



SAI SINDHU INTERNATIONAL JOURNAL OF RESEARCH (SSIJR)

www.ssi jr.org

JUDICIAL VIEW ON EXTRA JUDICIAL KILLINGS

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ABSTRACT

This paper looks at the intricate problem of extrajudicial executions, sometimes known as "encounters," in the context of Indian law and the constitution. It examines the development of judicial reactions to such occurrences, highlighting significant rulings from the Supreme Court that have attempted to strike a balance between the defense of individual rights under Articles 14, 21, and 22 of the Constitution and state security considerations. The growth of encounter killings, the public's perception of them as tools of rapid justice, and the risks they represent to due process and the rule of law are all highlighted in the article. The function of the court, state and national human rights commissions, and law enforcement organizations in combating abuses of authority and guaranteeing accountability is examined critically. The research emphasizes the judiciary's attention on maintaining constitutional protections, fair inquiry, and trial processes through doctrinal study and case law analysis. Finally, it comes to the conclusion that, although combating crime and terrorism is crucial, the fundamental values of justice, lawfulness, and human dignity that characterize a democratic society under the rule of law must never be compromised.

KEYWORDS: *Extrajudicial Killings, Encounter Jurisprudence, Human Rights, Criminal Justice System Constitutional Safeguards.*

1. INTRODUCTION

The number of extrajudicial executions, retaliatory killings, and extrajudicial killings by police officers is concerning these days. However, these killings, most of which are allegedly "false encounters," thrill and delight the general public as well as print, electronic, and social media. Many people are applauding the action-prone police officers, and others even think that public lynching is the best way to execute rapists and ruthless looters. This enjoyment of police abuses is attributed to the cumbersome and slow-moving legal system, which some argue is doomed. In this essay, I want to analyze which of the two competing opinions on legal principles and jurisprudence should be accepted in a forensic investigation. The intended audience for this essay is not the general public or those with less legal knowledge, but rather the legal community and those who are truly interested in the forensic nuances of this topic.

The debate about India's "encounters" with the police was reignited after a Supreme Court-appointed commission found that the encounter with gang rape suspect Disha was manufactured. According to the panel that the Supreme Court created on May 21 and that Justice V.S. Sirpurkar presided over, the police planned the meeting of the four defendants in the Disha rape case.

The committee came to the conclusion that during the altercation, the police deliberately fired rounds to try to kill the four defendants. Two of the accused took their guns and started shooting on December 6, 2020, while the Telangana Cyberabad Police, led by Commissioner V.C. Sajjanar, were escorting the accused to the crime scene. According to police, the suspects killed themselves by continuing to shoot even after officials warned them to stop. However, the panel disregarded the official version of events and recommended

that the ten police officers implicated in the incident face murder charges. It also found that Telangana Police had concealed or destroyed evidence.

According to the Supreme Court, the Telangana Supreme Court would now take up the issue in its whole if needed. The results of this investigation cast doubt on whether police personnel have ever been held accountable for comparable occurrences, how frequently such interactions have occurred in India throughout time, and what the proper legal course of action was. Fake encounters demonstrate how law enforcement has not given offenders the due process they require to be held accountable for their actions. One of the main reasons extrajudicial murders occur is the backlog in the justice. There are also doubts about the outcome of the trial of the convicted, which has been dragging on for years. Nearly three million lawsuits are now being heard by the Supreme Court and Indian Supreme Courts. This also leads to a lack of public trust in the judiciary, which also contributes to the public outrage that supports the extrajudicial killings.

2. RECENT EXTRAJUDICIAL KILLINGS AND JUDGEMENTS

The Gujarat Police's Criminal Division killed Ishrat Jahan, 19, Javed Shaikh, also known as Pranesh Pillai, Amjadali Akbarali Rana, and Zeeshan Johar in June 2004 on suspicion of plotting the assassination of then-Prime Minister Narendra Modi and having connections to the Pakistani terrorist group Lashkar-e-Taiba.

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The state administration dismissed the charges against six police officers after concluding that they were doing their duties. In 2018, former Gujarat Police Chief P.P. Pandey was released from the case, and in May 2019, the CBI Special Court removed D.G. Vanzara and N.K. Amin from the case. Two years later, the CBI court approved the release of the last three police officials, G. Singhal, Tarun Barot, and Anju Chaudhary. Following his retirement from the Gujarat government on May 31, 2014, DG Vanzara was promoted retroactively in 2020.

