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ENCOUNTER KILLINGS AND THE CRISIS OF CONSTITUTIONAL GOVERNANCE IN INDIA: A SOCIO-LEGAL ANALYSIS

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Abstract

The debate surrounding encounter killings in India is often framed as a conflict between effective policing and human rights. However, reducing the issue to this binary overlooks a more fundamental concern—the gradual erosion of constitutional governance and the growing acceptance of extra-judicial methods as substitutes for legal processes. In recent years, police encounters have increasingly been celebrated as acts of swift justice, particularly in cases involving grave offences. This public endorsement raises an unsettling question: what does it say about a constitutional democracy when a significant section of society begins to place greater faith in the gun than in the courtroom?

This paper argues that encounter killings are not merely instances of police excess or isolated violations of human rights. Rather, they are symptomatic of a deeper institutional crisis marked by delays in the administration of justice, declining public confidence in legal institutions, and the inability of accountability mechanisms to effectively address abuses of state power. The growing legitimacy accorded to encounter killings reflects a dangerous shift from constitutional morality to popular morality, where immediate punishment is valued over due process and legal safeguards.

Using a doctrinal and socio-legal methodology, the paper examines constitutional provisions, judicial pronouncements, human rights standards, and institutional responses to encounter deaths in India. It contends that the normalisation of extra-judicial killings poses a serious threat to the rule of law because it allows executive agencies to assume powers that constitutionally belong to courts of law.

The paper concludes that while public frustration with the criminal justice system may explain the support that encounter killings often receive, such frustration cannot justify departures from

constitutional principles. A democracy is tested not by how it treats the innocent, but by whether it remains committed to the rule of law even in the face of the most heinous crimes.

Keywords

Encounter Killings; Extra-Judicial Executions; Rule of Law; Constitutionalism; Human Rights; Police Accountability; Criminal Justice System.

Introduction

Every constitutional democracy is ultimately judged by one question: does it remain committed to the rule of law even when confronted with the most hated or feared individuals? The answer to this question becomes particularly important when discussing encounter killings in India.

Over the years, police encounters have become a recurring feature of India's criminal justice landscape. In many instances, these encounters are presented as acts of bravery and swift justice, especially when the deceased is accused of committing a heinous offence. Public celebrations, political endorsements, and media narratives often transform such incidents into stories of instant justice. Yet beneath this approval lies a deeply troubling reality. An individual who is merely accused of a crime is deprived of life without being tried, heard, or convicted by a court of law.

The Constitution of India is founded upon the idea that no person can be punished except through a procedure established by law. Article 21 guarantees the right to life and personal liberty and extends this protection to every individual, irrespective of the allegations against them. The constitutional promise of due process does not disappear simply because an offence is grave or because public opinion demands immediate punishment.

However, the growing acceptance of encounter killings reveals something more serious than isolated incidents of police excess. It reflects a crisis of confidence in the justice delivery system itself. Judicial delays, prolonged trials, low conviction rates, and a perception that offenders often escape punishment have created a sense of frustration among the public. In this atmosphere, encounters begin to appear as a quicker and more effective alternative to legal processes.

This changing public attitude raises difficult questions. Why are extra-judicial killings increasingly being viewed as justice? What does it mean for a constitutional democracy when people begin to place greater trust in police bullets than in courtrooms? Can popular support legitimise a practice that bypasses fundamental rights and constitutional safeguards?

The debate surrounding encounter killings is therefore not merely about the legality of police action. It is also about the health of constitutional governance in India. If the State is permitted to determine guilt and impose punishment outside judicial scrutiny, the distinction between the rule of law and the rule of force becomes dangerously blurred.

This paper proceeds on the understanding that encounter killings are not simply instances of unlawful police conduct. They are symptoms of deeper institutional failures and reveal an unsettling shift in public consciousness. The normalisation of encounters indicates a weakening faith in constitutional processes and an increasing willingness to accept extraordinary methods in the name of justice.

The concern, therefore, is not only that individuals are being deprived of life without due process. The greater concern is that constitutional values themselves are gradually being subordinated to demands for immediate results. A democracy does not lose its character in a single moment; it does so gradually, when exceptions begin to replace principles and when constitutional safeguards are seen as obstacles rather than necessities.

It is against this backdrop that the present study examines encounter killings in India. By analysing constitutional principles, judicial responses, institutional failures, and public perceptions, this paper seeks to understand why encounter killings continue to persist and why they have come to occupy a place of legitimacy in the public imagination despite being fundamentally at odds with the ideals of constitutional governance.

Statement of the Problem

Encounter killings in India are often discussed as isolated incidents of police misconduct or as questions of excessive use of force. Such an approach, however, fails to capture the larger constitutional and societal concerns that these incidents reveal. The increasing frequency of encounters and, more importantly, the public approval that frequently accompanies them point towards a much deeper crisis.

A constitutional democracy rests upon the assumption that disputes will be resolved through institutions and that punishment will follow a process established by law. Courts exist precisely to determine guilt and impose punishment after ensuring fairness, evidence, and an opportunity to be heard. Yet, the growing acceptance of encounter killings indicates that many people no longer believe that these institutions are capable of delivering justice in an effective and timely manner.

This loss of faith has serious implications. When people begin to celebrate extra-judicial killings, it suggests that constitutional procedures are increasingly being viewed as obstacles

rather than safeguards. Judicial delays, prolonged trials, overcrowded prisons, and low conviction rates have created frustration among citizens, and this frustration often translates into support for immediate and visible forms of punishment. Encounters then begin to appear not as unlawful killings but as efficient substitutes for the criminal justice process.

The problem, therefore, extends far beyond the legality of individual encounters. It concerns the gradual normalisation of a culture where constitutional guarantees can be set aside in the name of expediency. If the State is permitted to deprive individuals of life without judicial scrutiny, even in exceptional cases, it creates a dangerous precedent in which executive power begins to replace the authority of law.

Another dimension of the problem lies in accountability. Although the Supreme Court and the National Human Rights Commission have repeatedly issued guidelines regarding investigation of encounter deaths, allegations of fake encounters continue to emerge. The persistence of such incidents raises important questions regarding the effectiveness of existing safeguards and the ability of institutions to hold state actors accountable.

The issue also exposes a tension between constitutional morality and popular morality. Public outrage against serious crimes often creates demands for immediate punishment. However, constitutional governance requires the State to act within legal limits even when public opinion favours extraordinary measures. A democracy is tested not when it protects popular individuals, but when it protects legal principles in moments of anger, fear, and public pressure. This study therefore proceeds on the understanding that encounter killings are symptoms of a broader institutional crisis. They reflect declining confidence in constitutional processes, weaknesses in accountability mechanisms, and an increasing willingness to accept extra-legal methods in the pursuit of justice. The central problem addressed by this paper is not merely whether encounter killings are lawful, but what their growing legitimacy reveals about the condition of constitutional governance in India.

RESEARCH QUESTIONS

Primary Research Question

To what extent do encounter killings signify a crisis of constitutional governance and the erosion of the rule of law in India?

Secondary Research Questions

1. Why are encounter killings increasingly perceived by sections of society as a legitimate form of justice?

2. Does public support for encounters indicate a growing loss of faith in the criminal justice system and its ability to deliver timely justice?
3. Are encounter killings compatible with constitutional guarantees of due process, equality before law, and the right to life and personal liberty?
4. If individuals such as Ajmal Kasab, Afzal Guru, and Ranga and Billa were afforded the protection of legal procedures despite the gravity of their offences, can extra-judicial executions ever be justified in a constitutional democracy?
5. To what extent do political narratives, media portrayals, and public outrage contribute to the normalisation of encounter killings?
6. Have judicial safeguards and accountability mechanisms such as the National Human Rights Commission been effective in addressing allegations of fake encounters?
7. What are the long-term implications of permitting executive agencies to exercise powers that constitutionally belong to courts of law?

These questions are not merely concerned with the legality of encounter killings; they seek to understand what the increasing social acceptance of such killings reveals about the health of constitutional democracy and the public's faith in the institutions meant to uphold justice.

OBJECTIVES OF THE STUDY

The objectives of this study extend beyond determining whether encounter killings are legal or illegal. The paper seeks to understand what the persistence and growing acceptance of encounter killings reveal about the state of constitutional governance and the functioning of criminal justice institutions in India.

Accordingly, the study has the following objectives:

- 1. To examine the constitutional validity of encounter killings in India.**

The study seeks to analyse whether extra-judicial killings are compatible with the guarantees of equality, due process, and the right to life embodied in the Constitution of India.

- 2. To examine encounter killings as a manifestation of a broader crisis of constitutional governance.**

The paper argues that encounters are not isolated incidents of police excess but symptoms of deeper institutional and constitutional deficiencies.

- 3. To analyse the reasons behind the growing public acceptance of encounter killings.**

Particular attention will be paid to judicial delays, low conviction rates, public frustration with the justice delivery system, and the increasing preference for immediate forms of punishment.

4. To examine whether the increasing support for encounter killings reflects declining faith in constitutional institutions.

The study seeks to understand why a significant section of society appears to place greater trust in extra-judicial methods than in courts and legal procedures.

5. To critically evaluate the role of police accountability and state responsibility in cases of encounter killings.

This objective includes an examination of police brutality, allegations of fake encounters, and the effectiveness of mechanisms intended to investigate and prevent abuse of power.

6. To analyse the judicial and institutional responses to encounter killings.

The study examines the role played by the Supreme Court of India, the National Human Rights Commission, and other oversight mechanisms in addressing allegations of extra-judicial executions.

