
EXECUTION WITHOUT ADJUDICATION: A LEGAL AUTOPSY OF ENCOUNTER KILLINGS

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Encounter killings, often simply referred to as "encounters," are operations carried out by law enforcement agencies, mainly the police or security forces, under the claim of self-defense during armed confrontations. While such incidents are reported in many countries around the world, they are particularly prevalent in South Asian nations like India and Pakistan. The term has become highly controversial in contexts where police allegedly kill suspects in staged shootouts rather than presenting them before a court for the due process of law.

Encounter killings gained significant prominence in India during the late 20th century. In the 1980s and 1990s, Mumbai police officers became infamous for encounters with gangsters, which were often celebrated in the media as heroic acts. Similarly, during the insurgency period in Punjab, encounters were utilized as a counter-insurgency tool. Over time, the practice spread to other states, becoming a common method of dealing with hardened criminals, terrorists, and insurgents. Popular culture, especially Bollywood films, further glamorized encounter specialists, solidifying them in the public imagination as vigilant heroes.

From a legal perspective, encounter killings are deeply problematic for society. The Indian Constitution guarantees the right to life under Article 21, which cannot be taken away except according to the procedure established by law.

Extrajudicial killings bypass this fundamental right safeguarded by the Constitution. Courts have repeatedly condemned encounters as unconstitutional, emphasizing that police officers cannot act as judge, jury, and executioner. The Supreme Court of India laid down stringent guidelines in cases such as *People's Union for Civil Liberties (PUCL) v. State of Maharashtra* (2014), where the Court mandated an independent investigation into every encounter death. These guidelines require the registration of a First Information Report (FIR), an independent investigation by the Crime Investigation Department (CID) or another police station, a magisterial inquiry, and immediate reporting to the National Human Rights Commission. Despite these safeguards, enforcement remains inconsistent, and many encounter cases are dismissed without thorough investigation, allowing police impunity to persist.

Ethically, encounter killings raise profound questions. While encounters may satisfy a public demand for immediate justice, they fatally undermine the principle of a fair trial guaranteed by the Constitution. Killing a suspect without a trial violates international human rights norms, including the Universal Declaration of Human Rights. Furthermore, encounters often shield police misconduct, allowing officers to misuse their power for personal or political gain. Numerous case

studies have revealed that suspects were killed after being taken into custody, with weapons subsequently planted to fabricate a shootout. This blurring of justice and revenge creates a dangerous precedent where the line between protector and perpetrator becomes indistinguishable.

Interestingly, encounter killings often enjoy significant public support. In high-profile cases, such as the Hyderabad veterinarian rape and murder in 2019, where police killed four accused individuals in an alleged encounter, large sections of society celebrated the act as instant justice. This reflects widespread frustration with India's slow judicial system, where trials drag on for years and conviction rates remain low. However, such support is dangerous; it normalizes extrajudicial killings, erodes faith in the judiciary, and encourages a culture of vigilantism. Several historical case studies highlight the dark complexity of these encounters.

The Mumbai Police "Encounter Squad" era, particularly around and after 1995, saw a peak in the aggressive and extrajudicial handling of the rampant Mumbai underworld. Officially known as the Mumbai Police Detection Unit (a branch of the Crime Branch), it gained its colloquial moniker due to a heavy reliance on encounter killings. Many of these shootings were alleged to be staged executions rather than legitimate acts of self-defense.

In the mid-1990s, Mumbai experienced a period of extreme gang violence, exacerbated by the 1993 serial bombings carried out by D-Company, an underworld syndicate run by Dawood Ibrahim. Extortion, the murder of businessmen and Bollywood personalities, and rival gang warfare escalated violently, resulting in over 100 shootouts a year, a murder every few days, and over 400 gang-related killings on the streets between 1990 and 2000. Operating with near-impunity, the mafia threatened the very economic and social fabric of the city.

The police response intensified post-1993, with political and senior police approval granted for a "clean-up" via encounters. The nucleus of these officers, largely drawn from the 1983 IPS batch and trained by figures like Arvind Inamdar, became known as "encounter specialists." They were given free rein to concentrate on intelligence gathering and direct action against armed gangsters.

The statistics on police encounters in Mumbai from this era are staggering. The Mumbai Police killed over 1,000 alleged criminals between 1982 and 2004. Individual tallies include over 300 suspects killed by Pradeep Sharma, while Vijay Salaskar killed 61 gangsters before his own death in the 2008 Mumbai attacks. Daya Nayak also accounted for an unknown but significant number of deaths. These casualties included 167 members of the Dawood Ibrahim gang and 144 from the Chhota Rajan gang, which severely damaged these criminal empires and caused a dramatic fall in gangland killings in the 2000s, albeit at the cost of the rule of law.

The Sadiq Jamal case is another glaring example of a fabricated encounter. Sadiq Jamal Mehtar, a young man from Bhavnagar, was killed by Gujarat Police on January 13, 2003, near the Galaxy Cinema in Ahmedabad. Police claimed Jamal was a Lashkar-e-Taiba terrorist sent to assassinate prominent political figures, including then Deputy Prime Minister L.K. Advani and Gujarat Chief Minister Narendra Modi. However, investigations by the Central Bureau of Investigation (CBI) revealed that Jamal had been kidnapped and murdered. Jamal had previously traveled to Mumbai in 2002 seeking employment, where he was briefly detained by intelligence agencies.