2.1 ENCOUNTER KILLING CASE OF VIKAS DUBEY

In July 2020, Uttar Pradesh Police stepped in to make an arrest and got into a gunfight with mobster Vikas Dubey. The mobster, who is facing 60 counts, fled the scene with his colleagues after killing eight police officers. In the course of a week-long hunt, the Madhya Pradesh Police captured Dubey in the Mahakaleshwar Temple in Ujjain. After being transferred to the Uttar Pradesh Special Task Force (STF), he allegedly acknowledged that he had a grudge against one of the police officers who had been killed. Although the criminal was shot dead while supposedly trying to flee, Dubey is from the U.P. Police said that the official vehicle transporting him was involved in an accident, which prompted Dubey to snatch a gun from an injured officer and shoot her. Dubey died en route to a hospital after being shot in self-defense, according to the police. As the police cars reached Kanpur around 6:30 am, other media teams who were following them were also halted. In a number of locations, police halted media personnel and verified their identities before allowing them to enter the city. However, judgment had been reversed and

Dubey had been shot dead before media crews managed to catch up with the police. After Dubey's family appealed the occurrence to the Supreme Court, a three-member Judiciary Commission headed by Justice B.S. Chauhan was sent to investigate it. In April 2021, the panel gave the cops a clean testimony, saying they had no evidence against them. Furthermore, no witnesses reported that Vikhas Dubey was slain extrajudicially to the Uttar Pradesh Police.

2.2 ENCOUNTER WITH BATLA HOUSE.

The Delhi Police carried out an armed raid on Batla House on September 19, 2008, after discovering that the Indian Mujahideen militants responsible for the September 13, 2008, bombings in Delhi, which killed 30 people and wounded over 100, were holed up there. A 20-minute gunfight broke out after the five residents opened fire on the police team led by Inspector Mohan Chand Sharma as they approached the area. Two convicts from the Batla home, Mohammad Sajid and Atif Amin, were killed in the conflict, while Mohammad Saif was taken prisoner and Shahzad Ahmed and Ariz Khan were able to escape. Inspector Sharma died, while Chief Constables Rajbir Singh and Balwinder were injured.

Shahzad Ahmed was detained in 2013 and given a life sentence by a court of first instance. The Delhi Police Special Unit detained Ariz Khan in Nepal in 2018, and a Delhi court sentenced him to death in March 2021 for murdering an inspector during the encounter.

2.3 DISHA RAPE CASE AND ENCOUNTER

A 27-year-old veterinarian was raped in Mahbubnagar, Hyderabad, on November 27, 2019, by four people: Mohammed Arif,

Jollu Shiva, Jollu Naveen, and Chintakunta Chennakeshavulu. Her remains were then burned under a culvert. Four convicts were being held in Chanchalguda Central Jail when police shot and murdered them on December 6, 2019.

On December 6, 2019, despite widespread public indignation, police shot and murdered the four suspects who were being held in Chanchalguda Central Prison. The suspects had been taken to the crime site by a ten-person police squad early that morning. The police said that two of the suspects took their guns and assaulted them before being killed by gunfire. Later, a three-person panel led by Justice V.S.Sirpurkar to investigate the encounter was established by the Supreme Court.

On May 21, 2022, the panel rejected the Telangana Police Department's arguments and recommended that all 10 police personnel be prosecuted with the death of the four suspects in the fictional encounter.

3. INTERVENTION OF SUPREME COURT IN MANIPUR ENCOUNTER CASE

The state has often cited national security considerations and military morale protection as reasons to delay investigating deaths in situations involving the army or paramilitary forces. The Supreme Court ordered the Central Bureau of Investigation (CBI) Special Investigation Team to look into 1,528 extrajudicial deaths in Manipur between 1979 and 2012 that were carried out by the Army, Assam Rifles, and Manipur Police. The center objected on the grounds of national security. For reasons of national security, the Manipur Police, Assam Rifles, and Army murdered 1,528 persons in Manipur between 1979 and 2012 without a court order.

Sources claim that out of the approximately 100 cases the CBI began investigating in 2018, it has only submitted 41 FIRs and more over a dozen charge sheets. No high army or paramilitary officials or call soldiers are mentioned in these accusations. Why did the National Human Rights Commission (NHRC) decide to take a reactive rather than a proactive approach in this case.

3.1 BG VERGESE CASE AND SUPREME COURT INTERVENTION

The court heard a request for an investigation on 22 interactions with Gujarati police from 2003 to 2006. The matter was eventually assigned to a review commission headed by retired Justice HS Bedi, who published its thorough conclusions on February 26, 2018. The matter is still unresolved even though on January 9 of last year the court ordered copies of the report to be supplied to the Gujarat government and petitioners in order to facilitate the filing of reply. For instance, the CBI court dismissed the accused police officers in the Ishrat Jahan case (2004) because the state government had not approved the prosecution.