7. To examine the tension between constitutional morality and popular morality.

The paper seeks to determine whether public anger and demands for swift punishment can ever justify departures from constitutional guarantees and the rule of law.

8. To reaffirm the importance of due process by examining cases such as Ajmal Kasab, Afzal Guru, and Ranga and Billa.

These cases demonstrate that even individuals accused or convicted of the most heinous crimes were afforded legal procedures before punishment was imposed. The study uses these examples to question the legitimacy of encounter killings in a constitutional democracy.

9. To propose legal and institutional reforms aimed at strengthening public faith in the justice delivery system and preventing the normalisation of extra-judicial violence.

At its core, this study is an attempt to understand not merely why encounter killings occur, but why they are increasingly being accepted. The concern of this paper is that when society begins to celebrate extra-judicial violence and loses faith in constitutional processes, the crisis is no longer confined to policing alone; it becomes a crisis of constitutional governance itself.

HYPOTHESIS OF THE STUDY

A hypothesis is not a conclusion. It is an assumption that the paper seeks to examine through legal analysis, judicial decisions, data, and socio-legal arguments.

The present study proceeds on the following hypotheses:

H1

The growing acceptance of encounter killings in India is directly linked to declining public confidence in the criminal justice system and its ability to deliver timely justice.

This hypothesis stems from the perception that prolonged trials, delays in investigation, and low conviction rates have caused sections of society to view encounters as a quicker and more effective means of securing justice.

H2

Encounter killings are fundamentally incompatible with constitutional principles, particularly the right to life, due process, equality before law, and the rule of law.

The Constitution does not permit the State to deprive an individual of life except through a procedure established by law. Therefore, extra-judicial executions stand in direct tension with constitutional guarantees.

H3

The increasing normalisation of encounter killings reflects a broader crisis of constitutional governance and a gradual shift from constitutional morality to popular morality.

This hypothesis seeks to examine whether public approval of extra-judicial violence is indicative of a deeper institutional crisis where immediate punishment is increasingly preferred over legal process.

H4

Weak accountability mechanisms and inadequate oversight of law enforcement agencies contribute significantly to the recurrence of alleged fake encounters.

The persistence of encounter allegations despite judicial guidelines and NHRC directions raises concerns regarding the effectiveness of existing safeguards.

H5

The constitutional commitment to due process is tested most severely in cases involving individuals accused of heinous crimes.

The legal treatment of persons such as Ajmal Kasab, Afzal Guru, and Ranga and Billa demonstrates that constitutional protections do not depend upon the popularity or gravity of the accused person's case. The study hypothesises that these examples reaffirm the principle that even the most despised individuals cannot be deprived of life outside the framework of law.

Research Assumption

The paper proceeds on one fundamental assumption:

A constitutional democracy does not preserve its legitimacy by punishing people swiftly; it preserves its legitimacy by ensuring that punishment is imposed only through lawful and fair procedures.

The central concern of this study is therefore not merely whether encounter killings occur, but what their growing social acceptance reveals about the health of constitutional institutions and the public's faith in the rule of law.

RESEARCH METHODOLOGY

A research paper on encounter killings cannot be confined to a purely legal analysis because the issue is not merely about whether encounters are constitutional or unconstitutional. The growing acceptance of encounter killings raises larger questions about public faith in institutions, perceptions of justice, and the changing relationship between citizens and the rule of law. Therefore, this study adopts both a doctrinal and a socio-legal approach.

Nature of the Study

The present study is **descriptive, analytical, and socio-legal in nature**. It seeks not only to examine the legal position concerning encounter killings but also to understand the social and institutional conditions that have contributed to their increasing legitimacy in public discourse.

Research Method

The study primarily adopts a **doctrinal method of research**, involving an examination of constitutional provisions, statutes, judicial decisions, and institutional guidelines governing the use of force by law enforcement agencies. However, given that encounter killings cannot be

understood in isolation from public attitudes and institutional realities, the paper also employs a **socio-legal approach** to analyse why sections of society increasingly perceive encounters as a form of justice.

In other words, this paper is concerned not only with what the law says about encounter killings but also with why, despite these legal safeguards, encounters continue to receive public approval.

Sources of Data

The study is based entirely on **secondary sources of data**.

Primary Sources

The primary sources include:

- The Constitution of India;
- Judgments of the Supreme Court and various High Courts;
- National Human Rights Commission guidelines and reports;
- Law Commission Reports;
- Parliamentary debates and committee reports;
- International human rights instruments and conventions.

Secondary Sources

The secondary sources include:

- Books on constitutional law, criminal law, and human rights;
- Journal articles and scholarly publications;
- Reports published by governmental and non-governmental organisations;
- Newspaper articles and credible media reports;
- Statistical data and reports relating to encounter deaths and police accountability.

Scope of the Study

The study focuses primarily on encounter killings in India and their implications for constitutional governance. It examines the issue from the perspective of:

- the rule of law;
- constitutional morality;
- due process;
- police accountability;

- public confidence in the justice delivery system.

The study also refers to selected international experiences wherever necessary to place the Indian experience within a broader context.

Method of Analysis

The paper employs:

Doctrinal Analysis

to examine constitutional provisions and judicial decisions.

Analytical Method

to evaluate the relationship between encounter killings and constitutional governance.

Comparative Method

to briefly examine how other jurisdictions have responded to extra-judicial killings and police violence.

Socio-Legal Analysis

to understand why encounter killings increasingly enjoy social legitimacy despite being inconsistent with constitutional principles.

Rationale for Choosing this Methodology

The choice of this methodology is guided by the central argument of this paper. Encounter killings are not merely incidents of alleged police excess; they are indicators of a larger institutional crisis. Any meaningful study of encounters therefore requires an examination of both legal principles and social realities.

The paper proceeds on the understanding that the growing support for encounter killings cannot be explained solely by deficiencies in law enforcement. It must also be understood as a reflection of declining public faith in the criminal justice system and a growing impatience with the delays and perceived inefficiencies of legal institutions.

For this reason, a purely doctrinal study would have been inadequate. A socio-legal approach is necessary to understand not only whether encounter killings violate constitutional principles, but also why a significant section of society increasingly views them as legitimate.

Limitations of the Study

The study is primarily based on secondary sources and does not involve field interviews or empirical surveys. Further, due to the absence of comprehensive and uniform national data regarding encounter deaths and subsequent prosecutions, the study relies upon publicly available reports and documented cases.

Nevertheless, these limitations do not affect the central inquiry of the paper, which seeks to examine the constitutional and socio-legal implications of the normalisation of encounter killings in India.

This study is ultimately an attempt to understand not only why encounter killings occur, but why, despite their uneasy relationship with constitutional principles, they continue to find acceptance in a society governed by the rule of law.

LITERATURE REVIEW

The issue of encounter killings in India has attracted considerable attention from legal scholars, human rights organisations, journalists, and courts. Much of the existing scholarship, however, has approached the subject from a relatively narrow perspective, focusing primarily on the legality of police encounters, the excessive use of force by law enforcement agencies, and the need for accountability mechanisms. While these contributions are significant, they do not fully explain why encounter killings continue to receive social and political legitimacy despite their uneasy relationship with constitutional principles.

A substantial body of literature examines encounter killings through the lens of **human rights and police accountability**. Scholars have argued that extra-judicial executions constitute a direct violation of the right to life and undermine democratic governance by permitting the State to exercise lethal force outside judicial supervision. Human rights organisations have repeatedly documented allegations of fake encounters and have emphasised the need for independent investigations and stronger accountability mechanisms.

Another strand of scholarship focuses on the **constitutional dimensions of encounter killings**. Constitutional scholars have argued that the right to life under Article 21 cannot be curtailed except in accordance with a procedure established by law and that extra-judicial executions strike at the heart of the rule of law. Judicial decisions, particularly those of the Supreme Court, have repeatedly reiterated that even persons accused of the most serious offences are entitled to constitutional protections.

At the same time, a number of studies have examined the **institutional deficiencies of the criminal justice system**, including delays in trials, overcrowded courts, and low conviction rates. These studies suggest that public frustration with the justice delivery system often creates a favourable environment for extra-legal methods of punishment. However, these discussions generally stop short of examining the relationship between institutional distrust and the increasing social acceptance of encounter killings.

The literature also contains important discussions on **police reforms and state violence**. Several scholars have argued that police impunity, inadequate oversight mechanisms, and political interference contribute significantly to the persistence of encounter killings. Others have examined the role of the media in shaping public perceptions by portraying encounters as acts of heroism and swift justice.

However, despite these valuable contributions, an important gap remains in the existing literature.

Most studies ask:

- Are encounter killings legal?
- Did the police act in self-defence?
- How can accountability be improved?

Far fewer studies ask a different and perhaps more uncomfortable question:

Why are encounter killings increasingly being accepted as a legitimate form of justice in a constitutional democracy?

Similarly, there is limited scholarship examining what the public celebration of encounters reveals about the health of constitutional institutions and the growing loss of faith in the justice delivery system.

This paper seeks to address that gap.

The present study proceeds on the understanding that encounter killings are not merely incidents of police brutality or isolated violations of human rights. They are also indicators of a deeper constitutional and institutional crisis. The increasing acceptance of encounter killings suggests that many citizens no longer believe that legal institutions are capable of delivering timely and effective justice.

The examples of **Ajmal Kasab, Afzal Guru, and Ranga and Billa** are particularly significant in this context. Despite the enormity of the crimes associated with these individuals, the Indian legal system insisted upon due process, legal representation, appeals, and judicial scrutiny before punishment was imposed. These cases reaffirm an important constitutional principle: the right to due process does not depend upon the popularity of the accused or the gravity of the allegations against them.

