COUNTERING THE SILENCE

CITIZENS' REPORT ON EXTRAJUDICIAL EXECUTIONS IN UTTAR PRADESH AND HARYANA, INDIA

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May 2018

CITIZENS AGAINST HATE

EQUALITY • JUSTICE • DIGNITY

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Citizens Against Hate is a collective of individuals and groups committed to a secular, democratic, caring India. It seeks to provide practical help to victims of hate crime and to counter, through research, outreach, advocacy and litigation, hate in all its forms.

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This report is the culmination of a programme of work of a team of Citizens Against Hate, over time. It involved, firstly, community activists-cum-researchers directly engaging with survivor families, aiding and supporting them to organise documents, the legal help, and ultimately the courage to raise questions of duty bearers, regarding the murder of their near and dear ones in the face of, at best, silence, often reprisal. Without the untiring commitment of these human rights defenders - Akram Akhtar and Salim Ansari in Shamli, Uttar Pradesh, and Mohammad Arif and Nasir Ali in Nuh, Haryana - this work would not have seen the light of day. @ Other researchers included, in alphabetical order, Baljeet Kaur, Shahnaaz Khan, Vipul Kumar and Mangla Verma, who spent long durations in the field, to take down testimonies of families, examine documents, and interpret the partial data they had access to, seeking to understand the sequence of events. Mangla, as the resident lawyer, also helped with the legal eye to interpret documents and demystify records. Together they marshalled the core of the report's findings. Saad Zaman and Quill law interns supported the process with background research and analysis. @ Sharib Ali, Khatija Khader and Fawaz Shaheen were at hand to help with planning and designing the research, and propping up the team's sagging spirits, which was often. Mathew Jacob, Harsh Mander, Suroor Mander, Seema Nair and Devika Prasad provided generous advice and guidance, and often, practical help. @ Shahnaaz Khan also helped with the production of the report, designing and getting it to printers in good time and shape. @ Sajjad Hassan led the study and report writing.

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List of Abbreviations

CrPC:	Criminal Procedures Code
FIR:	First Information Report
HRC:	Human Rights Council
ICCPR:	International Covenant on Civil and Political Rights
IPC:	Indian Penal Code
NCRB:	National Crime Records Bureau
NHRC:	National Human Rights Commission
OHCHR:	Office of High Commissioner for Human Rights
PCA:	Police Complaints Authority
RTI:	Right to Information
SC:	Supreme Court
UP:	Uttar Pradesh

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Note on Terminology

Panchnama: A statement, recorded at the scene of crime/offence, of persons present at the time of arrest, search and seizure, including Investigating officers, Prosecuting witnesses, the accused and any mediators.

EXECUTIVE SUMMARY

1. There has been a large number of extrajudicial executions by the police in India in recent years, especially in Uttar Pradesh (UP), and over time in neighbouring Haryana, mostly of Muslim youth. In UP, media reports, validated by government claims, count 50 deaths in 'encounter killings', from March 2017, when Chief Minister Yogi Adityanath took office, to date. In Haryana, there is no reported head count, estimates range from 15 to 50, over a ten year period.

2. This report, by Citizens Against Hate alliance, seeks to record the extent of the these 'fake encounters'; document the circumstances of the killings; and investigate the working of the criminal justice system, specifically how guidelines by the Supreme Court and the National Human Rights Commission on encounter killings are being followed, as a means to understand accountability.

3. The research is based on a sample of 16 encounter episodes in UP, all in western districts; and 12 in Mewat region of mostly Haryana, involving mostly Muslim victims. It involved interviewing victim families and witnesses; examining legal documents available to us (FIRs, autopsy reports); asking RTI questions to state police and NHRC; and extensively surveying media reports.

FINDINGS

4. All victims we studied, come from vulnerable social groups. Most came from poor 'lower castes' backgrounds, typically, landless farmers, engaged in manual labour and as farm hands, or working as informal sector workers, as hawkers. In UP most were undertrials, with some past involvement in petty crime. In Haryana, most were from Meo and Gujjar backgrounds, involved in cattle trade, either as drivers or handymen, or traders.

5. The police account of the encounters, paints a picture of hardened criminals attacking a police party lying in wait - warned by prior intelligence - and the police party returning fire in self-defense, resulting in the victim being fatally shot, while the unnamed accomplice escapes. Examination of FIRs and post mortem reports, and interviews with family reveals serious lapses in the police version.

- FIRs spread over multiple episodes, use exactly the same text, hinting at use of a common template by state police to record the version of the incidence.
- There is similarity also in recovery of weapons from each deceased culprit. Most of those killed have, in police FIRs, the same number of weapons on them.
- Basic procedures of criminal investigation, such as recording seizure memos and spot *panchnamas,* appear not to have been followed in many cases
- Autopsy reports contradict the FIR version. Most bodies had tattooing marks and blackening of skin around bullet holes, indicating close range shooting and not a shoot-out. Most also had direct hits to the body, making a shoot-out implausible.
- Police officers involved were minimally injured,
- Lack of independent (civilian) eye witnesses to the 'encounter', whereas many persons

claim to have witnessed the victim being picked up earlier by the police.

- Most victims were put on police's most-wanted lists, after the murder.

6. Torture, a common theme across cases. Most families reported having received dead bodies that had signs of grievous injuries to the body, not explained by a shoot-out.

7. Encounters, not spontaneous, but pre-planned, designed to serve the purpose to instil fear in the minds of supposed criminals and raise the image of government in the public eye, as being tough on crime.

8. Supreme Court judgement and NHRC guideline exist for police to follow in encounter cases. Our research revealed these were being flouted routinely.

- Most cases we studied, did not have FIR of murder of the deceased filed by police, something required by law
- where families attempted to file complaint or seek help to address grievance, they were met by strong resistance from police, in the form of threats of charging in false cases, even of getting another family member 'encountered'.
- Where families had still yet tried to, the court has denied the petition on the strength of objections by district police
- Police did not report encounter deaths, to family, another requirement
- Family not provided legal documents (FIR, PM report…), another requirement
- Family statement not recoded by police, or in magisterial enquiry, yet another obligation
- We did not find a single instance of a police officer having been prosecuted in these
- Compensation provided to only a few cases, and mostly as a tool to silence families.

9. Widespread police reprisal, to silence families, preventing them from seeking redress.

- Takes the form typically, of involving another family member in a petty case, hence instilling the fear of being picked up by police anytime. Other acts include harassment and vandalism by police of victim's house; threats of murdering family members and relatives in 'encounters'; and illegal detention of relatives.
- Where families have mustered courage to speak out, more serious accusations have been made. In several cases, accusations of rape have been initiated by police against family members.
- After media began reporting encounter cases in west UP, the police stepped up attempts to intimate affected families further, to silence them.

10. Impunity: Police's continuing ability to undermine SC and NHRC directions to check 'fake encounters', speaks to the impunity they enjoy. Impunity is aided by:

i) Enabling laws, aiding police abuse:

- Sec 46(2) of the Criminal Procedures Code, allowing police to use all means possible, including lethal force, to make arrests
- Section 96 of Indian Penal Code recognizing individual's right to self-defense.
- Exception 3 of Section 300 of IPC
- Section 197 CrPC, providing impunity to police personnel against prosecution

- Harsh cow protection laws in several states, that give undue powers to police

ii) Lack of transparency in police functioning: Police procedures including recording of FIRs have remained opaque. There is also little independent complaints redress mechanism. Independent Police Complaints Authorities, required under Supreme Court guidelines on police reforms, have remained unrealized.

iii) Incentive structure: more towards violating guidelines, than observing them. In UP, state government seems to have launched a drive for encounter killings. Has also a reward system for officers fighting crime aggressively. Officers seen as high achievers, have been known to be given 'prize' postings. Similar in Haryana.

iv) National institutions, not proactive: NHRC tasked with checking encounter killings does not seem to be proactively pursuing the goal. Not much in the public domain on efforts to monitor implementation of its and SC guidelines.

11. RECOMMENDATIONS

11.1 State parties:

Central and State governments

i. Review laws that encourage impunity, to bring them in compliance with international standards and obligations and to remove any legal barriers for prosecution of public servants: Section 46 (2) of Criminal Procedure Code (CrPC); Exception 3 of Section 300 of IPC; and Sec 197 of CrPC;

ii. Enact laws on torture, and amend Indian Evidence Act, 1872, to make inadmissible evidence obtained on the basis of police interrogation that involved torture and other cruel, inhuman, or degrading treatment or other illegal coercion

iii. Amend Sec 100 of IPC that enumerates the conditions for the exercise of the right to self-defense (u/s 96 IPC), by setting limit on the excessive use of force by police.

iv. Amend State cow protection laws (Haryana, 2015) specifically the sections that give excessive powers to the police, whilst putting the burden of proof on the accused

v. Amend Section 36 of the Protection of Human Rights (Amendment) Act, 2006 to permit the NHRC to inquire into violations pending before other commissions or which occur more than one year before the date of the complaint

vi. Implement Prakash Singh order on Police Complaints Authority at district and state levels, giving them adequate resources and powers, and independence.

vii. Revise SC guidelines to bring out specific and clear directions for recording of statements of family (and not just the "witnesses"); immediate access of the family members to FIR and post-mortem report; recording FIRs u/s IPC 302 - not leaving it up to the discretion of police to decide what kind of an FIR would be registered; and strengthening the NHRC to make it play a more proactive role in protecting human rights of those that are denied it.

viii. Encourage in police ranks, a culture that rewards respect for human rights and professional conduct

NHRC (and State Commissions)

i) Encourage independent investigations into police complaints. Take up cases mentioned in the report for independent, timely investigation

ii) Establish a system of monitoring effective implementation by states of Supreme Court judgement and NHRC guidelines on encounter killings.

iii) Set up a system to support states and state police forces with capacity to be able to effectively implement the guidelines

iv) Make NHRC working more transparent, as aid to victims and civil society, to contribute to better community monitoring of implementation of SC and NHRC guidelines.

To international community

i) Relevant mandate holders of the Human Rights Council (HRC) should undertake visits to India, to investigate cases mentioned here, and others of the similar nature

ii) Encourage state parties to independently investigate cases mentioned, prosecute officers found guilty, and order adequate compensation for victims, and protection for them

iii) Make communication to HRC/ Office of High Commissioner of Human Rights (OHCHR) accessible for victims and civil society, to be able to seek redress through OHCHR.

To civil society/community based organisations

i. Better documentation of violations of right to life of victims, as evidence

ii. Better education of survivor families, on their rights to redress, justice and compensation, among others

iii. Better support to families, to encourage them to voice complaints

iv. Better use of NHRC mechanisms to lodge complaints

v. Better use of special mandate holders (of UN/HRC) to bring cases of violation of rights to life to the notice of UN mechanisms.

1. EXTRA JUDICIAL EXECUTIONS

1.1 Introduction

There has been a large number of extrajudicial executions by the police in India, in recent years, especially in the northern state of Uttar Pradesh (UP), and over time in neighbouring Haryana, mostly of Muslim youth. Extrajudicial executions by police and security forces in India are commonly called 'encounter killings' or 'fake encounters'[1]. The Supreme Court of India (SC) and the National Human Rights Commission (NHRC) have, from time to time, issued specific guidelines to prevent such killings, by holding the police and state authorities to account, procedurally. Yet these illegal executions continue, with seeming impunity. This brief report, by a civil society alliance to investigate the facts in the recent cases, seeks to unearth and report the truth in a sample of these cases, from a victim perspective, in an effort to help survivor families seek justice and for the police and other 'duty bearers' to be held to account for their actions, strengthening the rule of law in India.

Citizens Against Hate, a platform of civil society organisations and individuals, investigated 'encounter' killings in Uttar Pradesh and Haryana provinces, specifically looking at the large number of Muslim youth that were reported being targeted. The 'fact finding' field research conducted between October 2017 and April 2018, sought to record the extent of the executions; document the circumstances of the killings; and investigate the working of the criminal justice system, specifically how guidelines by the Supreme Court and NHRC were being followed, as a means to understand accountability.

1.2 Methods and sources

We used media reports and anecdotal evidence, to record 'fake encounter' episodes; investigated a sample of cases (16 in Uttar Pradesh and 12 in Haryana), by visiting and interviewing survivor families, and documenting their testimonies. The choice of these cases was determined firstly by our focus on western UP districts and Mewat region of Haryana and neighbouring Rajasthan, both with large number of reported cases of Muslim youth 'encountered', and where CAH has been working for some time, providing support to victims of hate crime against minorities. (Citizens Against Hate, 2017). We gleaned official accounts of incidents though legal documents, and analysed those for contradictions; also sought to understand state's compliance of Supreme Court and NHRC guidelines through making application to authorities under Right to Information (RTI Act, 2005) legislation. Throughout we also used media reports extensively to reference incidents and trends.

The report is organized as follows: We commence with cataloguing incidents in Uttar Pradesh and Haryana, separately (sec 2), followed by reporting trends of the executions, to

[1] *The Supreme Court in People's Union for Civil Liberties v. Union of India and another, called death of aggressors by police and security forces through disproportionate use of force as "administrative liquidation".* Supreme Court of India, in *Extra Judicial Execution Victim Families Association (EEVFAM) and Ors. Vs. Union of India (UOI) and Ors* (AIR 2016 SC 3400).

identify flaws in police accounts of the episodes as being encounters in self defense. (Sec 3). We then (sec 4) provide evidence on how the police undermines the criminal justice system, violating due process regularly; followed by (sec 5) trying to understand what enables police impunity in fake encounter cases, concluding (sec 6) with drawing out some common threads on the subject. This is followed (sec 7) by a set of recommendations to state parties, to the international community, and lastly to civil society and CBOs. The detailed case records of the 16 cases from Uttar Pradesh and 12 from Haryana are annexed to the report.