3.2 CASE OF PEOPLE UNION OF CIVIL LIBERTIES

Two justices, then-CJI RM Lodha and Judge Rohinton Fali Nariman, ruled on September 23, 2014, that extrajudicial killings must be properly and independently investigated in order for justice to be delivered in a nation built on the rule of law. Every death investigation must follow a set of 16 guidelines established by the Bench in order to be thorough, effective, and objective. The safety measures previously recommended by the NHRC are supplemented by these suggestions. The Bench clarified that while filing a FIR is necessary, the NHRC's involvement is voluntary unless there are

serious doubts about an unbiased and independent investigation. Should or must send the NHRC the details concerning the occurrence as soon as possible to the State Human Rights Commission, in case of need. Meanwhile, pending cases in the Supreme Court haven't progressed much. One related to the December 2019.

A former justice of the Supreme Court was on the team of investigation that was in charge of the Telangana encounter. In 2018, the Supreme Court requested the UP-government's response after taking "serious note" of another case filed by the PUCL that exposed many fabricated encounters in Uttar Pradesh. In order to provide the petitioner time to arrange the cases "in order" and understand the "police and family versions" as well as the present state of the cases, the court postponed the case to February 12, 2019. After then, the case was taken off the list.

4 JUDICIARY VIEW OF POLICE OFFICERS

It could be useful in this regard to go over some of the Apex Court's opinions about the function of a police officer, both initially and later. The police use of pressure is managed. It has the tremendous duty of upholding public peace and law and order within the community. Religion and belief in oneself are highly valued. That self-belief has to be supported. A candidate who want to join the police force must be extremely honest. He needs to be a guy of the greatest moral standards. A criminal history does not qualify a person for this category.

Even if he is acquitted or released in the criminal proceedings, that acquittal or release order will need to be examined to determine whether he has been fully exonerated in the case because the very possibility of his involvement in the life of

crimes is a threat to law enforcement discipline by the police. Guidelines issued by the NHRC in 2010

1. Immediately after a deadly police action, and ideally within three months, the Magistrate must conduct an inquiry.

2. A preliminary report must be filed to the county magistrate within 48 hours of any fatality resulting from police action in the state. Additionally, a second report with specifics like the results of the inquest and the autopsy report must be sent in 3 months. the outcome of police confrontations in court.

4.1 OM PRAKASH CASE

The policeman is under no responsibility to murder the defendant just because he is a reputed criminal. There is no doubt that the guilty must be caught by police and brought to justice. On several cases, the Supreme Court has chastised happy police officers for shooting criminals and portraying the incident as an encounter.

Such killings must be denounced. They are not regarded as lawful under our law enforcement system. They are akin to government-led terrorist assaults. However, there are unavoidable cases in which police officers are assaulted and murdered while performing their responsibilities. In such circumstances, the police must both comply with their legal duties to capture the culprits and protect themselves.

They cannot be charged with a crime unless there is concrete proof that their actions were vindictive, incomprehensible, and unjustified. Sanctions must be a requirement for their prosecution.

4.2 CASE OF ARNESH KUMAR

The cops continue to depict themselves in a colonial fashion. Despite six decades of independence, the police are still predominantly perceived as an instrument for intimidation and repression, and most definitely not as the public's friend.

4.3 CASE OF INDER SINGH

This court has seen far too many recent examples in which police did not act to respect the law and safeguard the public, but rather to pursue a personal agenda and persecute the individual. It is a troubling trend that must be reversed immediately. However, we should be cognizant of the real limits that investigative police officers face, as well as the astonishing lack of public support for police collaboration. Their job is difficult because of the small number of police officers working at police stations, the range of tasks they are expected to do, a lack of scientific equipment, and insufficient training. Only within the context of a fair trial can all these arguments in favor of and against the vigilante killers be considered.

5. OBSERVATION OF CHIEF JUSTICE OF INDIA

The current Chief Justice of India, Mr. Justice S.A. Bobade, noted that justice via trials does not always seek payback against wrongdoers and that the trial process takes time. Following a trial, the judiciary may appear tedious, but the legal method strengthens it. I recall a prior Kerala High Court judge expressing his dissatisfaction of the Chief Justice of India's aforementioned remarks.

I'm just able to talk behind us. A civilized society does not engage in retribution. Without a doubt, gang rape and murder are acts that deserve the death penalty. There

are several cases of gang rape and murder in our country. The assurance of the culprits' identity is usually nonexistent. According to experience, false assumptions are common in our country. How many so-called eyewitnesses are speaking the truth? Carpet diggers and scalawags are among the witnesses, and they perform well as actors on the witness stand, easily captivated by partisan, political, communal, or plutocratic appeals. What moral fortitude does it require for a judge to kill someone based on potentially questionable evidence? Unjustified acquittals always breed skepticism regarding the outcome of the case.

