

Killing fields of UP:

Public Tribunal of the Police Encounters under Yogi Regime



23rd March, Friday, 3pm.

Speaker's Hall, Constitution Club

Jury Panel:

Justice Rahul Tekchand, Former Senior Civil Judge at Rajasthan High Court

Advocate Indira Jaisingh, Senior advocate in Supreme Court and noted human rights lawyer

S R Darapuri, Former Inspector General of Lucknow, UP Police

Speakers:

Neha Dixit, freelance journalist who has done a detailed ground reporting of the encounter killings in West UP.

Rajiv Yadav, member of *Rihai Manch*, UP, who has been a part of Fact finding teams that covered the encounters in East UP

Assad Hayat Khan, Advocate who has been following up some of the cases of encounters and providing legal assistance to family members

Nakul Singh Sawhney, documentary film maker, who has met and filmed the victims' family members

Testimonies of encounters by family members of the victims.

Testimonies by eye witnesses.

Venue: Speaker's Hall, Constitution club

Date: 23rd March (Friday), 3pm.

Introduction

On 19th of March, Ajay Bisht, known popularly as Yogi Adityanath, completed a year as Chief Minister of a BJP-led government in Uttar Pradesh. In this period, the people of UP have been subjected to a series of oppressive measures by the government. Forceful closing down of slaughterhouses; the rampant moral policing and harassment of women and consenting couples in the name of 'anti-Romeo squad'; the blatant denial of minimum support prices to potato and other farmers and the sham of loans to them; the public health sector which is in shambles that has seen a spike in infant mortality; the growing joblessness; repeated attack on students in BHU, Lucknow and Allahabad and concerted communal violence, latest being the engineered attacks and communal polarization in Kasganj, the list of injustice and attacks under the Yogi rule is already long. However, one of the most chilling aspects of Yogi Raj is the continuous 'encounter' attacks that are being unleashed on people, in the name of fighting crime.

According to UP government figures, by January 2018, the police had conducted 1,038 encounters. In these, 44 people and four policemen were killed and 238 injured. The unofficial figures are far higher, where the total number of 'encounters' are estimated to be more than 1400. These 'encounters' entail, shooting at people, who may and may not be petty criminals or gangsters, without following due processes of law. National Police Commission (1979) to NHRC (2003) and the Supreme Court (SC) judgment in the PUCL case (2014) have clearly mandated against such random killing of people.

The little that have come to the media exposing these killings clearly shows the flouting of mandatory legal bindings by the UP police. The testimonies of eye witnesses and family members of those killed clearly show that most of these killings are cold blooded murders by the police, where no gun battle took place. For many of those killed or injured, the police had posthumously inserted clauses of criminality in their record and thereby have justified killing or injuring. The fact remains that even the one with criminal records cannot, under any circumstances, be gunned down in this way if one were to adhere to a rule of law.

Instead, the police, in fact are getting encouragement and impunity from the highest echelons of power, in this case none other than the CM himself. In many press conferences he has categorically justified the killings and stated that these will continue. He flaunts the encounter as his 'zero-tolerance towards crime' but refuses to accept the blatant lawlessness in these cold blooded attacks.

The social profile of the encountered people reveal that maximum of them come from the marginalized sections that is, Dalits, OBCs and Muslims. The 'encounters'

are therefore nothing but weapons in the hands of the sangh parivar and the state machinery to further intimidate the already marginalized sections and contribute towards a reign of terror.

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The "Encounters" reflect a grim pattern:

According to the Police, 1142 encounters have taken place between March 20, 2017 and January 31, 2018. The highest numbers of encounters were reported from Meerut zone where 449 encounters took place, which was followed by Agra zone which had 210. Third on the list was Bareilly zone with 196 encounters and then came Kanpur zone with 91 shootouts. The least number of police encounters took place in Yogi Adityanath's own constituency Gorakhpur. Clearly West UP has been affected more than the Eastern zone in the number of cases of shootouts.

A significant proportion of those killed in these encounters are from four districts of western UP – Shamli, Muzaffarnagar, Saharanpur and Baghpat.