Box 1: Extrajudicial executions & 'fake encounters' in India

Extrajudicial executions are defined as: "unlawful and deliberate killing carried out by order of a state actor, or with the state's complicity or acquiescence."(Viray, Patricia Lourdes, 2016). They refer to what the criminal law calls "murder" or "homicide", being deaths caused intentionally, in this case by the attacks or killings by State security forces or paramilitary groups, death squads or other private forces cooperating with the State or tolerated by it. Extrajudicial executions also constitute the deliberate and intentional killings of civilians or combatants considered *hors de combat* as well as what are the result of a "merciless war", i.e. those resulting from orders to leave no survivors. (Federico Andreu-Guzmán, 2015)

Evidence from India, points broadly to two types of extrajudicial executions carried out by the police (Human Rights Watch, 2009:91)

i. In the first, suspects die during custodial torture or by execution and police deny all responsibility, claiming the death was caused due to other causes. instead that there were other causes for the deaths.

ii. In the second, known as "fake encounter" killings, the police acknowledge the killings but falsely claim they acted in self-defense or to prevent victims from fleeing arrest. These are fabricated shoot-outs, to win public favour or in furtherance of police officers' own political or criminal ties.

The UN's Special Rapporteur on extrajudicial, summary or arbitrary executions, noted:

> Where they occur, "fake encounters" entail that suspected criminals or persons alleged to be terrorists or insurgents, and in some cases individuals for whose apprehension an award is granted, are fatally shot by the security officers. A "shootout scene" is staged afterwards. The scene portrays those killed as the aggressors who had first opened fire. The security officers allege in this regard that they returned fire in self-defence. After the incident, the security officers register an FIR, which often reflects their account of events. (2012:5, para 13)

Extrajudicial killings have long been a part of India's socio-political landscape. It was first employed in Andhra Pradesh in 1960s against individuals seen as opposed to the State. In the 1960s and 1970s, custodial and extrajudicial killings of Naxalites became standard police practice. In counter insurgency operations in Kashmir and Punjab, fake encounters became routine, as a quick way to get rid of society of terrorists and opponents of State. (Human Rights Law Network, 2008)

According to the Human Rights Watch report, in the late 1980s, the term "encounter killing" emerged, following a spate of police operations against individuals alleged to be involved in organized crime. "Encounter specialist" police officers often made only faint gestures toward firing in self-defense because they enjoyed vast public support for what the media depicted as vigilante-style heroism in courageously hunting and gunning down criminals. The government awarded gallantry medals and promotions to police who "scored" dozens of encounter deaths, crediting the deaths, rather than arrests, with breaking organized crime's stronghold on Mumbai and Delhi, and reducing gang violence in Bangalore. In this narrative, the police officer as judge, jury, and executioner was necessitated by the impotence of a clogged court system that, given its low conviction rate, was out of touch with the reality of escalating levels of violence. (2009:92)

The problem has become so grave that the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, in his report to the Human Rights Council, after his visit to India in 2012, noted: "the NHRC also acknowledged the problem of encounters in India, and expressed its agreement with the view that encounter killings "have become virtually a part of unofficial State policy". (p 5, Para. 17)

2. INCIDENCE OF RECENT EXTRAJUDICIAL EXECUTIONS

2. 1. Uttar Pradesh

According to most recent reports, 49 persons have been executed (in over 1100 'encounters') in Uttar Pradesh, since March 2017. (The Hindu, 31-03-2018) According to official data released by Uttar Pradesh police, there were 1144 'encounters' in the state from 20th March, 2017, to 31st January, 2018, in which 34 criminals were killed and 2744 were arrested. (Outlook India, 01-04-2018)[2]. The latest case was reported in the media on 4th May, 2018, of one Rehan in Muzaffarnagar in western UP, with newspaper headlines reading, "Uttar Pradesh Encounter Death No 50: Same Chase, Same Story'. (Indian Express, 04-05-2018)

Extrajudicial executions have been common occurrence in Uttar Pradesh in the past too. NHRC registered 1782 cases of 'fake encounters' nation-wide, between 2000-2017. Uttar Pradesh accounted for 44.55 per cent of all of these. NHRC recommended compensation in 314 of these cases, all over the country – 160 of these were from UP. (Firstpost, 02-02-2018) Yet the record of the past year, since Yogi Adityanath, the incumbent state Chief Minister, took power in March 2017 at the head of BJP majority government, exceeds all previous records. The current round of executions also seem to have a bias motive, against marginalized communities, particularly poorest Muslims.

We ourselves spoke with families of 17 victims of extrajudicial encounters, in 16 encounter incidents, all from west UP districts, with the highest concentration of 'encounters' in Uttar Pradesh. (Table 1) These are Shamli, Muzaffarnagar, Saharanpur, Meerut districts, with a high concentration of Muslims, and a social and administrative milieu that has seen much polarization on religious lines, over the past years, including that leading up to and affected by the mass violence that targeted Muslims in Muzaffarnagar, Shamli, and neighbouring districts, in 2013. We used media reports to identify victim families from these districts, and then through local partner networks reached out to the families.

[2] *Four policemen were also killed and 247 were injured during these encounters which took place in Agra, Meerut, Lucknow, Allahabad, Bareilly, Gorakhpur, Kanpur, and Varanasi*

Table 1: Extra judicial executions in western UP – CAH fact finding list

SN	Deceased	Date of incident	District of incident
1	Ehsaan	25-03-2018	Saharanpur
2	Akbar	03-02-2018	Shamli
3	Noor Mohammad	30-12-2017	Meerut
4	Shamim	30-12-2017	Muzaffarnagar
5	Aslam	09-12-2017	Gautam Budhnagar
6	Ramzani	08-12-2017	Aligarh
7	Furqan	22-10-2017	Muzaffarnagar
8	Sumit	03-10-2017	Greater NOIDA
9	Waseem	28-09-2017	Meerut
10	Mansoor	27-09-2017	Meerut
11	Jan Mohammad	17-09-2017	Muzaffarnagar
12	Shamshad	11-09-2017	Saharanpur
13	Nadeem	08-09-2017	Muzaffarnagar
14	Ikram Tola	11-08-2017	Shamli
15	Qasim	02-08-2017	Mathura
16	Naushad	29-07-2017	Shamli
17	Sarwar	29-07-2017	Shamli

2.2. Haryana

There is no head count of those executed in neighbouring Haryana state, and our own Right to Information Act (RTI) questions to NHRC and state government have not revealed much. Our fact-finding investigation in Dec 2017- Feb. 2018, in Mewat area straddling Haryana, Rajasthan and Uttar Pradesh[3], was inspired by news, whilst undertaking an earlier fact finding on cow related vigilante killings against Muslims in the area in July 2017 (Citizens Against Hate, 2017), of frequent 'encounters' there. For our current fact finding, we used snowballing technique to base our data collection on, confirmed by civil society groups. This has provided the following list of 13 persons executed in 12 incidents. (Table 2)

Table 2: Extra judicial executions in greater Mewat region (Haryana, Rajasthan, UP)

(CAH fact finding list)

SN	Deceased	Date of incident	Incident Location	Home village/town
1	Talim	07-12-2017	Alwar, Rajasthan	Salaheri, Nuh , Haryana
2	Munfaid	16-09-2017	Nuh, Haryana	Salaheri, Nuh, Haryana
3	Naseem	20-08-2016	Alwar, Rajasthan	Adbar, Nuh, Haryana
4	Ruddar	05-2016	Kosi Mathura, UP	Hathin, Palwal, Haryana
5	Zahid	31-05-2015	NH-8, Rewari, Haryana	Dhulawat, Nuh, Haryana

[3] *Technically Nuh district and parts of Rewari districts of Haryana, and adjoining areas of Alwar district in Rajasthan state, all part of the wider Mewat cultural zone, inhabited mostly by Meo Muslims.*

Table 2: (continued)

SN	Deceased	Date of incident	Incident Location	Home village/town
6	Qarar	31-05-2015	NH-8, Rewari, Haryana	Dhulawat, Nuh, Haryana
7	Arif Khan	20-10-2014	Alwar, Rajasthan	Alwar, Rajasthan
8	Farid	30-12-2013	Gulalta, Nuh, Haryana	Bharatpur, Rajasthan
9	Jasmaal	05-09-2011	Palwal, Haryana	Hathin, Palwal, Haryana
10	Azmat	17-05-2011	Kosi, Mathura, UP	Mamlika, Nuh, Haryana
11	Naseem	17-05-2011	Kosi, Mathura, UP	Singar, Nuh, Haryana
12	Salim	15-05-2010	Mathura, UP	Bharatpur, Rajasthan
13	Jahul	17-03-2010	Mathura, UP	Hathin, Palwal, Haryana

2.3. The encountered: Targeting the vulnerable!

Uttar Pradesh

An analysis of the headcount of those executed in Uttar Pradesh in the past year, reveals that close to half of those were Muslims. (Muslims make up only 19 per cent of the total population of UP). Other victims too came mostly from 'lower castes' backgrounds. All belonged to poorest sections – typically, landless farmers, engaged in manual labour and as farm hands, or working as informal sector workers, as hawkers. Most victims of executions were 'undertrials', viz. those incarcerated on suspicion of crimes and awaiting court convictions. According to National Crimes Records Bureau (NCRB) prison report 2015, two thirds of jail inmates in India were undertrials. Over 55 per cent of these were from marginalised groups (specifically Muslim, Dalit, Adivasi). In Uttar Pradesh too, this figure is especially high for Muslims (27 per cent). Evidence proves majority of undertrials are from poor backgrounds, accused in minor offences and have no access to legal aid. In and out of jail since early adulthood, undertrials are unable to have a normal life. According to the same NCRB report, 70 per cent of undertrials had not passed class tenth. (The Wire, 24-02-2018). Our list of 16 victims (Table 1) largely, reflects this profile.

Haryana

In Haryana too, all victims we identified were poor backward caste Muslims, such as Meos and Gujjars, mostly engaged in cattle trade and the meat supply chain, including drivers, manual labourers, and informal sector workers. All were socio-economically marginalized, were mostly assetless or had only a marginal asset base. Mostly trading in cattle and meat, they took great risks in these communalised times to continue to trade in cattle and meat. Their traditional skills in these professions and the lack of alternative means of livelihoods, acted to keep them locked in these high-risk professions. Literacy levels are low and education attainment only poor for victims and the dependents they left behind.

These finding resonate earlier insights on extra judicial executions, that highlighted the fact that traditionally marginalized groups are especially vulnerable to abuse. (Human Rights Watch, 2009). The report goes on to explain "..... that vulnerability is ... the product of an abusive police culture in which an individual's ability to pay a bribe, trade on social status, or call on political connections determine whether they will be assisted or abused." (Ibid).

3. 'ENCOUNTERS' AND 'FAKE ENCOUNTERS': POLICE DENIAL!

3.1. Versions of the truth and sources

We begin our analysis by interrogating the claims by the police – made most brazenly through the media in Uttar Pradesh by the state administration, but more often and generally in the writing of the First Information Reports (FIR) the police register of the 'encounter' incident – of the chain of events leading up to the encounter and its description. This is not an easy task. A word on that is in order. Almost all of the official record generated of and around any encounter episode is owned by the police. These include, besides the FIR, entries in General/Daily Diary maintained at police station level, of all movements and incidents, Wireless log record, vehicle log record, '*panchnama*'[4] and recovery records, as well as case diary once FIR has been registered and investigation commenced, among others. Problem is, most of these are neither available publically, nor is it easy to access these documents easily. One could ask for these through RTI applications, and trial courts could order these records to be provided to victims, but neither is an easy and timely route, nor is fool-proof. The official data sources for this analysis have therefore been weak. In the absence of independent civilian witnesses (in FIRs, accomplices are mostly unnamed) and autopsy reports, either doctored or not available to victims, it is even more difficult to conclude definitively what the truth of the event was.

Family testimonies provide an alternative –providing information contradicting police accounts, of the circumstances in which the victim was picked up by the police, the condition of dead body that was received by the family, and the manner in which it was transferred by the police. Testimonies also provide an insight into police attempts to silence families, and of the reprisals against those that decide to stand up to them. Family testimonies therefore are vital evidence for our enterprise. We base most of our analysis of the cases, on family testimonies, as well as, unexpectedly, on the inconsistencies we noticed in police accounts, gleaned from the little official records we had access to. Based on this analysis, we can say that there is high plausibility of these 'encounters' being indeed 'fake encounters', i.e. extra-judicial killings by the police that have been staged by them and recorded as such. Below we provide illustration of the inconsistencies we noticed.

3.2 Evident flaws in Police's claims

An examination of the documents we could access (FIRs mostly, but in some cases also autopsy report), and interviews with family members of victims, reveal serious lapses in the police version.

i) The sequence of events which led to the 'encounter' as stated by the police in these widely divergent FIRs recorded by them, tend to be identical.

[4] *A statement, recorded at the scene of crime/offence, of persons present at the time of arrest, search and seizure, including Investigating officers, Prosecuting witnesses, the accused and any mediators.*

This is usually somewhat like this:

> Just before the encounter, police receive tip off about the location of a known criminal. Police conduct checks/set up road block to apprehend the criminal. Bikes or cars that the alleged criminals are in, refuse to stop, when waved down, and instead start shooting at the police. Police fire back in self-defense. Victims receive bullet injures and die on the spot or are declared dead on being brought to a hospital, while the alleged accomplice if any (who remains unknown), escapes. A cache of arms and cartridges is recovered from the site.

In Uttar Pradesh, we noticed multiple FIRs used exactly the same text, hinting at use of a common template by state police to record the version of the incidence. These all identify the victim as aggressor, against whom the police fired in self-defense.

