



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2026 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Police Encounters and the Rule of Law in India

Priyanshu Singh^a

^aAmity University, Noida, India

Received 27 March 2026; Accepted 28 April 2026; Published 01 May 2026

*Police encounters in India present a complex challenge at the intersection of constitutional governance and criminal justice administration. Commonly justified as acts of self-defence or responses to armed resistance, such instances of lethal force often occur outside the ordinary judicial process, raising serious concerns regarding their compatibility with the guarantee of life and personal liberty under Article 21 of the Constitution. While the State bears a legitimate responsibility to maintain public order and prevent crime, the exercise of such authority is constrained by statutory limits and the broader principles of fairness, legality, and accountability. This dissertation adopts a doctrinal approach to examine the legal framework regulating police encounters, with particular emphasis on constitutional safeguards, provisions governing the use of force under criminal law, and the role of judicial oversight. It analyses the procedural guidelines laid down by the Supreme Court in *People's Union for Civil Liberties v State of Maharashtra*, which seek to ensure transparency and independent investigation in cases of encounter deaths. The study evaluates whether the existing legal framework is capable of maintaining a balance between effective law enforcement and the protection of fundamental rights. It further reflects on the implications of encounter practices for public confidence in the criminal justice system and the continued strength of the Rule of Law within a constitutional democracy.*

Keywords: *police encounters, rule of law, constitutional rights, judicial oversight, criminal justice system.*

INTRODUCTION

The relationship between law enforcement and the protection of individual rights has long occupied a central position within constitutional democracies. Police authorities are

entrusted with significant powers to maintain public order, prevent crime, and ensure the safety of citizens. In discharging these responsibilities, the law permits the exercise of coercive measures, including arrest, search, detention, and, in certain circumstances, the use of force.¹ However, such powers exist within a legal framework that simultaneously seeks to protect fundamental rights and prevent arbitrary state action. The balance between effective policing and the preservation of civil liberties, therefore, remains an essential component of the rule of law.² Within the Indian context, this balance becomes particularly complex in situations where police action results in the death of a suspect. Such incidents are commonly described as 'Police Encounters.' The term generally refers to situations in which law enforcement officials claim that the use of lethal force was necessary in response to armed resistance, self-defence, or attempts by suspects to evade lawful custody.³ While authorities often justify such actions as necessary to maintain public safety, the occurrence of encounter deaths has generated sustained legal and constitutional debate.

Supporters of encounter practices occasionally argue that they represent a practical response to serious criminal threats, particularly in situations where the criminal justice process appears slow or ineffective.⁴ This perspective tends to gain prominence in cases involving violent offences, organised crime, or public outrage against perceived delays in justice delivery. However, such reasoning raises serious concerns when examined within a constitutional framework. The rule of law requires that individuals accused of offences be subjected to investigation, prosecution, and trial before a competent court. When a suspect dies during a police encounter, the opportunity for judicial determination of guilt or innocence is effectively extinguished.⁵

The constitutional framework in India places the right to life and personal liberty at its core. Article 21 provides that no person shall be deprived of life or personal liberty except according to procedure established by law.⁶ Judicial interpretation has expanded this guarantee to require that such a procedure must be fair, just, and reasonable.⁷ This principle imposes a significant limitation on the exercise of state power, including the use of force by

¹ Code of Criminal Procedure 1973, s 46

² A V Dicey, *Introduction to the Study of the Law of the Constitution* (8th edn, Liberty Fund Inc 1982)

³ *People's Union for Civil Liberties and Anr v State of Maharashtra and Ors* (2014) 10 SCC 635

⁴ Upendra Baxi, *The Future of Human Rights* (OUP 2007)

⁵ K S Subramanian, *Political Violence and the Police in India* (Sage Publications India 2018)

⁶ Constitution of India 1950, art 21

⁷ *Maneka Gandhi v Union of India* (1978) 1 SCC 248

law enforcement agencies. Any instance in which the State takes life must therefore be subjected to careful legal scrutiny to ensure compliance with constitutional standards. The issue of police encounters has gained increasing attention over time, particularly in light of reported incidents across various states. While some encounters have been presented as legitimate responses to dangerous situations, others have given rise to allegations that the use of force may not always conform to legal requirements. Such concerns highlight the importance of ensuring accountability and transparency whenever police action results in the loss of life.

The judiciary has played a crucial role in addressing these concerns. Courts have consistently emphasised that encounter killings cannot be treated as routine methods of crime control and must be subjected to independent investigation. In *People's Union for Civil Liberties v State of Maharashtra*, the Supreme Court laid down detailed procedural guidelines to regulate the investigation of encounter deaths. These guidelines require, inter alia, the registration of a First Information Report, an independent inquiry, and judicial oversight. Such directions reflect an effort to ensure that claims of self-defence are not accepted without proper verification.

In addition to judicial intervention, institutional oversight mechanisms have also contributed to the regulation of encounter practices. The National Human Rights Commission has issued guidelines requiring prompt reporting, independent investigation, and adherence to procedural safeguards in cases of encounter deaths.⁸ These measures seek to reinforce accountability and prevent misuse of police authority.

At the same time, it is important to recognise the operational challenges faced by law enforcement agencies. Police officers often function in environments involving uncertainty, risk, and immediate threats to life. In such situations, the use of force may become unavoidable. The law, therefore, acknowledges the right of private defence and permits the use of reasonable force when necessary.⁹ However, the existence of such provisions does not eliminate the requirement of accountability. The legality of each encounter must be assessed on the basis of necessity, proportionality, and adherence to procedural safeguards.

⁸ *Guidelines on Encounter Deaths* (National Human Rights Commission 2010)

⁹ Indian Penal Code 1860, ss 96-106

The present study examines the legal framework governing police encounters in India with a focus on constitutional safeguards, statutory provisions, and judicial interpretation. It seeks to analyse how the law attempts to regulate the use of force by police authorities and to ensure that such power is exercised within the limits prescribed by the rule of law.