But whose fault is this? We should beg ourselves. How many of us are willing to seek out, reject, and punish the disobedient among us? No, we rescue them with a unified effort. This is the system's curse. When Judge H.R. Khanna emphasized the consequences of improper sentencing in the following manner, he was not joking. If an innocent person is judged guilty of murder and executed, nothing else can undo the damage since the wrongful judgment has inflicted irreversible injury. Another example is that an act of atonement cannot restore the damage caused by a miscarriage of justice in which an innocent person is put to jail and punished.

Few persons who suffer from an incorrect conviction are fortunate enough to have Emile Zola fighting for their rights and succeeding in having the guilty decision reversed. All of this emphasizes how crucial it is to make every effort to prevent the unjust conviction of an innocent person.

5.1 CAN PUBLIC LYNCHING OF A RAPIST BE JUSTIFIED?

1. Nothing else can make up for the harm inflicted if an innocent person is judged guilty of murder and put to death since the injustice of the conviction has already done

irreparable damage. Another example would be the fact that an act of atonement cannot repair the harm resulting from an injustice committed when an innocent person is jailed and punished.

2. Few people who suffer from an erroneous conviction are lucky enough to have Emile Zola fighting for their rights and reversing the guilty verdict. All of this demonstrates how important it is to take all possible measures to avoid the unfair conviction of an innocent person.

3. It is asserted that the legal system's failure led to the individual being lynched and publicly hanged. That is absurd on its own. When unlucky women are raped, the government does not consider the state of law and order, but rather considers when a rape is publicly accused and punished, it was said.

4. The Sena continued by stating that Nagaland was where the culprits of the December 16 gang rape in Delhi should have ultimately ended up.

5. Nagaland experienced what Delhi ought to have. Currently detained in Tihar jail, the defendants in the December 16 gang rape case are being shown on international television networks as actors living their lives. She criticized the slow progress in rape cases, saying: Our justice system works at a crawl when it comes to rape cases. No matter how strong the case, we can never be sure the rapist will be hanged. And if the accused is a minor, he will be taken to a detention center where, in the name of humanity, he will be given all possible facilities.

6. It was stated that one should take into account what led people to take the law into their own hands before assuming that the lynching of the rape claims in Dimapur was a Talibani tactic.

7. Syed Farid Khan, who is suspected of raping a lady, was taken into jail on February 24 in Dimapur and remanded the following day.

8. On March 5, a mob stormed Dimapur's main prison, stripped him naked, beat him, flung stones at him, and then took him to the city's center. Khan suffered wounded while traveling and died, causing mobs to display his body on a clock tower...

9. There is a brief emotional upheaval among those who support public lynching as a penalty for gang rape, based on the retrogressive retaliatory judicial system. It is inappropriate to penalize offenders based on the responses of bystanders. Thankfully or unfortunately, India has a well-established criminal justice system that sets the maximum sentence for practically all offences. We are unable to practice the antiquated practice of brutal justice because of those criminal statute laws.

10. Once more, the court will have the last say on whether to impose the most severe penalty allowed by law on the offender in a given circumstance.

11. Based on our experience, judicial discretion is generally not applied appropriately. This might be the reason why a mandatory minimum sentence is essential. When using their "judicial discretion," judges are viewed with suspicion by the legislature. But there isn't a justification for giving judicial authority to a law enforcement official who might not have the necessary legal education or awareness of legal concepts.

5.2 FAILURE OF JUDICIARY PROCESS LEADS TO INCREASING OF ENCOUNTER KILLINGS

1. The judicial institutions are essentially doomed, which seems to be the reason of the popular uproar in favor of punitive

justice. Such a brutal method of retaliation is unfit for use in a civilized society. Instead of being led by instinctual responses, man should follow practical wisdom.

2. There is no denying that one of the main reasons why the average person and the police turn to the law is the adage that cases take forever in court. This unsettling characteristic has the effect of creating mock encounters. I'm not ashamed to confess that some judges neglect their duties as they relate to the criminal proceedings. But are they the only ones to blame for the postponed choice? Obviously not. The existence of a large number of conscientious judges should not be forgotten. But they can't liquidate the growing backlog of pending cases with a magic wand.

3. In this case, the executive branch is more at fault. Each trial judge has an apparently limitless backlog of cases before him, making it hard for him to adjudicate them in a timely way. Even among the cases he is now hearing, there are those involving rape and murder, two very terrible offenses. He can utilize first come, first served as a safe standard. It's possible that not all circumstances, especially major crimes, call for this style.

4. This explains the requirement for fast track courts to give particular case types priority. Not all types of cases need to be resolved quickly, even rape and murder cases. Some drug users convert the majority of developing adolescents into depersonalized freaks by their evil actions. Even in the 'fast track courts' there is a long line of cases waiting to be dealt with.