दिनांक 20.03.2017 से 31.01.2018 तक पुलिस मुठभेड़ में मृत/गिरफ्तार अभियुक्त, घायल/मृत पुलिस कर्मी, पुरस्कार घोषित अपराधी, अपराधियों के विरूद्ध एनएसए/14(1) गैंगेस्टर एक्ट के अन्तर्गत सम्पत्ति जब्तीकरण का जनपदवार विवरण

क्र० सं०	जोन	मुठभेड़ों की संख्या	गिरफ्तार किये गये अभियुक्तों की संख्या	मुठभेड़ में घायल हुये अपराधियों की संख्या	मुठभेड़ में मारे गये अपराधियों की संख्या	मुठभेड़ में घायल हुये पुलिस कर्मियों की संख्या	मुठभेड़ में मारे गये पुलिस कर्मियों की संख्या	गिरफ्तार किये गये पुरस्कार घोषित अपराधियों की संख्या	रासुका के अन्तर्गत निरूद्ध किये गये अपराधियों की संख्या	14(1)गैंगेस्टर एक्ट के अन्तर्गत की गयी अवैध सम्पत्तियों के जब्तीकरण की कार्यवाही	
										संख्या	मूल्य (लाख में)
1	2	3	4	5	6	7	8	9	10	11	12
1	आगरा	210	542	20	03	24	02	172	03	04	364306000.00
2	मेरठ	449	985	155	22	128	01	469	31	15	82933000.00
3	लखनऊ	38	104	09	02	07	00	10	46	36	199980953.00
4	इलाहाबाद	54	130	08	01	02	01	157	09	04	25159349.93
5	बरेली	196	451	46	00	57	00	390	35	33	148571274.00
6	गोरखपुर	31	84	09	00	04	00	282	24	29	440295177.00
7	कानपुर	91	252	05	01	07	00	168	09	23	116394798.00
8	वाराणसी	73	196	13	05	18	00	205	10	25	90309228.00
योग		**1142**	**2744**	**265**	**34**	**247**	**04**	**1853**	**167**	**169**	**1467949779.93**

Along with the 'encounters' the police has slapped 167 of the victims with National Security Act (NSA). Chandrashekhar Azad and other Dalit activists being part of the list. The police have also seized assets worth Rs. 150 crore so far.

The entire spate of 'encounters' have not just been justified, but also celebrated by the media and the UP police as their brave clampdown on organized crime. The victims have all been declared as hardened criminals who had rewards declared against them by the Police. However, ground reporting by some media and allegations by the family members of the deceased and the injured point at the fact, that many of these killings might be extra-judicial killings. More crucially, many of the ones who have been killed or injured might not be criminals at all. This only adds to the extreme violation of law and human rights by the Police.

To begin with, the Police can only fire at a criminal in self-defense, when all other means to overpower them is exhausted. In a landmark decision in Om Prakash and others vs State of Jharkhand through the secretary, Department of Home, Ranchi, 2012, the Supreme Court clearly stated:

"It is not the duty of the police officers to kill the accused merely because he is a dreaded criminal. Undoubtedly, the police have to arrest the accused and put them up for trial. This Court has repeatedly admonished trigger happy police personnel, who liquidate criminals and project the incident as an encounter. Such killings must be deprecated. They are not recognized as legal by our criminal justice administration system. They amount to State sponsored terrorism".

Further, in Darshan Singh Vs. State of Punjab and Anr. (AIR 2010 SC 1212), the Supreme Court has held that "when there is real apprehension that the aggressor might cause death or grievous hurt, in that event the right of private defence of the defender could even extend to causing of death. A mere reasonable apprehension is enough to put the right of self-defence into operation, but it is also settled position of law that a right of self-defence is only right to defend oneself and not to retaliate. (http://www.livelaw.in/law-encounters-immunity-police-impunity/) What is often ignored are Supreme Court rulings which state that the right of self-defence or private defence falls in one basket and the use of excessive or retaliatory force falls in another basket. Therefore, while a victim of aggression has a right of private defence or self-defence, he becomes an aggressor and commits a punishable offence if he exceeds the right of private defence or self-defence by using excessive or retaliatory force.

So, even if the people who were killed in the encounters were to be criminals, the question rises whether they should have been taken into custody and booked under due processes of law, instead of being shot at, killed or injured.

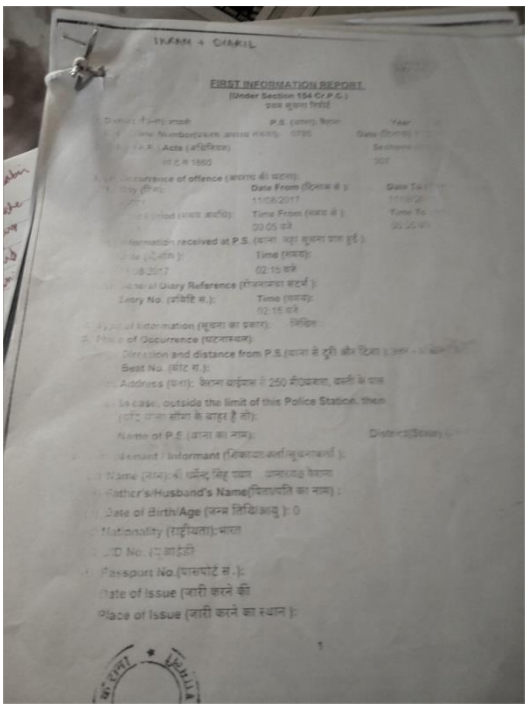
In all the FIRs, the story of encounter follows more-or-less the same pattern. That the police was tipped off regarding the presence or location of one or more dreaded criminal, whom they chased as they tried to escape in a car or a bike. The criminals allegedly then fire at the police and as retaliation, the police was forced