Majority of the FIRs had different versions of the following formulation describing the incident, adapted to local contexts:

> Police were alerted of (numbers) criminals who were roaming in (place) to commit loot and robbery. Police set up barricades to apprehend the criminals. The criminals numbering ....on a motorcycle, tried to flee after seeing the police. They were chased by the police. Criminals fired gun shots at police, police fired back in self-defense. One criminal was injured, who was taken to hospital, but succumbed to his injuries, on the way or on reaching the hospital. The other accused escaped and could not be identified. Inspector (name) received a bullet injury on his thighs and Constable (name) was hit on his leg.

ii. There is also similarity in recovery of weapons from on each of the deceased culprits, whose volume too is questionable. Each person is found armed with one .32 bore pistol, and two .315 bore *tamanchas (*country made pistol*)*, a 12 bore shotgun, and, in many cases, a musket. Most of those killed have the same number of weapons.

iii. Standard operating procedures relating to criminal investigation, such as recording seizure memos and spot *panchnamas* have not been followed in many cases , hinting that these were in-fact planted evidences. There are also serious procedural gaps in recoveries of vehicles, again hinting serious fabrication.

iv. Autopsy reports that we managed to access, contradict the FIR version

- Most bodies had tattooing marks and blackening of skin around bullet holes, indicating that the shooting had taken place at very close range, and could not be attributed to bullet marks in a shoot-out. (Waseem, 28/09/17, Meerut; Mansoor, 27/09/2017, Saharanpur; Sumit Gujjar, 8/10/2017, Baghpat)

- Most cases had direct hits to the body, head, face or chest, again unlikely in a shoot-out. (eg, Waseem, 28/9/17, Meerut; Sumit Gujjar, 8/10/17, Baghpath; Shamshad, 11/09/2017, Saharanpur; Sarwar and Naushad, both 4/8/2017, Shamli; Mansoor, 27/9/17, Saharanpur)

v. Injuries to police officers in these incidents, as recorded in the FIRs, are consistently

minimal, with bullets just grazing past, even though the alleged criminals shot at them indiscriminately[5]. There are also not enough bullet shells to account for such indiscriminate firing. (Waseem, 28/9/17; Meerut; Mansoor, 27/9/17, Saharanpur; Shamim, 30/12/17, Muzaffarnagar)

vi. In many cases, the 'encounter' is reported to have occurred in sugarcane fields, through which, the police claim, the alleged criminals tried to escape. (eg. Furqan, 23/10/17, Shamli). Sugarcane plant can grow upto 6 metres tall – to get straight shots, especially with direct hits to the body in these, seems far- fetched.

vii. There is a lack of (civilian) eye witnesses to the 'encounter' – Example: Ehsan, 25/03/2017, Saharanpur, (Indian Express, 29-03-2017). Most accomplices that survive, are unnamed in the FIRs. At the same time there are many witnesses to victims being taken away by police just prior to being reported killed in an encounter. (Naushad, Sarwar, Aslam, Ramjani, all UP)

viii. In a majority of the cases, family members revealed, the police put the victims on most-wanted lists and with rewards on their head, just after the incident. (The Wire, 24-02-2018)

Mansoor: (27/9/17, Saharanpur): Mansoor's mother identifies 2 police officers who took away Mansoor from their house in her presence, while other policemen stayed in the car; later that night, according to the mother, police came and forcibly took signature of father on some papers, not informing family that Mansoor had already been killed.

Sumit Gujjar (8/10/17; Baghpath): Witnesses saw police take Sumit away. When family tried to file a missing persons report with the police, they were refused.

3.3. Torture, a common theme

The autopsy reports we reviewed, and interviews with families, reveal torture, as a common theme across the cases

- Ikram (11/8/17, Baghpat): As per autopsy report, Ikram received a total of 9 bullet injuries. It mentions three fractures to his body. According to family's testimony, his body had severe wounds of torture. His ribs were broken and he had a large injury on the back of his head.
- Ramzani (11/8/17, Aligarh): According to family, Ramzani had died due to torture, and was shot dead after.
- Sumit Gujjar (8/10/17, Noida): Back and chest found blue, presumably with beating; back-bone broken as if some heavy object had been rolled over his body; ribs found cracked; arms were fractured. One eye was totally mutilated and two teeth were missing,

[5] *There have been 4 deaths reported among policemen, in Uttar Pradesh. (The times of India, 10-01-2018)*

- Shamshad (11/09/17, Saharanpur): broken bones. Autopsy report reveals that the body was 3-4 days old, while police had claimed the death to have occurred the same day.

Aslam (9/12/17, Noida): Excerpt from wife's testimony:

"When my husband's dead body was brought home, I noticed multiple signs of torture. His waist was black and blue in colour and his hands were broken, suggesting that my husband was beaten and tortured before being short."

- Naushad and Sarwar (4/8/17, Shamli): Family testimony mentions several broken bones and torture wounds
- Nadeem (8/9/17, Muzaffarnagar): family describes all bones being broken, and body having cigarette torture burn marks
- Aslam (9/12/17, Noida): arms and legs fractured according to family, severe beatings and torture marks
- Noor Mohd: family attests broken arm, broken leg, severe beatings. Family is in possession of recent x-ray report (prior to encounter), showing serious knee injury, proving the victim was in severe pain and would physically be incapable of a stand-off with the police, as the police claims.
- Zahid (31/5/15, Rewari, Haryana): According to family and friends, Zahid's body was severely disfigured including face, with acid, some body parts were missing.

Box 2: The persistence of torture in India

Torture by police is routine in India. The Supreme Court has said that "dehumanizing torture, assault and death in custody" are so "widespread" as to "raise serious questions about credibility of rule of law and administration of criminal justice." (Dalbir Singh v. State of U.P. and Ors., WRIT PETITION (Crl.) NO. 193 OF 2006, decided 2/3/2009, paras. 8-9). Documentation done by NHRC and human rights groups indicate minimally more than 1000 cases of torture and custodial death every year. (Lokaneeta & Jesani, 2016). Its purpose and severity varies across different contexts in India.

What is lacking is a special law criminalising torture in India or governing mechanisms on prevention of torture. In 2010 the Prevention of Torture Bill was introduced by the government in the Parliament, but it lapsed without seeing the light of day. In 2017, Law Commission of India in its 273rd report presented a draft of The Prevention of Torture Bill 2017, but the bill has not been taken up in the Parliament so far, indicating the lack of enthusiasm by the state to come clean on torture practices.

This evident lack of will is remarkable, given India's commitment made to the international community and to its own citizens.

In 1997, India signed the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in short, UN Convention Against Torture, adopted by UN General Assembly on 10th December, 1984 (Resolution No.39/46). India has also ratified the International Covenant on Civil and Political Rights (ICPPR). Both statutes prohibit torture and cruel, inhuman, and degrading treatment. These commitments are also reflected in the court pronouncements.

Box 2: (continued)

For example, Supreme Court has interpreted the constitutional right to liberty and human dignity as an "an inbuilt guarantee against torture or assault by the State or its functionaries." (Dalbir Singh v. State of U.P. and Ors., WRIT PETITION (Crl.) NO. 193 OF 2006, decided 2/3/2009, paras. 8). Directives issued in D.K. Basu v. West Bengal establish detention procedures such as medical examination of individuals in custody upon arrest and every 48 hours. D.K. Basu v. State of West Bengal, JT 1997 (1) SC 1).

3.4 Police 'encounters': premeditated and with a design

Given the above inaccuracies in the police versions, the large-scale executions, in what is made out as bonafide encounters with criminals, seem like having been set up. In any case, these encounters do not come across – from interviews with victim families and particularly a study of the documents that are available – as being spontaneous. Rather there are signs of pre-meditated planning of these incidents and of stage managing communication around the encounter story.

In Uttar Pradesh, evidence points to use of encounters as a means to instill fear in the minds of criminals, and to raise the image of the state government and the police, in the public eye, as being tough on crime and criminals[6]. (The Wire, 24-02-2018). The NHRC said as much, in a recent notice to state government on the subject:

> " it seems that the police personnel in the state of Uttar Pradesh are feeling free misusing their power in the light of an undeclared endorsement given by the higher ups. they are using their privilege to settle scores with the people". (NHRC, 6 Feb. 2018)

Box 3: Supreme Court judgement on encounter killings

Supreme Court of India in the case of PUCL Vs. State of Maharashtra [(2014) 10 SCC 635] issued the following guidelines as standard procedure for "thorough, effective and independent" investigation in the matters of police encounters:

1. Any intelligence or tip-offs about criminal activities/movements must be recorded either in writing or electronic form
2. If pursuant to the tip-off, police uses firearms resulting in death of a person, then an FIR shall be registered and sent to the court as per sections 157 and 158 of CrPC.
3. Independent investigation shall be conducted by the CID or police team of another police station fulfilling eight minimum investigation requirements
4. Mandatory magisterial inquiry into all cases of encounter deaths
5. NHRC or State commission must be immediately informed; Commission shall get involved when there are serious doubts about independent and partial investigation.
6. Medical aid to injured victim/criminal and a magistrate or medical officer should record statement

[6] *CM Yogi Adityanath: 'Today the people are secure and safe. The police used to be scared...we have changed that. The police is leading from the front.' (The Wire, 24-02-2018)*

Box 3: (continued)

7. It should be ensured that there is no delay in sending FIR, diary entries, *panchnamas*, sketch, etc., to the concerned Court.

8. Full investigation report shall be sent to competent court under section 173 of Cr.P.C and trial should be concluded expeditiously

9. Next of kin of the dead should be informed at the earliest.

10. Six-monthly statements of all encounter killings to be sent by DGPs to the NHRC by 15th of January and July in a prescribed format

11. Disciplinary action and suspension of the police officers should be initiated evidence of their role emerges upon conclusion of investigation.

12. Compensation to be awarded to dependents of the victims who suffered death in police encounter under section 357A of Cr.P.C.

13. Concerned Police officers must surrender their weapons for investigation, subject to rights under Article 20 of the Constitution

14. Intimate the family of the police officers involved in the incident and offer services of lawyer/ counsellor

15. Out of turn gallantry awards should not be given immediately after the incident, to be given only when gallantry of the officer is proved beyond doubt.

16. The family of the victim can complain to the Sessions Judge if they feel that the guidelines have not been followed or there exists a pattern of abuse or lack of independent investigation or impartiality

Box 4: NHRC guidelines on custodial deaths and encounter killings

NHRC (and state commissions) are meant to be the principal agencies tasked with ensuring justice for victims of human rights violations, especially by state actors. NHRC has issued various guidelines encounters and related killing in police action, over the years.

1. On 14th Dec, 1993 NHRC directed agencies to report matters relating to custodial deaths and rapes within 24 hours. (At that time, death in police action was classified under 'custodial deaths').

2. On 10th Aug, 1995 NHRC advised all Chief Ministers of the necessity of introducing video-filming of post-mortem examinations from 1st October, 1995 onwards to avoid distortion of facts.

3. On 27th March, 1997 NHRC recommended to all Chief Ministers that all States shall adopt the "Model Autopsy Form" and "Additional Procedure for Inquest" prepared by the NHRC based on discussions with experts and the UN Model Autopsy Protocol.

4. On 29th March 1997, NHRC issued Guidelines recommending the procedure to be followed by States and Union Territories with regard to encounter deaths. It was recommended, inter alia, that:

a) Deaths should be entered in an appropriate register at the Police Station;

b) It should be treated as a cognizable offence and investigation should commence;

c) It should be investigated by an independent agency such as the State CID, and not by officers of the same Police Station;

Box 4: (continued)

d) Compensation to the victim's dependants should be considered in cases ending in conviction.

5. On 2nd December, 2003, NHRC introduced following major changes/additions to the previous guidelines to introduce greater transparency and accountability:

a) If a specific complaint was made against the police, an FIR must be lodged;

b) A Magisterial Inquiry was now mandatory in every encounter death;

c) It also required the State Director General of Police to send a 6-monthly statement of details of all deaths in police action to the NHRC.

6. On 12th May, 2010, NHRC further revised the Guidelines containing the following major changes/additions:

a) The Magisterial Inquiry was required to be completed within 3 months;

b) Every death in police action was to be reported to the NHRC by the District Superintendent of Police within 48 hours;

c) A second report was to be sent to the NHRC by the District Superintendent of Police within 3 months, with the Post-Mortem Report, Inquest Report, Ballistic Report and findings of the Magisterial Inquiry.

(Source: National Human Rights Commission)

4. POLICE UNDERMINING THE RULE OF LAW

4.1. Refusing to register fake encounters

The Criminal Procedure Code (CrPC) lays down procedures to be followed in criminal investigations. Additionally, Supreme Court judgement in PUCL vs State of Maharashtra case (on 'fake encounters'), and National Human Rights Commission's guidelines on extra-judicial killings provide helpful directions, specific to investigation in extra-judicial execution cases. Our examination of 'encounter' cases from UP and Haryana show violation of procedural norms at each stage.

i. First Information Reports: Most cases we studied did not have FIR of murder of the deceased filed by police, as required by law, and as explicitly stated in Supreme Court and NHRC directives on 'encounter' killings. [The only exception was Taalim (7/12/17, Alwar, Rajasthan). Rather, charges under sec 307(IPC) for the attempt to murder of police officials and under section of the Arms Act,1959 has been made out on the basis of recoveries of arms and ammunitions.

ii. Our engagement with survivor families revealed that in cases where victim families had made any attempt to either file complaint or seek any help to address their grievance, they were met by strong resistance from the local police, in the form of threats of filing false cases against family or of getting another family member 'encountered'.

iii. In the few cases where family has gathered courage enough to move the courts to file an FIR, the court has denied the petition on grounds of objections from district police claiming an ongoing investigation in the case or on the faulty grounds of jurisdiction

of magistrate court. This was so in the case of Furqan's (23/10/17, Shamli), father, Mir Hassan (Harwada, Shamli) who tried to get an FIR registered of murder of his son.

4.2. Mis-investigating fake encounters

- According to SC and NHRC guidelines, a death in encounter is to be reported to victim family, without delay. In several cases, we were informed this was not done. In Waseem's case, (28/9/17, Saharanpur), information reached the family through other villagers. In other cases, through WhatsApp forwards (Shamim, 30/12/17, Muzaffarnagar), and through online news (Mansoor, 27/9/17, Saharanpur; Ikram, 11/8/17, Baghpath; Furqan, 23/10/17, Shamli).

- Further the guidelines affirm that family of victim has a right to legal documents – FIR, autopsy report, injury report, and death certificate, et al. In several cases we examined, they were denied these by the police, or were provided in return for family accepting the dead body without objections, and for quick disposal of the body. (Sarwar, 04-08-2014, Shamli). In other cases, the most basic documents were handed over to family only after much struggle. In Nadeem's case (08-09-2017, Muzaffarnagar), no documents, not even death certificate were made available to family.

- In many cases family statement have not been recorded by the police, or when magisterial enquiry were conducted, they were not recorded as required per SC guidelines. In many cases even Closure Report (Final Report) has been filed without consulting the family.

