, a report must be delivered to the proper court following a thorough inquiry.

8. In the case that the victim or accused passes away, their immediate family members should be notified as soon as possible.

9. DGPs shall submit six-monthly returns to the NHRC in the manner required.

10. The inquiry found that the officer violated the BNS with his actions, and as a result, he should stay suspended and face appropriate disciplinary action. In regards to the dead person's relatives, the scheme outlined in Section 318 of the BNS should be used.

11. The National Human Rights Commission/State Human Rights Commission shall be informed of the event as soon as possible.

12. Concerned police officers should hand over the firearm or any other item the investigation team needs for forensic testing.

13. Only promotions or rewards for courage that can be demonstrated to be true without a shadow of a doubt are acceptable.

14. The victim may speak with the relevant district judge, who will assess the complaint's merits and handle any objections raised, if the victim's family is unhappy with the inquiry.

15. Information should be made available to police officers' impacted families, and when necessary, the services of a lawyer or counselor should be made available.

16. The material provided is more than enough to raise suspicions that the advisory committee committed a crime, and immediate action should be made to look into all of the circumstances surrounding the death to find out what, if any, wrongdoing was intended to be committed and by whom.

17. The cases must be given to another independent inquiry body, such as the state CID, for examination because the officers from the same police station were the encounter defendant's representatives.

18. The issue of paying compensation to the deceased's dependents may be taken into consideration if police personnel were tried and found guilty based on the investigation's results.

The Commission on Human Rights added to these rules in 2010 that in any case where a person dies as a result of police action, a magisterial inquiry must be carried out as soon as possible, ideally within three months. The advisory board also recommended disciplinary measures against juvenile delinquency officers found guilty in the judicial inquiry/police investigation, a prompt and effective police investigation, and denying out-of-career advancement or immediate gallery rewards to concerned personnel shortly after the incident.

The Former Chief Superintendent of Police/SP of the District was required by the Commission to report all incidents of deaths resulting from police action within 48 hours of the death using a form that was specified and attempted to explain the circumstances that necessitated the use of force. Additionally, it mandated the submission of the results of a magisterial investigation, an inquest report, and a post-mortem report following each such death.

In the PUCL v. State of Maharashtra case, the Supreme Court was considering writ

petitions that questioned the legality of 99 encounter murders committed by the Mumbai Police between 1995 and 1997, in which 135 accused criminals were shot to death. The 16-point rules listed below were subsequently established by the Supreme Court as the standard approach to be followed for thorough, efficient, and impartial investigations of deaths during police contacts.

### **5. NATIONAL HUMAN RIGHTS COMMISSION OF INDIA AND BANGLADESH**

The national human rights organizations of India, Nepal, Bangladesh, Indonesia, Thailand, and the Philippines examine reports of encounter killings and forced disappearances and advocate for the prosecution of those believed to be responsible for the crimes. They also take distinct actions. In 1997, the National Human Rights Commission of India (NHRC) provided recommendations for the national governments to effectively and successfully address the issues of encounter killings and custodial deaths.

#### **5.1 HUMAN RIGHTS COMMISSIONS OF RUSSIA**

The organization of the Commissioner for Human Rights was founded with the intention of providing guarantees for the protection of the nation and the rights and freedoms of everyone within the purview of Russia. The main goal of CHR is to ensure that all institutions of the nation, installations of local self-governments, and all governmental officials are aware of and respect the rights and liberties that are established by the law.

The Human Rights Commissioner helps to restore rights that have been violated, develop laws pertaining to human rights and freedoms in the Russian Federation and

make sure that they are in line with theories and standards that are recognized internationally, enhance international cooperation in the field of human rights, and educate the general public—especially university students and teachers—about human rights.

#### **5.2 HUMAN RIGHTS COMMISSION OF NEPAL**

The problems with using the Nepalese National Human Rights Commission (NHRC) to bring criminal charges against those who violated human rights while members of the security forces or linked with various political movements are no longer present being carried out with the assistance of the Nepali government. This may be appropriate of several national human rights organizations. As a result, they begin collaborating with other institutions, both domestic and outside, to address concerns relating to human rights.

#### **5.3 HUMAN RIGHTS COMMISSION OF PHILIPPINES**

Philippine Police National Task Force Both the Task Force Against Political Violence, which studies political violence, and the Commission to Address Media and Activist murders, which studies media and political murders, used different research frameworks and established coverage guidelines. Nearly unique bodies were established in Sri Lanka under the Department of the Attorney General to handle encounter killings, forced disappearances, and other human rights violations. In Sri Lanka, special tools were established "within the Department of the Attorney General" to handle encounter killings, forced disappearances, and other human rights violations. These tools included the Missing Persons Unit, the

Habeas Corpus, and the Commission of Enquiry on Missing Persons.