The growing willingness to bypass these principles in the case of encounter killings therefore raises a larger question about constitutional governance itself.

Accordingly, this paper attempts to contribute to the existing body of literature by shifting the focus from the legality of individual encounters to the broader issue of **why extra-judicial**

violence has increasingly come to occupy a place of legitimacy in public imagination and what this development means for the future of constitutional democracy in India.

Research Gap

From the review of existing literature, three significant gaps emerge:

First, there is insufficient scholarship examining encounter killings as a manifestation of a broader crisis of constitutional governance.

Second, limited attention has been paid to the relationship between public support for encounter killings and declining faith in the criminal justice system.

Third, there is inadequate engagement with the tension between constitutional morality and popular demands for immediate punishment.

The present study seeks to address these gaps by examining encounter killings not merely as instances of unlawful state violence, but as indicators of deeper institutional anxieties and changing public attitudes towards constitutional processes.

Theoretical Framework

This paper proceeds on the understanding that encounter killings cannot be examined merely as incidents of police excess or isolated violations of human rights. The increasing acceptance of encounters points towards a deeper constitutional and institutional problem. It raises questions about the limits of state power, the place of due process in a democracy, and the growing loss of public faith in legal institutions. To understand these concerns, the present study is guided by three interrelated frameworks: the Rule of Law, Constitutional Morality, and State Violence.

I. Rule of Law: No One Can Be Punished Outside the Law

The idea of the rule of law lies at the very heart of the Indian Constitution. It is based on a simple principle: no person, and no institution, including the State itself, is above the law. The power to investigate, prosecute, determine guilt, and impose punishment is distributed among different institutions precisely to prevent arbitrary exercise of power.

Encounter killings challenge this principle because they effectively bypass the legal process. When an accused person is deprived of life without a trial, the question is not whether that person was guilty or innocent. The real question is whether the State can assume the authority to determine guilt and impose punishment without judicial scrutiny.

The significance of due process becomes clearer when one considers cases such as **Ajmal Kasab, Afzal Guru, and Ranga and Billa**. These were individuals associated with some of the most shocking and heinous crimes in India's history. Public anger against them was immense and there was little sympathy for their cause. Yet, none of them was denied the protection of legal procedures.

Ajmal Kasab was given legal representation, a full trial, appellate remedies, and the opportunity to seek constitutional relief. Afzal Guru's case travelled through the judicial process before the sentence was carried out. Likewise, Ranga and Billa were tried and convicted through the ordinary process of law.

These examples are important because they reaffirm a basic constitutional principle: **the right to due process does not depend upon the popularity of the accused or the gravity of the offence**. If constitutional protections were extended to these individuals, then the legitimacy of encounter killings becomes deeply questionable.

A constitutional democracy does not prove its commitment to the rule of law by protecting those whom society likes; it proves it by extending legal protections even to those whom society finds impossible to defend.

II. Constitutional Morality: The Constitution Must Prevail Over Public Anger

Constitutional morality requires public institutions to remain faithful to constitutional values even when public opinion demands a different course of action. Democracies are often tested in moments of fear, anger, and outrage. It is during such moments that constitutional principles become most important.

There are crimes that shock the conscience of society and generate understandable demands for immediate punishment. However, constitutional governance requires the State to resist the temptation of bypassing legal procedures, no matter how intense public sentiment may be.

The growing support for encounter killings reveals a troubling conflict between **constitutional morality and popular morality**.

Popular morality often demands swift and visible punishment. Constitutional morality, on the other hand, insists that punishment must follow a lawful process and that constitutional guarantees cannot be suspended simply because an individual is accused of a grave crime.

The increasing celebration of encounters suggests that due process is gradually being viewed as an obstacle to justice rather than as one of its essential components. This shift is deeply concerning because once constitutional safeguards are treated as inconveniences, the foundations of constitutional governance begin to weaken.

The issue, therefore, is not merely whether encounters occur. The issue is whether society is becoming increasingly comfortable with the idea that constitutional procedures may be ignored if doing so promises immediate results.

III. State Violence and the Limits of Executive Power

The State possesses the legitimate authority to use force. The police may, in certain exceptional circumstances, use force in self-defence or to protect the lives of others. However, this authority is not absolute. It remains subject to constitutional limitations and judicial oversight.

Encounter killings force us to ask an uncomfortable question: **when does lawful use of force become unlawful state violence?**

Where allegations of fake encounters arise, the concern is no longer one of legitimate policing. It becomes a question of accountability, abuse of power, and the limits of executive authority. The persistence of encounter allegations despite judicial guidelines and institutional safeguards indicates that the problem is not merely individual misconduct. It reflects deeper structural issues, including weak accountability mechanisms, political incentives, and a growing social acceptance of extra-judicial methods.

The danger of normalising encounter killings lies in the precedent that it creates. If the State can bypass due process because the accused is unpopular or because public anger is intense, then constitutional rights become contingent upon circumstances rather than principles.

That is precisely what constitutional democracies seek to prevent.

The Framework of the Present Study

This paper therefore proceeds on three interconnected assumptions:

First, the rule of law requires that no person be deprived of life except through a procedure established by law.

Second, constitutional morality demands adherence to constitutional principles even in cases that evoke public outrage and demands for immediate punishment.

Third, state power, including the power to use force, must remain subject to legal limitations and institutional accountability.

Accordingly, this study views encounter killings not merely as incidents of alleged police excess but as indicators of a deeper constitutional anxiety. The increasing acceptance of encounters suggests a growing willingness to substitute legal process with immediate punishment and reveals an unsettling decline in public faith in the institutions that are meant to administer justice.

If a constitutional democracy begins to place greater faith in encounters than in courts, what does that reveal about the condition of its constitutional order?

HISTORICAL EVOLUTION OF ENCOUNTER KILLINGS IN INDIA

Historical Evolution of Encounter Killings in India

Encounter killings are often portrayed as extraordinary responses to extraordinary crimes. However, the history of encounters in India demonstrates that they are neither entirely new nor isolated incidents. Over time, what initially appeared to be exceptional measures gradually evolved into a recurring method of policing and, in some instances, even acquired public and political legitimacy.

In the years immediately following independence, instances of alleged extra-judicial killings were relatively uncommon in public discourse. The Constitution had only recently come into force, and there was a strong institutional commitment towards establishing democratic processes and the rule of law. The use of force by the police was expected to remain within clearly defined legal boundaries.

The situation began to change in the late twentieth century with the rise of insurgency, organised crime, and terrorism. In several parts of the country, particularly in regions affected by militancy and insurgency, the police and security forces increasingly relied upon extraordinary methods to deal with perceived threats. Encounters were often justified on the ground that dangerous criminals or militants could not be effectively dealt with through ordinary legal procedures.

During the 1980s and 1990s, the phenomenon of the “encounter specialist” emerged, particularly in metropolitan cities such as Mumbai. Certain police officers became publicly celebrated for eliminating gangsters and organised crime figures. These encounters were frequently portrayed as necessary responses to the failure of conventional law enforcement mechanisms. Public support for such actions grew because they appeared to produce immediate results in situations where legal processes seemed slow and ineffective.

However, this period also witnessed increasing allegations of fake encounters. Human rights organisations and civil society groups repeatedly questioned the circumstances surrounding many encounter deaths and raised concerns regarding police impunity and the absence of independent investigations.

The issue assumed a different dimension in the context of counter-terrorism operations. Following major terrorist incidents, there was often intense public pressure for immediate and

decisive action. In such an atmosphere, constitutional safeguards and due process were sometimes portrayed as obstacles to effective law enforcement. The debate increasingly shifted from whether encounters were lawful to whether they were necessary.

Yet, India's constitutional history offers important reminders of the significance of due process even in the face of heinous crimes.

The case of **Ajmal Kasab** is particularly instructive. Kasab was apprehended after the 2008 Mumbai terrorist attacks, one of the deadliest acts of terrorism in India's history. The evidence against him was overwhelming, and public anger was understandably immense. Nevertheless, he was provided legal representation, a fair trial, appellate remedies, and the opportunity to seek constitutional relief before his sentence was carried out.

Similarly, **Afzal Guru**, convicted in connection with the attack on the Indian Parliament, was tried and sentenced through the judicial process. Likewise, **Ranga and Billa**, whose crimes shocked the conscience of the nation, were prosecuted and punished in accordance with law.

These examples are significant because they demonstrate that the Indian constitutional system has historically recognised that even those accused of the most reprehensible crimes cannot be deprived of life outside the framework of law. The legitimacy of punishment lies not merely in its outcome but also in the process through which it is imposed.

Despite these constitutional commitments, encounter killings have continued to occupy a visible place in contemporary policing. In recent years, allegations of fake encounters have emerged from various states, and some incidents have received widespread public approval. The celebration of encounters after certain high-profile crimes suggests a significant shift in public attitudes towards criminal justice.

This shift cannot be understood solely as a consequence of rising crime or aggressive policing. It is also a reflection of deeper institutional anxieties. Prolonged trials, delays in investigation, and perceptions that offenders frequently evade punishment have contributed to a growing belief that the ordinary processes of law are incapable of delivering timely justice.

As a result, encounters have increasingly come to be viewed by sections of society as an alternative form of justice rather than as an exception to constitutional norms.

The historical evolution of encounter killings in India therefore reveals a troubling transition. What may once have been regarded as extraordinary measures have, over time, acquired a degree of social and political legitimacy. This normalisation of extra-judicial violence raises profound questions about the health of constitutional governance and the future of the rule of law in India.