to fire back and kill them. Some FIRs however, describe the gallantry of the policemen on duty and laud the bravado of killing people and there it does not read as a mere act of self-defense. In most of the cases, as if copy pasted from the previous incident, it mentions how some people 'managed to escape, while some were shot'.

In many cases that surfaced in the media and in fact finding reports, the family members got the news of the death of their kin from WhatsApp or from third sources, and not from the police. They then had to hunt down the specific police station and collect the dead bodies of their kith and kin. This is in complete contravention of the Supreme Court guidelines in PUCL vs State of Maharashtra on police encounters that says, "In the event of death, the next of kin of the alleged criminal/victim must be informed at the earliest." In most of the cases, the family were not even given the post mortem report of the deceased.

In many of the cases like that of Furquan (from Shamli), Ikram (from Baghpat) had distinct injuries on their bodies like broken bones and broken ribs, along with bullet wounds. The body of Jiahind Yadav (from Azamgarh) had 21 bullet wounds on his body, which he apparently sustained while he was riding a bike being chased by the police. All these point at a certain aggression by the police and belie the theory of 'firing in self-defense'. The pattern becomes clearer as we deal with some of the cases in details.

Portions from FIR filed in the case of Ikram:



IKRAM @ CHAKIL

FIRST INFORMATION REPORT
(Under Section 154 Cr.P.C.)

Acts (अधिनियम):

Date From (दिनांक से):
11/08/2017

Time From (समय से):
00.05 बजे

Time (समय):
02.15 बजे

Time (समय):
02.15 बजे

Best No. (बीट सं.):

Name of P.S. (थाना का नाम):

Name (नाम):

Father's/Husband's Name(पिता/पति का नाम):

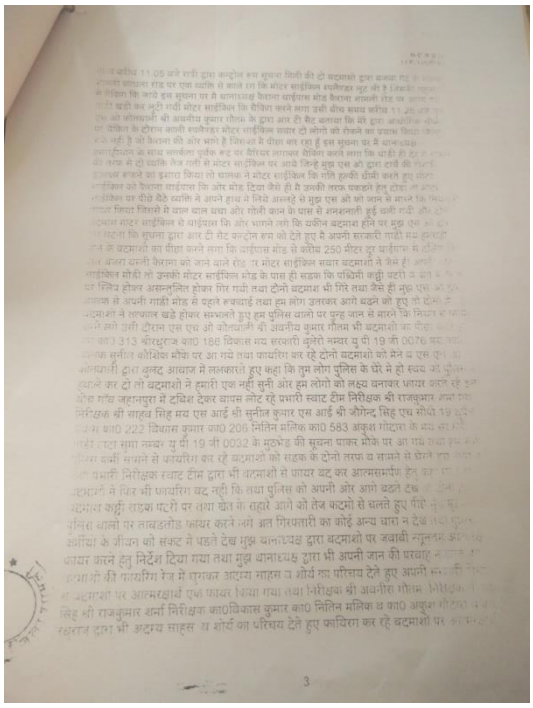
Date of Birth/Age (जन्म तिथि/आयु): 0

Nationality (राष्ट्रीयता):भारत

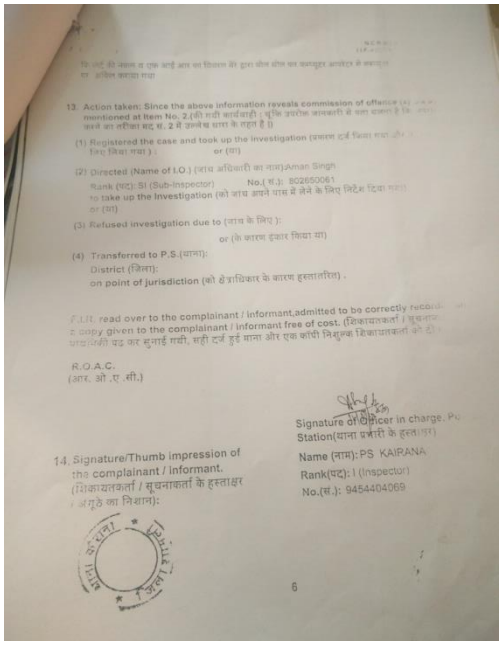
Passport No.(पासपोर्ट सं.):