5. The Hindu newspaper published a story on the Independence Day address given by Judge R. M. Lodha, a former Chief Justice of India, in which he said that the protracted legal processes were itself punishment. "A

curious and unfortunate contradiction is that our jails contain more pre-trial prisoners than convicts," the Chief Justice stated in his report. Pre-trial inmates make up more than 50% of the population in practically all central prisons, and more than 72% of the population in county jails.

6. The procedure itself has turned into a penalty. The only task assigned to the session judges is trial and elimination. However, the majority of their expertise and valuable time is squandered on pre-trial procedures. The lengthy process of getting matters ready for trial in session courts might be entrusted to magistrates or even retired magistrates.

7. Once the police indictment is filed in court, the ideal scenario may be to speed up the pre-trial procedures, such as issuing subpoenas and warrants on the accused and witnesses. It might be ideal if a case brought up by the police is heard in court in a short amount of time so that the offender can be charged right away. This is only feasible if there are enough courts to handle the increase in cases and a reliable system in place for trying cases quickly one after the other. These days, judges are also subject to a lot of pressure.

8. They are subjected to unprecedented smear campaigns and politicized allegations, which makes their work neither simple nor straightforward. Court cases by the media can boost their pressure. Judges are exalted as genuine harbingers of justice by a certain group when rulings are made in their favor. However, the same group does not think twice to trash judges who impose punishments they disagree with in a very brutal manner. Since the adjudication process results in victory on one side and failure on the other, judges cannot satisfy all parties.

9. For this reason, it is stated that a judge gains a certain adversary and a doubtful

friend with each decision. It is impossible to undervalue the majesty of the legal system. Instead of being empathized with, one must directly experience and bear the agony of a person who has been unfairly accused and charged in a case. One must be a defendant in order to understand the humiliation and anguish of being branded a defendant. When justice eventually releases him from the chains of false inferences, it really represents the triumph of justice over injustice.

10. Those who have been mistreated may pursue post-acquittal remedies such as malicious prosecution, malicious arrest, etc. In today's circumstances of rising file explosion, there is always a limit for the judiciary to arrange the things most suited to the demands of a court process. The High Courts have extremely limited power to allocate cash and resources without government help.

11. The bulk of those who attribute the delay on the judiciary have only hearsay knowledge of how the courts operate and the matters now before them. This is due to the fact that our courts maintain precise records of all cases that are filed and resolved. Consider the environment at a government secretariat, group, or other public agency. Do you have the total number of hanging fires at these buildings, often known as bypass offices? no Sincerity in counting will not get you anywhere, but the outcome would be spectacular.

Those who criticize the courts are unaware of the outrageous non-enforcement by the state and its agencies of the decrees and judgments issued by the courts, including death sentences.

1. Has a death sentence been carried out in the state of Kerala after 1992?
2. Is it the failure of the judiciary?

3. What about the clemency petitions pending from the President of India and the State Governors?

Not to mention the delays and shortcomings in identifying and prosecuting criminals.

In 2010, these guidelines were expanded by the NHRC to include, among others

1. In situations of deaths during police action, a magistrate's inquiry must be completed quickly, ideally within three months.
2. A preliminary report must be filed to the county magistrate within 48 hours of any fatality resulting from police action in the state. Additionally, a second report with specifics like the results of the inquest and the autopsy report must be sent in 3 months. Court decision regarding police contacts.

5.3 INTERNATIONAL INSTRUMENTS AND ORGANISATION - INTERVENTION

The UN Commission on Human Rights presents a report on extrajudicial or arbitrary deaths. In his work, the Special Rapporteur depends heavily on data given by non-governmental groups. Resolution 1997/61 required rigorous investigations into incidents of extrajudicial murders, greater contact with the government, and a special focus on India's illegal executions of persons participating in peaceful activities, deaths of children and women, etc.

Amnesty International, a global nongovernmental organization, is based in London. This movement, which fights all types of injustice, is made up of seven million individuals. They investigate and expose abuses by the government or other powerful groups, and advocate for reform. Above all, they help individuals express their rights through educational and training programs. They advocate for free expression, international justice, refugees,

asylum seekers, sexual and reproductive rights, as well as the abolition of unlawful detention, the death penalty, wars, and jail. Their primary purpose is to protect people's rights. Because Amnesty International is headquartered in multiple nations, it raises attention to extrajudicial killings and other human rights violations that are taking place in each country.

Nigeria has a higher prevalence of extrajudicial executions; hence the NGO is more active there. The Central Bureau of Investigation in India can be contacted to report extrajudicial killings. Additionally, the Supreme Court must uphold fundamental rights, and the Bundeswehr Special Powers Act must immediately be modified.