A national conference was organized in 2007 by the Philippine Supreme Court to discuss ways to stop encounter killings. In order to provide a remedy in situations of encounter murder and forced disappearance, it also adhered to the Rule at the Writ of Amparo, in effect since 2007.

The legislative branch has paid for enforced disappearances and illegal encounter murders that have occurred within the Philippines. In addition to the BNSS, the Bangladeshi Parliament launched many effective measures in 2009, including the National Human Rights Commission Act 2009, to enact laws that uphold and defend human rights. However, ODHKAR stated that same year that it also went beyond the Anti-Terrorism Law in its first consultation without holding a public meeting.

The Human Rights Ministry of Pakistan has announced plans to form a task force to investigate human rights violations in Balochistan, according to Pakistani media. This body was established in response to the hundreds of deaths and removal instances that have been found in Balochistan, where students and political activists are often reported missing and found dead.

The media also emphasized the necessity of investigating the military operation in the department and the military's and its intelligence services' (kill and bury) policies.

## **6. EXTRAJUDICIAL EXECUTIONS IN INDIA -A THREAT TO THE RULE OF LAW**

Extrajudicial executions are acts of aggression committed by police forces without prior judicial authorization. This is done through all the administration so that

they can provide Extremely fast Justice without having to go through the long-drawn-out process that the capital punishment requires. This can be interpreted as a breach of the rules of law, and the general population is underwhelmed by such flagrant abuse of state power. The wider populace, and from the other hand, sometimes doesn't customarily recognize such incidents as terrible, but rather rejoices when they occur. Politicians in our country actively encourage such interactions. In a number of cases, the Supreme Court of India has governed against targeted assassinations.

Police officers who created fictitious altercations have occasionally been found guilty of murder. Extrajudicial killings were referred to as state-sponsored terrorism in the seminal case of *Om Prakash & Ors v. State of Jharkhand & Anr.* Fake encounters, sometimes known as extrajudicial executions, are seen as breaches of Articles 14 and 21, which guarantee the right to dignity and the security of rights and liberty, respectively. The Indian Constitution's Articles 21 and 14 guarantee that everyone else is given a fair inquiry and trial. The Natural Justice Doctrine, or *Audi Alteram Partem*, is violated when police pretend to be judges in fictitious confrontations without even giving the accused a chance to be heard. According to the Supreme Court's ruling in *EP Royappa*, the subjective actions of the state are in violation of Article 14 of the Indian Constitution. These encounter murders are typically committed against vulnerable members of society rather than wanted criminals, according to media accounts. It was believed that most communications in UP were between Muslims or people from lower socioeconomic groups.

The movement of the encounter killings is closely prompted through the strain elements that have continually paved the manner for heroism for the officers worried

in doing so due to the fact the encounter killings commonly contain the motion of killing a crook who's hated via way of means of the general public and consequently such motion is held in excessive regard amidst the general public considerations who trust withinside the bullet for bullet coverage that the demise of such an culprit will permit the discount of such crimes and consequently, such crimes display that despite the fact that India has emerge as contemporary-day but we've now no longer been in that country to accept as true with the truth that judiciary is a proper location for the trial of criminals and an harmless is an harmless until confirmed guilty.

The happenings of faux encounters and deaths in custody are the largest instance of the reality that the encounter killings are so widespread withinside the Indian context that humans have visible it as an smooth reaction to fixing a hassle whether or not private or reliable or case depend but not anything can cross past the guideline of thumb of regulation and such an motion is constantly a risk to democracy of the country and a mockery of the Indian judicial system.

The instances in which criminals aren't placed up for a honest trial are a nightmare for the same remedy of residents and such a motion harms the method of justice in India due to the fact the greater the society engages in selling such movements the greater the officers get a possibility to do the same.

## **7. LAW AND ITS PROVISIONS**

1. The police have the right to injure or confront the criminal when it is urgently required to maintain peace and order or for the sole purpose of self-defense. Section 34 of the BNS states that every person has the natural and inherent right to personal protection.

2. When the right to self-defense permits murder, it must comply with Section 38. There are requirements that must be completed in order for an act to qualify as this defense.

3. The following conditions must be met: 1. The accused must be innocent while the crime is being committed; 2. There must be no safe or logical method to flee by withdrawing; 3. There must be a fear of death or significant bodily damage; and 4. There must be a necessity to take lives.

BNSS, Section 49. The court gives police personnel permission to employ "any and all means necessary" in order to capture a detainee or keep the situation under control. Death might come by using greater force than is necessary.