The concern of this paper is not merely that encounter killings occur. The greater concern is that they are increasingly being accepted as a legitimate response to crime. When society begins to place greater trust in immediate punishment than in legal institutions, the issue ceases to be one of policing alone and becomes a question about the condition of constitutional democracy itself.

CONSTITUTIONAL AND LEGAL FRAMEWORK

Constitutional and Legal Framework

The debate surrounding encounter killings is fundamentally a constitutional debate. At its heart lies a simple but profound question: **Can the State take away a person's life without first subjecting that person to the process of law?**

The Constitution of India answers this question in the negative. The Indian constitutional framework is founded on the idea that the exercise of state power must remain subject to legal limitations and that no individual, irrespective of the accusations against them, can be deprived of life or liberty except in accordance with law.

Encounter killings therefore cannot be examined merely as incidents of police action. They must be viewed against the broader constitutional commitment to due process, equality before law, and the rule of law.

Article 14: Equality Before Law and Equal Protection of Laws

Article 14 guarantees that every person is equal before the law and is entitled to equal protection of the laws.

This principle carries an important implication: the law cannot create one system of justice for ordinary citizens and another for those accused of heinous crimes.

The Constitution does not say that a person's rights disappear because the allegations against them are grave or because public opinion has already declared them guilty. The right to be treated according to law extends even to those whom society despises.

This principle becomes particularly relevant in the context of encounter killings. When an accused person is killed without a trial, they are effectively denied the equal protection of legal procedures that the Constitution guarantees to every individual.

The examples of **Ajmal Kasab, Afzal Guru, and Ranga and Billa** are instructive. Few individuals in India's criminal history attracted greater public anger than these men. Yet, they were afforded legal representation, judicial scrutiny, and procedural safeguards before punishment was imposed.

If the Constitution insisted upon due process even in these cases, it becomes difficult to justify a system in which another accused person can be deprived of life without any judicial determination of guilt.

Article 20: Protection in Criminal Proceedings

Article 20 protects individuals against arbitrary punishment and ensures that criminal liability is imposed only according to law.

Underlying this provision is a larger constitutional principle: punishment can only follow a lawful process.

Encounter killings disrupt this principle because they collapse the distinction between accusation and guilt. The individual is punished without investigation being completed, without evidence being tested, and without judicial findings being recorded.

The constitutional scheme does not permit punishment on the basis of suspicion, public outrage, or executive satisfaction.

Article 21: Right to Life and Personal Liberty

Article 21 is perhaps the most important constitutional provision in the context of encounter killings.

It provides:

“No person shall be deprived of his life or personal liberty except according to procedure established by law.”

The significance of this guarantee lies in its universality. The Constitution deliberately uses the word **person** and not **citizen**, **victim**, or **accused**. The protection extends to every individual. The Supreme Court has repeatedly interpreted Article 21 expansively and has held that the procedure contemplated under the Article must be fair, just, and reasonable.

Encounter killings raise serious constitutional concerns because they result in the irreversible deprivation of life without the procedural safeguards that Article 21 demands.

At its core, Article 21 is a reminder that the State cannot become both prosecutor and executioner.

Article 22: Safeguards Against Arbitrary Arrest and Detention

Article 22 grants important procedural protections to persons who are arrested, including the right to be informed of the grounds of arrest and the right to consult and be defended by a legal practitioner.

These safeguards are not mere technicalities. They exist because the Constitution recognises the immense power that the State possesses over the individual and seeks to ensure that this power is exercised lawfully.

An encounter killing effectively extinguishes all these protections. The person who is killed is denied the opportunity to challenge the allegations against them, seek legal representation, or defend themselves before a court.

Due Process and Fair Trial

Although the phrase “due process of law” does not expressly appear in Article 21, judicial interpretation has made it clear that fairness and procedural safeguards are integral to the constitutional guarantee of life and liberty.

The criminal justice system is based upon certain foundational assumptions:

- every accused person is presumed innocent until proven guilty;
- guilt must be established through evidence;
- punishment can only follow conviction by a competent court.

Encounter killings fundamentally disrupt these assumptions because they impose the most severe punishment possible—the deprivation of life—without the legal process that gives punishment its legitimacy.

Separation of Powers

The Constitution distributes power among different institutions.

- The police investigate.
- The prosecution presents evidence.
- The judiciary determines guilt and imposes punishment.

This separation is not accidental. It exists to prevent the concentration of power in a single authority.

When an accused person is killed without trial, these institutional boundaries become blurred. The executive effectively assumes functions that constitutionally belong to the judiciary.

This is why encounter killings raise concerns that extend beyond individual cases. They touch the very structure of constitutional governance.

The Rule of Law and Constitutional Governance

The rule of law requires that every exercise of state power be justified by law and remain subject to judicial scrutiny.

The constitutional difficulty with encounter killings is not simply that a person dies. The deeper problem is that the process of law is bypassed altogether.

A constitutional democracy cannot permit the legitimacy of state action to depend upon public approval or the gravity of allegations against an individual. Rights and procedures exist precisely to protect individuals in difficult and unpopular cases.

The history of Indian constitutionalism demonstrates this commitment. Even in cases involving terrorism, brutal murders, and crimes that shocked the conscience of society, the State followed legal procedures.

That commitment to due process is what distinguishes constitutional governance from arbitrary power.

Concluding Observations

The constitutional framework of India leaves little room for doubt. The State may punish, but only through law. It may use force, but only within constitutional limits. It may prosecute the accused, but it cannot deny them the protections that the Constitution guarantees.

Encounter killings therefore raise concerns that go beyond the legality of individual police actions. They challenge the foundational principles upon which the constitutional order rests. The real question is not whether the person killed deserved punishment. The real question is whether the Constitution permits punishment without process.

This paper proceeds on the belief that once the answer to that question becomes uncertain, the crisis is no longer confined to policing it becomes a crisis of constitutional governance itself.

INTERNATIONAL HUMAN RIGHTS FRAMEWORK

Although encounter killings are often discussed within the framework of Indian constitutional law, the issue also raises serious concerns under international human rights law. The right to life is recognised as one of the most fundamental and universal human rights. Across legal systems and international instruments, there is a common understanding that the State cannot arbitrarily deprive an individual of life and that the use of force by public authorities must remain subject to strict legal limitations.

This international consensus becomes particularly relevant in the context of encounter killings because such incidents involve the exercise of the State's most extraordinary power—the power to take life.

Universal Declaration of Human Rights, 1948

The Universal Declaration of Human Rights (UDHR) was adopted in the aftermath of the Second World War, when the international community recognised the need to place limits on state power and to protect individuals from arbitrary action.

Article 3 of the Declaration provides:

“Everyone has the right to life, liberty and security of person.”

Similarly, Article 10 recognises the right of every individual to a fair and public hearing by an independent and impartial tribunal.

These provisions are important because they affirm two principles that lie at the heart of this paper:

First, no person can be arbitrarily deprived of life.

Second, questions of guilt and punishment must be determined by legal institutions and not by executive authorities.

Encounter killings sit uneasily with both these principles because they result in the deprivation of life without judicial determination of guilt.

International Covenant on Civil and Political Rights, 1966

India is a party to the International Covenant on Civil and Political Rights (ICCPR), which imposes obligations upon States to protect fundamental rights.

Article 6 of the Covenant recognises the inherent right to life and provides that no person shall be arbitrarily deprived of life.

Article 14 guarantees the right to a fair and public hearing by a competent, independent, and impartial tribunal.

The significance of these provisions lies in the recognition that even individuals accused of serious crimes retain certain non-negotiable rights. The legitimacy of punishment depends not merely on the nature of the offence but on the fairness of the process through which punishment is imposed.

This principle becomes particularly significant when one considers individuals such as Ajmal Kasab or Afzal Guru. The Indian State could have attempted to justify extraordinary measures by invoking the gravity of their crimes. Yet, it chose to follow legal procedures and provide them with trials and appellate remedies.

These cases demonstrate that adherence to due process is not a sign of weakness. Rather, it is an affirmation of constitutional and democratic values.

United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990

The United Nations has repeatedly emphasised that the use of force by law enforcement authorities must be guided by the principles of necessity and proportionality.

The Basic Principles provide that:

- force should be used only when strictly necessary;
- lethal force should be employed only as a last resort;
- intentional lethal use of firearms is permissible only when strictly unavoidable in order to protect life.

The framework therefore recognises that there may be exceptional circumstances in which the police are justified in using lethal force. However, it does not sanction extra-judicial executions or the deliberate elimination of suspects outside legal processes.

The distinction between legitimate self-defence and unlawful deprivation of life is therefore crucial.

This paper does not proceed on the assumption that every encounter is necessarily fake or unlawful. There may indeed be situations in which police officers are compelled to use force in order to protect themselves or others.

The concern arises when alleged encounters are celebrated without independent investigation or when extra-judicial killings begin to acquire social legitimacy merely because the person killed was accused of a serious offence.

United Nations Code of Conduct for Law Enforcement Officials, 1979

The Code of Conduct recognises that law enforcement officials possess significant powers and therefore bear a corresponding responsibility to respect and protect human dignity and human rights.

The Code stresses that force should be employed only to the extent required for the performance of duty.

This principle is especially important in constitutional democracies because the exercise of coercive power by the State must always remain accountable to law.

Arbitrary Deprivation of Life and State Responsibility

International human rights law repeatedly emphasises that States have a positive obligation to investigate suspicious deaths caused by public authorities.

An encounter death cannot simply be accepted at face value. Where there is an allegation that the use of force was excessive or unlawful, there must be an independent and effective investigation.