Mansoor (27-09-2017, Saharanpur): Excerpt from mother's testimony:

"I have been informed that the Final Report (also called closure report) has been filed by police in Mansoor's case. There has been no statement of the family recorded by either the police or the magistrate"

4.3. Compensation in lieu of prosecution

Since mostly, no FIRs of murder have been registered against police officers responsible, there is no case against police personnel. In our fact fining, we did not come across any case where a police officer was being prosecuted. Compensation has been awarded to families, on directions of NHRC, only in very few cases. In many of these, no investigation has been initiated against the police. In fact, compensation has been used as a tool to silence the victim family rather than acknowledge the wrongful actions of police.

Box 5: National and International obligations in criminal procedures

Failure to register FIRs:

- By failing to register FIRs, the police are violating domestic law. The Criminal Procedure Code requires police to register an FIR whenever they receive information that on its face suggests the commission of certain criminal offenses such as murder, rape and theft. The Supreme Court has repeatedly held that police cannot refuse to register an FIR in order to preliminarily investigate or by finding the claim non-credible or unreliable. [Ramesh Kumari v. State (N.C.T. of Delhi) & Others, 2006 (2) SCC 677; State of Haryana v. Bhajan Lal & Others, (1992)]. The registration of an FIR triggers a police investigation that must be completed "without unnecessary delay." (CrPC, Sections 154, 157, 173)

- The failure of police to register and investigate criminal offenses that deprive persons of their basic human rights violates the Indian government's obligations under the International Covenant on Civil and Political Rights (ICCPR). The UN Human Rights Committee (UNHRC), which monitors the compliance of state parties to the ICCPR, has stated that governments must ensure that victims have "accessible and effective remedies" to vindicate their rights under the treaty. (2004)

- Under the ICCPR, the government is obligated to exercise due diligence "to investigate allegations of violations," to bring those responsible to justice, and "to make reparation." The police are to undertake prompt investigations, including efficient and effective collection of evidence, to facilitate proper prosecution of such crimes.

- The UNHRC in its comments to India's report on its compliance with the ICCPR specifically urged "that judicial inquiries be mandatory in all cases of death at the hands of the security and armed forces and that the judges in such inquiries ... be empowered to direct the prosecution of security and armed forces personnel." (HRC, 1997)

- Under article 26 of the ICCPR, every person is entitled "without discrimination to the equal protection of the law." When a class of victims face police refusal to register and investigate crimes, or when that practice disproportionately impacts a class of victims, the government violates its obligation under article 26.

Arrests and detention:

The Indian Constitution establishes a right to life and personal liberty. (Art. 21-22). The Supreme Court has held that these rights inherently limit the police's expansive arrest authority: police can make an arrest only if, based on an investigation, they have "reasonable belief" in "the person's complicity" and "the need to effect arrest." [Joginder Kumar v. State of U.P., 1994 AIR 1349, 1994 SCC (4) 260.]

The Constitution and Supreme Court judgments also establish procedural obligations for police once they make an arrest. (NHRC Guidelines for Arrest, November 22, 1999). Under the Constitution, when police make an arrest without a warrant, they must inform the accused of the grounds for the arrest and the right to bail. (Art. 22, also CrPC, sec 50). Police must produce an arrested person before the nearest magistrate without delay and at most within 24 hours, except in situations authorized by preventive detention laws. (Ibid)

In DK Basu v. West Bengal, the Supreme Court established mandatory procedures for police detention. including documenting an arrest in a diary entry and a memo, that is attested by a witness, and is countersigned by the arrested person; and Police stations must post arrest information and send copies of related documents to the area magistrate. (D.K. Basu v. State of West Bengal, (1997) 1 SCC 416).

The ICCPR requires that arrest and detention be conducted in accordance with procedures established by law. (Art. 9) Arrest and detention are prohibited if they are arbitrary, that is, if they are carried out unlawfully or are manifestly disproportionate, unjust, discriminatory or unpredictable.

5. POLICE REPRISAL: SILENCING VICTIMS AND WITNESSES

All cases we studied had police actively undermine family's ability to challenge police claims and seek justice. We came across several cases where police had made cases against victim's siblings, relatives and even parents, under various sections of the law, or instigated others to accuse family members of rape, all in a systematic attempt to intimidate and prevent victim families from challenging the police version, accessing the criminal justice system and obtaining justice. The extent of planning we noticed, to silence victims was chilling.

Arresting family members by filing false complaints; frequent harassment and vandalism by police of victim's house; threats of murdering family members and relatives in 'encounters'; of illegal detention of relatives, and threats to prosecute surviving members of the family, have been some of the trends emerging from our interaction with survivor families. Specific examples include:

- Waseem (28/9/17, Meerut): Elder brother of victim also killed in police 'encounter'. Waseem shown to be involved (and escaped) in other encounter cases (Anuj). False case against mother for allegedly being a drug trafficker;
- Father and mother both currently in jail. Police continue to threaten the family.
- Furqan (23/10/17, Shamli): all five brothers accused by police in various cases, 3 currently in jail, two out on bail.
- Sarwar and Naushad (4/8/17, Shamli): Police has filed false cases against several family members, including of rape.
- Sumit Gujjar, 28/10/17, Baghpath): Police has filed a rape case against brother of the victim.

Police reprisal became particularly serious once family members began to take action to challenge the police, and trigger the criminal justice system. HRDs supporting survivor families too have become victims

Furqan's case (23/10/17, Shamli) is illustrative.

Meer Hassan, the father, wrote to the police (besides other authorities, including NHRC), seeking to have FIR registered against police personnel for the murder of his son. This was refused. He approached the courts to order the police to register the FIT. The complaint was dismissed by the courts, forcing Meer Hassan to file a writ in the High Court for such directions. Action is still awaited by the HC. In the meantime, local police officers have been visiting the family and threatening them against taking any legal action against the police. This is particularly challenging for the family that are penurious – Meer Hassan works as a farm hand, sons work as labourers.

Excerpt from mother's testimony

"*The accused police officers are threatening my husband Meer Hassan and (sons) Anees and Rahul that we should withdraw the case we have filed against them, or they will also be murdered in a fake encounter.*"

- Jaan Mohd (17/9/17, Meerut): Five days after family questioned the police version, police personnel landed up at their one-room home in Hussainpura village, Muzaffarnagar, and broke everything there, including utensils, earthen boundary wall, thatched roof and string cots.
- Nadeem (8/9/17, Muzaffarnagar): A day before our visit to the family, Nadeem's mother was called to the house of village (Pradhan) council head. A government official was on a visit along with a local policeman. They enquired whether the family was seeking legal action in the case.

We also heard, in our visits, how, after media began reporting the fake nature of these 'encounters' recently (NDTV, 2018; Indian Express, 2018; The Wire, 2018), the police had stepped up attempts to intimate affected families further, to silence them.

6. WHAT ENABLES POLICE IMPUNITY?

Our fact finding confirms past understanding (including that reported in the Special Rapporteur on extrajudicial, summary or arbitrary execution, last visit to India in 2012) of what enables police impunity. The surprising thing is, so little seems to have changed.

6.1. Laws that enable police abuse: Various statutes exist that are easily abused by the police, contributing to the incidence of extrajudicial executions.

- One such is Sec 46(2) of CrPC, allowing police to use all means possible, including lethal force, to make arrest, in a situation where the accused forcibly resists arrest or attempts to evade arrest. And whilst Sub Clause (3) of Section 46 imposes limitations on this right with respect to minor offences not punishable with death or life imprisonment - the section does end up giving police the powers, often arbitrarily used or misused. It is left to the discretion of the police officer to decide as to which means are necessary to effect the arrest of the person and which case can include the use of firearms by the police.
- Another is section 96 of Indian Penal Code (IPC), that recognizes an individual's right to self-defense. Problematically, Sec 100 of IPC enumerates the conditions under which the right to self-defense extends to causing death, viz. "where an assault is such as may reasonably cause apprehension that death or grievous hurt will be the consequence of such assault". But no limits have been set on the disproportionate use of force by police[7].
- Similarly, Exception 3 of Section 300 of IPC enumerates that culpable homicide does not amount to murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the power given to him by

[7] Although the Supreme Court of India, in Extra Judicial Execution Victim Families Association (EEVFAM) and Ors. Vs. Union of India (UOI) and Ors (AIR 2016 SC 3400) stated that, "The right of self-defence or private defence falls in one basket and use of excessive force or retaliatory force falls in another basket. Therefore, while a victim of aggression has a right of private defence or self-defence (recognized by Sections 96 to 106 of the IPC) if that victim exceeds the right of private defence or self-defence by using excessive force or retaliatory measures, he then becomes an aggressor and commits a punishable offence.

law and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

- Provisions providing impunity to police personnel against prosecution. According to Section 197 CrPC, public servants are shielded from criminal proceedings against an "offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty" without previous sanction of the state or central government, as the case may be. The Indian record of sanctions provided by governments in cases involving human rights violations by police and security forces is extremely poor.
- Cow protection laws in several states, empower police to act against those they suspect of violation of the law, such as cattle smugglers. The Haryana law, for example, where a large number of extrajudicial executions have taken place, empowers the police and any person authorized by the state, to enter, stop and search vehicles used or intended to be used for export of cows, and seize the vehicle and the cows. (Sections 16 and 17, *Haryana Gauvansh Sanrakshan and Gausamvardhan* Act 2015). Offences under this act are cognizable and non-bailable, and notably, the burden of the proof falls on the accused. Both Haryana, as well as Gujarat and Maharashtra cow protection laws, provide for protection of persons acting under good faith under these laws, contributing to impunity of police officers[8].

6.2. Opaque Police systems and procedures

UP and Haryana police have a history of human rights violations historically, but police systems nation-wide, including recording of FIRs (a critical element that triggers the criminal justice system chain) have never been touched by any attempts at transparency and openness. There is also little opportunity for citizens feeling aggrieved, to make a complaint and for that to be dealt with independently. Independent Police Complaints Authorities (PCAs), required to be put in place in districts and at state level, under Supreme Court guidelines on police reforms, have largely remained unrealized.

Box 6: Police reform in India

The National Police Commission, set up in 1979, produced eight reports on police reform in India but none of the major recommendations were adopted by the state governments. In 1996, a Public Interest Litigation (PIL) was filed in Supreme Court of India by Prakash Singh and NK Singh, former police chiefs, as a result of which the Supreme Court gave seven directives for the governments to comply with. These seven directives emphasize the separation of investigation and law and order functions of the police and the need to keep a check on unwarranted influence or pressure on the police by state government. Directives include setting up of different Commissions and Boards with specific functions such as deciding appointments, promotions, postings, and transfers of police officers of different levels.

[8] *Gujarat Animal Preservation Act (1954) and its amendments (2017), section 12; and Maharashtra Animal Preservation Act (1978), and its amendment (2015), section 13.*

Box 6: (continued)

A key directive, having a bearing on transparency and police credibility, is about setting up of a Police Complaints Authority (PCA) at state and district level to inquire into public complaints against police officers in cases of serious misconduct, including custodial death, grievous hurt, or rape in police custody. The latest compliance report reveals that only 12 states have established PCAs at state and district level, however no state has followed the proposed terms of composition, selection process and functioning of the PCAs, failing to make these bodies independent an effective for a for addressing complaints against the police.

Source: Commonwealth Human Rights Initiative. Seven Steps to Police Reform (2010)

6.3. The incentive structure and command responsibility:

In part, the license to police personnel to carry out extra judicial executions is provided by political masters. In the case of Uttar Pradesh, the incentive is provided in the current context, by the claims of the BJP government to fight crime ruthlessly. The Uttar Pradesh government even has (in complete violation of all SC guidelines) a reward scheme for government officials for encounters against criminals. (Outlook, 20-09-2017). In Haryana, the political commitment of the BJP regime to protecting the cow, provides this context in which killing alleged cow smugglers has been normalized. Recently Haryana state Chief Minister was reported to have felicitated a senior police officer from neighbouring Uttar Pradesh state - Shamli district police chief, credited by his state government for undertaking many encounter killings - at a Hindu religious function. He referred to the said officer as a role model for other police officers to follow. (Times of India, 28-11-2017). In both Haryana and Uttar Pradesh, the Islamophobic climate generated by the majoritarian mindset, and fanned by BJP regimes in the two states and at the centre, provides license to police officers on the frontline as well as the leadership, to kill with impunity.

6.4. National institutions failing to lead:

Guidelines have been issued by the NHRC and by the Supreme Court, to enforce accountability of the police. A flaw, we feel in these, is the reliance on the police itself to ensure enforcement of these guidelines, without any effort at making police procedures more transparent, or subject to more independent oversight. The absence, in the system imagined, of any role of independent mechanisms to observe and play any role, is perhaps the missing link. There is also little attempt to make police procedures transparent, opening them up to scrutiny. In any case, police complaints procedures do not exist in India.

There seems also no mechanism put in place by Supreme Court or the NHRC to proactively review the implementation of the guidelines they have issued exclusively to check extra judicial executions, except for the occasional demands to state governments for reports and evidence of actions. In effect, there seems little effort by national institutions to constructively engage with the question of extra judicial executions, beyond the one of issuing guidelines. In a recent RTI application we filed with the NHRC to obtain numbers and actions, NHRC reply made use of the 'sub-judice' nature of the 2014 order of the Supreme Court – the fountainhead of most anti-summary execution laws and guidelines – to deny us information[9].

[9] *Fact that the court case has not been closed and is ongoing.*

7. CONCLUSION

7.1. Uttar Pradesh and Haryana: Patterns in the silencing

Extrajudicial executions have been a longstanding police practice in India. NHRC data shows that Uttar Pradesh has had a particularly strong association. (Firstpost, 02-02-2018). But Haryana too has had its share of police resort to excessive use of force, as demonstrated by National Crime Records Bureau data of persons killed in police firing. Of the 92 civilians killed in police firing in 2016 nationwide, Haryana accounted for 22. (NCRB, 2017. Table 16B.1).