Subsection (2) of section 46 of the criminal process legislation grants the person making the arrest further authority. It declares that in the event that the suspect tries to avoid capture, the arresting officer is authorized to use any degree of force necessary to complete the arrest.

An example of a (special powers) Act is the Armed Forces Act, which grants the Indian Defense Force extensive authority to acknowledge the use of lethal force on multiple occasions without offering protections against the overuse of such authority, which ultimately results in multiple bills of violations pertaining to the areas where AFSPA is implemented.

In recent years, several modifications have been made to our comprehensive law and procedural regulations to prevent against custodial violence and deaths. Section 376 was changed by the Criminal Law Amendment Act of 2013.

The Special Record Keeper was spurred by the announcement that the AFSPA is likely to be amended, which would limit the Defense Forces' authority to operate under this operate. This was frequently a

favorable beginning tactic. The Bacchan Singh v. Punjab State case demonstrates how seldom the death penalty is applied.

Any warrant officer, non-commissioned officer, or non-commissioned non-commissioned officer may, in a disturbed area, (a) approach anyone who is breaking any law or regulation currently in effect in the disturbed area and, if he feels it is necessary to maintain public order, shoot or use other force, even to the point of death, against that person after providing as much advance warning as he deems necessary.

Section 6 of the AFSPA and Section 7 of the Jammu and Kashmir version of the AFSPA provide protection to officials operating in compliance with these regulations. They also provide that personnel of the military forces cannot be punished unless the central government authorizes it.

Another significant modification is the inclusion of section 120 in the BSA. Rapes that take place while a person is in the custody of the police are covered under Section 64 of the BNS and Section 54 of the BSA, respectively.

Section 157 of the BNSS was added with its subsection (1), which states that if someone is killed, missing, or raped while in police custody or custody authorized by the court or the Justice of the Peace, an investigation may be conducted by the judicial Justice of the Peace or the metropolitan Justice of the Peace (in whose local jurisdiction the crime was committed), in addition to the police investigation.

Section 49 of the BNSS permits police to employ "any and all methods necessary" to apprehend a prisoner or maintain order. It is possible for excessive force to be lethal...

In this regard, the Special Rapporteur reminds that international human rights standards apply to the use of force outside

of the framework of police assemblies, in line with the principles of materiality and proportionality, as described, as well as the dispersal of force gatherings.

## **8. BREACH OF FUNDAMENTAL RIGHTS**

The legal rights of individuals are categorically violated by extrajudicial killings. When someone is detained, they have certain rights, and extrajudicial executions are a breach of those rights. The police have a duty to uphold law and order and support the government in the application of these laws. Why do a few defendants balk at using their legal options? Given that laws guarantee everyone's equality, why do some defendants not to utilize their legal rights? On the basis of flimsy evidence and the judicial process, the judge has the authority to deem anybody guilty and punish them suitably.

In several cases, staged encounters with police lead to the death of innocent people. The accused's fundamental rights are violated by extrajudicial killings. The right to liberty and personal security, as guaranteed by Article 21, and the right to due process, which is protected by Article 22 of independence from arrest and incarceration, are among the essential freedoms that are violated by extrajudicial executions. According to Article 21, extrajudicial killings are not a legal means of murder. Everyone is entitled to a thorough inquiry and due process.

## **9. THE JUSTIFICATION PROVIDED IN FAVOR OF EXTRAJUDICIAL KILLINGS**

The typical explanation used by police officers to defend encounter murders is that the killing was necessary to protect the perpetrator from the victim's lethal attack. The most frequent justification

given by law enforcement officials for encounter murders is that the murderous technique was required to defend victims from the offender's possibly lethal actions.

Contrary to popular belief, "encounter killing" is a legal defense that is open to everyone, including police officers, despite the widespread notion that it is solely a legal defense for police officers. The Encounter Killers are promoting the "right of private defense."

### **9.1 WHEN IT IS NOT TO CONSIDER AS A CRIMINAL OFFENCE?**

It is crucial to emphasize that India does not have any laws that specifically allow for illegal contacts. The relevant question in this case is whether or not an encounter fatality in India that occurs while exercising the right to self-defense should not be regarded as a criminal under Section 34 BNS. Second, the cause of death, if relevant, if the death was brought on by Section 38 BNS or Exception 3 of Section 99 BNS, or third, where it is required to arrest the individual accused of a crime carrying a death or life sentence.