An important aspect of this research involves examining the challenges associated with investigating encounter deaths. Questions relating to the independence of investigations, the availability of evidence, and institutional constraints often affect the effectiveness of accountability mechanisms. Understanding these challenges is essential in evaluating whether existing safeguards are capable of ensuring transparency and impartial scrutiny.

The study also considers the broader implications of encounter practices for democratic governance. The legitimacy of the criminal justice system depends not only on its ability to control crime but also on its commitment to fairness and due process. When state authorities exercise lethal force, the need for strict adherence to legal standards becomes even more significant. Ensuring that such power is exercised responsibly is therefore central to maintaining public confidence in the rule of law. Ultimately, this research seeks to contribute to the ongoing debate on police encounters by examining the relationship between state authority and individual rights within the Indian constitutional framework. By analysing legal principles, institutional mechanisms, and judicial responses, the study aims to assess whether the existing system adequately balances the demands of effective law enforcement with the constitutional obligation to protect life and personal liberty.

REVIEW OF LITERATURE

The question of police encounters in India has attracted sustained attention across legal scholarship, criminology, and human rights discourse. Writers examining this issue have generally approached it from two broad perspectives: the need for effective policing in the face of serious criminal threats, and the obligation of the State to act within the limits imposed by constitutional law. The tension between these concerns forms the central theme of much of the existing literature.

A significant body of academic work begins by situating police encounters within the broader framework of constitutional governance. Scholars have consistently emphasised that

the legitimacy of state power in a democracy depends upon adherence to the rule of law.¹⁰ This principle requires that all actions of public authorities must be authorised by law and subject to procedural safeguards. Within this framework, the police are recognised as essential institutions responsible for maintaining public order and preventing crime. However, their authority is not absolute. It is conditioned by constitutional guarantees, particularly those relating to equality and personal liberty.

The constitutional dimension of the debate is closely linked to the interpretation of the right to life. Legal scholars analysing Article 21 of the Constitution have noted that its scope has been significantly expanded through judicial interpretation.¹¹ The requirement that any deprivation of life must follow a procedure that is fair, just, and reasonable has become a central feature of Indian constitutional law. From this perspective, encounter killings raise complex legal concerns because they involve situations in which the life of an individual is taken without the benefit of a formal judicial process. The absence of trial and adjudication makes it difficult to determine whether the use of force was justified, thereby creating a space for potential misuse of power.

Another strand of literature examines the historical and institutional context in which encounter killings have emerged. Some scholars have observed that the practice gained visibility during periods marked by heightened concerns about organised crime, insurgency, or violent offences. In such circumstances, sections of law enforcement agencies have justified the use of lethal force as a necessary response to immediate threats. This argument is sometimes supported by the perception that the criminal justice system suffers from delays, low conviction rates, and procedural inefficiencies. However, critics caution that such reasoning risks normalising practices that bypass the established mechanisms of justice.

The debate is further shaped by studies focusing on the sociology of policing and public perception. Researchers have pointed out that public attitudes towards encounter killings are often influenced by broader dissatisfaction with the functioning of the criminal justice system.¹² In situations where citizens perceive the legal process as slow or ineffective, there may be greater acceptance of extra-legal measures. While such attitudes may reflect genuine

¹⁰ Joseph Raz, *The Authority of Law: Essays on Law and Morality* (2nd edn, OUP 2009)

¹¹ *Francis Coralie Mullin v Administrator, Union Territory of Delhi and Ors* (1981) 1 SCC 608

¹² David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (OUP 2002)

concerns about public safety, scholars argue that reliance on such practices can weaken institutional trust over time. The acceptance of encounters as a substitute for due process may undermine the credibility of the legal system itself.

A considerable portion of the literature also addresses the legal framework governing the use of force by police authorities. Writers analysing criminal law provisions have focused on the doctrine of private defence and the circumstances under which force may be justified. The law recognises that individuals, including police officers, may use force to protect themselves or others from imminent harm. However, this right is subject to important limitations. It must be exercised only when necessary, and the force used must be proportionate to the threat faced. Scholars emphasise that these conditions are crucial in evaluating the legality of encounter killings. Any use of lethal force that exceeds these limits would fall outside the protection of the law.

In addition to substantive criminal law, procedural safeguards have also received considerable attention in academic writing. The regulation of police powers, including arrest and the use of force, has traditionally been governed by procedural law. Recent reforms through the Bharatiya Nagarik Suraksha Sanhita have introduced changes aimed at modernising criminal procedure while retaining core safeguards. Scholars have begun examining whether these reforms strengthen accountability or merely reproduce existing structures with minor modifications.¹³ The effectiveness of procedural safeguards ultimately depends on their implementation in practice, particularly in cases involving allegations of excessive use of force.

Judicial responses to encounter killings form a central component of the literature. Courts in India have consistently maintained that the use of lethal force by state authorities must be subject to strict scrutiny. In *People's Union for Civil Liberties v State of Maharashtra*, the Supreme Court recognised the need for uniform procedures in the investigation of encounter deaths and laid down detailed guidelines to ensure transparency and accountability. Legal commentators have interpreted this decision as a significant step towards reinforcing the principle that claims of self-defence must be independently verified rather than accepted at face value.

¹³ Law Commission, *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies* (Law Com No 277, 2018)

Further judicial developments have reinforced this approach by emphasising that encounter killings cannot be justified solely based on the gravity of the alleged offence. Courts have repeatedly held that the Constitution does not permit extra-judicial methods of punishment.¹⁴ The requirement of due process remains central, regardless of the nature of the crime. Academic analysis of these decisions highlights the role of the judiciary as a guardian of fundamental rights and an important check on the exercise of executive power.