Evidence from Uttar Pradesh and Haryana, conforms to the two types of extrajudicial executions carried out by the Indian police. In Uttar Pradesh, these are

The archetypal "fake encounter" killings, with the police acknowledging the killings but falsely claiming they acted in self-defense. These are, in all plausibility, manufactured shoot-outs, in the context of the police machinery responding to political leadership's signalling a hard stance against crime and criminals, laced at times, with an element of bias against those from Muslim backgrounds, especially in the state's western districts. The encounters then act as opportunities for police personnel to meet political and departmental masters' expectations of crime control through aggressive policing, as well as to further their own personal interests. The public approvals they seem to be getting, come as unexpected bonus.[10]

In the case of Haryana and the wider Mewat region, the cases involved a police force armed with a harsh cow protection law, facing victims mostly from the Muslim Meo community – resident of Muslim majority Mewat in an otherwise Muslim-minority Haryana or Rajasthan - stigmatised in the public eye in Haryana and neighbouring areas, as cow smuggling criminals. In many cases in Mewat, we notice a trend of victims having died, including during custodial torture or by execution, but police denying all responsibility. There were instances too, of 'fake encounters', where the police claimed to have killed the victims in self-defence, as the victims, apparently failed to stop at police check points, and fired at the police instead.

A common argument made by the police, rationalising excessive use of force (as a form of crime control) is that fake encounter killings only target individuals who are a danger to the public. Regardless of their motive, fake encounter killings violate domestic law and the prohibition against arbitrary deprivations of life under international law. (Human Rights Watch, 2009:93). As the Supreme Court has noted: "[T]he gravity of the evil to the community resulting from anti-social activities can never furnish an adequate reason for invading the personal liberty of a citizen, except in accordance with procedure established by the Constitution and laws." [Prabhu Dayal Deorah v. District Magistrate, (1974) 1 SCC 103]

7.2 Challenges to countering the silence

Despite Supreme Court's pronouncements and clear judgements directed at preventing them, as well as NHRC guidelines and international commitments, extra judicial executions continue, unabated. At the heart of the matter is impunity. Police are usually the only eye-

[10] *District Police chiefs in Shamli and Muzaffarnagar, where a large number of these encounters have occurred, have been reported to have been felicitated by traders and businessmen. (The Wire, 24-02-2018).*

witnesses to these alleged encounters, which are typically carried out by junior and low-ranking police. But given the scale of this practice historically, and in UP's case specifically – with the overt involvement of the entire state administration and senior officers - it is likely that state officials and senior police are not only aware of these killings, but allow, unofficially sanction or even order these killings. (Human Rights Watch, 2009).

Problem clearly, is systemic, making impunity of the crime that much difficult to challenge. Add to that the fact that the incentives for putting an end to the practice are weak. The laws give wide-ranging powers to the police, and there are few checks to it, in terms of independent oversights or complaints mechanisms. Additionally, with the courts being overburdened and slow in dispensing justice, there is always, among police and law enforcement agencies, an urge to take the short cut, and itself dispense justice. The incentives, in fact, are ranged towards further use of excessive force and to resort to practices such as extra judicial executions. The reward system created by political masters as well as the police leadership – linking success to elimination of alleged criminals, and a preference for aggressive policing against selected crimes and social groups[11] – provides the license to frontline police officers to detain and eliminate petty criminals, in a show of effective crime control. The license also aids in the widespread use of torture as a means to extract information and evidence, or to punish those that police consider as criminals.

As the UN Special Rapporteur noted, the FIRs that are filed of the incident by the police itself, are frequently undisputed, which eventually leads to the swift closure of the case. Few encounter cases have been brought to the point of conducting investigations and, where applicable, prosecuting alleged perpetrators. Where inquiries are undertaken, the results are frequently not disclosed. The report added, another difficulty in the investigation of encounters lies in the lack of witnesses, often due to the fact that encounters take place mostly during the early hours of the morning. Alternatively, witnesses fear coming forward with testimonies. In some cases, such a situation is further complicated by a reported practice of offering gallantry awards and promotions to security officers after the encounters, as well as of pressuring law enforcement officers, who face already heavy workloads due to understaffing, to demonstrate results. (Human Rights Council, 2012, para 14)

Internal disciplinary proceedings are weak in India. Police investigations, either initiated by police or undertaken at the direction of external agencies, are often ineffective due to a "code of silence" that makes police unlikely to disclose incriminating evidence. Internal processes are also hampered by the lack of a police ombudsperson or dedicated internal monitoring unit. (Human Rights Watch, 2009:99-100). Data shows that internal disciplinary proceedings do not ordinarily result in serious disciplinary actions against perpetrators. Of the only 13 cases registered against the police for human rights violations cases in fake encounters, nation-wide in 2016, only in 4 cases were the accused charged. Eventually none was convicted. (NCRB, 2016. Table 16A.6). Independent investigation has the potential to tip the scale. But these are rare in India. Impunity thrives, therefore.

[11] *Compare the hard stance by Uttar Pradesh government regarding encounters, to the soft stance against violence directed at marginalized groups, particularly minorities, Dalits and women, including by BJP legislators. Recently UP government was reported to be ordering the closure of cases (numbering 131, including 13 of murder and 11 of attempt to murder) against accused in the 2013 communal violence in western Muzaffarnagar and Shamli districts, that included cases against several BJP leaders. (Firstpost, 22-03-2018) In violence that carried on for weeks, close to 50 persons, most of them Muslims, were murdered, hundreds of houses destroyed, and at its peak, some 50,000 persons were made homeless. Recently, the state government was reported to have initiated action to withdraw cases against senior BJP leaders charged with inciting the violence (Indian Express,26-04-2018).*

Box 7: Recommendations of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions made to India (2012)

Violation of the right to life by state actors

1. India should swiftly enact the Prevention of Torture Bill and ensure its compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

4. Section 46 of the Criminal Procedure Code (CrPC) and legislation in all states regarding use of force, including the exceptional use of lethal force, by all security officers should be reviewed to ensure compliance with international human rights law principles of proportionality and necessity.

5. Section 197 of the CrPC should be reviewed to remove any legal barriers for the criminal prosecution of a public servant, including the need for prior sanction from the Government.

8. India should ensure that the registration of FIRs is prompt and mandatory in all cases of unlawful killings and death threats. The authorities should put in place an independent mechanism to monitor the registration of such reports following any request to do so, and to punish law enforcement officials who refuse these.

9. India should ensure that command/superior responsibility is applied for violations of right to life by SFs.

Fight Against Impunity

12. India should put in place a mechanism of regular review and monitoring of the status of implementation of the directives of the Supreme Court and NHRC guidelines on arrest, encounter killings, and custodial death.

13. The establishment and effective functioning of the independent Police Complaints Authorities should be made a priority in all states.

14. Compensation cannot be a replacement for criminal prosecutions and punishment. Alongside payment of compensation, India should ensure that criminal investigations, prosecutions and trials are launched and conducted in a swift, effective and impartial manner in all cases of unlawful killings.

15. Promotions and other types of awards for security officers suspected to have been involved in unlawful killings, including through encounters, should not be granted until a proper clarification of facts.

16. Autopsies should be carried out in conformity with international standards, and families of victims should have full access to autopsy reports, death certificates and other relevant documentation.

17. The Nanavati-Mehta Commission, and all currently functioning commissions of inquiry on various violations of the right to life, should ensure that their findings are published in a swift/transparent manner.

18. India should consider launching a process of reflection upon the need to reform its judiciary with the aim of reducing the length of judicial proceedings and strengthening the independent functioning of the judiciary.

19. A credible Commission of Inquiry into extrajudicial executions in India, or at least the areas most affected by extrajudicial executions, which inspires the confidence of the people, should be appointed by the Government. The Commission should also serve a transitional justice role.

Box 7: (continued)

Killing of vulnerable persons
20. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act should be reviewed with the aim of extending its scope to Dalit Muslims and Dalit Christians. # 21. The criminal legislation should be reviewed to ensure that all gender-based killings, as well as killings of any member of a tribe or lower caste receive high sentences, possibly under the form of life imprisonment. # 22. An effective witness and victim protection programme should be established. # 23. Information and awareness-raising campaigns, to raise knowledge of human rights and access to justice, with a particular focus on vulnerable persons. Legal aid mechanisms for vulnerable persons
National Human Rights Commission
26. A legal basis should also be put in place to enable the extension of the period of one year under which the NHRC can consider cases. # 27. NHRC should issue guidelines on the conduct of inquests and autopsies in all cases of unlawful killings. # 28. The independence and functioning of State human rights commissions should be reviewed to ensure compliance with the Principles relating to the status of national institutions.
Cooperation and engagement with International organisations
29. The practice of inviting UN special procedures should continue. Implement recommendations on HRDs # 30. Prompt ratification of the following treaties: (a) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; and (b) the International Convention for the Protection of All Persons from Enforced Disappearance. # 31. Consider ratification of the following instruments: (a) the two Optional Protocols to the International Covenant on Civil and Political Rights; (b) the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; (c) the Rome Statute of the International Criminal Court; and (d) the two Protocols additional to the Geneva Conventions.

8. RECCOMMENDATIONS

8.1 To state parties

Central and state governments:

i. Review laws that encourage impunity, to bring them in compliance with international standards and obligations and to remove any legal barriers for prosecution of public servants: Section 46 (2) of Criminal Procedure Code (CrPC); Exception 3 of Section 300 of IPC; and Sec 197 of CrPC;

ii. Enact laws on torture, and amend Indian Evidence Act, 1872, to make inadmissible evidence obtained on the basis of police interrogation that involved torture and other cruel, inhuman, or degrading treatment or other illegal coercion

iii. Amend Sec 100 of IPC that enumerates the conditions for the exercise of the right to self-defense (u/s 96 IPC), by setting limit on the excessive use of force by police.

iv. Amend State cow protection laws (Haryana, 2015) specifically the sections that give excessive powers to the police, whilst putting the burden of proof on the accused

v. Amend Section 36 of the Protection of Human Rights (Amendment) Act, 2006 to permit the NHRC to inquire into violations pending before other commissions or which occur more than one year before the date of the complaint

vi. Implement Prakash Singh order on Police Complaints Authority at district and state levels, giving them adequate resources and powers, and independence.

vii. Revise SC guidelines to bring out specific and clear directions for recording of statements of family (and not just the "witnesses"); immediate access of the family members to FIR and post-mortem report; recording FIRs u/s IPC 302 - not leaving it up to the discretion of police to decide what kind of an FIR would be registered; and strengthening the NHRC to make it play a more proactive role in protecting human rights of those that are denied it.

viii. Encourage in police ranks, a culture that rewards respect for human rights and professional conduct

NHRC (and State Commissions)

i. Encourage independent investigations into police complaints. Take up cases mentioned in the report for independent, timely investigation

ii. Establish a system of monitoring effective implementation by states of Supreme Court judgement and NHRC guidelines on encounter killings.

iii. Set up a system to support states and state police forces with capacity to be able to effectively implement the guidelines

iv. Make NHRC working more transparent, as aid to victims and civil society, to contribute to better community monitoring of implementation of SC and NHRC guidelines.

8.2. To international community

i. Relevant mandate holders of the Human Rights Council (HRC) may undertake visits to India, to investigate cases mentioned here and others of the similar nature

ii. Encourage state parties to independently investigate the cases mentioned here, prosecute officers found guilty, and order adequate compensation for victims, as well as protection for them

iii. Make complaints procedures/communication to HRC/ Office of High Commissioner of Human Rights (OHCHR) accessible for victims and civil society, to be able to seek redress through OHCHR.

8.3. To civil society/community based organisations

i. Better documentation of violations of right to life of victims, as evidence

ii. Better education of survivor families, on their rights to redress, justice and compensation, among others

iii. Better support to families, to encourage them to voice complaints and demand criminal prosecution of those guilty

iv. Better use of NHRC mechanisms to lodge complaints, and trigger independent investigations

v. Better use of special mandate holders (of UN/HRC) to bring cases of violation of rights to life to the notice of UN mechanisms.

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ANNEXE-1

Extrajudicial Execution cases in UP

List 1 – with affidavits

(arranged chronologically)

S. No	Name of the victim, place & Date of incident	Police version of the incident based on FIR	Injuries to the body	Family testimony	Details of legal proceedings
1	**Shamim s/o Fakru** 30th December, 2017 Place: Forest near village Bhalwa, PS Jansath, Muzaffarnagar, UP	SWAT Team Muzaffarnagar and Special Cell Delhi Police had information that Shamim alongwith his accomplices are planning to come to Jansath and commit road robbery in a Swift car. A team of police officials comprising of 3 police officials of Jansath PS, led by the SHO; 3 officials of SWAT Team Mnz, and 11 officials of the Special Cell Delhi Police, reached the spot, waiting to stop the criminals. A swift car was spotted, when asked to stop, the driver after stopping the car, started firing at the police, and ran in the opposite direction. Shamim who was sitting on the front seat also fired at the police. Police fired in self defence, Shamim was injured inside the car. Co Ashok Khari got injured in the cross firing, both were taken to CHC Jansath, where Shamim succumbed to his injuries. The other assailant managed to escape.	Post Mortem Report records two bullet injuries, one bullet which entered the body from the back of the head and exited the body from the forehead and the second bullet which entered his body from his right temple and exited at an angle from his left temple. According to police version of the incident the accused was shot while sitting in a car from the front. Family also states that there were marks of torture on Shamim's body.	Shamim's father, Fakru states that Shamim had loaned Rs. 1 Lakh to his relative Akram s/o Abban. When asked to repay the debt, Akram tried to get Shamim arrested by official of PS Jansath. Akram was in constant touch with police officers from PS Jansath who would call and insist Akram to get Shamim arrested. Two months before the alleged encounter, Akram was speaking to police officers of PS Jansath, which was heard by Shamim's sister, Sabiha and other members of the family. Family states that they got to know about the alleged encounter on the morning of 31st December, 2017 through the local newspapers. They were not informed about their son's death by the police.	3 FIRs (840/17, 841/17, 842/17) filed on 31.12.2017 in PS Jansath, MNZ, u/s 307, 414 IPC, Sec 25/27 of Arms Act and Sec 41/102 CrPC against Shamim and another unknown accused person. PM was conducted. Family not aware of investigation done by the police. No legal action taken by the family against the police officers.