For example, a police officer is legally permitted to injure or kill the criminal in order to maintain law and order or for self-defense. But nothing should be done for personal gain or for evil or dishonest gain. In addition, the police officer is guilty of illegal homicide under Section 98 BNS if the use of force was unjustified and the death was not covered by the 2010 NHRC Guidelines. A disciplinary procedure may then be initiated by the relevant police agency.

## **10. ENCOUNTERS BECOME MORE COMMON**

Even with the aforementioned rules in place in our criminal justice system, many murders went unpunished by a jury

trial. The National Human Rights Commission of India (hereafter referred to as NHRC) reported a total of 1782 incidents of false encounters between the years 2000 and 2017, according to an RTI inquiry.

Between March 2017 and June 2020, at least 122 suspected criminals were murdered in almost 6,000 encounters in the state of Uttar Pradesh, which had the greatest number of phony encounter cases—nearly 45.55% of all instances reported.

In this regard, the NHRC established guidelines in 1997 that stipulate that if an encounter occurs, a formal complaint should be filed, an investigation should be initiated as soon as information is received, compensation should be given to the deceased's relatives, and if the officers are from the same police station, the case should be transferred to another fair investigative agency.

However, in 2010 these guidelines were expanded to include a Section-157 BNSS judicial investigation of death within 3 months and the mandatory reporting of all encounter deaths to the commission within 48 hours of the incident. Also, a second Section 170 BNSS report must be sent to the Commission within 3 months, containing a post-mortem report, results of the inquest, etc.

### **10.1 A BLATANT VIOLATION OF THE INDIAN CONSTITUTION AND PRINCIPLES**

Because every individual has the right to life and liberty, which may only be taken away following the legal process outlined in Article 21 of the Constitution, encounter killings violate the basic rights of offenders. This guarantee of equality before the law in Article 14 applies to everyone without exception, and it includes a fair

investigation and trial, even if a person is accused of a horrific crime.

A defendant also has a constitutional right under Article 22 and a legal right under Section 268 BNSS to the defense counsel of their choosing. However, in phony encounters, the police act in a judicial capacity without providing the accused with a fair opportunity to be heard in a suitable court, in violation of the principle of Audi alteram partem. Therefore, it is the duty of the police to preserve the right to life of every person, regardless of whether they are an innocent, law-abiding citizen or a dreaded criminal.

## **10.2 PRESENT INTERNATIONAL POSITION**

India, the world's largest democracy, has faced criticism for failing to ratify the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (UNCAT), which was established in 1987. Because it is lethal to overstep the judiciary's jurisdiction, the main problems are violations of rights and a lack of openness. Additionally pertinent is Article 6 of the International Covenant on Civil and Political Rights, to which India is a party, which declares that "Every human being has the inherent right to life and that right must be protected by law." Nobody should be arbitrarily deprived of their life."

## **10.3 REASONS FOR SUCH MISAPPROPRIATION**

Killings committed during encounters are actually vigilantism dressed as "instant justice." Instead of protesting this clear disregard for due process, many have started to applaud it. The public's rising loss of faith in the courts as a reliable source of information is one of the main causes of this. Due to instances of cases being delayed, piling up, and convicted offenders

having their sentences overturned due to bureaucratic formalities, people are feeling under pressure to seek out quick justice and are considering encounters as a way to do so.

In addition to receiving rewards from the public, police officers regularly receive promotions to the next level for attempting to "wipe out" serious offenders, which will be promoted as providing an extra motivation to do good to have interaction in encounter killings.

Undoubtedly, the police no longer have the resources required to carry out certain investigations and cases. The low conviction rate and the courts' incapacity to impose punishments without an offense being proven beyond a reasonable doubt were partly caused by this subpar study. Encounters allow police personnel an easy way out while also giving the public the idea that peace and order is being restored.

Additionally, they give room for a lack of sympathy. Why struggle and fight for solid evidence and analysis when the problem may be resolved with only one shot?

## **10.4 GUILTY OF POLICE OFFICERS**

According to Section 98 of the BNS, the police officers are accused of the criminal crime. In the event that the police are charged as a consequence of the inquiry, money must also be provided to the deceased's family members.

In Shahjahanpur, Uttar Pradesh, a charge has been filed against 18 police personnel, including a Superintendent of Police (SP), for a purportedly staged encounter. Police shot and killed Dhanpal and Prahlad in October 2004 in Shahjahanpur's Chachuapur hamlet after accusing them of belonging to the group led by gangster Saragana Naresha Dhimar.