Date of Issue (जारी करने की

Place of Issue (जारी करने का स्थान):



3



13. Action taken: Since the above information reveals commission of offence (s) mentioned at Item No. 2,(की गयी कार्यवाही : चूंकि उपरोक्त जानकारी से प्रश्न संख्या 2 कि वर्णन का संज्ञेय अपराध का गठन है ।)

(1) Registered the case and took up the investigation (मामला दर्ज किया गया और उ
or (या)

(2) Directed (Name of I.O.) (जांच अधिकारी का नाम):Aman Singh
Rank (पद): SI (Sub-Inspector) No.(सं.): 80265061
to take up the investigation (को जांच अपने पास में लेने के लिए निर्देश दिया गया)
or (या)

(3) Refused investigation due to (जांच के लिए):
or (के कारण इंकार किया गया)

(4) Transferred to P.S.(थाना):
District (जिला):
on point of jurisdiction (को क्षेत्राधिकार के कारण हस्तांतरित) .

F.I.R. read over to the complainant / informant,admitted to be correctly recorded
a copy given to the complainant / informant free of cost. (शिकायतकर्ता / सूचनाकर्ता
सुनाई गयी, सही दर्ज हुई पाया और एक कॉपी निशुल्क शिकायतकर्ता को दी ।)

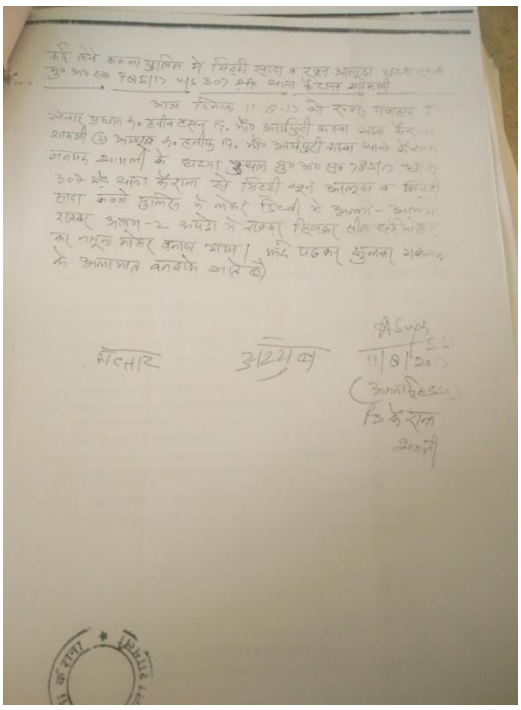
R.O.A.C.
(आर. ओ .ए .सी.)

Signature of Officer in charge, Police Station(थाना प्रभारी के हस्ताक्षर)

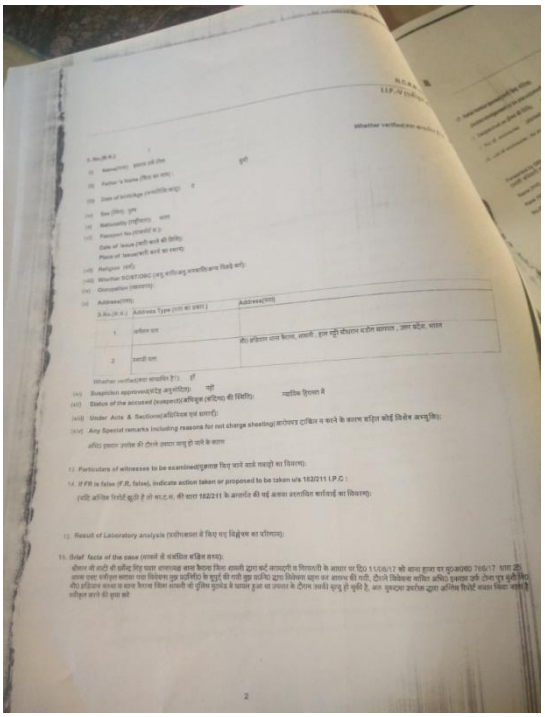
14. Signature/Thumb impression of the complainant / informant.
(शिकायतकर्ता / सूचनाकर्ता के हस्ताक्षर / अंगूठे का निशान):