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
2	**Aslam s/o Mausam Ali** 9th December, 2017 **Place:** Dadri, District Gautambudh Nagar, UP.	Police were alerted of two criminals who were roaming in Dadri to commit loot and robbery. Police set up barricades to apprehend the criminals. Two people on a motorcycle, tried to flee after seeing the police, chased by the police, criminals fired gun shots at police, police fired in self defence. One criminal injured, taken to hospital, succumbed to injuries, the other accused escaped, could not be identified. Inspector Saurav received a bullet injury on his thighs and Constable Vikas was hit on his leg.	2 bullet injuries, including one in the head. Family noticed the body had severe torture marks - back was blue, as a result of beatings, arm and legs were fractured.	Aslam & Ramzani had started residing in Yamunanagar, Haryana alongwith their families. Family states that a few days before encounter, Aslam had visited a lawyer as he wanted to surrender in Court, in cases registered against him. Aslam's wife states that on 7.12.2017 some men took away Aslam and Ramzani on the pretext that they will help them to surrender in Court. On 9.12.2018 Aslam's cousin, received a call from the police asking for details such as the name of Aslam's village etc. Was not informed about Aslam's encounter. Family was told by the Pradhan that Aslam has been killed by Noida police, while Ramzani has been killed by Aligarh police. Family not given any receipt or post-mortem report from the hospital. His family escorted by heavy police personnel vehicles to their village and the police parties stayed till the body was buried.	FIR No.1083/2017, PS Dadri, District Gautambudh Nagar, against Aslam and another unknown accused u/s 307 IPC. Copies of FIR and PM Report not given to the family. Aslam's father has received summons u/s 160 CrPC for recording of his statement. Aslam's family has not been informed by the police of the investigation that has been carried out by them. On 29.3.2018 Aslam's wife has sent a representation to the National Commission on Minorities.
3	**Ramzani s/o Shafiq** 8th December, 2017 Place: Near Nanau Chandgarh Road, Aligarh, UP	Police got information about criminals looting a car. Police set up barricades to apprehend the criminals. Criminals fired gun shots at police, police fired in self defence. One criminal injured, taken to hospital, succumbed to injuries, other two accused escaped, could not be identified. A Sub-Inspector received a bullet injury in the cross firing.	Salma, Ramzani's wife states that there were marks of torture on Ramzani's body and his hands and legs were also fractured. It also seemed to them that he died due to the torture and he was shot after he had died. His clothes did not have any bullet marks on them.	Salma states that on the morning of 7.12.2017, some men took away Aslam and Ramzani on the pretext that they will help them in surrendering before the Court in the cases registered against them. In the morning of 9.12.2017, Salma's brother, Anees received a call from officials of Aligarh Police who stated that Ramzani was killed in an encounter. Salma states in her testimony that the police must have asked Ramzani for her brother's number while torturing him.	Due to fear of possible police backlash, and the struggle of survival that the family is undergoing, the family has not pursued any legal action against the police officials so far. An FIR was registered in PS Akrabad, Aligarh against Ramzani. The family did not have any documents/any other information about the case.

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
4	**Furqan S/o Meer Hassan** 22nd October, 2017 Place: Sugarcane fields near Badakta Canal Bridge, Budhana Police Station (P.S.), District Muzaffarnagar.	Police at the checkpost saw 2 motorcycles with 5 people on it. On seeing the police, they fired gun shots at them. Police chased the bikes, surrounded them and asked them to surrender. Criminals fired at the police, police fired in self defence. 2 criminals on a motorcycle fled away, 2 other criminals fled taking advantage of the sugarcane fields. One criminal, identified as Furqan, was injured in police fire alongwith SI Adesh Tyagi & Co. Harvendar.. Sent to CHC Budhana for treatment. Furqan succumbed to his injuries.	The FIR is silent on the injuries received by Furqan. Also, the PM Report along with other documents have till date not been given to Furqan's family.	Furqan alongwith Anees (cousin brother) and Rahul were picked up from Bus Stand at Baraut by the police. Anees and Rahul were taken to Shahpur PS where they were shot in their legs and arrested in false cases, while Furqan was taken to the fields near Badakta Canal Bridge, PS Budhana where he was killed. The entire incident was narrated by Anees and Rahul to Mir Hassan (Furqan's father), when he met them in the jail. Mir Hassan states that there was no reward on Furqan's head prior to the encounter, he was not wanted in any case and that Furqan had been let out on bail a month before his encounter and he was residing with his wife and children in the past one month. Mir Hassan and his sons, relatives and Anees and Rahul are being constantly threatened by the Police officer accused of killing Furqan.	4 FIRS (797/2017, 798/2017, 799/2017 and 800/2017) was lodged on 23.10.2017 in PS Budhana, District MuzaffarNagar, u/s. 147,148,149,307, 414 and 411 IPC; Section 41 and 102 CrPC and Section 3, 25, 27 and Section 4/ 25 Arms Act,1959 against Furqan and unknown accused persons. PM was conducted, but the PM Report not made available to Furqan's family as yet. A Magisterial Inquiry is currently being conducted by Sub Divisional Magistrate (SDM), Budhana. Chargesheet has not yet been filed by the police. Mir Hassan has filed representation to various authorities, including NHRC. A 156(3) CrPC application was filed before the CJM, Muzaffarnagar, which was dismissed. A Criminal Revision Petition is currently pending in the Allahabad HC against the Order of the CJM. A complaint was filed before NHRC after the 156(3) application was filed in Court stating that the accused police personnel have threatened the witnesses and family of Furqan with dire consequences if they pursue the case. NHRC had transferred the complaint to SSP Muzaffarnagar to take appropriate action. Meer Hasan has not received any response from the SSP Muzaffarnagar as yet.

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
5	**Sumit Kumar s/o Karam Chand** 3.10.2017 ATS Chowk, Greater Noida, UP	SHO PS Kasna Jitendra Kumar got to know from an informer that criminals armed with .315 bore rifle and other arms are roaming around in a Swift Car neat ATS roundabout. The Rifle was reported to be stolen from PS Ecotech-III. SHO PS Kasna alongwith 6 police officials (PO) with SHO PS Sector 58, Anil Pratap Singh with 2 PO & SO PS Bisrakh Ajay Kumar Sharma, with 5 PO all armed reached the ATS Chowk to look for the criminals. They saw 4 people holding guns were standing near a Swift Car. When the police spotted them, they fired at the police and ran away in their car. Police chased them in their vehicles. The car got disbalanced and crashed in the gate of a colony. The criminals got out of the car and started firing at the police party. One bullet each fired by the criminals hit the bullet proof jacket of SHO Sector 58 and SO Bisrakh and SI Satish Kumar got injured with the bullet fired by the criminals.	Karam Chand, Sumit's father states that after the alleged encounter, the police officials were refusing to give Sumit's body to the family members. The family had to protest outside the Mortuary in Sector 94 NOIDA and stopped the traffic at Mahamaya Flyover. Only then did the police give Sumit's body to his family. Sumit's body, had grave marks of torture on it. His back bone, arms and legs were broken, and his left eye was was grievously mutilated. His neck and back had blue injury marks.	Karam Chand states, on 30.09.2017 at 10.00 am, Sumit went to Balauni where he was abducted by 6-7 people in plain clothes in a car and fled towards Baghpat. Family tried to give a complaint to PS. Balauni, Singhwali Ahir and SP Baghpat, but they did not take the complaint and no investigation was conducted. On 2.10.2017, Baghpat police told Sumit's family that Sumit is in police custody and is being questioned regarding FIR No. 394/2017 dated 20.9.2017 registered in PS Ecotech – III, NOIDA and will be released by next day. Karam Chand further states that FIR No. 394/17 does not name Sumit as an accused. (the FIR is registered against unknown persons). On the night of 2.10.2017, NOIDA police came to Sumit's house and took away all his identification documents and threatened the family that they will be picked up killed. On the morning of 3.10.2017, Karam Chand got to know from his relatives and through newspaper that Sumit has been declared absconding by the police in a case registered against him and a reward was announced on him. In the afternoon of 3.10.2017, Praveen, Sumit's brother faxed complaint letters to DGP, UP Police, Chief Minister, UP, National Human Rights Commission. A complaint was also sent to Mr. Luv Kumar, SSP NOIDA, Gautam Budh Nagar, UP, however no investigation was conducted.	Complaint letters written to City Magistrate, NOIDA, Gautam Budh Nagar, for initiating inquiry proceedings against the police officers. No response. On 17.10.2017, the family again wrote complaint letters to SP Baghpat, SSP Gautam Budh Nagar, City Magistrate NOIDA, IG Police, Meerut. On 23.10.2017, an application u/s 156(3) was filed before the CJM, Baghpat. On 3.11.2017, the application was dismissed by the CJM Bagpat, stating that the said application should be filed in District Gautambudh Nagar. Thereafter an application u/s 156(3) was filed in NOIDA Court, which dismissed and the case is currently pending in the Allahabad High Court. NHTC took suo moto cognisance case number - 30160/24/30/2017-AD, case is pending for receipt of documents from SSP and District Magistrate, Gautam Budh Nagar. FIR No. 861 and 862 was filed against Sumit Gujjar and three other unknown accused persons u/s 307 IPC and Sections 25 and 27 of Arms Act 1959 in PS. Kasna Distt Gautam Budh Nagar, on 4.10.2017 at 12.10am on the statement of SHO Jitendra Kumar, PS. Kasna. Post Mortem was conducted by a panel of two doctors on 4.10.2017. Videography was also done. A Magisterial Inquiry was initiated by SDM, Gautambudh Nagar and the family had given their written submissions to the SDM.

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
5	**(continued)** **Sumit Kumar s/o Karam Chand** 3.10.2017 ATS Chowk, Greater Noida, UP	Thereafter, police officials fired 5 bullets at the criminals. One criminal got injured in the police firing and the 3 others managed to escape. The injured criminal and SI Satish Kumar were sent to District Hospital, Gautambudh Nagar for treatment. The injured criminal was declared dead by the doctors in the hospital. A wallet was recovered from the criminal's pocket which contained his Voter ID Card. The criminal was identified as Sumit s/o Karam Singh.	As per PM Report he had one bullet injury on left side of his chest, and a bullet was recovered from his chest cage. There was also an abrasion on his right shoulder blade region, below shoulder line. Sumit's family has been given one page of the PM report. They have been meeting and writing to several government/police officials to get PM report.	In the night of 3.10.2017, Sumit's family got to know from NOIDA News Channels that Mr. Luv Kumar, SSP NOIDA, Gautam Budh Nagar has issued a press statement stating that officials of PS Kasna and Bisrakh and other officials were conducting a joint operation in which Sumit was killed in an encounter and 3 other unknown accused managed to escape. The news report also stated that Sumit was a gangster who was absconding from the police in cases of murder and dacoity and had an award of Rs. 50,000 on his head. On 02.10.2017, when police had declared Sumit as absconding, his family was asked for Rs. 3,50,000 as bribe through a mediator if they want the police to release Sumit. Sumit's brother Raj Singh and Pravin were implicated in a case false for charges of rape and dacoity.	

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
6.	**Mansoor S/o Akbar** 27th September 2017 Place: Gandhi Ghat, Gate No. 2, Pukhta Road, PS Sadar Bazar, Meerut.	Police were informed about 3 criminals on a bike looting a WagonR car. Police spotted the stolen car being driven by 2 criminals, and tried to stop them. On seeing the police, they tried to run away. Police chased the car, surrounded them and asked them to surrender. Criminals fired at the police, police fired in self defence. 1 criminal later identified as Mansoor was injured in police firing, the other accused escaped by firing at the police and jumping the wall. Mansoor sent to LLRM Medical College Meerut for treatment, succumbed to his injuries on the way to the hospital.	Javeda, Mansoor's mother states that when Mansoor's body was brought home, they noticed that his body had one bullet wound on the left side of his chest, with marks of tattooing around it. The Post Mortem Report also states the same. This indicates that Mansoor was shot from a close range straight on his chest which led to his immediate death.	Javeda states that on 26th September 2017, noon, SHO Prashant Kapil and SHO Rashid Ali took Mansoor from his house. Mansoor's family knew these policemen for 10-12 years. Next day morning officials from PS Behat came and took signatures on papers stating they were warrant papers of Mansoor. Hid the fact of Mansoor's encounter from his family, family got to know from media reports. No statements have been taken from the family by police or Magistrate.	2 FIRs (489/17 & 490/17) filed on the statement of Prashant Kapil, SHO, PS Sadar Bazaar, on 27/9/17 in PS Sadar Bazar, District Meerut u/s 307 IPC and Sec 25/27 of Arms Act against unknown accused persons. The accused killed in the police encounter was later identified as Mansoor s/o Akbar R/o by Co. Jayvardhan, Crime Branch Meerut. Inquest Report prepared by Santosh Kumar, Tehsildar, Sadar, Dist Meerut. Post Mortem conducted at Meerut Medical College and videographed. On 10.10.17, investigation was transferred to Crime Branch, Meerut by SSP Meerut. On 3.12.2017 a final report was submitted u/s 173 CrPC to CJM, Meerut for FIR Nos. 489/2017 and 490/2017 on the ground that the accused in the FIRs died on his way to the hospital. The GD entries attached with the Final Report state that the identity of the accused who escaped the encounter could not be ascertained by the informers relied upon by the police. A Letter dated 9.12.2017 from the complainant Prashant Kapil, SHO, P.S. Sada Bazaar to the CJM, Meerut states that he has no objection to the Final Report submitted by the police in the abovementioned cases. On 26.4.18 Mansoor's mother, Javeda has sent a representation to the National Commission on Minorities, New Delhi.