Human rights literature has contributed an additional layer of critique by examining encounter killings as part of a broader pattern of institutional challenges. Reports prepared by national and international organisations have documented instances where encounter deaths raised serious concerns about legality and accountability. These studies often highlight issues such as a lack of independent investigation, inadequate documentation, and the potential for conflicts of interest when police agencies investigate their own actions. Such concerns underscore the need for stronger oversight mechanisms.

At the same time, some scholars have attempted to adopt a more balanced approach by acknowledging the operational realities faced by police personnel. Law enforcement officers frequently operate in situations involving uncertainty, risk, and immediate threats to life. In such circumstances, decisions regarding the use of force must often be made quickly and under pressure.¹⁵ While recognising these challenges, most commentators agree that they cannot justify departures from legal standards. The legitimacy of policing ultimately depends on adherence to the law.

Despite the extensive body of literature on police encounters, certain gaps remain evident. Much of the existing research tends to focus either on constitutional principles or on individual case studies, without fully integrating these perspectives into a comprehensive analysis. There is also limited engagement with the implications of recent legislative reforms on the regulation of police powers. Moreover, while judicial guidelines have been widely discussed, there is relatively less examination of their effectiveness in practice.

The present study seeks to address these gaps by adopting a doctrinal approach that brings together constitutional provisions, statutory law, and judicial interpretation. By situating

¹⁴ *Prakash Kadam & Etc Etc v Ramprasad Vishwanath Gupta & Anr* (2011) 6 SCC 189

¹⁵ Robert Reiner, *The Politics of the Police* (4th edn, OUP 2010)

police encounters within the broader framework of the rule of law, the research aims to provide a more integrated understanding of the issue. It also seeks to evaluate whether the existing legal framework is capable of balancing the need for effective law enforcement with the obligation to protect fundamental rights.

In conclusion, the literature on police encounters reflects an ongoing debate regarding the limits of state power in a constitutional democracy. While there is recognition of the challenges faced by law enforcement agencies, there is also a clear consensus that the exercise of coercive power must remain subject to legal control. The continued relevance of this debate highlights the importance of examining how the law regulates the use of force and ensures accountability in situations involving the loss of life.

LEGAL FRAMEWORK GOVERNING POLICE POWERS AND USE OF FORCE

The authority of the police to employ force is rooted in statutory law, which attempts to balance the necessity of maintaining public order with the obligation to safeguard individual rights. In India, this balance is primarily structured through criminal law and procedure. The legal framework does not confer unrestricted power upon law enforcement agencies; rather, it prescribes specific conditions under which force may be used and establishes limits intended to prevent abuse. Understanding these statutory provisions is essential for evaluating the legality of police encounters and determining whether such actions fall within the permissible bounds of law.

At the outset, it is important to recognise that the use of force by police officials is not treated as an independent or exceptional power. Instead, it is integrated into the broader scheme of criminal law, particularly through provisions relating to arrest, self-defence, and the prevention of offences. The Indian Penal Code provides the substantive legal basis for assessing when the use of force, including lethal force, may be justified. At the same time, procedural safeguards governing the exercise of such powers are contained in the Code of Criminal Procedure and, more recently, in the Bharatiya Nagarik Suraksha Sanhita.

A central component of the statutory framework is the doctrine of private defence. Under the IPC, the right of private defence permits individuals, including police officers, to use force to

protect themselves or others against certain forms of harm.¹⁶ This right extends, in limited circumstances, to the causing of death. However, the law carefully circumscribes this power. The right arises only when there is a reasonable apprehension of imminent danger, and the force used must be proportionate to the threat faced.¹⁷ These conditions are crucial in determining whether a claim of self-defence in encounter situations is legally sustainable.

The requirement of necessity lies at the heart of the doctrine. The law does not permit the use of force where there are reasonable alternatives available to avoid harm.¹⁸ In the context of policing, this means that lethal force can only be justified where it is unavoidable and where lesser measures would be insufficient to address the threat. This principle assumes particular importance in evaluating encounter killings, as it requires a careful examination of the circumstances leading to the use of force. If it is found that the threat could have been neutralised through non-lethal means, the justification of self-defence may not hold.

Equally significant is the principle of proportionality. The force used must correspond to the nature and severity of the threat encountered.¹⁹ The law does not authorise excessive or retaliatory violence under the guise of self-defence. In practical terms, this means that the use of lethal force must be a last resort, employed only in situations where the threat to life or serious injury is immediate and substantial. The proportionality requirement thus operates as an important safeguard against the misuse of police powers.

While the IPC provides the substantive basis for the use of force, the procedural aspects of police conduct are governed by criminal procedure. The Code of Criminal Procedure contains provisions that regulate arrest and the use of force in the course of such actions. Section 46, for instance, permits the use of all necessary means to effect an arrest, but it explicitly restricts the use of force likely to cause death unless the person sought to be arrested is accused of an offence punishable with death or life imprisonment. This provision reflects an attempt to balance enforcement needs with the protection of life.

Procedural safeguards relating to arrest have been further strengthened through judicial interpretation. Courts have emphasised that arrest is not to be used as a routine measure and

¹⁶ Indian Penal Code 1860, s 96

¹⁷ *Ibid* s 100

¹⁸ K D Gaur, *Textbook on the Indian Penal Code* (7th edn, LexisNexis 2020)

¹⁹ Andrew Ashworth and Jeremy Horder, *Principles of Criminal Law* (7th edn, OUP 2013)

must be justified by necessity. These principles indirectly influence the assessment of encounter cases, as they reinforce the idea that coercive police powers must be exercised with restraint and accountability. The procedural framework thus complements the substantive law by ensuring that the use of force is subject to oversight.

Recent legislative developments have introduced a new dimension to the statutory framework. The enactment of the Bharatiya Nyaya Sanhita and the Bharatiya Nagarik Suraksha Sanhita represents an effort to modernise India's criminal law system. While these statutes largely retain the structure of earlier laws, they also seek to address contemporary challenges in policing and criminal justice administration. Scholars have noted that the success of these reforms will depend on how effectively they are implemented in practice.