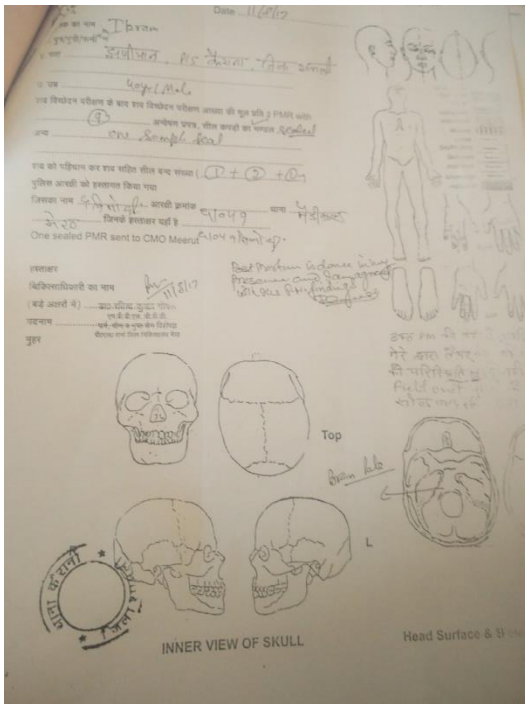
Name (नाम): PS KAIRANA
Rank(पद): I (Inspector)
No.(स.): 9454404069

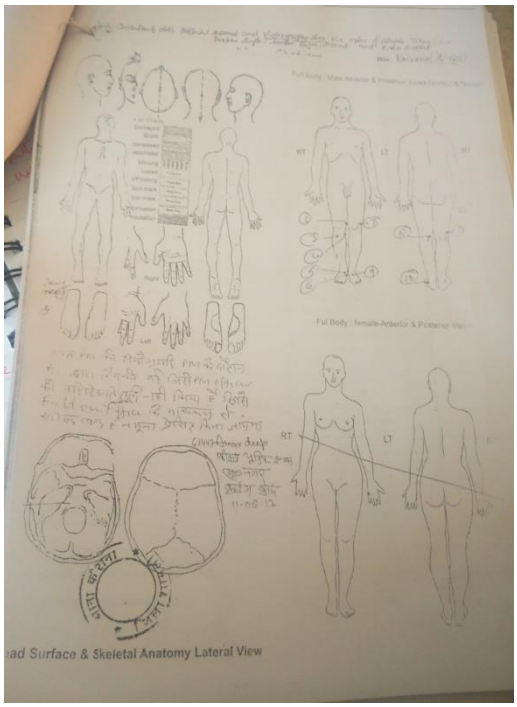
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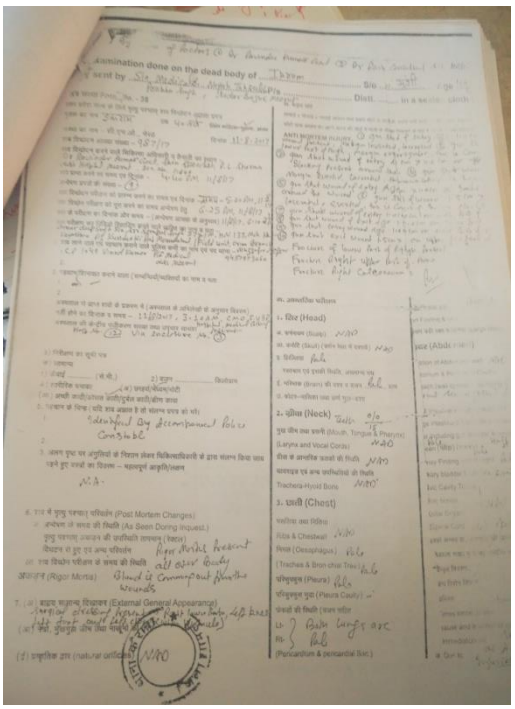


Portions from FIR and medical records in the case of Ikram:









Some of The glaring cases:

- **The case of Furquan from Shamli:** Furquan was imprisoned for seven years as an under trial implicated in a village brawl. His family did not have the resources to procure his release. In October 2017 however, it came unexpectedly. The police settled the case to get him out. After two weeks, when Furquan went to Baghpat to visit his relative, he stepped out of his house to go to a shop and never returned. They got news later that not only Furquan has been killed in an encounter, he was a dreaded criminal with 36 cases of dacoity and a reward of Rs. 50,000 on him. It was claimed by the police that they were conducting a routine check, when they chanced upon him. He and his associates were riding a bike and they refused to stop and rather fired on the police. In retaliatory fire, Furquan died, while others escaped. His body showed injury marks testifying torture, other than the bullet wounds.