The requirement of accountability is based upon a simple but profound principle:

The greater the power possessed by the State, the greater must be the mechanisms that regulate and scrutinise its exercise.

Encounter Killings as a Human Rights Concern

The international legal framework demonstrates that encounter killings are not merely questions of domestic policing. They raise fundamental concerns regarding:

- the right to life;
- the right to a fair trial;
- the prohibition against arbitrary deprivation of life;
- state accountability;
- and the rule of law.

More importantly, international human rights law recognises a principle that also lies at the heart of this paper: the protection of rights becomes most meaningful when extended to those who are unpopular, feared, or despised.

A legal system is not tested by how it treats the innocent. It is tested by whether it remains committed to legal principles even in cases that provoke public anger and demands for immediate punishment.

Concluding Observations

The international human rights framework reinforces the constitutional position in India. Both recognise that the State cannot be permitted to exercise its power over life and death without legal restraints.

The concern surrounding encounter killings is therefore much larger than the legality of individual police actions. It concerns the kind of constitutional order that a society wishes to preserve.

When extra-judicial killings begin to receive social approval, the issue is no longer confined to criminal justice or policing. It becomes a question about whether the principles of legality, due process, and human dignity can withstand the pressures of fear, outrage, and demands for instant justice.

For this reason, encounter killings must be viewed not merely as incidents of alleged police excess but as a challenge to the very values upon which both constitutional democracy and international human rights law are founded.

JUDICIAL RESPONSES AND CASE LAW ANALYSIS

The Indian judiciary has repeatedly emphasised that encounter killings cannot be justified merely because the person killed was accused of a serious crime. Courts have consistently maintained that the Constitution does not permit the State to become a judge of guilt and an executor of punishment without following the process established by law.

The judicial approach towards encounter killings is rooted in a simple but fundamental principle: **the rule of law cannot be sacrificed at the altar of expediency.**

This principle becomes particularly significant at a time when public frustration with delays in the criminal justice system has led to growing support for extra-judicial methods of punishment.

I. People's Union for Civil Liberties v. State of Maharashtra (2014)

This is perhaps the most important judgment on encounter killings in India.

The Supreme Court recognised that while the police may use force in genuine cases of self-defence, every encounter death must be subjected to independent scrutiny. The Court laid down detailed guidelines to govern investigations into police encounters.

Among other things, the Court directed:

- registration of an FIR in every encounter death;
- independent investigation by another police station or agency;
- magisterial inquiry;
- informing the National Human Rights Commission;
- prompt medical and forensic examination;
- preservation of evidence.

The significance of this judgment lies not merely in the guidelines themselves but in the constitutional philosophy underlying them.

The Court recognised that a police version of events cannot automatically be accepted and that accountability is indispensable whenever the State exercises lethal force.

The judgment reaffirmed that constitutional governance requires transparency and independent scrutiny, particularly in cases involving deprivation of life.

II. Om Prakash v. State of Jharkhand (2012)

In this case, the Supreme Court adopted particularly strong language.

The Court observed:

“Fake encounters are nothing but cold-blooded murders.”

The Court further noted that such killings strike at the very foundation of the rule of law and cannot be tolerated in a constitutional democracy.

This observation is particularly important for the present study because it directly addresses the tendency to portray all encounters as acts of heroism.

The Court recognised that if fake encounters are accepted or ignored, the legal system itself suffers. The issue is therefore much larger than individual criminal liability. It concerns the preservation of constitutional principles and public confidence in legal institutions.

III. Prakash Kadam v. Ramprasad Vishwanath Gupta (2011)

This judgment contains one of the strongest judicial condemnations of fake encounters.

The Supreme Court observed that police officers involved in fake encounters act as “contract killers” and cannot seek protection merely because they are public officials.

The Court made an important distinction between lawful policing and extra-judicial executions. It recognised that while the police may be required to use force in genuine situations, the deliberate elimination of suspects outside legal processes cannot be tolerated.

This judgment reinforces an important argument of this paper: the legitimacy of state power depends upon its adherence to law.

IV. Extra Judicial Execution Victim Families Association (EEVFAM) v. Union of India (2016)

This case arose from allegations of numerous fake encounters in Manipur.

The Supreme Court made an important observation:

The use of excessive or retaliatory force cannot be justified merely because the person killed was suspected of being involved in unlawful activities.

The Court further emphasised that every allegation of extra-judicial killing must be investigated.

The judgment is particularly significant because it rejects the argument that constitutional safeguards become less important in situations involving insurgency, terrorism, or threats to national security.

The Court recognised that difficult circumstances do not permit the abandonment of constitutional principles.

V. The Constitutional Significance of Due Process

The judicial response to encounter killings becomes even more meaningful when one considers cases involving some of the most hated individuals in Indian criminal history.

Ajmal Kasab

Kasab was apprehended after the Mumbai terrorist attacks that claimed the lives of hundreds of innocent people.

There was overwhelming evidence against him and public outrage was understandably intense. Yet, the Indian State chose to provide him:

- legal representation;
- a fair trial;
- appellate remedies;
- constitutional review.

The significance of the Kasab case lies not in the punishment imposed but in the process that preceded it.

India demonstrated that its commitment to the rule of law does not disappear merely because the accused is widely despised.

Afzal Guru

The case of Afzal Guru similarly demonstrates the constitutional commitment to due process. Despite the gravity of the allegations and the national emotions associated with the Parliament attack, the legal process was followed.

He was tried, convicted, and permitted to exhaust available legal remedies before the sentence was carried out.

Ranga and Billa

The brutal murder committed by Ranga and Billa shocked the conscience of the nation. Public anger against them was immense.

Yet, they too were prosecuted and punished through the ordinary process of law.

The constitutional message conveyed by these cases is extremely important:

The right to due process is not dependent upon the popularity of the accused or the nature of the offence.

Judicial Responses and the Crisis of Constitutional Governance

A reading of these judgments reveals a consistent judicial philosophy.

The courts have repeatedly recognised that:

- constitutional protections extend to every person;
- encounter killings require strict scrutiny;
- public outrage cannot become a substitute for legal procedure;
- and the State cannot exercise power outside constitutional limits.

Yet, despite these judicial pronouncements, allegations of fake encounters continue to emerge and, in many cases, receive public approval.

This contradiction forms the heart of the present study.

On the one hand, constitutional courts insist upon due process and accountability.

On the other hand, sections of society increasingly appear willing to accept extra-judicial methods because they have lost faith in the ability of legal institutions to deliver timely justice.

This tension between constitutional principles and public sentiment represents one of the most significant challenges facing constitutional governance in contemporary India.

Concluding Observations

The judiciary has consistently defended the rule of law and rejected the idea that the State can take life outside legal procedures.

The courts have repeatedly reminded us that constitutional protections are most important in difficult cases and that even those accused of heinous crimes remain entitled to the safeguards of law.

The larger concern, however, is that while constitutional jurisprudence has remained firmly committed to due process, public faith in these very processes appears to be weakening.

It is this growing disconnect between constitutional ideals and public perceptions of justice that lies at the centre of the present study and explains why encounter killings must be understood not merely as incidents of police violence but as symptoms of a deeper crisis of constitutional governance.

Statistical Overview of Encounter Killings in India

Although the present study is doctrinal in nature, a brief examination of available statistical data is necessary to understand the magnitude of encounter deaths and the concerns surrounding police accountability in India. The figures discussed in this section are derived

from official reports and publicly available records and are used only to provide context to the constitutional and legal analysis undertaken in this study.

According to the National Human Rights Commission (NHRC) Annual Report for 2023–24, the Commission processed **269 cases of encounter deaths** and **436 cases of police custodial deaths** during the reporting period. These figures indicate that allegations relating to deaths caused during police action continue to remain a significant human rights concern in India.^{^1} Historical data further demonstrates that the issue is neither recent nor isolated. NHRC records indicate that **440 alleged fake encounter cases** were reported between 2002 and 2008, while another **555 alleged fake encounter cases** were recorded between October 2009 and February 2013.^{^2} A compilation of NHRC records further suggests that **813 encounter cases were registered between 2016–17 and 2021–22**, highlighting the continuing prevalence of allegations of extra-judicial killings in different parts of the country.^{^3}

The significance of these figures lies not merely in the number of encounter deaths. They also reveal a persistent concern regarding accountability. Despite repeated judicial interventions and detailed guidelines issued by the Supreme Court and the NHRC, allegations of fake encounters continue to emerge. The apparent gap between allegations and effective accountability raises important questions regarding the ability of existing institutions to regulate the exercise of lethal force by state agencies.

More importantly, several high-profile encounters in recent years have been followed by public celebrations and widespread expressions of support for police action. This public response suggests that many citizens increasingly perceive encounters as a form of justice rather than as departures from constitutional norms.

The growing legitimacy accorded to encounter killings appears to be closely linked to a broader crisis of confidence in the justice delivery system. Prolonged trials, delays in investigation, and the perception that offenders frequently evade punishment have contributed to public frustration with legal institutions. Consequently, encounters are increasingly viewed by sections of society as a quicker and more effective alternative to ordinary legal processes.

This development has profound constitutional implications. The increasing acceptance of encounter killings does not necessarily indicate public approval of extra-judicial violence itself; rather, it reflects a declining faith in the ability of constitutional institutions to deliver timely and effective justice. When citizens begin to place greater trust in encounters than in courts, the issue ceases to be one of policing alone and becomes a deeper crisis of constitutional governance.