Under the BNSS, provisions relating to arrest and investigation continue to emphasise procedural safeguards. The requirement of documentation, recording of reasons, and adherence to prescribed procedures is intended to enhance transparency.²⁰ In the context of encounter killings, such safeguards assume particular importance, as they provide a basis for subsequent scrutiny. Proper documentation of events leading to the use of force can play a crucial role in determining whether the action was lawful.

Another important aspect of the statutory framework is the duty imposed upon police officers to prevent the commission of offences. The law authorises preventive action in situations where there is a likelihood of crime.²¹ While this power is necessary for maintaining public order, it also carries the risk of misuse if not exercised carefully. Preventive measures must therefore be guided by legal standards and subject to oversight. The line between prevention and excessive use of force must be clearly maintained.

The legal framework also contemplates accountability mechanisms in cases, where police action results in death. The registration of a First Information Report (FIR) and the initiation of an investigation are essential components of this process.²² These requirements ensure that encounter deaths are treated as matters subject to legal scrutiny rather than as closed incidents. The investigative process is intended to examine the circumstances of the encounter and determine whether the use of force was justified. However, the effectiveness

²⁰ Bharatiya Nagarik Suraksha Sanhita 2023

²¹ Code of Criminal Procedure, ss 149-151

²² *Ibid* s 154

of these mechanisms depends on the independence and impartiality of the investigation. Concerns have been raised regarding situations in which the same police agency involved in the encounter is also responsible for conducting the investigation. Such arrangements may create a perception of bias and undermine public confidence. Scholars have therefore emphasised the need for independent investigative bodies to ensure credibility.

In addition to domestic law, international standards provide useful guidance on the regulation of police use of force. Principles such as necessity, proportionality, and accountability are widely recognised in international human rights law. While these standards are not directly enforceable in all cases, they influence the interpretation of domestic law and reinforce the importance of safeguarding fundamental rights. The alignment of national law with these principles is often seen as a measure of the strength of the rule of law.

The statutory framework must also be understood in the context of broader institutional challenges. Issues such as inadequate training, resource constraints, and systemic inefficiencies can affect the manner in which laws are implemented.²³ Police officers operating under pressure may resort to measures that deviate from prescribed procedures. Addressing these challenges requires not only legal reform but also institutional strengthening.

An important question that arises in this context is whether the existing statutory framework is sufficient to regulate police encounters effectively. On one hand, the law provides detailed provisions governing the use of force and establishes clear limitations. On the other hand, the persistence of encounter-related controversies suggests that there may be gaps in implementation. The problem, therefore, may not lie solely in the absence of legal norms but in their enforcement. The relationship between law and practice is particularly significant in assessing the role of statutory provisions. While the law emphasises restraint and accountability, its impact ultimately depends on how it is applied in real situations. The divergence between legal standards and actual practices can weaken the effectiveness of the framework. Bridging this gap requires a combination of legal, institutional, and administrative measures.

²³ Arvind Verma, *The Indian Police: A Critical Evaluation* (Regency Publications 2011)

It is also necessary to consider the role of training and awareness in shaping police conduct. The proper application of legal principles depends on the understanding and interpretation of those principles by law enforcement personnel. Training programmes that emphasise human rights, legal standards, and ethical conduct can contribute to reducing instances of excessive use of force. Such measures can strengthen the alignment between statutory provisions and practical outcomes. Furthermore, the statutory framework must be complemented by mechanisms of oversight and review. While the law provides the basis for accountability, effective oversight ensures that violations are identified and addressed. Independent bodies, judicial scrutiny, and public transparency all play a role in reinforcing compliance with legal standards.²⁴ These mechanisms help ensure that the use of force remains subject to continuous evaluation.

In conclusion, the statutory framework governing police powers and the use of force in India reflects an attempt to balance competing considerations. On the one hand, the law recognises the necessity of empowering police authorities to maintain order and respond to threats. On the other hand, it imposes clear limitations designed to protect individual rights and prevent abuse. The principles of necessity, proportionality, and accountability form the foundation of this framework. However, the effectiveness of these provisions ultimately depends on their implementation. While the legal framework is relatively comprehensive, challenges remain in ensuring consistent adherence to its requirements. Addressing these challenges requires not only legal reform but also institutional commitment and oversight. The regulation of police encounters, therefore, cannot be understood solely in terms of statutory provisions; it must also take into account the broader context in which these laws operate.

JUDICIAL RESPONSE TO POLICE ENCOUNTERS

The judiciary in India has played a central role in shaping the legal response to police encounters, particularly in cases where the use of force results in the loss of life. While statutory provisions provide the framework within which police powers are exercised, it is through judicial interpretation that the contours of accountability, procedural fairness, and constitutional limitations have been clarified. Courts have consistently emphasised that the

²⁴ Second Administrative Reforms Commission, *Public Order* (Government of India 2007)

authority of the State to use force is not unfettered and must remain subject to the discipline of the rule of law.

At the core of judicial engagement with encounter killings lies the constitutional guarantee of life and personal liberty. The expansion of Article 21 through judicial interpretation has ensured that any deprivation of life must meet standards of fairness, reasonableness, and legality.²⁵ This principle has informed the approach adopted by courts when examining instances of police encounters. Rather than accepting official narratives at face value, the judiciary has insisted on independent verification of facts and adherence to due process.

One of the recurring themes in judicial decisions is the rejection of the notion that encounter killings can be justified as a routine method of crime control. Courts have repeatedly held that the Constitution does not permit the State to bypass established legal procedures, regardless of the seriousness of the alleged offence. In *Om Prakash v State of Jharkhand*, the Supreme Court unequivocally stated that fake encounters amount to nothing less than murder, thereby underscoring the gravity with which such incidents must be treated.²⁶ This position reflects a broader judicial commitment to ensuring that the use of lethal force is subject to strict scrutiny.