  The question that his family legitimately raises is how is it possible for someone to be involved in 36 cases of robbery when he was in jail for the past seven years? The posthumous profiling of deceased people as 'dreaded gangsters', to justify their killing, is not isolated in this case. After his death, all five of his brothers have been arrested with different cases of robbery and theft. This squarely becomes a hindrance for the family to pursue justice for Furquan. They are drained of resources as these earning members are lodged in prison and also the police can arm twist them with these cases, not to follow up on the fake encounter case of Furquan.

  These aspects of encounter killing and gross flouting of law is not isolated in Furquan's case alone but applies to many other cases effectively reflecting the draconian nature of these encounter killing and the inhumanity and intimidation associated with it.

- **The case of Sumit Gurjar from Baghpat:** The case of Sumit Gurjar created the maximum uproar and even forced the NHRC to send notices to UP police. On September 30, Sumit Gurjar was abducted by plain clothes policemen from a bus stand in Badhaut, Baghpat. There were sufficient eye witnesses who saw him being taken into custody. His family also came to know he was being kidnapped and they started a frantic search. The Noida police offered to free Sumit in lieu of Rs. 3,50,000. His family heard the rumour that he might be killed in an encounter and they reached out to top police officials, NHRC and CM's office, but got no response. In the mean time the Noida police declared a cash reward of Rs. 25,000 on Sumit, which was soon doubled. The next day it was declared that Sumit had

died in an 'encounter' while trying to escape in a car after robbing a cash van of a bank. Three other 'unidentified assailant' as usual 'escaped' as per the police version. The police claimed Sumit had several cases of robbery and extortion against him and justified the killing once again.

The bizarre truth however soon surfaced that Sumit had no police cases against him ever. There was another man named Sumit Gurjar, who stayed in the same Chichretta village and had the exact same cases on him, back in 2011. The NHRC has visited his family and issued notice to UP police. However, even after six months, nothing has been pursued further.

Much like the case of Furquan, The UP police slapped rape cases on Raj Singh and Kamal Singh, two brothers of Sumit Gurjar and have been blackmailing them to withdraw the case of Sumit's killing in lieu of them withdrawing these rape cases.

- **The cases of Chhannu Sonkar and Ramji Pasi from Azamgarh:** The spate of encounters that has become so routine in West UP has also reached Eastern UP. The cases of Chhannu Sonkar and Ramji Pasi, according to the testimonies of their family members hint at chilling cases of fake encounter and targeted killing. Chhannu Sonkar was picked up from a fruit orchard near his house by the Police. When he didn't return till late at night, his anxious family members called him on his mobile. He informed them that he is in Jahanaganj Police Station. Next day, two police personnel reached his house and informed his father Jhabbu Sonkar, that Chaanu is being treated in the district hospital. Later they got the news of him being killed in an 'encounter.'

  Ramji Pasi had won the Panchayat election in Jiapur, Azamgarh and for that he came in contradiction with the dominant castes in his village. They first tried to implicate him in false cases, failing which he was picked up from his house by the police and killed in an encounter.

  The state Human rights commission has set up an enquiry looking into the encounter killings of Ramji Pasi, Mukesh Rajbhar, Jaihind Yadav from Azamgarh and Aman Yadav from Itarsi.

- **The case of Jitendar Yadav that was finally denied to be an Encounter.** On 3rd February, the Police fired on a vehicle in Noida that was returning from a marriage festival. The police jeep chased and fired on them, hitting a gym trainer Jitendra Yadav critically in the neck, while his brother Sunil Yadav was hit in the leg. The police tried to pass off this as an 'encounter' running the same story of

dreaded criminal trying to escape. However, later they had to retreat as the victims had no crime record and the sub-inspector who shot at them was suspended and taken into custody. The constables, who accompanied him are however absconding and the details of the cases of why the shoot out took place has been whitewashed. Speculations ran from altercation to caste conflict that led to the shootout. It however, unmistakably points out the uncontrolled trigger happy nature of UP police and the way they have been going about shooting people.

Similar cases of people with no crime record being picked up and shot at by the police have come to light in other places of both East and West UP. That the case of Jitendra Yadav could catch media attention and could force the police to backtrack was also because of his economic position. The people from the poorer section of the society have been continuously killed and injured by the police taking advantage of their socio-economic vulnerability. At least five cases of poor Muslims from Shamli and Muzzaffarnagar came to the media. They were Nadeem, 30 and Jaan Mohammed, 24 from Muzaffarnagar, Shamshad and Mansoor, both 35 from Saharanpur and Vasim, 17 from Shamli. They were under trials, who had already spent significant amount of time in jail for petty crimes. They were all registered in the police record because of their petty criminal past and their whereabouts were known to the police. Hence it became quite easy for the police to hunt them down and kill them in fake encounters.

