

To,

The Hon'ble Chief Justice,

Allahabad High Court,

Nyaya Marg, Canton, Dhoomanganj, Prayagraj, Uttar Pradesh 211001

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Subject:- Letter Petition in reference to Police brutality, fake encounter & state of lawlessness in our state of Uttar Pradesh.

That the instant petition raises the question about the validity of the tool of extrajudicial killings devised and reported as encounter which is resorted to by a large section of the Indian Police. This raises question:-

1. "Whether Police encounters are exception to the rule of law".
2. Whether Police encounter is exception to the well settled principal of Presumption of innocence, until proven guilty.
3. Whether Police encounter is exception to the RIGHT TO LIFE & Due procedure?

That the Article 21 of the COI which reads as;-

"No person shall be deprived of his life or personal liberty except in accordance with the procedure established by law"

This means that before depriving a person of his life, the state is required to put the person on trial in accordance with the provisions of the Criminal law. Hon'ble Supreme Court in plethora of cases stated that "fair trial & opportunity to defend is a Constitutional right and in case cannot be compromised".

Fake encounter on the other hand, completely sidestep and circumvent the procedure established by law and hence unconstitutional.

There is no second thought to the fact that yes in our society we have some dreaded criminals against whom running a fair trial is difficult, but this vest no right in police machinery to go for encounters as a ultimate option against hardcore criminals & gangsters.

In *Prakash Kadam vs Ramprasad Vishwanath Gupta*, the Supreme Court observed that fake 'encounters' by the police are nothing but cold-blooded murders, and those committing them must be given death sentences, placing them in the category of 'rarest of rare cases'.

In paragraph 26 of the judgment, it was observed:

"Trigger happy policemen who think they can kill people in the name of 'encounter' and get away with it should know that the gallows await them". Also a judgment from Justice A.N. Mulla of the Allahabad high court: "I say this with all sense of responsibility: there is not a single lawless group in the country whose record of crime comes anywhere near that of the single organised unit called the Indian Police Force. Policemen in general, barring a few, seem to have come to the conclusion that crime cannot be investigated and security cannot be preserved by following the law, and it can only be achieved by breaking or circumventing the law".

If a refer to few such incidents of Pre & Post Independence Era:-

- **13 April 1919** – The [Jallianwala Bagh massacre](#), also known as the Amritsar massacre, took place where police killed at least 400 and injured over 1,500.
- **12 December 1930** – [Bombay](#) cotton mill worker [Babu Genu Said](#) was crushed by a truck at the order of police. He was an active participant in the protests, organized by Indian independence activists against the import of foreign made cloth. His death resulted in a huge wave of anger, strikes, and protests throughout Bombay.

Post-Independence

- **25 March 1966** – [Pravir Chandra Bhanj Deo](#), first Oriya ruler and 20th Maharaja of Bastar state, was killed in police firing at the steps of his own palace at Jagdalpur along with many others.

- 1979 to 1980 – The [Bhagalpur blindings](#) was an incident in [Bhagalpur](#) in the state of Bihar, India when police blinded 31 undertrials (or convicted criminals, according to some versions), by pouring acid into their eyes.
- 11 January 1982 – The first encounter of Bombay Police was completed. A Gangster who scored 78% from Kiriti College, Bombay, [Manya Surve](#) was killed without giving him a proper chance to defend himself or surrender. Police fired 5 bullets into his chest and shoulder due to which he succumbed on the spot. The movie, [Shootout at Wadala](#), is based on this case.
- 22 May 1987 – The [Hashimpura massacre](#) took place during the [Hindu-Muslim riots](#) in [Meerut](#) city in [Uttar Pradesh](#) state, India, when 19 personnel of the [Provincial Armed Constabulary](#) (PAC) allegedly rounded up 42 Muslim youths from the Hashimpura [mohalla](#) (locality) of the city, took them in truck to the outskirts, near [Murad Nagar](#), in [Ghaziabad district](#), where they were shot and their bodies were [dumped](#) in water canals. A few days later dead bodies were found floating in the canals.
- 1–2 October 1994 – The [Rampur Tiraha firing](#) involved police firing on unarmed [Uttarakhand](#) activists at [Rampur](#) Tiraha (crossing) in [Muzaffarnagar district](#) in [Uttar Pradesh](#) in [India](#) on the night of 1–2 October 1994. The activists, part of the agitation for the separate state of [Uttarakhand](#), were going to [Delhi](#) to stage a dharna at [Raj Ghat](#) on [Gandhi Jayanti](#), the following day, when alleged unprovoked police firing in the night of 1 October led to the death of six activists, and some women were allegedly raped and molested in the ensuing melee.

- **25 November 1994** – The [Koothuparamba firing](#) was a police action in the Kannur district of Kerala. The firing happened after the inauguration of the Co-operative Urban Bank's evening branch, when the [DYFI](#) protested against [Communist Marxist Party](#) (CMP) leader and Kerala's Minister, [M.V. Raghavan](#). The police fired at the crowd for both the protection of the Minister and public and private property. Five [DYFI](#) activists were dead and six people were injured.
- **1999** – The [Manjolai Labourers massacre](#) was brutal police action on a procession taken out in support of agitating tea estate workers, claimed 17 lives in Thirunelveli, Tamil Nadu.
- **2003** – The [Muthanga incident](#) was a brutal police action on [Adivasis](#) who had gathered under Adivasi Gothra Mahasabha (ADMS) in protest to the [Kerala Government](#)'s delay in allotting them land, which had been contracted in October 2001. Two fatalities were officially confirmed, however the government later put the death toll at 5. More than 15 Adivasis fatally wounded.
- **2006** – Police opened fire on people protesting against land acquisition for SEZ of [Videocon](#) at Maan village in [Pune](#).
- **2007** – Police opened fire on people protesting against land acquisition for Chemical Hub of [Salim Group](#) at [Nandigram](#) village in [East Midnapore](#), [West Bengal](#).
- **2009** – Police opened fire on [Muslims](#) at the fishing village [Beemapally](#) in [Trivandrum District](#), [Kerala](#) during a communal clash killing 6 and injuring 46.