The need for procedural safeguards in encounter cases has been a significant focus of judicial intervention. Courts have recognised that the absence of clear procedures can lead to inconsistencies in investigation and create opportunities for misuse. In response, the Supreme Court, in *People's Union for Civil Liberties v State of Maharashtra*, laid down a comprehensive set of guidelines governing the investigation of encounter deaths.²⁷ These guidelines require, among other things, the registration of a First Information Report, an independent investigation by a separate agency, and the conduct of a magisterial inquiry.

The importance of these guidelines lies not merely in their procedural detail but in their underlying rationale. By mandating independent investigation and documentation, the Court sought to ensure that claims of self-defence are subjected to objective scrutiny. This approach reflects an understanding that encounter killings involve an inherent imbalance of

²⁵ *Maneka Gandhi v Union of India* (1978) 1 SCC 248

²⁶ *Om Prakash and Ors v State of Jharkhand and Anr* (2012) 12 SCC 72

²⁷ *People's Union for Civil Liberties and Anr v State of Maharashtra and Ors* (2014) 10 SCC 635

power, where the State's version of events may otherwise go unchallenged. The guidelines thus function as a mechanism for restoring balance and ensuring accountability.

Judicial scrutiny has also extended to situations involving allegations of systemic misuse of force. In *Extra Judicial Execution Victim Families Association v Union of India*, the Supreme Court examined allegations of encounter killings in areas affected by insurgency.²⁸ The Court rejected the argument that exceptional circumstances, such as internal disturbances, could justify departures from constitutional safeguards. It emphasised that the rule of law applies uniformly, even in situations involving security challenges. This decision reinforced the principle that state power must remain subject to legal limits at all times.

Another important aspect of judicial intervention is the insistence on accountability for those responsible for unlawful encounters. Courts have made it clear that police personnel involved in fake encounters cannot claim immunity from prosecution. In *Prakash Kadam v Ramprasad Vishwanath Gupta*, the Supreme Court observed that officers found guilty of staging encounters must face the same legal consequences as any other individual accused of murder.²⁹ This approach underscores the idea that the rule of law requires equal application of legal standards, irrespective of official position.

The judiciary has also contributed to shaping the standards for the use of force by drawing upon principles of necessity and proportionality. These principles require that force be used only when it is unavoidable and that the degree of force employed must correspond to the threat faced.³⁰ While these concepts originate in substantive criminal law, judicial interpretation has reinforced their relevance in evaluating police conduct. Courts have emphasised that the mere existence of a threat does not automatically justify the use of lethal force; the response must be carefully calibrated.

In addition to substantive principles, procedural fairness has remained a central concern. Courts have repeatedly highlighted the importance of conducting impartial investigations in encounter cases. The involvement of independent agencies, forensic examination, and judicial oversight is seen as an essential component of this process.³¹ These measures are

²⁸ *Extra Judicial Execution Victim Families Association and Anr v Union of India and Anr* (2016) 14 SCC 536

²⁹ *Prakash Kadam & Etc Etc v Ramprasad Vishwanath Gupta & Anr* (2011) 6 SCC 189

³⁰ Glanville L Williams, *Textbook of Criminal Law* (2nd edn, Stevens & Sons Ltd 1983)

³¹ Justice V R Krishna Iyer, *Human rights and the law* (Vedpal Law House 1984)

intended to ensure that investigations are not influenced by institutional bias and that the truth is established through objective inquiry.

The role of the judiciary extends beyond individual cases to the development of broader legal standards. Through its decisions, the Court has sought to establish a framework that guides both law enforcement agencies and investigative authorities. This framework is characterised by an emphasis on transparency, accountability, and adherence to constitutional norms. The cumulative effect of these decisions has been to create a body of jurisprudence that places clear limits on the use of force by the State. However, the effectiveness of judicial guidelines depends significantly on their implementation. While courts have laid down detailed procedures, concerns remain regarding their consistent application across different jurisdictions. Scholars have pointed out that variations in compliance can undermine the impact of judicial interventions.³² In some instances, delays in investigation or a lack of independent oversight have raised questions about the adequacy of existing mechanisms.

Another challenge lies in the practical difficulties associated with investigating encounter deaths. The collection of evidence, identification of witnesses, and reconstruction of events can be complex, particularly in cases involving armed confrontation. These challenges can affect the quality of investigation and, consequently, the ability of courts to arrive at accurate conclusions. Recognising these difficulties, the judiciary has emphasised the need for rigorous adherence to investigative procedures.

The judiciary has also been mindful of the broader implications of encounter practices for the criminal justice system. The acceptance of extra-judicial methods, even in exceptional cases, can erode the foundational principles of legality and due process. Courts have therefore sought to reinforce the idea that the ends do not justify the means. The legitimacy of the legal system depends not only on its ability to deliver justice but also on the manner in which that justice is achieved. At the same time, judicial decisions have acknowledged the challenges faced by law enforcement agencies. Police officers often operate in high-risk situations that require immediate decision-making. The law does not expect absolute perfection in such circumstances; rather, it evaluates conduct based on reasonableness and necessity.³³ This

³² Upendra Baxi, *Human Rights in a Posthuman World: Critical Essays* (1st edn, OUP 2009)

³³ A P Herbert, *Uncommon Law* (Methuen 1935)

balanced approach reflects an attempt to reconcile the demands of effective policing with the requirements of constitutional accountability.

The interaction between judicial oversight and other institutional mechanisms is also significant. Bodies such as the National Human Rights Commission often rely on judicial guidelines in their assessment of encounter cases. The convergence of judicial and institutional oversight contributes to a more comprehensive system of accountability.³⁴ However, the effectiveness of this system depends on coordination and timely action by all concerned authorities.

An important question that emerges from the judicial response is whether existing safeguards are sufficient to prevent misuse of police powers. While the legal framework has evolved to address many concerns, the persistence of encounter-related controversies suggests that further measures may be required. Strengthening investigative independence, improving training, and ensuring transparency are often identified as key areas for reform.