The statistical data therefore supports the central argument of this study: the persistence and growing acceptance of encounter killings is not merely a law-and-order issue but also a manifestation of institutional distrust and an erosion of public confidence in the constitutional processes designed to administer justice.

Table 1: NHRC Data on Encounter and Police Custodial Deaths (2023–24)

Category	Number of Cases
Encounter Death Cases Processed	269
Police Custodial Death Cases Processed	436

Source: National Human Rights Commission, Annual Report 2023–24.

Table 2: Historical Data on Alleged Fake Encounter Cases

Period	Number of Cases
2002–2008	440
October 2009–February 2013	555
2016–17 to 2021–22	813

Source: NHRC records and compilations of NHRC data.

Footnotes

1. National Human Rights Commission of India, *Annual Report 2023–24*.
2. National Human Rights Commission of India, Statistics relating to alleged fake encounter cases.
3. Compilation of NHRC records relating to encounter cases for the period 2016–17 to 2021–22.

CASE STUDIES

Case Studies on Encounter Killings in India

The constitutional concerns surrounding encounter killings are best understood through specific incidents that have shaped public discourse in India. These cases demonstrate that the debate is no longer confined to the legality of police action. Rather, it increasingly concerns the public's relationship with constitutional institutions and the growing willingness to accept extra-judicial methods in the name of justice.

I. The Hyderabad Encounter Case (2019)

In November 2019, a young veterinary doctor was brutally raped and murdered in Hyderabad. The incident generated nationwide outrage and demands for immediate punishment of the accused. A few days later, all four accused persons were killed by the police during an alleged reconstruction of the crime scene. The police claimed that the accused had attempted to escape and had attacked the officers, thereby necessitating the use of force.

The encounter was immediately followed by public celebrations. Flowers were showered upon police personnel, sweets were distributed, and the incident was widely described as "instant justice."

The public reaction to the Hyderabad encounter is particularly significant for the present study. The celebration of the encounter suggested that for many people, the death of the accused mattered less than the speed with which punishment had apparently been delivered.

However, the incident also raised serious constitutional questions. The accused had not been tried, convicted, or sentenced by a court of law. The encounter effectively brought the criminal process to an end before it had even begun.

The Supreme Court subsequently constituted an inquiry commission, and the Commission concluded that the encounter was not genuine and that the use of force was unjustified.

The Hyderabad encounter therefore illustrates the tension between public demands for immediate punishment and the constitutional requirement of due process.

II. The Vikas Dubey Encounter (2020)

Vikas Dubey, a notorious gangster accused of killing eight police personnel in Uttar Pradesh, was arrested in Madhya Pradesh and was being transported to Uttar Pradesh when he was killed in an alleged encounter.

According to the police version, the vehicle carrying him overturned and he attempted to escape after snatching a weapon from a police officer.

The incident immediately attracted public attention and gave rise to widespread scepticism. Questions were raised regarding the circumstances of the encounter and whether it represented an attempt to silence a person who allegedly possessed information about criminal-political networks.

Irrespective of the truth of these allegations, the constitutional significance of the case lies elsewhere.

Even a person accused of grave crimes remains entitled to legal process. The Constitution does not recognise exceptions based on the character of the accused.

The Vikas Dubey encounter therefore reinforced an important concern: if individuals can be deprived of life before they stand trial, the criminal justice process itself risks becoming irrelevant.

III. Extra Judicial Execution Victim Families Association (Manipur Cases)

The allegations of fake encounters in Manipur present one of the most serious examples of extra-judicial killings in India.

Numerous allegations emerged that individuals had been killed by security forces in circumstances that were later described as encounters.

The matter eventually reached the Supreme Court through the Extra Judicial Execution Victim Families Association (EEVFAM) case.

The Court made it clear that even in situations involving insurgency and threats to national security, allegations of extra-judicial killings cannot be ignored and must be investigated.

This case is particularly important because it rejects the argument that constitutional protections become less important in difficult situations.

The judgment reaffirmed an important constitutional principle:

The existence of extraordinary circumstances does not authorise the State to act outside the framework of law.

IV. Uttar Pradesh and the Rise of Encounter Culture

In recent years, Uttar Pradesh has witnessed an extensive use of encounters as a tool of policing and crime control.

The state has frequently defended encounters as necessary responses to dangerous criminals and organised crime. At the same time, concerns have repeatedly been raised by human rights

organisations and civil society groups regarding allegations of fake encounters and the possibility of excessive use of force.

What makes the Uttar Pradesh experience particularly significant for this study is the degree of public support that many encounters have received.

Encounters have increasingly come to be viewed by sections of society as symbols of decisive governance and effective law enforcement.

This public response demonstrates a broader institutional problem.

People often support encounters not because they necessarily approve of extra-judicial violence but because they have lost confidence in the ability of legal institutions to provide timely justice.

The rise of encounter culture in Uttar Pradesh therefore supports the central argument of this paper: the popularity of encounters is often a symptom of institutional distrust.

Constitutional Significance of These Case Studies

The cases discussed above reveal a common pattern.

First, they demonstrate the increasing social legitimacy accorded to encounter killings.

Second, they reveal the growing frustration with the ordinary processes of criminal justice.

Third, they expose a troubling willingness to accept departures from constitutional norms in the hope of obtaining immediate results.

Most importantly, these cases raise a deeper question:

What happens to constitutional governance when the public begins to celebrate outcomes while paying little attention to the process through which those outcomes are achieved?

The answer to this question lies at the heart of the present study.

The real danger of encounter killings is not merely the possibility that an individual may be unlawfully deprived of life. The greater danger lies in the gradual erosion of faith in constitutional procedures and the increasing belief that justice can be delivered outside the framework of law.

A constitutional democracy survives not because it punishes swiftly but because it insists that punishment, however necessary, must always remain subject to law.

Socio-Legal Analysis: Why Are Encounter Killings Increasingly Being Accepted as Justice?

The most disturbing aspect of encounter killings in contemporary India is not merely that they occur, but that they increasingly receive public approval. In many instances, encounter deaths

are celebrated, police officers are praised as heroes, and extra-judicial killings are described as acts of justice. This response demands serious examination because it reveals something deeper than public anger against crime. It reveals a growing crisis of confidence in the institutions that are constitutionally entrusted with the administration of justice.

The central question is therefore not why encounters happen, but why they are increasingly perceived as legitimate.

I. Declining Faith in the Justice Delivery System

The criminal justice system in India has long been criticised for delays, procedural complexities, and prolonged trials. Criminal cases frequently remain pending for years and, in some instances, even decades. Victims and their families often find themselves trapped in an exhausting legal process that appears incapable of delivering timely justice.

This institutional delay has gradually produced a dangerous consequence: many people have begun to believe that the ordinary processes of law are ineffective.

As a result, encounter killings are often viewed as a quicker and more efficient alternative to legal proceedings.

The support that encounters receive is therefore not necessarily an endorsement of extra-judicial violence. Rather, it is frequently an expression of frustration with institutions that are perceived to be slow and ineffective.

The popularity of encounter killings thus becomes a symptom of institutional distrust.

II. The Desire for Immediate Justice

Modern society increasingly demands immediate outcomes. This impatience is particularly visible after incidents involving rape, terrorism, child abuse, and organised crime.

In such cases, public anger is intense and understandable. There is often a genuine fear that legal proceedings will take years and that the accused may eventually escape punishment.

This frustration creates fertile ground for the acceptance of encounter killings.

The Hyderabad encounter of 2019 demonstrated this phenomenon vividly. Before any judicial determination of guilt, the deaths of the accused were celebrated across the country.

The celebration itself is constitutionally significant because it suggests that for many citizens, the speed of punishment has become more important than the process through which punishment is imposed.

Yet constitutional democracy is built upon precisely the opposite assumption.

The Constitution values process because process protects individuals against arbitrariness.

III. Constitutional Morality Versus Popular Morality

The increasing acceptance of encounter killings reflects a growing tension between constitutional morality and popular morality.

Popular morality often demands immediate punishment, particularly in cases involving heinous crimes. Constitutional morality, however, insists that even the most unpopular individual remains entitled to legal safeguards.

The examples of **Ajmal Kasab, Afzal Guru, and Ranga and Billa** demonstrate this constitutional commitment.

There was little public sympathy for any of these individuals. Yet the Indian State chose to follow due process and provide them with trials, appeals, and legal representation.

These cases are important because they demonstrate that constitutional rights do not depend upon the character of the accused.

If constitutional protections could be extended to these individuals, then the growing acceptance of encounter killings raises an uncomfortable question:

Have we begun to value outcomes more than constitutional principles?

IV. Media Narratives and the Construction of “Instant Justice”

The media also plays an important role in shaping public perceptions of encounter killings.

High-profile encounters are often portrayed as acts of bravery and decisive governance. Police officers involved in such incidents are frequently celebrated, and the deaths of the accused are described as the triumph of justice.

This narrative can be deeply problematic.

The criminal justice system is designed precisely to prevent guilt from being determined by public opinion or media narratives.

By presenting encounters as immediate justice, public discourse sometimes overlooks a fundamental principle:

In a constitutional democracy, justice is not merely about punishment; it is also about the process through which punishment is imposed.

V. Police Brutality and the Culture of Impunity

The issue of encounter killings cannot be discussed without addressing concerns regarding police accountability.

This study does not proceed on the assumption that every encounter is fake or that every use of force by the police is unlawful. Law enforcement officers often work under difficult and

dangerous conditions and may, in exceptional circumstances, be required to use force in self-defence.

However, allegations of fake encounters and the limited accountability that follows many such incidents raise serious concerns.

The absence of effective accountability mechanisms creates a risk that exceptional measures may gradually become normalised.