## 10.5 FAILURE OF CRIMINAL JUSTICE SYSTEM

In the southern Chhattisgarh village of Edesmetta in May 2013, security forces massacred eight unarmed Adivasis, including four youngsters. They were allegedly Maoists, a claim that has now been refuted as a result of a judicial investigation into the incident. In its report, which was given in September 2021 and was presided over by former Madhya Pradesh Supreme Court Justice Judge V.K. Agarwal, the committee called the occurrence a "mistake" and said that security officials "may have opened fire in fear." 44 rounds were fired during this "panic" against eight unarmed Adivasis; a paramilitary soldier was also killed, but it is likely that he died from friendly fire. These "encounters," as many extrajudicial executions are referred to, seldom cause Native Americans, a population used to, and frequently supportive of, police and security force brutality, to question their morality. In our society, the public celebrates such "encounter" murders of accused rapists or gang members in an almost Schaden Freudian feeling of vindictive justice.

## 11. THE SOCIAL VIEW OF POLICE ENCOUNTERS AND VIOLENCE

One in two Indians approved of police use of force, according to the Center for Study of Developing Societies' (CSDS) 2018 Status of Policing in India Report (SPIR). A 2018 Common Cause survey with 15,563 participants from 22 Indian states and Union Territories found that it is morally acceptable to punish criminals severely and cruelly. Do you agree or disagree? The only four states with majorities that seemed to be against police violence were West Bengal, Nagaland, Himachal Pradesh, and Odessa. In 2019, a follow-up poll of police officers uncovered even more concerning

sentiments. One in five police officers thought that murdering criminals was preferable to a trial, and three in four thought that using force against criminals was acceptable. Understanding our attitude toward police brutality and killings requires an understanding of the word "criminal" in this context. Despite the fact that a person is presumed innocent until and until proven guilty in court, larger public opinion gives police and security authorities the authority to make decisions on their own. Even though such behavior is not sanctioned by law or morals, even when a person is a known criminal, it frequently occurs that individuals who are the victims of such violence are not accountable for the crime they committed. Due to the police and security personnel's unrestricted discretion, security forces have killed disproportionately more Muslims, members of scheduled castes, and members of planned tribes.

## 12. VIOLENCE AND DISCRIMINATION

The SPIR document provided evidence of police bias toward specific societies as well as people's opinions of police discrimination against Muslims, Scheduled Tribes, and Members of Scheduled Castes. Of all caste and religious groups, Adivasis have the highest level of mistrust for the police, with one in four believing that caste is a factor in police discrimination: Muslims are the group most likely to believe that the police discriminate against them, according to 19% of respondents. One in two people claimed that the police engaged in racial discrimination.

According to up to 38% of respondents, Dalits are falsely charged of minor offenses, and 2% believe that Adivasis are similarly falsely accused of being Maoists. A little over one in two Muslim respondents claimed that they had been falsely accused

of terrorism by the government. There is little difference in the attitudes and actions of police personnel. Only half of police officers believe that Muslims are more likely to commit crimes than Dalits (35%), Adivasis (31%), and Muslims. These ideas also account for the disproportionately high rates of "encounter" mortality, like incarceration, in these populations. According to data from 2017 to 2020, over 37% of men killed by extrajudicial methods in the state of Uttar Pradesh during that time were Muslims, making up 20% of the state's total population. It would not be completely out of the question to believe that false encounters are disproportionately targeted at these already underprivileged populations, even if national statistics on disaggregated encounters across caste and religion are not accessible.

### 13. CONCLUSION

The legal system, which serves as the cornerstone of our Charter of Rights and Freedoms, is directly violated by extrajudicial murders. It challenges the basic principles that the New Parliament continually attempted to ingrain in the legal system of the nation. The research that already exists on the issue not only exposes the violations of human rights that extrajudicial executions cause, but also demonstrates a pattern in which such killings are frequent in Third World emerging nations. This gives credence to the explanation of how extrajudicial executions are supported and encouraged by variables like a poorly paid police force, a lack of confidence in the justice system, open cases, and other characteristics of developing nations.

A justifiable effort to stop such deaths can be undertaken by limiting the authority of law enforcement organizations and implementing training programs. For instance, while confronting a suspect in the United States of America, law enforcement

officials are only permitted to employ non-lethal force. Officials risk significant criminal charges if these restrictions are broken, establishing a system of deterrence.

A better, better-equipped police force and addressing structural issues like underfunding and staff shortages can also considerably lower such killings. Therefore, reforming the criminal justice system and improving governance are urgently needed to prevent the loss of priceless lives due to procedural and systemic irregularities, apathy, and impunity. The rule of law must be used to exert power. The rule of law is mocked by fake encounters. It has an effect on how the criminal justice system is run as well as how convincingly justice is administered. In a civilized society, the mechanism of the discovery of guilt through trial would never be open to well-staged conflicts.

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