In an easy way, the judicial response to police encounters in India reflects a sustained effort to uphold the principles of the rule of law. Through its decisions, the judiciary has clarified the limits of state power, reinforced the importance of procedural safeguards, and emphasised the need for accountability. The development of guidelines and the insistence on independent investigation have contributed to a more structured approach to handling encounter cases. At the same time, the continued relevance of this issue highlights the need for effective implementation of judicial directives. The protection of life and personal liberty remains a fundamental constitutional commitment, and any deviation from this standard must be subject to strict scrutiny. The role of the judiciary, therefore, remains crucial in ensuring that the exercise of police power is consistent with the values of a constitutional democracy.

ENCOUNTER INCIDENTS AND PRACTICAL CHALLENGES IN INVESTIGATION

The examination of police encounter killings requires not only an understanding of the governing legal framework but also an engagement with the factual realities in which such

³⁴ 'Reports of the National Police Commission (1979-1981)' *The Hindu Centre* (12 February 2024) <<https://www.thehinducentre.com/resources/reports-of-the-national-police-commission-1979-1981/article67792347.ece>> accessed 20 March 2026

incidents occur. Encounter cases, by their very nature, arise in situations characterised by urgency, uncertainty, and competing narratives. While the law prescribes clear standards governing the use of force, the application of these standards in real-life situations often presents significant challenges. A study of selected encounter incidents, along with the difficulties associated with their investigation, provides insight into the gap that may exist between legal principles and their practical enforcement.

Several encounter incidents across India have drawn public attention and prompted legal scrutiny, often raising questions about the circumstances in which force was used. One widely discussed example is the Hyderabad encounter of 2019, where four individuals accused of a serious offence were killed by police during what was described as an attempt to reconstruct the crime scene. According to the official account, the accused attempted to escape and attacked the police, necessitating the use of lethal force. While the incident was met with immediate public approval in certain sections, it also generated significant debate regarding its legality. Critics pointed to the custodial context in which the accused were placed, arguing that the responsibility of the police to ensure their safety imposed a higher standard of care. The case thus highlights the tension between public perception and the requirements of due process.

Another set of incidents that has received judicial attention involves allegations of encounter killings in regions affected by internal conflict. In such contexts, encounters are often justified on the grounds of maintaining security and combating insurgency. However, investigations into these incidents have sometimes revealed discrepancies between official accounts and available evidence.³⁵ The complexity of these cases is compounded by the operational environment in which they occur, where access to independent witnesses may be limited, and the reconstruction of events becomes difficult. These factors underline the importance of rigorous investigative procedures to ensure that the use of force is examined objectively.

A common feature observed in many encounter cases is the reliance on police testimony as the primary source of information. Since encounters often occur in isolated or high-risk situations, independent witnesses may not be available, and the narrative is largely shaped by the accounts of the officers involved. While such testimony is relevant, its evidentiary

³⁵ *Extra Judicial Execution Victim Families Association and Anr v Union of India and Anr* (2016) 14 SCC 536

value must be assessed carefully, particularly when it forms the basis for justifying the use of lethal force. The absence of corroborative evidence can make it difficult to determine whether the encounter was a genuine act of self-defence or an instance of excessive force.

The role of forensic evidence is therefore critical in the investigation of encounter deaths. Proper documentation of the scene, ballistic analysis, post-mortem examination, and reconstruction of events can provide objective insights into the circumstances of the incident. However, in practice, the effectiveness of forensic investigation is often limited by delays, inadequate infrastructure, and procedural lapses. Failure to preserve evidence or to follow standard protocols can weaken the reliability of findings and hinder the pursuit of accountability. These shortcomings highlight the need for strengthening forensic capacity as part of the broader effort to improve investigative standards.

Another significant challenge relates to the issue of institutional bias. Investigations into encounter deaths are frequently conducted by the same police agency involved in the incident, raising concerns about impartiality. Even in cases where a different unit is assigned to investigate, questions may arise regarding independence, given the shared institutional structure. This problem has been recognised in judicial pronouncements, which have emphasised the importance of independent investigation in ensuring credibility. The absence of a consistent mechanism for external oversight remains a key weakness in the current system.

Procedural requirements such as the registration of a First Information Report, conduct of a magisterial inquiry, and adherence to guidelines laid down in *People's Union for Civil Liberties v State of Maharashtra* are intended to address these concerns.³⁶ However, compliance with these requirements is not always uniform. Delays in registration, incomplete documentation, or superficial inquiries can undermine the effectiveness of these safeguards. The existence of procedural rules, therefore, does not automatically ensure accountability; their consistent and rigorous implementation is equally important.

The practical difficulties involved in investigating encounter cases are further compounded by the nature of the incidents themselves. Encounters often involve the use of firearms in rapidly evolving situations, making it challenging to reconstruct the sequence of events with

³⁶ *People's Union for Civil Liberties and Anr v State of Maharashtra and Ors* (2014) 10 SCC 635

precision. The assessment of factors such as the imminence of threat, proportionality of response, and availability of alternative measures requires careful analysis of both physical evidence and contextual circumstances. In the absence of reliable data, such assessments may become speculative, thereby affecting the outcome of the investigation.

Public perception also plays a role in shaping the investigative process. In high-profile cases, strong public reactions may influence the manner in which investigations are conducted or perceived. While public scrutiny can act as a check on arbitrary action, it may also create pressure for swift conclusions, sometimes at the cost of thorough examination. The challenge lies in maintaining a balance between responsiveness to public concern and adherence to legal standards of investigation.

Another issue that arises in the context of encounter investigations is the protection of witnesses and whistleblowers. In cases where independent witnesses are available, concerns regarding safety and intimidation may affect their willingness to come forward. Ensuring adequate protection mechanisms is therefore essential for securing reliable testimony. Without such safeguards, the investigative process may remain heavily dependent on official accounts, limiting its effectiveness.