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
7.	**Shamshaad s/o Shahid** 11th September, 2017 Place: Infront of ITC Gate, PS Sadar Bazaar, Saharanpur	SHO Nanota with 3 Police officers(PO), SO Sadar Bazaar with 5 PO, SWAT TEam with 8 officers and team from Intelligence Wing with 6 PO were looking for Shamshaad and his accomplice who were on a bike, and had fired at SHO Nanota and his team at a check post. Motorcycle was spotted, asked to stop, they tried to run away, chased by police. Criminals fired at the police. Surrounded by all 24 officers at ITC Gate. Bike slipped, criminals opened fire at the police team, in the cross firing, Shamshaad was injured. The other criminal escaped on foot, leaving his gun. SI Arun Pawar and Co. Arun Rana injured in their hand, while 4 police officers received bullets on their bullet proof jackets. Shaamshad and injured officers sent to Dist Govt Hospital.	Saliha, Shamshaad's wife states body had marks of beatings on neck and other body parts. The body looked 2-3 days old since it was bloated. Bullet wounds were surrounded by blackening of skin, indicating that he was shot at from a close range. PMR records the time of the post mortem as 4.55 PM on 11.9.2017. The PMR however, states that body is 1-4 days old. PMR records that the 7Th, 8th and 9th rib on left side was fractured. The PMR states the following bullet wounds – 3 bullets on the front left side of the chest, one bullet on right knee joint.	Saliha states - Shamshad was imprisoned in Deoband jail for past year and a half. On 7.9.17, he was brought to Vikas Nagar from Deoband jail for a hearing, and on the way back to Deoband, it was said, he escaped, along with an accomplice. She states that on 11.9.17 she heard that Shamshaad was killed in an encounter by officials of PS Sadar Bazaar. Saliha alleges that the police officials are concocting the story of Shamshaad running away from jail. The police officers had illegally kidnapped Shamshaad on his way back, tortured and then killed him. Later on 11.9.17 the police showed that Shamshaad had been killed in an encounter.	FIR No. 433 dt 11.9.2017 filed in PS Sadar Bazaar against Shamshad and another unknown accused person, u/s 307 IPC and Section 41, 102 CrPC. An Inspector level officer from PS Janakpuri made the IO in the case. Post Mortem conducted and videographed. Family not aware of any further investigation. They have not received any summons from police/court. Saliha states - the day Shamshaad was shown as being absconding, police officers came to their house and took Shamshaad's three brothers with them. Saliha had sent written complaints to NHRC and SHRC and the National Commission For Minorities, did not receive any reply. Due to fear of police backlash, family has not pursued any legal action against the police officials so far.

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
8.	**Nadeem (s/o late Irshad)** 8th September 2017 **Place:** Jangal gram, near Jatwara Nahar Pul, PS Kakroli, District Muzaffarnagar, UP	Police got information about 2 criminals on a motorcycle looting other motorcyclists. Police set up barricades to apprehend the criminals. Two people on a motorcycle, tried to flee after seeing the police, chased by the police, motorcycle lost balance and fell, criminals fired gun shots at police, police fired in self defence. One criminal injured, taken to hospital, succumbed to injuries, the other accused escaped, could not be identified. SI Vijay Kr Tyagi got hit by a bullet in his arm. Newspaper reports published on 9.9.2017 state that Nadeem had fled from police custody on 6th September 2017, as a result of which a reward of Rs. 15,000 was announced on him.	According to Nadeem's family his body was handed over to the family in a ghastly condition. His arms, legs, neck and spinal cord were broken and there were marks of beating. The only visible bullet wound was a clean shot in the forehead.	Family states that an altercation took place between Nadeem and a local jeweller. The jeweller filed a false theft case against Nadeem. The police asked for a bribe of Rs. 6 Lakhs to suppress the FIR. Family claims that Nadeem was picked up by the police on 5.9.2017, and was kept in Thana Nai Mandi and tortured. On 6.9.2017, family saw Nadeem in PS Nai Mandi police custody. Family waited outside till evening for release. Later heard that Nadeem was shown to have fled police custody on 6.9.2017. Family sent letters to NHRC, police officials through fax.	3 FIRs (0396/17, 0397/17 & 0398/17) related to the incident filed against Nadeem and an unknown accused in PS Kakroli, District Muzaffarnagar u/s 307 & 414 IPC, 25(3) of Arms Act 1959. A post mortem was conducted, Nadeem's family is not aware of any further investigation being carried out by the police. Post Mortem Report has not been given to the family.

	Victim, Incident et al	Police version of the incident	Injuries on the body	Family testimony	Legal proceedings
9.	**Ikram @Tola s/o Munshi** 11th August, 2017 Place: Kairana By-pass, near Banjara Basti, Dist Shamli, UP.	Police got information that 2 criminals have looted a bike. Police set up barricades to apprehend the criminals. Two people on a motorcycle, tried to flee after seeing the police, chased by the police, motorcycle lost balance and fell, criminals fired gun shots at police, police fired in self defence. One criminal injured, identified himself as Ikram, taken to CHC, Kairana, succumbed to injuries, the other accused escaped, he was identified as Shakil by Ikram. Co. Ankush Godara & Co. Raghu Raj Singh injured by bullets of the accused. Sent to CHC, Kairana for treatment. As per the FIR, 15 police officials of PS Kairana, PS Kotwali and officials of SWAT Team involved in the police action.	As per the PM Report, he had 5 bullet wounds on his right knee, right thigh, right foot, left knee, left foot and 3 fractures on his right leg. Blackening found around the gunshot wounds indicate close range fire. As per Ikram's family, his body also had severe wounds of torture. His ribs and arm were broken and he had a huge injury on the back of his head.	Ikram's wife testifies that on 10.08.2017 Ikram had gone to a hospital in Baghpat with his younger son, to check on a relative. At noon, on 10.8.2017, Shakeel, Sunil and 5-6 other men came to Ikram's house and were informed by his wife that Ikram was in the hospital. They visited the hospital, and took Ikram with them. Sajid, Ikram's minor son is a witness to this. On 11.8.2017, family got to know through social media (whatsapp) that Ikram has been killed in an 'encounter'. Her minor sons were threatened by the police when they had gone to the police station to inquire about the death of their father.	3 FIRs (785/2017, 786/2017, 787/2017) PS Kairana, Shamli District dated 11.8.2017 u/s 307 IPC and Sec 25 Arms Act against Ikram & Shakeel. Investigation of 3 FIRs transferred to SHO Umesh Roriya, PS Kandhla by SP, Shamli. Inquest proceedings u/s 174 Crpc undertaken, PM and videography done. Final report has been filed on the FIR No. 785/17, 786/17 and 787/17 on the ground that Ikram succumbed to his injuries and the accomplice called Shakeel could not be identified, statements of residents of Hajipur Mohalla saying that nobody called shakeel lives in that area.

CASE MEMORANDUM – SHAMIM S/O FAKRU, R/O VILLAGE SISONA, PS CHAPAR, DIST – MUZAFFARNAGAR, UP.

Context:

On 30.12.2017, the newspaper reported that Jansath police officials claimed to have killed Shamim, a criminal with an award oh his head in a police encounter. The SWAT Team Muzaffarnagar and Special Cell Delhi Police had information that Shamim alongwith his accomplices are planning to come to Jansath and commit road robbery in a Swift car. It was stated that the criminals fired at the police and the police had to open fire in self defence. An FIR was registered against Shamim mentioning a similar sequence of events. However, family's narration of the sequence of events before and after the alleged encounter raises serious doubt about the police story.

Following are the major points which calls for an urgent intervention and an independent investigation into this case:

Family Narrative: Unfolding of the incident

Shamim's father, Fakru states that Shamim had loaned Rs. 1 Lakh to his relative Akram s/o Abban. When Shamim asked Akram to pay his debt, Akram started creating a pressure on Shamim and on one instance had even tried to get Shamim arrested by official of PS Jansath, luckily Shamim was not at home that day. Fakru alleges that Akram was in constant touch with police officers from PS Jansath who would call and insist Akram to get Shamim arrested. Two months before the alleged encounter, Akram was speaking to police officers of PS Jansath, which was heard by Shamim's sister, Sabiha and other members of the family. The family thus alleges that Akram in connivance with the police officers of PS Jansath have planned and killed Shamim in an alleged police encounter.

How family got to know about the incident:

Family states that they got to know about the alleged encounter on the morning of 31st December, 2017 through the local newspapers. They were not informed about their son's death by the police.

Torture marks on the body:

Fakru states that when they received Shamim's body after the post mortem, it had marks of torture on it. Further the Post Mortem Report records two bullet injuries, one bullet which entered the body from the back of the head and exited the body from the forehead and the second bullet which entered his body from his right temple and exited at an angle from his left temple. The following fact completly falsifies the police version of the incident according to which the accused was shot while sitting in a car from the front.

Legal Recourse taken by the family:

Family states that the police has been pressuring them since the encounter and even asked them to sign on some papers. Due to fear of possible police backlash, and the struggle of survival that the family is undergoing, the family has not pursued any legal action against the police officials so far.

Police Version of the alleged encounter as stated in the FIR:

The FIR has been recorded on the statment of SO Anil Kumar Singh, PS Jansath, Muzaffarnagar. As per the FIR, the SWAT Team Muzaffarnagar and Special Cell Delhi Police had information that Shamim alongwith his accomplices are planning to come to Jansath and commit road robbery in a Swift car. A team of police officials comprising of 3 police officials of Jansath PS, led by the SHO; 3 officials of SWAT Team Muzaffarnagar, and 11 officials of the Special Cell Delhi Police, reached the spot, waiting to stop the criminals. A swift car was spotted, when asked to stop, the driver after stopping the car, started firing at the police, and ran in the opposite direction. Shamim who was sitting on the front seat, next to the driver also fired at the police. Police fired in self defence, Shamim was injured inside the car. Co Ashok Khari got injured in the cross firing, both were taken to CHC Jansath, where Shamim succumbed to his injuries. The other assailant managed to escape.

Investigation by State authorities:
3 FIRs (840/17, 841/17, 842/17) were filed on 31.12.2017 in PS Jansath, Dist - Muzaffarnagar, u/s 307, 414 IPC, Sec 25/27 of Arms Act and Sec 41/102 CrPC against Shamim and another unknown accused person. Post Mortem was conducted and the Post Mortem Report was given to the family members. The Family is not aware of any further investigation done by the police. The family however states that their statements have not been taken by any police officer or any other authority as yet and neither have they received any summons from the Court for a Judicial Inquiry.

Violation of Guidelines laid down by Supreme Court in *People's Union of Civil Liberties vs. State of Maharashtra, (2014)10SCC635* :

- Nadeem's family was not informed by the police about the killing of Nadeem in a police encounter, as is mandated by the above mentioned guideline. Infact as stated above, the family got to know from media reports published the next day about the alleged encounter.
- FIR was registered against the victim which is alleged to be false and fabricated as per Nadeem's family. No FIR/inquiry has been initiated against the policemen involved in the alleged encounter.
- The investigation of the case has not been transferred to the CBCID or any other independent investigation agency, as mandated by the Supreme Court guideline.
- A report of the Magisterial inquiry must mandatorily be sent to a Judicial Magistrate of competent jurisdiction for inquiry, in all cases of death which occur in the course of police firing. The family has not received any summons from the Court and is thus, not aware if an inquiry by a Judicial Magistrate has been held, as is mandated by the Supreme Court.

Points raising doubts on police version:
The following points raise serious doubts about the police version of the encounter:

- Marks of torture on Shamim's body as noticed by his family members falsifies the police version.
- It is more interesting to note that the Post Mortem Report records two bullet injuries, one bullet which entered the body from the back of the head and exited the body from the forehead and the second bullet which entered his body from his right temple and exited at an angle from his left temple. The following fact proves that the sequence of events as naraated by the police in the FIR is false. The FIR states that Shamim was sitting on the front seat of his car, next to the drivers seat when he was shot from the front.
- The FIR itself points towards many lapses. It is pertinent of note that inspite of the presence of 17 police officials who were present at the spot, the second accused managed to escape on foot, while firing at the police, after stopping the car.
- Further, the police state that they together fired 10 gun shots at the accused. The FIR then states that a 9mm pistol used by the accused was recovered from inside the car and some bullet shells fired by the accused. The FIR is silent on the number of bullet shells fired by the accused which was recovered by the police. The FIR further does not make any mention of recovery of bullet shells fired by the police pistols.
- Further, the FIR states that a bullet fired by the accused who managed to escape, hit the bullet proof jacket of Co. 1037 Amit. The FIR however, does not state that the bullet proof jacket was seized and parcelled for necessary investigation.

A cursory look at the points mentioned by the family contradict the police version of the alleged encounter and raise a prima facie doubt about the veracity of the claims made by the police. A detailed, fair and impartial investigation is therefore required in the present case to bring out the true and correct facts of the alleged encounter.

CASE MEMORANDUM – ASLAM S/O MAUSAM ALI, VILLAGE BUNTA, PS GARHI PUKHTA, DISTRICT SHAMLI, UP.

Context:
It was reported in media that Aslam, a dreaded gangster, was killed in a police encounter on 09.12.2017. The police was alerted about the activities of 2 criminals who were roaming in Dadri to commit loot and robbery. As per the news report the police spotted the two criminals and tried to stop them when they accelerated their bike to abscond. It was stated that the criminals fired at the police and the police had to open fire in self defence. An FIR was registered against Aslam and another unknown accused persons mentioning a similar sequence of events. However, family's narration of the sequence of events before and after the alleged encounter raises serious doubt about the police story.

Following are the major points which calls for an urgent intervention and an independent investigation into this case:

Family Narrative: context

Aslam s/o Mausam Ali and Ramzani s/o Shafiq had started residing in Village Boodhiya Chungi, Jagadari, District Yamunanagar, in the state of Haryana alongwith their families, working as manual labourers. While Ramzani was released from prison 7 months ago, Aslam had 2-3 cases of loot and theft registered against him. Aslam's family states that a few days before Aslam was killed, he had gone to visit a lawyer as he wanted to surrender in Court, in the cases that were registered against him. Aslam's family thus raises the question that when Aslam was intending to surrender before the court, why would he go and commit a crime as alleged in the police story.

Unfolding of the incident as per family narrative:

Israna, Aslam's wife states that on the morning of 7th December, 2017 some men took away Aslam and Ramzani (encountered by the police on 8th December, 2017) on the pretext that they will help them to surrender in Court in the cases registered against them.

How family got to know about the incident:

Aslam's family states that Sattar, Aslam's cousin, received a call from some police official on the night of 9th December, 2017, asking for details about Aslam, such as the name of his village etc. The policeman however, did not inform him about Aslam's killing. Soon, family got the news through the Pradhan (Village Headman) of the village that Aslam has been killed by Noida police, while Ramzani has been killed by Aligarh police. The same night, Aslam's family reached the hospital where post-mortem of his body was conducted, but his family was not given any receipt or post-mortem report from the hospital. Aslam's body was given to his family at around 4.00 am on 10th December, 2017 and his family was escorted by heavy police personnel vehicles to their village and the police parties stayed till the body was buried. Aslam's family have not been provided with a copy of the FIR registered against Aslam, post mortem report and other documents pertaining to his death as yet.

