

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper is partially shown, and a black leather watch with a silver dial is resting on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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AN ANALYSIS OF POLICE ENCOUNTERS AND EXTRA-JUDICIAL KILLINGS IN INDIA: A CONSTITUTIONAL AND HUMAN RIGHTS PERSPECTIVE

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ABSTRACT

Police encounters and extra-judicial killings in India have emerged as one of the most controversial issues within the criminal justice system, raising serious concerns regarding constitutional governance, human rights protection, and the rule of law. While law enforcement agencies often justify encounter killings as necessary measures taken in self-defense or for maintaining public order, such practices have been widely criticized for bypassing due process and undermining fundamental rights, particularly the right to life under Article 21 of the Constitution of India. This study critically examines the legality, constitutional validity, and human rights implications of police encounters in India. It explores whether such practices can be justified within the framework of a democratic society governed by rule of law. The research adopts a doctrinal methodology, relying on constitutional provisions, statutory laws, judicial pronouncements, and reports of institutions such as the National Human Rights Commission (NHRC). The study highlights that although certain encounters may be genuine, a significant number raise concerns regarding misuse of power, lack of accountability, and systemic deficiencies such as delays in judicial processes and ineffective investigation mechanisms. Judicial interventions, particularly in landmark cases, have played a crucial role in establishing safeguards; however, implementation gaps continue to persist. The paper concludes that extra-judicial killings are largely inconsistent with constitutional principles and human rights standards. It emphasizes the urgent need for legal reforms, independent oversight mechanisms, police accountability, and human rights education to ensure that law enforcement practices align with democratic values and constitutional mandates.

KEYWORDS: Police Encounters, Extra-Judicial Killings, Article 21, Right to Life, Human Rights, Rule of Law, NHRC, Judicial Guidelines, Police Accountability, Criminal Justice System

RESEARCH PAPER

1. INTRODUCTION

Police encounters and extra-judicial killings in India have become a deeply debated issue in recent decades, reflecting tensions between effective law enforcement and constitutional safeguards. Encounters are typically described as situations where police use force, often lethal, against suspected criminals, claiming self-defense or necessity. However, the absence of a clear statutory definition has led to ambiguity and misuse. While some sections of society perceive encounters as swift justice, such practices undermine the fundamental principle that justice must be delivered through due process. The Constitution of India guarantees the right to life and personal liberty under Article 21, which cannot be violated except through a procedure established by law. Extra-judicial killings directly contradict this mandate.

Moreover, the increasing reliance on encounters points to deeper systemic issues such as judicial delays, low conviction rates, and lack of public trust in legal institutions. This paper critically analyses whether such practices can ever be justified within a constitutional democracy.

2. CONCEPTUAL FRAMEWORK OF POLICE ENCOUNTERS

A police encounter refers to a confrontation between law enforcement officials and suspected offenders, often resulting in death. These encounters are broadly classified into:

- Genuine encounters – arising out of self-defense and necessity
- Fake encounters – staged killings without legal justification

The legality of encounters depends on key principles:

- Necessity – force must be unavoidable
- Proportionality – force must match the threat
- Legality – action must be within law
- Accountability – officers must be answerable

The lack of codification has resulted in interpretational ambiguity, allowing misuse and making accountability difficult.

3. CONSTITUTIONAL PERSPECTIVE

3.1 Article 21 – Right to Life

Article 21 guarantees that no person shall be deprived of life except through due process. The Supreme Court has interpreted this to mean fair, just, and reasonable procedure.

Encounter killings violate Article 21 when:

- There is no judicial process
- The accused is denied fair trial
- Use of force is unjustified

3.2 Article 14 – Equality Before Law

Encounters violate equality by:

- Denying legal process to certain individuals
- Allowing selective justice

No individual, regardless of crime, can be deprived of equal protection under law.

3.3 Article 22 – Safeguards Against Arrest

Encounters bypass:

- Right to legal representation
- Right to be produced before magistrate

Thus, they eliminate procedural safeguards.

3.4 Rule of Law

The rule of law requires:

- Supremacy of law
- Accountability
- Non-arbitrariness

Extra-judicial killings create a parallel justice system, which is unconstitutional.

4. HUMAN RIGHTS PERSPECTIVE

4.1 Right to Life and Dignity

Human rights law recognizes life as a non-derogable right. Encounter killings:

- Violate dignity
- Deny basic legal protections

4.2 Fair Trial Violation

Encounters eliminate:

- Presumption of innocence
- Right to defense
- Judicial adjudication

This amounts to denial of justice.

4.3 Role of NHRC

The NHRC has issued guidelines:

- Mandatory FIR
- Independent investigation
- Magisterial inquiry

However, lack of enforcement power limits effectiveness.

4.4 International Standards

Under ICCPR:

- Arbitrary killing is prohibited
- Use of force must be necessary and proportionate

India must align domestic practices with global standards.

5. JUDICIAL APPROACH AND CASE LAWS

5.1 PUCL v. State of Maharashtra (2014)

Laid down encounter guidelines:

- FIR registration
- Independent investigation
- NHRC reporting

5.2 Om Prakash v. State of Jharkhand (2012)

Held fake encounters = cold-blooded murder

5.3 EEVFAM v. Union of India

- Even in conflict areas, law applies
- No immunity for extra-judicial killings

5.4 Prakash Kadam Case (2011)

- Fake encounters termed state-sponsored terrorism

Judiciary has strongly condemned misuse but implementation gaps remain.

6. ISSUES AND CHALLENGES

6.1 Misuse of Power

Police may use encounters for:

- Quick results
- Recognition
- Political pressure

6.2 Lack of Accountability

- Internal inquiries lack independence
- Weak oversight

6.3 Judicial Delays

Slow trials lead to:

- Frustration
- Preference for instant justice

6.4 Public Support

Media glorification → normalizes encounters

6.5 Political Influence

Pressure for results → illegal actions

6.6 Lack of Training

- Poor understanding of human rights
- Weak investigative skills

7. CONCLUSION AND SUGGESTIONS

The study concludes that police encounters, particularly fake ones, are unconstitutional and violate human rights. While genuine self-defense cases may exist, the widespread misuse cannot be ignored.

Key Recommendations

- Legal Reforms

Codify encounter guidelines into law

- Police Reforms

Improve training, ethics, accountability

- Independent Investigation

Separate agency for encounter cases

- Strengthen NHRC

Give binding powers

- Judicial Efficiency

Fast-track criminal trials

- Public Awareness

Promote rule of law over instant justice

Ultimately, a democratic society must ensure that justice is delivered through law, not through arbitrary power.



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