The role of oversight bodies, particularly the National Human Rights Commission, is relevant in addressing some of these challenges. The NHRC has laid down guidelines requiring prompt reporting, independent inquiry, and adherence to procedural safeguards in cases of encounter deaths. These measures are designed to enhance transparency and ensure that incidents are subject to external scrutiny. However, the effectiveness of these guidelines depends on compliance by state authorities, and the Commission's recommendatory powers limit its ability to enforce its directives.

The cumulative effect of these challenges points to a broader issue concerning the gap between legal standards and their practical implementation. While the law provides a framework for regulating the use of force and ensuring accountability, the realities of investigation often fall short of these expectations. Addressing this gap requires not only procedural reform but also institutional strengthening, including improved training, better forensic infrastructure, and greater independence in investigative processes.

In conclusion, the study of encounter incidents and the challenges associated with their investigation reveals the complexity of regulating police use of force in practice. While the legal framework emphasises accountability and adherence to due process, the effectiveness of these principles depends on the quality of investigation and the integrity of institutional mechanisms. Ensuring that encounter deaths are examined objectively and transparently is essential for maintaining the credibility of the criminal justice system. The difficulties identified in this chapter highlight the need for continued efforts to strengthen investigative practices and to align them more closely with the requirements of the rule of law.

CASE STUDIES AND ANALYTICAL FINDINGS ON POLICE ENCOUNTER KILLINGS IN INDIA

The study of police encounter killings in India, when examined through specific instances and broader institutional patterns, reveals a complex interaction between legal norms, administrative practices, and public perception. While earlier chapters have outlined the constitutional and statutory framework governing the use of force, the analysis of case studies provides an opportunity to evaluate how these principles operate in practice. The findings that emerge from such an examination indicate that, although the legal structure is reasonably well-defined, its implementation is marked by inconsistencies that raise concerns regarding accountability and adherence to the rule of law.

A recurring feature observed across various encounter cases is the reliance on a standard narrative in which the use of lethal force is justified on the basis of self-defence. Police accounts frequently describe situations where suspects allegedly attempted to escape, engaged in violent confrontation, or posed an immediate threat to the lives of officers. While the law recognises the legitimacy of self-defence, the uniformity of such explanations across different cases often invites closer scrutiny.³⁷ The repetition of similar factual patterns, without adequate independent corroboration, suggests the possibility that such narratives may sometimes function as a default justification rather than a reflection of actual events.

The Hyderabad encounter of 2019 serves as a particularly illustrative example in this regard. The incident involved the killing of four accused persons during what was officially described as an attempt to recreate the scene of a crime. According to the police version, the

³⁷ Dilip K Das and Arvind Verma, *Police Mission: Challenges and Responses* (1st edn, Scarecrow Press 2004)

accused tried to escape and attacked the officers, leading to the use of force. The case generated a strong public response, with sections of society expressing approval of the action as a form of swift justice. However, it also raised important legal questions concerning the absence of judicial process and the adequacy of safeguards in situations involving custodial control. The subsequent inquiry highlighted the need for independent investigation and reinforced the principle that public sentiment cannot substitute for legal scrutiny.

An examination of other encounter cases across different states reveals similar concerns regarding the credibility of official accounts and the adequacy of investigation. In several instances, discrepancies between police reports and available evidence have led to doubts about the legality of the use of force. Factors such as the absence of injuries to police personnel, inconsistencies in witness statements, or a lack of forensic support have been cited as indicators that require further examination. These issues underscore the importance of adopting a rigorous and evidence-based approach when assessing encounter incidents.

One of the key analytical findings emerging from this study is the gap between legal standards and their application in practice. The statutory framework, as discussed in earlier chapters, clearly establishes the conditions under which force may be used, emphasising necessity, proportionality, and accountability. However, the persistence of encounter-related controversies suggests that these principles are not always effectively implemented. This disconnect highlights the limitations of relying solely on legal provisions without addressing the institutional factors that influence their enforcement.

The role of investigation in encounter cases emerges as a critical area of concern. The effectiveness of accountability mechanisms depends largely on the quality and independence of the investigative process. Where investigations are conducted by the same agency involved in the encounter, questions regarding impartiality inevitably arise. Although judicial guidelines have sought to address this issue by recommending independent inquiries, the extent to which these directives are followed varies across jurisdictions. The absence of a uniform mechanism for independent investigation remains a significant challenge.

Forensic evidence plays an important role in bridging the gap between competing narratives, yet its utilisation is often uneven. Proper documentation of the scene, timely collection of

evidence, and scientific analysis are essential for establishing the facts of an encounter. However, practical constraints such as inadequate infrastructure, delays in investigation, and lack of technical expertise can affect the reliability of findings. Strengthening forensic capabilities is therefore an essential component of improving accountability in encounter cases.

Another important finding relates to the influence of public perception on the discourse surrounding police encounters. In several high-profile cases, public opinion has appeared to favour decisive police action, particularly in situations involving serious offences. While such reactions may reflect frustration with delays in the criminal justice system, they also raise concerns about the potential normalisation of extra-judicial measures. The acceptance of encounter killings as a form of instant justice risks undermining the foundational principles of due process and fairness. The legitimacy of the legal system depends on its commitment to procedure, even in cases involving grave offences.

Institutional oversight mechanisms, including the role of the National Human Rights Commission, have contributed to the regulation of encounter practices, but their impact remains limited by structural constraints. The NHRC's guidelines require reporting, documentation, and independent inquiry in cases of encounter deaths. While these measures are intended to enhance transparency, their effectiveness depends on compliance by state authorities. The recommendatory nature of the Commission's powers limits its ability to enforce its directives, thereby affecting the overall strength of the oversight framework.