6. SUPREME COURT GUIDELINES:

In the PUCL v. State of Maharashtra case (2014), the SC dealt with written petitions questioning the authenticity of 99 encounter killings by Mumbai police that resulted in the shooting dead of 135 suspected criminals between 1995 and 1997.

The following 16 rules were later established by the Supreme Court as the normative process to be followed for exhaustive, efficient, and unbiased inquiries into deaths in police contacts. Recording of tips on criminal activity connected to the commission of a significant crime is one of these. Registration of FIR: In order to launch a thorough criminal investigation and swiftly refer the case to court, a FIR must be filed whenever the police use weapons in response to a tip and a person dies as a result. Independent Research:

1. Under the supervision of a senior officer, an independent CID team or a police team from another police station must conduct

the inquiry into such a death. It must adhere to eight minimal standards for discovery, including:

2. The death must be reported right once to the NHRC or the State Human Rights Commission, as applicable.

3. Since this is an IPC violation, the police officer who was discovered to have engaged in the illegal contact must face punishment, including suspension.

The Court ruled that these requirements/norms must be strictly observed in all cases of death and serious injury in police encounters, treating them as a law declared under Article 141 of the Indian Constitution.

6.1 DETERRENT OF DEATH PENALTIES

Deterrence is probably the most commonly cited defense for the death penalty. The primary premise of the notion is that the prospect of being executed in the future would induce a significant number of people to abstain from committing a heinous act. Deterrence is not primarily intended to prevent future killings by death row convicts. This refers to the issue of disability.

Comparing nations with and without the death penalty is inadequate unless the study considers all other factors that may influence murder rates. Only a tiny number of murderers who commit their acts in terrible circumstances incur the death penalty. Its influence is exceedingly difficult to quantify, and the National Academy of Sciences discovered that earlier research has neither confirmed nor disputed the presence of a deterrent effect. Nobody can clearly declare that the death penalty is an effective deterrent to various sorts of crimes across the world. Current research yields inconsistent findings. The

call for the death penalty appears to be motivated by rage rather than a careful evaluation of how to remedy the situation. Governments that wish to seem "tough on crime" respond quickly to these appeals.

A simple sentencing modification in a few well-known cases is unlikely to be helpful, especially in countries like India where criminal certainty is typically low and trials are sometimes more difficult for victims than perpetrators (causing them to withdraw the case). Because most cases either go to trial or are dismissed due to a lack of evidence, occurrences act as a deterrent to others. Even the judge, JS The Verma Committee, which was constituted in the wake of the 2012 gang rape and murder of Jyoti Singh, did not believe that making rape cases eligible for the death penalty would make India's women safer. Prabha Kotiswaran, a professor and legal expert, recently said the following to *The Wire*:

When laws are not enforced, there is a tendency to seek more severe rules that are even less enforced since they can make judges feel bad while undermining our constitutional right to a fair trial and overcriminalizing consenting sexual relationships. Time when sexual norms are experiencing major transformation.”

6.2 REPORTING CASES OF SEXUAL OFFENCE

In a large number of rape instances, the victim is familiar with the attacker. Given this situation, and assuming the offender is an uncle, the threat of a death sentence may dissuade victims from reporting sexual assault events. They periodically cope with a range of challenges posed by their family in order to safeguard them. With only themselves.

6.3 HIGHER CHANCES OF INCREASED VIOLENCE

Once it is clear that the death penalty is highly likely in rape cases, it can actually have the opposite effect — instead of acting as a deterrent, it could lead perpetrators to cause victims to be left dead or stop reporting the condition reimburse or identify the perpetrators.

6.4 CONSENSUS AMONG THE JUDGES

In the 16 years between 2000 and 2015, higher courts reversed 30% of lower court death convictions, resulting in acquittals "rather than merely reduced terms." Project 39A found that the death penalty had been commuted in an extra 65% of cases. Sending someone to the gallows when there is dispute about the right sentence and whether the accused is indeed guilty can have devastating consequences.

7. CRIMINAL LAW TARGETS WEAKER SECTIONS

- The term "weaker stratum" refers to a population group that is socially, economically, and politically behind other population groups and has endured different sorts of impairments as a result of its backwardness. According to the Government of India Act of 1935, "vulnerable groups" are a class or classes of people who experience untouchability, a tribal origin and way of life, or other forms of backwardness that lead them to be socially and economically backward as well as in certain other ways. The vulnerable people in India have been categorized by the Indian government into three primary groups:
 - Planned box
 - Planned Tribes

- Other backward classes

However, this list is not complete. Women, the elderly, the disabled, and sexual minorities are also among those who are denied assistance and assaulted. Women, people of registered caste (SC), people of registered tribe (ST), children, the disabled, the elderly, destitute migrants, members of sexual minorities, those suffering from HIV/AIDS, and members of other backward classes are among the vulnerable groups who face discrimination. The Constitution's provisions apply to both the SC/ST community and other vulnerable groups in society.