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In December 2012, the CBI filed a charge sheet against eight Gujarat police officers, including Tarun Barot, accusing them of criminal conspiracy, kidnapping, and murder. The evidence strongly suggested that Jamal was killed in cold blood. Over time, however, the courts discharged the accused officers one by one due to a lack of evidence or procedural hurdles. By 2023, the Gujarat High Court discharged the final officer, and the CBI closed the case entirely in early 2026 after the Ministry of Home Affairs and the Maharashtra government refused to grant sanction for prosecution. Like the Ishrat Jahan and Sohrabuddin Sheikh cases, no one was convicted.

The Ishrat Jahan case focuses on the killing of 19-year-old college student Ishrat Jahan Raza and three men, Javed Shaikh, Amjad Ali Akbar Ali Rana, and Zeeshan Johar, on June 15, 2004, by the Ahmedabad Crime Branch.

Authorities described it as a shootout with Lashkar-e-Taiba members planning to assassinate the Chief Minister. Ishrat, who had no criminal record, had traveled to Gujarat for work. Ishrat's mother argued it was a staged abduction and murder. A 2009

inquiry by Metropolitan Magistrate S.P. Tamang found the encounter to be wholly fabricated, stating the victims were kidnapped, killed in custody, and later placed at the scene with planted weapons. The CBI took over in 2011, filing charges against senior officials like N.K. Amin, P.P. Pandey, Tarun Barot, and G.L. Singhal. Despite the gravity of the charges, most of the accused were eventually released due to a lack of evidence or an absence of prosecution approval from the state government. The final three officers were discharged in March 2021, ending the case without convictions.

Similarly, the Sohrabuddin Sheikh encounter case involved the alleged fake encounter of a suspected extortionist on November 26, 2005. His wife, Kauser Bi, was also disappeared and reportedly killed, followed a year later by the staged encounter of an associate, Tulshiram Prajapati, who was a key witness. The CBI investigation revealed that Sohrabuddin and Kauser Bi were abducted by a joint police team from Gujarat, Rajasthan, and Andhra Pradesh, held illegally, and killed in custody. Despite initial charges against 38 individuals, including senior police officers and politicians—a special CBI court acquitted all 22 remaining accused in 2018, citing insufficient evidence and a failure to prove the conspiracy beyond a reasonable doubt.

The institutionalization of extrajudicial killings is perhaps most visible in the Manipur fake encounters case. In 2012, a petition filed by the Extrajudicial Execution Victim Families Association (EEVFAM) alleged over 1,528 fake encounters by security forces in Manipur between 1979 and 2012. Families argued that unarmed civilians were abducted and executed under the cover of the Armed Forces (Special Powers) Act (AFSPA), which grants near-impunity to military personnel. A 2013 Supreme Court-

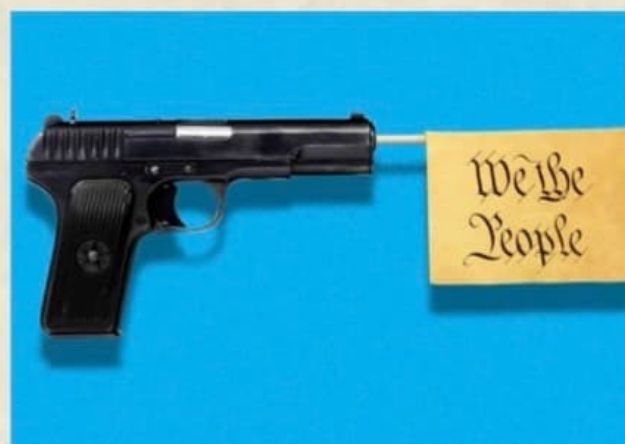
appointed commission found that the sample cases reviewed were indeed staged. In a landmark 2016 ruling, the Supreme Court declared that security forces do not possess "absolute immunity" and ordered CBI investigations. Despite these directives, progress has been remarkably slow. While there have been shocking confessions—such as former commando Thounaojam Herojit Singh admitting to over 100 killings on orders—convictions remain incredibly rare due to hostile witnesses, required government sanctions, and institutional delays.

Globally, encounter killings are viewed unequivocally as extrajudicial executions. International human rights bodies, including Amnesty International and Human Rights Watch, have repeatedly criticized India for failing to curb the practice. The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) strictly dictates that lethal force should only be used when unavoidable to protect life. Countries with a stronger adherence to the rule of law rarely witness such practices, as their police accountability mechanisms are far more robust. The overarching effects of encounter killings are devastating to a democracy. They undermine judicial authority, threaten constitutional protections, and erode the rule of law. Fake encounters inevitably carry the risk of killing innocent people. Furthermore, as officers abuse encounters to settle personal scores or eliminate rivals, police impunity solidifies. In addition to harming a nation's international reputation, encounters often provoke retaliation from criminal organizations or insurgents, feeding a perpetua cycle of violence.

The core challenge lies in balancing the demands of justice with the necessity of security. Police must enforce the law while protecting society from dangerous criminals, but reducing the reliance on encounters

requires strengthening the legal system itself. Guaranteeing speedy trials, enhancing investigative techniques, and establishing fast-track courts for serious crimes are essential reforms. To guarantee police accountability, encounter deaths must be investigated by genuinely impartial oversight organizations. Stronger witness protection measures and training in non-lethal crime control techniques can also mitigate the perceived need for encounters.

To sum up, encounter killings represent a concerning contradiction in contemporary governance. They erode the foundational principles of democracy and the rule of law while simultaneously reflecting public dissatisfaction with a cumbersome legal system. In the long run, encounters are deeply dangerous; they dismantle constitutional protections and promote a culture of vigilantism, even if they offer temporary public satisfaction. Strengthening the institutions that enforce accountability, fairness, and human rights is the only path to true justice. A society that tolerates extrajudicial executions runs the grave risk of devolving into anarchy, where the distinction between the protector and the perpetrator becomes dangerously blurred.



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