Judicial intervention has played a significant role in addressing some of these concerns. The guidelines laid down in *People's Union for Civil Liberties v State of Maharashtra* have established procedural standards for the investigation of encounter deaths.³⁸ These guidelines emphasise the need for independent inquiry, registration of cases, and judicial oversight. However, the implementation of these directions remains uneven, and their effectiveness is contingent upon institutional commitment. The persistence of encounter-related controversies suggests that further measures may be required to ensure consistent compliance.

³⁸ *People's Union for Civil Liberties and Anr v State of Maharashtra and Ors* (2014) 10 SCC 635

The analysis also highlights the importance of training and institutional culture in shaping police conduct. The application of legal principles such as necessity and proportionality depends on the understanding and judgment of individual officers. Inadequate training or institutional pressures may lead to decisions that deviate from prescribed standards.³⁹ Enhancing training programmes, particularly in areas relating to human rights and use of force, can contribute to better alignment between legal norms and practical conduct.

Another dimension that emerges from the study is the need for greater transparency in handling encounter cases. Public confidence in the criminal justice system is closely linked to the perception that incidents involving the use of force are investigated fairly and impartially. Delays in disclosure, lack of clarity in official statements, and limited access to information can create suspicion and erode trust. Ensuring timely and transparent communication can therefore play an important role in strengthening accountability.

The cumulative findings of this study suggest that the issue of police encounters cannot be addressed through legal reform alone. While the statutory and constitutional framework provides a solid foundation, its effectiveness depends on the broader institutional environment in which it operates. Strengthening accountability requires a combination of legal, administrative, and structural measures, including independent investigation, improved forensic capacity, and enhanced oversight mechanisms.

At the same time, it is necessary to recognise the challenges faced by law enforcement agencies in dealing with serious crime. The need to respond quickly to threats and maintain public order places significant demands on police personnel. However, these challenges do not justify departures from legal standards. The rule of law requires that all actions of the State, including the use of force, remain subject to legal scrutiny and accountability. The balance between effective policing and protection of rights must therefore be carefully maintained. In conclusion, the study shows that legal standards governing police encounters are clear in principle, yet their application often remains uneven, raising concerns about accountability and constitutional compliance. Bridging this gap requires stronger institutions, more reliable investigative practices, and a consistent commitment to transparency.

³⁹ David H Bayley, *The Police and Political Development in India* (Princeton University Press 1969)

The findings underline the continuing importance of the rule of law in regulating the use of force by the State. Encounter killings demand scrutiny, and only impartial, procedure-based investigations can sustain public trust in the criminal justice system. Ultimately, the legitimacy of policing rests not merely on effectiveness, but on adherence to fairness and accountability.

CONCLUSION

The question of police encounter killings in India presents a difficult challenge for a constitutional democracy that seeks to balance effective law enforcement with the protection of individual rights. This study has examined the legal and institutional framework governing such incidents and finds that, while the law provides clear safeguards, their application in practice remains inconsistent. The gap between principle and implementation emerges as the central concern in understanding the persistence of encounter-related controversies.

At the constitutional level, the right to life and personal liberty forms the foundation of all legal protections against arbitrary state action. Judicial interpretation has reinforced that any deprivation of life must follow a procedure that is fair, just, and reasonable. This standard leaves little scope for extra-judicial measures. However, the continued occurrence of encounter killings suggests that constitutional guarantees alone are not sufficient unless they are supported by effective enforcement mechanisms. The strength of these rights ultimately depends on the willingness of institutions to uphold them in practice.

The statutory framework further attempts to regulate the use of force by imposing conditions such as necessity and proportionality. These principles are intended to ensure that police powers are exercised within defined limits. In theory, they provide a balanced approach that recognises both the need for public safety and the importance of individual rights. In practice, however, the frequent reliance on similar justifications in encounter cases raises doubts about whether these standards are always meaningfully applied. Claims of self-defence, particularly in the absence of independent evidence, require scrutiny to ensure that they do not become a routine explanation for the use of lethal force.

Judicial intervention has contributed significantly to addressing these concerns. The courts have consistently emphasised that encounter killings cannot replace due process and have

laid down procedural safeguards for their investigation. These guidelines reflect an effort to introduce transparency and accountability into a domain that is otherwise prone to opacity. Nevertheless, the effectiveness of judicial directions depends on their implementation. Variations in compliance across different regions highlight the limitations of relying solely on legal directives without corresponding institutional support.

The analysis of encounter incidents reveals several practical challenges that affect the quality of investigation. The absence of independent witnesses, dependence on police testimony, and limitations in forensic capabilities make it difficult to reconstruct events accurately. Where investigations are conducted by the same agency involved in the encounter, concerns regarding impartiality further complicate the process. These structural issues weaken accountability and contribute to the persistence of doubts surrounding such incidents. Addressing them requires improvements in investigative independence, forensic infrastructure, and procedural consistency.

Public perception also plays a significant role in shaping the discourse on police encounters. In some cases, strong public approval of such actions reflects frustration with delays in the criminal justice system. While these concerns are understandable, the acceptance of extra-judicial measures risks undermining the rule of law. Justice cannot be separated from the process through which it is delivered. A system that prioritises expediency over legality may achieve short-term results but ultimately weakens the foundations of democratic governance.

Oversight mechanisms, including human rights institutions and judicial review, provide an additional layer of accountability. Their role in monitoring encounter deaths and recommending corrective measures is important, but their effectiveness is often limited by issues of compliance and enforcement. Strengthening these mechanisms requires greater coordination between institutions and a stronger commitment to transparency.

In conclusion, the study reaffirms that the rule of law must remain the guiding principle in regulating the use of force by the State. Police encounters, given their serious implications, demand careful and impartial examination. Ensuring that such incidents are investigated in accordance with established legal standards is essential for maintaining public confidence in the criminal justice system. The legitimacy of law enforcement ultimately depends not only

on its ability to control crime but also on its adherence to fairness, accountability, and constitutional values.