Several articles have shown that the criminal justice system in India and other nations reflects social prejudices, particularly those against lower-income groups that cannot afford to employ expensive lawyers or appeal their cases to higher courts. According to a poll performed earlier this year, one in every three detainees in Indian jails comes from a Scheduled Caste or Scheduled Tribe. Another investigation revealed that lower castes or religious minorities constitute around 75% of Indian death row prisoners. In Madhya Pradesh, for example, since the introduction of a new law in February 2018 allowing the death penalty for child rapists, most convicts have come from poor backgrounds and have resorted to state-sponsored legal aid in their defence.

7.1 RETRIBUTIVE JUSTICE

If ordinary people commit ordinary mistakes, they should receive standard penalties. However, tougher sanctions should be enforced if identical infractions are committed by male officers. because they are failing to uphold their responsibility to protect society.

This was the conclusion reached by the Supreme Court in the Prakash Kadam case,

heard by Justices Markandey Katju and Gyan Sudha Misra.

When dealing with a high-profile case, the police have always carried out covert investigations. It should be able to prevent a public uproar. The Disha case followed a similar procedure. Extrajudicial executions are not rare in the southern states, and they have occurred often in the past.

Amazingly, the public's jubilation and applause following such an act. A democratic nation is India. For the people, by the people, and by the people is how democracy is described in layman's words. In order for a democracy to function, institutional mechanisms must be in place to ensure that decisions are made legally and with due process.

However, requests for a swift trial and justice are inevitable when the system is operating slowly. The people and elected members of parliament both applauded the police's conduct. When such people, who swore allegiance to the constitution, support an unconstitutional conduct, it is clear that they have little faith in the democratic legal system. It has become widely accepted throughout time that the police and judicial systems are ineffective. Investigations have always been conducted quickly and in favor of the wealthy and powerful. If the same is true for the poorer strata of society, the system has taken an unreasonable amount of time to respond. Neeraj Kumar, the Delhi Police Commissioner at the time of the 2012 Nirbhaya case, stated, "People seem to have lost patience with our justice system," which is correct. The public's dissatisfaction and fury needed to be vented. The absence of a speedy method was doomed to fail over time.

It unfortunately spilled, but it did so in a way that was illegal. The delayed justice is accurate in every way and is rejected. The

report of the Madhava Menon Committee on Reforms of the Criminal Justice System stressed the same thing. The Committee made the following observation: It is well known that the high rate of criminal case pending and excessive delay in the resolution of criminal cases, on the one hand, and the low conviction rate in cases of serious crime, on the other, are the two main issues facing the criminal justice system.

It came to a head when criminals abandoned all regard for the law. The Justice Verma Committee, which was formed in response to the Nirbhaya case, gave the most significant observation concerning this. According to the committee's findings, sex crimes are mostly the outcome of governance failures. The committee cautioned that if the court, legislature, and police did not take decisive action, it would lose the faith of its own people. He criticized the government, police, and even the general public for their inaction and campaigned for dramatic changes.

We can all discuss how the encounter neatly transitioned into the legal arena, though. On television, we could debate the benefits of prosecuting the officers and the best way to guarantee the girl gets justice. The fact that Disha was not guaranteed justice would not change this.

We were unable to determine if the persons accused of the crime were indeed guilty. Finally, in an attempt to appease their rage, the police may arrest arbitrary persons. If this is the case, the system will be even more embarrassed. There is no attempt in this study to show why one position is more credible than the other.

The foregoing is only a reflection of the conflict's diverse legal, political, and public opinion aspects. To restore public trust in the legal system, action must be taken.

Otherwise, the general people would always support punitive justice, which is not counterfactual and falls beyond the scope of the Constitution. Therefore, it is clear that retaliatory justice is not the way to go in a democracy.

Although others argue that the government should encourage societal reprisals against those found guilty of crimes such as rape, this viewpoint may lead to the adoption of the death penalty for all crimes. Retribution justice has faced widespread criticism for failing to establish a long-term criminal justice system, among other factors. According to Vrinda Bhandari in *The Wire*, such a notion of revenge ignores the state's involvement in pursuing such vengeance. In such a scenario, the state itself risks becoming hostage to public opinion and ignores the importance that free societies place on the dignity and life of each individual.