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The shameful role of the local media in UP:

While the national media completely blacked out the encounters under the Yogi regime the local UP media went a step ahead in providing absolute support and even celebrated the 'encounters'. They made absolutely no attempt in investigating the loopholes in the police versions but rather uncritically reproduced the police versions with much fanfare. What is more disconcerting is in many of these 'encounters', local stingers and journalists accompanied the police and they live streamed the encounter on social and digital media. This clearly raises questions about the 'spontaneous' nature of these encounters as claimed and in fact clearly points at them being calculated and pre-planned assaults perpetrated with the intention to spread terror.



बाइक लूटकर भाग रहे बदमाश की पुलिस मुठभेड़ में मौत

12-अगस्त 2017

शामली/कैराना | हिटी

शामली कोतवाली क्षेत्र के गांव बलवा गेट के समीप गुरुवार रात करीब साढ़े दस बजे बाइक सवार व्यक्ति से लूटपाट कर भाग रहे दो बदमाशों का पीछा कर रही पुलिस की कैराना में बंजारा बस्ती के पास उसने मुठभेड़ हो गई। पुलिस के मुताबिक मुठभेड़ में एक बदमाश इकराम पुत्र मुंशी घायल हो गया। घायल को गंभीर हालत में मेरठ मेडिकल में ले जाया गया, जहां चिकित्सकों ने उसे मृत घोषित कर दिया।

मुठभेड़ में दो सिपाही भी घायल बताए गए हैं। पुलिस ने घटना स्थल से लूटी गई बाइक एवं 87 सौ रुपये की नगदी, सोने की अंगूठी व घड़ी और 32 बोर की पिस्टल व कारतूस बरामद करने का दावा किया है। मारे गए बदमाश के

पुलिस मुठभेड़ में मारा गया बदमाश।

गैंग के सदस्यों के नाम

1-अखलाक पुत्र मुंशी निवासी मौ छडीयान कस्बा थाना कैराना जनपद शामली। (डेढ़ दशक पहले पुलिस मुठभेड में मारा जा चुका है)

2-जाकिर पुत्र मंजूर हसन निवासी हाजीपुर थाना लोनी जनपद गाजियाबाद। (यह भी उसी मुठभेड़ में मारा गया था)

खिलाफ 13 मुकदमें दर्ज हैं।

बलवा निवासी नवाब पुत्र जमशेद गुरुवार रात बाइक से शामली से अपने गांव जा रहा था। बताया गया कि रात करीब साढ़े दस बजे जैसे ही वह बलवा गेट के पास पहुंचा तो सामने पेड़ की आड़ में खड़े दो बदमाश निकल आए और बाइक को रोक लिया। बदमाशों ने मारपीट कर उससे बाइक, सोने की चेन, अंगूठी, घड़ी व 8700 रुपये की नगदी और वोटर आईकार्ड लूट लिए और बाइक पर फरार हो गए। पुलिस के मुताबिक घटना के बाद नवाब ने रात करीब सवा ग्यारह बजे डायल 100 को फोन पर सूचना दी। बदमाशों की तलाश के लिए स्वाट टीम को भी लगाया गया। बदमाश वारदात को अंजाम देकर कैराना की ओर भागे। तत्काल ही पुलिस बल द्वारा बदमाशों की घेराबंदी की गई।

संबंधित खबर पेज 4

Newspaper report that reproduces the police version.

They made no attempts to challenge the police version and used the same terms like *badmash* (scoundrel), *gunda* (goons), *inaami daaku* (dacoits with rewards declared on them) to describe each and every cases. They parroted the police version of the encounters and never bothered to cross check facts. They lauded the UP police and state government and their strict handling of crime echoing Yogi Adityanath's voice.