A constitutional democracy cannot permit the exercise of lethal force to remain beyond meaningful scrutiny.

VI. The Normalisation of State Violence

Perhaps the greatest danger posed by encounter killings is their gradual normalisation.

When society repeatedly celebrates extra-judicial violence, the extraordinary slowly begins to appear ordinary.

This process is dangerous because constitutional democracies depend not merely on legal rules but also on a collective commitment to constitutional values.

The acceptance of encounters risks creating a culture in which due process is viewed as an inconvenience and constitutional safeguards are regarded as obstacles to justice.

The question then ceases to be whether a particular encounter was justified.

The larger question becomes whether society is becoming increasingly comfortable with the idea that the State may take life without judicial determination of guilt.

VII. The Crisis of Constitutional Governance

The growing legitimacy accorded to encounter killings ultimately points towards a deeper crisis of constitutional governance.

A constitutional order rests on public confidence in institutions. Courts derive their legitimacy not from force but from the belief that justice will be administered fairly and according to law.

When people begin to place greater trust in encounters than in courts, that confidence is seriously weakened.

The celebration of encounter killings therefore reveals more than public anger against crime.

It reveals:

- frustration with institutional delays;
- declining faith in legal processes;
- impatience with constitutional procedures;
- and an increasing willingness to accept extraordinary methods in the name of justice.

This is the central concern of the present study.

The real danger of encounter killings lies not merely in the unlawful deprivation of life. It lies in what their growing acceptance says about our relationship with constitutional values and our faith in the institutions that are meant to protect them.

Concluding Observations

Encounter killings are often defended as necessary responses to extraordinary crimes. Yet constitutional democracies are tested precisely in such moments.

The Constitution does not become irrelevant because the allegations are grave or because public anger is intense. If anything, constitutional safeguards become even more important in such circumstances.

The increasing acceptance of encounter killings therefore represents more than a law-and-order issue.

It represents a deeper constitutional anxiety.

When citizens begin to celebrate extra-judicial methods and lose faith in courts and legal institutions, the crisis is no longer confined to policing. It becomes a crisis of constitutional governance itself.

The popularity of encounter killings is not evidence that constitutional processes have failed to matter; it is evidence that many people have begun to doubt whether those processes are capable of delivering justice at all.

FINDINGS OF THE STUDY

The present study reveals that encounter killings in India cannot be understood merely as isolated incidents of police excess or unlawful use of force. They are indicative of deeper constitutional and institutional concerns that have significant implications for the rule of law and democratic governance.

Based on the constitutional analysis, judicial decisions, statistical overview, and socio-legal examination undertaken in this study, the following findings emerge:

1. Encounter killings are fundamentally incompatible with constitutional principles.

The Constitution of India guarantees the right to life and personal liberty and permits deprivation of life only through a procedure established by law. Extra-judicial executions

bypass this process and therefore stand in direct tension with Articles 14 and 21 of the Constitution.

2. The Indian judiciary has consistently upheld the importance of due process.

Judicial decisions concerning encounter killings demonstrate a clear constitutional commitment to accountability and procedural fairness. The Supreme Court has repeatedly held that allegations of fake encounters require independent investigation and that public officials cannot claim immunity merely because they act under the authority of the State.

3. The persistence of encounter allegations indicates weaknesses in accountability mechanisms.

Despite judicial guidelines and NHRC interventions, allegations of fake encounters continue to emerge. The limited number of prosecutions and convictions in such cases raises serious concerns regarding institutional oversight and police accountability.

4. The growing popularity of encounter killings reflects declining public confidence in the justice delivery system.

One of the most significant findings of this study is that public support for encounters often stems from frustration with delayed trials, procedural complexities, and perceptions that offenders frequently evade punishment.

The increasing legitimacy accorded to encounters therefore reveals a crisis of trust in legal institutions.

5. The acceptance of encounter killings reflects a tension between constitutional morality and popular morality.

While constitutional morality insists upon due process and legal safeguards, popular morality often demands immediate punishment, particularly in cases involving heinous crimes.

The growing support for encounters indicates that immediate outcomes are increasingly being valued over constitutional procedures.

6. The examples of Ajmal Kasab, Afzal Guru, and Ranga and Billa reaffirm the centrality of due process.

These cases demonstrate that constitutional protections do not depend upon the popularity of the accused or the gravity of the offence.

The Indian legal system historically recognised that even individuals accused of the most serious crimes remain entitled to legal safeguards.

This finding highlights the constitutional inconsistency of celebrating encounter killings while simultaneously affirming the importance of due process in other cases.

7. Encounter killings pose a broader challenge to constitutional governance.

The real danger of encounter killings lies not merely in the possibility of unlawful deprivation of life but in the gradual normalisation of extra-judicial methods of punishment.

If the State is permitted to bypass legal procedures because the accused is unpopular or because public anger is intense, constitutional guarantees risk becoming contingent rather than universal.

8. The growing acceptance of encounters reflects an increasing willingness to substitute legal processes with immediate punishment.

This shift has profound implications for the future of constitutional democracy because it undermines public confidence in courts and weakens the normative commitment to the rule of law.

9. Encounter killings are symptoms of institutional failure rather than solutions to criminality.

The popularity of encounters should not be interpreted as evidence of effective governance. Rather, it reflects widespread dissatisfaction with the functioning of criminal justice institutions and a growing perception that constitutional processes are incapable of delivering timely justice.

10. The crisis surrounding encounter killings is ultimately a crisis of constitutional faith.

The study finds that the increasing acceptance of extra-judicial methods reveals a deeper anxiety regarding the ability of constitutional institutions to administer justice effectively.

When citizens begin to place greater trust in encounters than in courts, the issue ceases to be one of policing alone and becomes a challenge to the legitimacy of constitutional governance itself.

Concluding Finding

The central finding of this study may therefore be stated as follows:

Encounter killings are not merely incidents of alleged police brutality. They are manifestations of a deeper constitutional and institutional crisis characterised by declining faith in the justice delivery system, weakening commitment to due process, and an increasing willingness to accept extra-judicial methods in the pursuit of justice.

Recommendations and Suggestions for Reform

The issue of encounter killings cannot be addressed merely by condemning extra-judicial violence or by demanding stricter punishment for erring officials. The growing acceptance of encounter killings points towards deeper institutional problems that require structural reforms. If public support for encounters is, in part, a reflection of declining faith in the justice delivery system, then the long-term solution lies not in extraordinary methods of punishment but in strengthening constitutional institutions and restoring public confidence in them.

Accordingly, the following measures are suggested.

I. Strengthening the Criminal Justice System

One of the central findings of this study is that public support for encounter killings is closely linked to dissatisfaction with the pace of justice.

Justice that arrives after an unreasonable delay often loses its meaning for victims and society alike. Consequently, there is an urgent need to ensure:

- time-bound investigations;
- expeditious trials in serious offences;
- greater judicial capacity through increased appointments;
- reduction of case backlogs;
- effective case management mechanisms.

The answer to delayed justice cannot be extra-judicial justice. The answer lies in making legal institutions more efficient and accessible.

II. Independent Investigation of Encounter Deaths

Every encounter death should automatically trigger an independent investigation.

Investigations conducted by the same agency involved in the encounter may create legitimate concerns regarding impartiality.

Therefore:

- every encounter death should be investigated by an independent agency;
- forensic and ballistic evidence should be preserved;

- magisterial inquiries should be completed within a prescribed time frame;
- reports should be made available to the victim's family.

The legitimacy of the State depends not merely on the use of power but also on its willingness to subject that power to scrutiny.

III. Strengthening Accountability Mechanisms

The present framework for accountability requires considerable strengthening.

The National Human Rights Commission should be given:

- greater investigative powers;
- improved monitoring mechanisms;
- adequate resources;
- greater institutional autonomy.

Further, periodic review of encounter investigations should be undertaken to ensure that allegations do not remain unresolved for years.

Accountability is not an obstacle to policing. It is an essential component of democratic policing.

IV. Police Reforms and Professionalisation

Police officers frequently operate under difficult circumstances and face enormous public and political pressure.

Meaningful reform therefore requires:

- better training on human rights standards;
- specialised training regarding the use of force;
- improved working conditions;
- adequate staffing and resources;
- clear operational protocols.

Professional policing and constitutional policing are not contradictory objectives. They are mutually reinforcing.

V. Use of Technology and Transparency

Technological safeguards can significantly improve accountability.

The following measures should be considered:

- mandatory body cameras during operations;
- dashboard cameras in police vehicles;

- digital recording of arrest and interrogation procedures;
- preservation of electronic evidence;
- greater transparency in encounter investigations.

Such measures protect not only citizens but also police officers who act lawfully.

VI. Strengthening Witness Protection and Victim Support

Public frustration with the justice system is often linked to perceptions that powerful offenders escape punishment.

Strengthening:

- witness protection programmes;
- victim compensation mechanisms;
- support services for victims and their families;

can contribute significantly towards restoring confidence in legal institutions.

VII. Public Legal Education and Constitutional Awareness

The growing acceptance of encounter killings reveals an important constitutional challenge.

Many citizens increasingly perceive due process as an obstacle rather than a safeguard.

There is therefore a need for greater public engagement regarding:

- constitutional rights;
- the importance of due process;
- the role of courts in criminal justice;
- the dangers of extra-judicial methods.

Constitutional values cannot survive merely through judicial pronouncements; they also require social acceptance.

VIII. Reaffirming the Principle of Due Process

Perhaps the most important recommendation emerging from this study is the need to reaffirm the constitutional commitment to due process.