- **23 July 2009** – at [Khwairamband market](#), [Imphal](#), Manipur police commandos killed an unarmed youth Ch Sanjit Meitei in an alleged encounter and later claiming to seize a pistol on him; in the ensuing encounter a pregnant lady Rabina Devi was also killed, whom the police claimed was shot during the crossfire.
- **2011** – The police opened fire on protesters protesting against the Jaitapur Nuclear Power Plant and killed one of the protesters.
- **3 June 2011** – The [Forbesganj firing](#) was an act of state brutality in which four villagers were killed near [Forbesganj](#), a town in [Bihar](#), [India](#). An inquiry into the incident, conducted by reputed NGO [ANHAD](#), suggests a role of politicians from the [Bharatiya Janata Party](#) in the killings. The residents of the village of Bhajanpur were protesting the grant of land to a factory owned by the son of [Bharatiya Janata Party](#) politician Ashok Agarwal.
- **2013** – The [Dhule](#) Shootout was an incident in which police open fired on violent Muslim youths killing 6 and injuring around 20. Police were also involved in looting local shops.
- **25 August 2015** – The [Patidar](#) community organised an assembly of over 500,000 people at the GMDC Ground in [Ahmedabad](#) demanding [OBC quota](#). The convener [Hardik Patel](#) led others remaining there on hunger strike after the formal rally was over. Police arrested him in the evening, using a [lathicharge](#) during which journalists were among those injured.

- **13 October 2015** – Punjab police shot two protestors and injured 50 others at a protest in [Kotkapura](#), Punjab, following the [Guru Granth Sahib desecration](#) in different parts of Punjab. Police claimed to be acting in self-defence.
- **2015** – The [Andhra shootout](#) was an incident in the Seshachalam forest in [Chittoor District](#), [Andhra Pradesh](#) that killed 20 suspected woodcutters.
- **2018** – The [Thoothukudi violence](#) was an incident in Thoothukudi, Tamil Nadu where 13 unarmed protestors were killed and 100+ injured by the [Tamil Nadu Police](#).
- **2019** –The [2019 Jamia Milia Islamia attack](#), during the [Citizenship Amendment Act protests](#), police attacked student protestors as well as non-protesting students at the campus of [Jamia Milia Islamia](#).
- **22 June 2020** - [Custodial death of father and son](#). The duo had been beaten, brutally tortured, and sexually assaulted.
- **27 June 2020** - 19-year old heart patient, Sagar Chalavadi died of a heart attack after being lathi-charged outside an SSLC examination centre.
- **10th July 2020**- Gangster & History sheeter Vikas Dubey from Kanpur was killed in encounter after he surrendered himself in Ujjain Madhya Pradesh, Dubey was killed in an encounter after a road accident on Friday morning 10th July 2020 while being taken to Kanpur in Uttar Pradesh from Madhya Pradesh.

We are not in any way supporting any ill element of the society be it gangster or any terrorist. We are just advocating for “Rule of law in State” and in condition there is no exception to the rule of law be it any state machinery, nothing is above Constitution of India.

In the state of Uttar Pradesh in India, since 2017, police officials are alleged to have carried 59 extrajudicial killings. Panel comprising of four United Nations independent experts on human rights was formed to enquire into the issue. Cases from March 2017 were examined by Special Rapporteurs and according to their report- in addition to fake/staged encounters there have been instances of threat to family members and the human right defenders. Problem increases multi-fold when high ranking state government and police officials justify or sanction such killings.

Petition was filed before Supreme Court in case of Extra Judicial Execution Victim Families Association (EEVFAM) & Anr. v. Union of India & Anr in 2012, challenging the alleged “fake encounters” in Manipur by state police. The writ petition stated that during the period of May 1979 to May 2012, 1528 people were killed in Manipur in extra-judicial execution. The memorandum compiled the list of 1,528 people allegedly killed unlawfully by state police and security forces. Petitioner presented documents and evidences which stated that not even a single FIR was registered in any of these alleged killings of innocent people with no criminal record.

Hon’ble Supreme Court in 2016 delivered the judgement in above case, stating unequivocally the illegality of such decision and no

“absolute immunity” in such cases. The head of C.B.I was demanded to appear before the Court and set up a special investigation; it recommended National Human Rights Commission to play an active role and to assist court. Even after involvement of Apex Court, the progress has been slow, with a meagre number of charge-sheets being filed.

It is humbly prayed that the Hon’ble Court may take cognizance on this letter petition in which we are praying for a CBI Or SIT enquiry into the alleged episode of 8 killing of policemen & followed by various encounters in the instant matter and also frame guideline to curb the extra judicial killing because an eye for an eye will make the whole world blind.

Thanking You

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