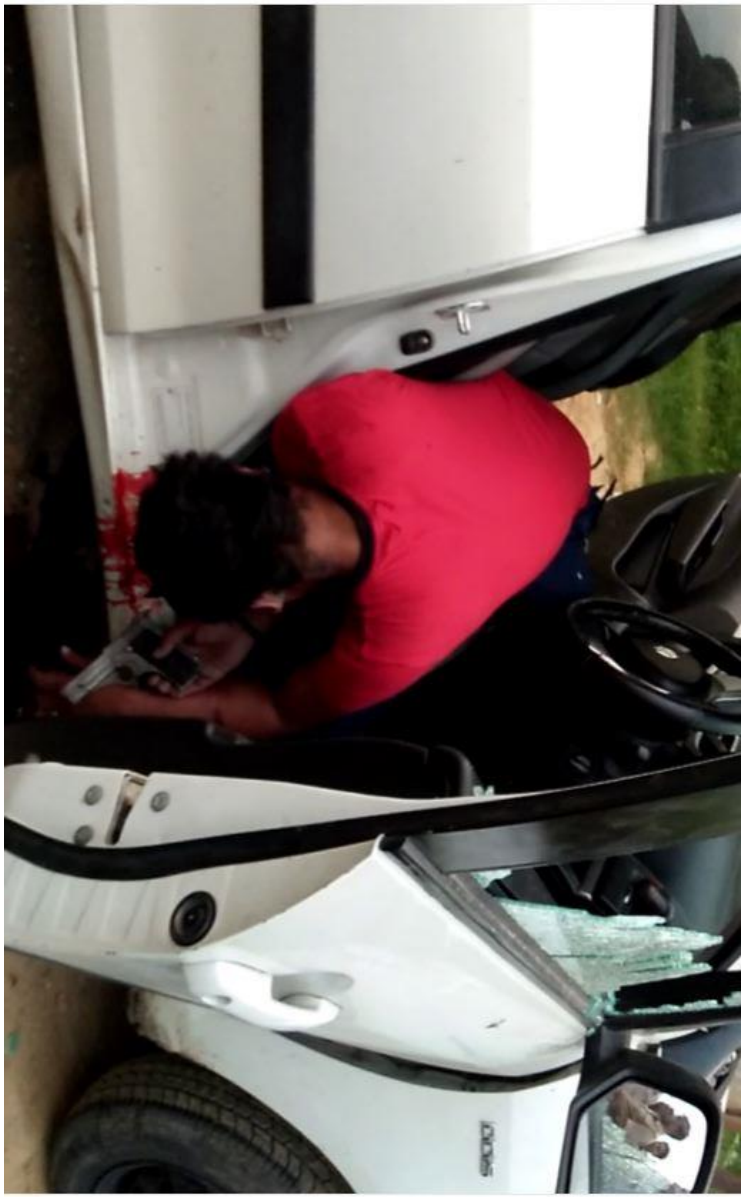
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A few glimpses of the reign of horror under Yogi's rule:










+91 94122 12896
Just now

All in the name of fighting crime under Yogi Regime

"Apradhmukt Uttar Pradesh" was one among the central slogans of BJP before the state legislative elections in 2017. After one year, the overall performance of the Yogi government is miserable to say the least. It seeks to cover up for its failure in every other front by flaunting its "achievement" in carrying out the encounters, which is showcased as a iron clad clampdown on crimes. Yogi Adityanath in no uncertain terms reiterated several times in the media that 'Encounters will not stop', 'we will reply to the criminals in their own language', 'if you are a criminal you are liable to be liquidated' and so on. He deemed the opposition that was raising question on the encounters as 'anti-national'. Such articulation is antithetical to democratic values. It belies the existence of democratic institutions and norms. It belies the existence of any rule of law as it turns the enforcers of law into dreaded criminals.

The yogi government has provided complete impunity to the police and that has emboldened them to carry on relentless encounters without any accountability. In Shamli public felicitation of the police officers carrying out the encounters was held by the administration. The machismo of the police gets bolstered with such active and tacit support from the state. In many of the cases of encounters, the police in fact are showcasing them in their bid to get promotion. This is despite the fact that there are Supreme Court guidelines against the same and even NHRC has taken cognizance of it. The Yogi government has remained unresponsive towards the NHRC notices sent to them and has categorically rejected the demand for a CBI or Judicial probe into the encounters.

With these encounters the Yogi government is apparently trying to send a strong message to the people that criminals will not be tolerated. It might be worthwhile to remind him, that he himself has very serious charges of crime ranging from rioting, inciting violence to murder pending against him which he is trying to discard through manipulations in courts. With such a tainted man at the helm of affairs, the spate of encounters seem like nothing but a potent tool in the hands of the state machinery and the party controlling it to further repress marginalised communities like muslims, dalits and OBCs.

Constitute a judicial probe into the fake encounters.

Take action against the guilty police officers.

Provide compensation to the affected families.

About United Against Hate: *We are a Delhi based group of conscientious citizens, academics, student activists who have been consistently campaigning against hate crimes, attacks on minorities, mob lynching and communal violence since July 2017. We have held a bike rally from Delhi to Mewat, conducted series of public meetings in different residential areas of Delhi and outside Delhi in Jaipur, Deoband and Lucknow. We have held protest demonstrations outside UP, Haryana and Rajasthan Bhavan after various incidents of mob lynching, encounter killing and infant mortality. We conducted a fact finding visit to Kasganj after the engineered communal violence and released a report to the press afterwards.*