The examples of **Ajmal Kasab**, **Afzal Guru**, and **Ranga and Billa** demonstrate that even individuals accused or convicted of the most heinous crimes were not denied legal procedures. These cases remind us that due process is not a favour extended to the accused. It is a limitation placed upon the State.

The constitutional promise of fairness becomes most meaningful precisely in difficult and unpopular cases.

IX. Restoring Public Faith in Constitutional Institutions

Ultimately, the challenge posed by encounter killings cannot be addressed solely through legal reform.

The larger task is to restore public confidence in constitutional institutions.

Citizens must believe that:

- courts can deliver justice;
- investigations can be effective;
- trials can be concluded within a reasonable time;
- offenders will be punished according to law.

As long as legal institutions are perceived to be ineffective, demands for extraordinary methods are likely to persist.

Concluding Recommendations

The present study does not suggest that the concerns of victims or the frustrations of society should be ignored. Public anger against serious crimes is often genuine and understandable.

However, constitutional democracies are tested precisely in such moments.

The response to institutional failure cannot be the abandonment of constitutional principles.

The solution to delayed justice cannot be extra-judicial justice.

The solution to public distrust cannot be the normalisation of state violence.

Rather, the answer lies in building institutions that are capable of delivering justice effectively while remaining faithful to the rule of law.

The true strength of a constitutional democracy lies not in its ability to punish swiftly, but in its ability to remain committed to law even when doing so is difficult.

CONCLUSION

Encounter killings occupy a deeply contested space in India's constitutional and political landscape. They evoke strong emotions, provoke public debate, and often generate competing narratives of justice and legality. For some, they represent swift and decisive action against dangerous criminals. For others, they symbolise an alarming departure from constitutional principles and the rule of law. This study has attempted to move beyond this binary and examine what the increasing acceptance of encounter killings reveals about the condition of constitutional governance in India.

The analysis undertaken in this paper demonstrates that encounter killings cannot be understood merely as isolated incidents of police excess or unlawful use of force. They are symptomatic of a deeper institutional crisis. The growing public approval of encounters reflects a widespread frustration with the functioning of the criminal justice system and a declining confidence in its ability to deliver timely and effective justice.

Judicial delays, prolonged trials, low conviction rates, and perceptions that offenders frequently evade punishment have collectively contributed to a sense of institutional distrust. In such an environment, encounters begin to appear attractive because they promise immediate and visible outcomes. However, the desire for swift justice cannot become a justification for abandoning constitutional principles.

The Constitution of India is founded upon the idea that the exercise of state power must remain subject to legal limitations. The right to life and personal liberty cannot be made contingent upon the popularity of the accused or the gravity of the allegations against them. The constitutional commitment to due process exists precisely to ensure that punishment follows law and not public sentiment.

The examples of **Ajmal Kasab, Afzal Guru, and Ranga and Billa** illustrate this principle with remarkable clarity. Few individuals in India's criminal history attracted greater public anger than these men. Yet, they were afforded legal representation, judicial scrutiny, and procedural safeguards before punishment was imposed. These cases reaffirm an important constitutional truth: due process is most meaningful when it protects those whom society finds difficult to defend.

The increasing acceptance of encounter killings therefore raises a profoundly unsettling question. If the Constitution insisted upon due process even in such cases, why has society become increasingly comfortable with the idea that some individuals may be deprived of life without judicial determination of guilt?

The answer, this study suggests, lies not in the legality of encounters but in the growing crisis of faith in constitutional institutions.

The popularity of encounter killings should not be mistaken for evidence that extra-judicial methods are legitimate or effective. Rather, it should be understood as a warning sign that many citizens no longer believe that ordinary legal processes are capable of delivering justice.

This development has serious implications for constitutional democracy.

A democracy does not cease to exist merely because rights are formally guaranteed in a constitutional text. It weakens when public confidence in the institutions responsible for enforcing those rights begins to erode. It weakens when constitutional safeguards are

increasingly viewed as obstacles to justice. And it weakens when exceptional methods gradually become accepted as ordinary instruments of governance.

The issue, therefore, is not simply whether a particular encounter was genuine or fake. The larger concern is whether the State can be permitted to exercise its most extraordinary power—the power to take life—outside the framework of law and still claim fidelity to constitutional governance.

This study does not deny the pain of victims, the frustrations of society, or the challenges faced by law enforcement agencies. Public anger against serious crimes is often understandable and genuine. However, constitutional democracies are tested precisely in such moments. Their legitimacy lies not in the ability to punish swiftly, but in the willingness to remain committed to law even when doing so is difficult.

The real danger of encounter killings lies not merely in the possibility that an individual may be unlawfully deprived of life. The greater danger lies in the gradual normalisation of the belief that justice can be achieved outside constitutional processes.

A society that begins to place greater trust in encounters than in courts risks weakening the very institutions upon which democratic governance rests.

Ultimately, the crisis of encounter killings is a crisis of constitutional faith.

The challenge before India is therefore not merely to prevent extra-judicial killings, but to restore public confidence in the justice delivery system and reaffirm the principle that in a constitutional democracy, no person can be condemned or deprived of life except through the authority of law.

The Constitution may sometimes appear slow, imperfect, and frustrating, but it remains the only legitimate framework through which justice can be pursued. To abandon that framework in favour of extra-judicial methods is not merely to deny due process to the accused; it is to diminish the constitutional values that define the Republic itself.

The true measure of a constitutional democracy is not how it treats those who are loved or sympathised with, but whether it remains faithful to the rule of law even in relation to those whom society fears, despises, or wishes to punish immediately. The growing acceptance of encounter killings therefore represents not only a challenge to individual rights, but a deeper crisis of constitutional governance in India itself.

REFERENCES AND BIBLIOGRAPHY

A. Primary Sources

1. Constitutional Documents

- Constitution of India 1950.

2. Statutes

- Protection of Human Rights Act 1993.
- Code of Criminal Procedure 1973 (for incidents before 1 July 2024).
- Bharatiya Nagarik Suraksha Sanhita 2023.
- Indian Penal Code 1860 (for incidents before 1 July 2024).
- Bharatiya Nyaya Sanhita 2023.
- Indian Evidence Act 1872 (for incidents before 1 July 2024).
- Bharatiya Sakshya Adhiniyam 2023.

3. Cases

Supreme Court Cases

- *People s Union for Civil Liberties v State of Maharashtra* (2014) 10 SCC 635.
- *Om Prakash v State of Jharkhand* (2012) 12 SCC 72.
- *Prakash Kadam v Ramprasad Vishwanath Gupta* (2011) 6 SCC 189.
- *Extra Judicial Execution Victim Families Association (EEVFAM) v Union of India* (2016) 14 SCC 536.
- *D K Basu v State of West Bengal* (1997) 1 SCC 416.
- *Nilabati Behera v State of Orissa* (1993) 2 SCC 746.
- *Joginder Kumar v State of Uttar Pradesh* (1994) 4 SCC 260.
- *Maneka Gandhi v Union of India* (1978) 1 SCC 248.
- *Sunil Batra v Delhi Administration* (1978) 4 SCC 494.
- *Kartar Singh v State of Punjab* (1994) 3 SCC 569.

4. International Instruments

- Universal Declaration of Human Rights 1948.
- International Covenant on Civil and Political Rights 1966.
- United Nations Code of Conduct for Law Enforcement Officials 1979.

- United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 1990.
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984.

B. Government Reports

- National Human Rights Commission, *Annual Report 2023–24*.
- National Human Rights Commission, *Guidelines on Encounter Deaths*.
- Law Commission of India, *Report No. 273: Implementation of the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment through Legislation* (2017).
- National Crime Records Bureau, *Crime in India Report* (latest available edition).
- Parliamentary Standing Committee Reports relating to Police Reforms and Criminal Justice Administration.

C. Books

- M P Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2018).
- V N Shukla, *Constitution of India* (13th edn, Eastern Book Company 2017).
- Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company 1980).
- H M Seervai, *Constitutional Law of India* (4th edn, Universal Law Publishing 2013).
- B B Pande, *The Constitution of India and Human Rights* (Central Law Publications 2018).
- A V Dicey, *Introduction to the Study of the Law of the Constitution* (Macmillan 1959).
- S K Verma and Kusum (eds), *Fifty Years of the Supreme Court of India* (Oxford University Press 2000).

D. Journal Articles

- K G Kannabiran, 'The Wages of Impunity: Encounter Killings and the Rule of Law' (2004) 39(50) *Economic and Political Weekly*.
- Nandini Sundar, 'The Rule of Law and the Rule of Force' (2016) 51(50) *Economic and Political Weekly*.
- Ujjwal Kumar Singh, 'Extra-Judicial Killings and Human Rights in India' (2007) 42(37) *Economic and Political Weekly*.
- A G Noorani, 'Encounter Killings and Constitutionalism' (2010) 45(6) *Economic and Political Weekly*.

- Pranav Verma, Mangla Verma and Amrashaa Singh, 'Surveying Three Decades of Extrajudicial Deaths in India: Documenting the Declining Rule of Law '(2024).

E. Reports and Working Papers

- Commonwealth Human Rights Initiative, *Police Reform Debates in India*.
- Amnesty International, *India: A Licence to Kill?*.
- Human Rights Watch, *Broken System: Dysfunction, Abuse and Impunity in the Indian Police*.
- People's Union for Civil Liberties, *Reports on Encounter Killings in India*.

F. Newspaper and Online Sources

- *Indian Express*.
- *The Wire*.
- *Scroll*.
- *LiveLaw*.
- *Bar and Bench*.