7.2 SELECTIONS OF JUDGE

If accepted in situations of *Suo motu* adventurism by the judiciary, it is typically a false and unsustainable argument by a lawyer, leading to an incorrect verdict. If so, is the judge the only one at fault? The lawyer who ostensibly or unintentionally promoted the unpersuasive case is at the very least to fault. If the opposing side's attorney is equally stupid, he likewise adds to the error in judgment. The legal community once barged into a judge's chamber and questioned her as a result of an unintentional mistake the judge made in the state of Kerala. The court erred by revoking the bail set out for a charge that was subject to bail upon satisfaction by the applicant's testimony that the accused was intimidating her. First of all, the lawyers had no job breaking into the Magistrates' Chamber and questioning them about a court.

Only during court sessions when the Court is in session may any complaints regarding judicial matters be brought forward and remedies requested. The magistrate, when questioned, agreed that she had no power to violate bail in an attachable offense and recommended the defendant to take the case to the Supreme Court. According to reports, the attorneys used aggressive language when speaking to the magistrate. Even worse, they fraudulently locked her up by locking the door to her room from the outside. Events that followed were completely unnecessary, including a boycott of courts by lawyers in various district centers despite the fact that the Apex Court has previously disapproved of boycotting lawyers. Without asking the files to determine if the defendant had misused his freedom during the post-bail period, which would have justified the annulment of his bail, it appears that the hearing judge granted bail at the defendant's request. (Incidentally, this point indicates an oversight in the law.

While a magistrate has the authority to revoke bail even in cases of non-bailable offenses that are more serious offenses under Section 437(5) Cr.P.C., such power is not present be surrendered to the magistrate in the event of a bail offense The injured party must necessarily apply to the hearing magistrate or the High Court under Section 439(2) Cr.P.C. to have bail set aside in a bail offense . By filing an action for government modifications to the Cr.P.C. and incorporating a provision to that effect in Section 436 Cr.P.C., the High Courts should be able to overturn the legislative failure.) It is heartening to note that after Justice S. Mani Kumar, the Hon'ble Chief Justice of Kerala, intervened, there was a reconciliation that resulted in the restoration of peace and harmony between the bench and bar. Before being chosen as a law officer, experience at the Bar Association is a bonus.

This does not, however, mean that a judge without legal training is unable. Numerous judges with no prior legal experience served as or continue to serve as great examples. In contrast, some Bar Association members, despite years of legal practice, continually fail to pass numerous competitive tests. As a result, attempting to generalize in either direction may be inappropriate or undesirable. What I want to underline is that the bank and the bar may work in tandem to achieve justice of a purity that no other institution can effectively give.

8. RAPE SHOULD BE NOT EQUATED WITH DEATH

The justification for the death sentence for rapists is founded on the assumption that the crime they committed warrants death. As Jyoti Singh struggled for her life, Sushma Swaraj described her as Zinda Laashor's living corpse. This attitude, which is connected to the notion that a woman's life is worth living provided she has honor distinct from her sexuality, has sparked heated resistance from feminist activists. The justification for the death penalty for rapists is based on the belief that being raped is a worse fate than death. We are made to believe that rape is the worst thing that can happen to a woman because of patriarchal notions of honor. Resolutely combating the notion of the distraught woman who forfeits her honor and dignity is vital has no place in society after being sexually assaulted. We believe rape is a tool of patriarchy, an act of violence and has nothing to do with morality, character or behavior.

9. CONCLUSION

The state has nurtured terrorist activity in our society in the form of phony meetings with the police, which is clearly

not a replacement for final punishment through the curial process of a fair trial. A important precedent was created in the anti-corruption case Vineet Narain v. UOI in 1998, when the Apex Court asserted the right to monitor investigations, appoint amicus curiae, and hold investigating agencies accountable.

Extrajudicial killings can be addressed using the same technique. To prevent orders that violate due process of law, the National Police Commission, which was in effect from 1977 to 1981, recommended that supervision be prescribed by legislation. The Second Commission on Administrative Reform has also advised for limiting political influence to encourage professional performance and ensure that the police officer is acting legitimately. But aside from that, these encounter kills raise some questions

1. what if those killed are innocent?
2. What are the Reasons it leads to abuse of power?
3. What if these murders remove evidence of some other influential people involved?

To hold police officers accountable and put an end to the prevailing culture of impunity, these killings must be investigated impartially and without political or police influence in order to reverse this escalating trend. Changes are also needed to inculcate in police officers a feeling of responsibility for working within the confines of the law. Furthermore, judicial officials must strictly adhere to and obey the Supreme Court and NHRC directions. To restore its lost credibility and expedite processes, the criminal justice system must be radically revamped. Finally, the media should abstain from presenting extrajudicial killings as heroic achievements, as doing so

erodes public faith in our criminal justice system.

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