Torture marks on the body:
Israna, Aslam's wife further states that when the body of Aslam was brought home, they realised during the preparations for the body's burial that his body had severe torture marks. His back was blue, as a result of beatings, and his arm and legs were fractured. The family thus questions the police version, stating that the police had tortured Aslam before killing him.

Legal Recourse taken by the family:

On 29th March, 2018 Aslam's wife Israna has sent a representation to the National Commission on Minorities, New Delhi narrating the facts leading upto Aslam's alleged killing in police action. Due to fear of possible police backlash, and the struggle of survival that the family is undergoing after the death of its primary bread winner, the family has not pursued any legal action against the police officials.

Investigation by State authorities:

FIR No. 1083/2017 has been filed in Dadri Police Station, District Gautambudh Nagar, against Aslam and another unknown accused for attempt to murder (Section 307 Indian Penal Code (IPC), 1860). On 24.03.2018, a summon under Section 160 of the Code of Criminal Procedure (CrPC), 1973 was sent to Mausam Ali (Aslam's father) directing him to present himself before the Crime Detection Branch, Noida, District Gautambudh Nagar for recording of his statement, in the abovementioned FIR. In a reply dated 30.03.2018, sent to the Crime Detection Branch, Noida, and the Sub Divisional Magistrate (SDM), Tehsil Dadri, by Aslam's wife, requesting the officials to get her statement recorded by women police officers at her residence as per available provisions in law, as she is observing *Iddat*. The letter also states that Aslam's father is very old and a heart patient and thus cannot travel to the police station to give his statement. Israna has further stated in the letter, that her family has not yet been provided the copy of the FIR registered against her husband and the Post Mortem Report of his body.

Violation of Guidelines laid down by Supreme Court in *People's Union of Civil Liberties vs. State of Maharashtra, (2014)10SCC635* :

- Aslam's family was not informed by the police about the killing of Aslam in a police encounter, as is mandated by the above mentioned guideline.
- FIR was registered against the victim which is alleged to be false and fabricated as per Aslam's family. No FIR/inquiry has been initiated against the policemen involved in the alleged encounter.
- The investigation of the case has not been transferred to the CBCID or any other independent investigation agency, as mandated by the Supreme Court guideline.
- The FIR and Post Mortem Report and other documents pertaining of Aslam's death have not been made available to his family as yet, inspite of multiple attempts made by them.
- A report of the Magisterial inquiry must mandatorily be sent to a Judicial Magistrate of competent jurisdiction for inquiry, in all cases of death which occur in the course of police firing. The family has not received any summons from the Court and is thus, not aware if an inquiry by a Judicial Magistrate has been held, as is mandated by the Supreme Court.

Police Version of the alleged encounter as stated in the FIR:

As per reports published in the newspaper pertaining to the alleged police encounter of Aslam, on 9th December, 2017, the police officials of Dadri police station, District Gautambudh Nagar, Uttar Pradesh were alerted of two criminals who were roaming in Dadri to commit loot and robbery. The police had put up barricades to apprehend the criminals. As per the report the police spotted the two criminals on their motorcycles and tried to stop them. On being stopped, the criminals accelerated their bike in an attempt to flee from the police. When the police followed the criminals, they started firing at the police officials, who fired back in self defence. The cross firing continued for about 15 minutes, in which, one criminal was injured, and eventually died in the hospital during his treatment. His companion, whose identity could not be ascertained, was successful in running away during the police action. The injured assailant was identified as Aslam, after the encounter, during police investigation. Aslam had received 2 bullet injuries, including one in the head. During the cross firing, Inspector Saurav received a bullet injury on his thighs and Constable Vikas was hit on his leg. The police recovered one pistol, one country made pistol and a motorcycle from the scene of crime. The police have also alleged that Aslam was a known criminal who had a reward of Rs. 65000 on him.

A cursory look at the points mentioned by the family contradict the police version of the alleged encounter and raise a prima facie doubt about the veracity of the claims made by the police. A detailed, fair and impartial investigation is therefore required in the present case to bring out the true and correct facts of the alleged encounter.

CASE MEMORANDUM – RAMZANI S/O SHAFIQ, R/O VILLAGE BOODHIYA CHUNGI, JAGADARI, DISTRICT YAMUNANAGAR, HARYANA.

Context:

On 08.12.2017, it was reported in media that Ramzani, was killed in a police encounter by police officials of PS Akbarabad, Aligarh. However, family's narration of the sequence of events before and after the alleged encounter raises serious doubt about the police story. Following are the major points which calls for an urgent intervention and an independent investigation into this case:

Family Narrative: Unfolding of the incident

Ramzani's wife, Salman states that Ramzani alongwith Salma and their children, mother etc and Aslam's family were residing at village Budhiya Chungi, Jagadari, Dist – Yamunanagar, working as manual labourers. On the morning of 7.12.2017, some men took away Aslam and Ramzani on the pretext that they will help them in surrendering before the Court in the cases registered against them.

How family got to know about the incident:

In the morning of 9.12.2017, Salma's brother, Anees received a call from officials of Aligarh Police who stated that Ramzani was killed in an encounter. Salma states in her testimony that the police must have asked Ramzani for her brother's number while torturing him.

Torture marks on the body:

Salma states that there were marks of torture on Ramzani's body and his hands and legs were also fractured. It also seemed to them that he died due to the torture and he was shot after he had died. His clothes did not have any bullet marks on them.

Legal Recourse taken by the family:

Due to fear of possible police backlash, and the struggle of survival that the family is undergoing, the family has not pursued any legal action against the police officials so far.

Police Version of the alleged encounter as stated in the FIR:

Police got information about criminals looting a car. They setup barricades to apprehend the criminals. The Criminals fired gun shots at police and the police fired in self defence. While one criminal was injured and taken to hospital. He later succumbed to injuries and the other two accused escaped who could not be identified. A Sub-Inspector also received a bullet injury in the cross firing.

Investigation by State authorities:

An FIR was registered in PS Akrabad, Aligarh against Ramzani. The family did not have any documents/any other information about the case.

Violation of Guidelines laid down by Supreme Court in *People's Union of Civil Liberties vs. State of Maharashtra, (2014)10SCC635* :

- FIR was registered against the victim which is alleged to be false and fabricated as per Mansoor's family. No FIR/inquiry has been initiated against the policemen involved in the alleged encounter.
- The investigation of the case has not been transferred to the CBCID or any other independent investigation agency, as mandated by the Supreme Court guideline.
- A report of the Magisterial inquiry must mandatorily be sent to a Judicial Magistrate of competent jurisdiction for inquiry, in all cases of death which occur in the course of police firing. The family has not received any summons from the Court and is thus, not aware if an inquiry by a Judicial Magistrate has been held, as is mandated by the Supreme Court.

CASE MEMORANDUM – FURQAN S/O MIR HASSAN, VILL- TITARWARA, P.S.- KAIRANA, DISTT.- SHAMLI, UP.

Context:
It was reported in media that Furqan, a dreaded gangster, was killed in a police encounter on 22.10.2017. It was stated that the criminals fired at the police and the police had to open fire in self defence. An FIR was registered against Furqan and other unknown accused persons mentioning a similar sequence of events. However, family's narration of the sequence of events before and after the alleged encounter raises serious doubt about the police story.

Following are the major points which calls for an urgent intervention and an independent investigation into this case:

Family Narrative: context

As per the statement of Furqan's family, on 22.10.2017 at about 4.00 p.m., Furqan had gone to meet his wife and sons at Akbar Masjid, Pathan Kot, P.S. Baraut, District-Baghpat. When he along with his wife and children reached Delhi Bus Stand, Baraut, to meet his brother-in-law Farukh, the following police officers came and detained Furqan along with Anees s/o Mushtaq (Furqan's Counsin Brother) and Rahul s/o Ramesh - Station House Officer (SHO), P.S. Budhana, District-Muzaffar Nagar, Chaman Singh Chawra; Sub-Inspector (SI) Soveer Nagar; SI Adesh Tyagi; Constable (Co.) 1368 Harvendra Singh; Co. 398 Waqar; Driver Co. Sushil Tyagi, all police personnel of P.S. Budhana and SI Majid Ali; Co. 1184 Kalu Ram; Co. 1505 Aditya; SI Yogendra Singh; Co. Naveen Kumar; Co. Romish Kumar; Co. Atul Tyagi; Co. Vikas Kumar; Co. Vivek Kumar, all members of Special Task Force (STF), District- Muzaffar Nagar.

Unfolding of the incident as per family narrative:

The three of them were taken in a police jeep. While Anees and Rahul were taken to PS Shahpur, Furqan was taken to the fields near Badakta Canal Bridge, PS Budhana where Furqan was killed and later on it was shown as a fake encounter, for which an FIR was filed against Furqan and unknown accused persons on 23.10.2017 in PS Budhana, District MuzaffarNagar. In the FIR Furqan is shown to be a dreaded gansgter who had an award of Rs. 50,000 on his head. This is contested by Mir Hassan (Furqan's father) who states that there was no reward on Furqan's head prior to the encounter, he was not wanted in any case and that Furqan had been let out on bail a month before his encounter and he was residing with his wife and children in the past one month.

How family got to know about the incident:

Some villagers informed Meer Hassan and Akbari (parents of Furqan) about Furqan's alleged encounter; and Anees and Rahul also being fired upon by police personnel and shown as being arrested. Thereafter, Furqan's father Meer Hasan tried his best to obtain a copy of the documents relating to Furqan's death as well as the postmortem report. The Post Mortem Report has not been made available to Meer Hasan till date, almost 6 months after the death of Furqan. Thereafter, Meer Hassan met Anees and Rahul in jail, who narrated the entire incident. In the meanwhile, other sons Meer Hassan were also being threatened regularly by the accused police personnels, stating that if Furqan's family takes any action against the police, they will also be killed in a similar manner.

Legal Recourse taken by the family and the threats received by them:

Inspite of living under the regular threat of these policemen, Meer Hassan moved applications before various authorities narrating the facts about the fake encounter in which his son was killed and about the threats be-

ing extended to him and his other sons by the same police personnel who had murdered Furqan. Meer Hassan filed applications before S.D.M. Tehsil-Budhana, District Muzaffar Nagar; Director General of Police, Government of U.P., S.S.P. Muzaffar Nagar, Station House Officer, P.S. Budhana, District-Muzaffar Nagar. On 17.11.2017 a similar application was filed before the Chairman, National Human Right Commission, New Delhi. No action was taken by the said authorities, and finding no other alternative, Meer Hassan filed an application u/s. 156(3) Cr.P.C. before the C.J.M. Muzaffar Nagar, which was registered as Case No.809/11 of 2017 on 19.12.2017, for registration of an FIR against the accused police personnel.

Immediately after filing the application u/s. 156(3) Cr.P.C., the accused police personnel started building pressure upon on Meer Hassan to withdraw the case. On 24.01.2018, Meer Hassan filed a complaint before the Chairman of National Human Rights Commission, New Delhi, Case No. 3788/24/57/2018, in which he had stated that Munawwar and Tasawwar (sons of Meer Hassan) who were doing pairvi in the 156(3) application, were called upon along with Rahul and Anees, who were eyewitness of Furqan's murder and were threatened by the police personnels stating that Anees and Rahul, who are currently in jail, will be killed during their production before the court on remand, by showing that they were trying to escape and Meer Hasan's other sons will also meet the same fate. On 15.02.2018, NHRC passed an Order vide which the complaint was sent to SSP Muzaffar Nagar, to take appropriate action within 8 weeks and to inform the complainant of the action taken in the matter. Meer Hasan has not received any response from the SSP Muzaffar Nagar as yet.

Further, on 09.01.2017, about 10 months earlier to Furqan's murder, Meer Hasan had filed another complaint before the Chairman of Human Rights Commission, New Delhi (Case No. 1262/24/64/2017) stating that he has received information that his son Tasawwar and son of his brother-in-law, Bilal will be killed in a police encounter as they were put under illegal custody by police authorities and they were regularly being tortured. On 20.09.2017, the Commission passed an Order directing the concerned authorities to appear in person on 03.11.2017 to produce the required information/documents pertaining to the case, after multiple reminders failed to evoke response. Furqan was killed in a fake encounter 12 days before the date on which his father's complaint had led to the police authorities being summoned before the NHRC.

On 16.01.2018, CJM Muzaffar Nagar dismissed the application u/s. 156(3) Cr.P.C. filed by Meer Hasan on the ground that a magisterial inquiry by SDM Budhana is underway and that the documents show that Furqan was a criminal with 8 cases registered against him. The order was passed in violation of the Guidelines of the Supreme Court applicable in such cases. A Criminal Revision Petition (C.R. No. 1222/2018) is currently pending before the High Court of Allahabad against the order passed by the CJM Muzaffar Nagar.

Meer Hasan and his entire family including his relatives, are being regularly threatened by the police personnel who were involved in killing his son. Recently, Meer Hassan's nephew, Intezar, (and Anees's brother) was made a tool to harass him. Intezar's father, Mustaq (Anees's father) has a house near the house of Meer Hasan. Intezar was shown to be involved in FIR No. 2 of 2017, in which a process was said to be issued against Intezar s/o Mushtaq u/s 82 Cr.P.C. It is relevant to mention that Intezar and his father Mushtaq have not been residing at the address of village Titarwara. This fact is known to police, but, still when the process was tried to be served on 30.03.2018, Meer Hasan was forced to receive it. Upon his refusal, the copy of notice u/s. 82 Cr.P.C. was forcefully pasted on Meer Hasan's door and a drum beat pronouncement was also made in front of house by the police officials.

Violation of Guidelines laid down by Supreme Court in *People's Union of Civil Liberties vs. State of Maharashtra, (2014)10SCC635* :

- FIR was registered against the victim which is alleged to be false and fabricated as per Furqan's family. No FIR/inquiry has been initiated against the policemen involved, inspite of the letters/representations sent by Mir Hassan to various police, state and national authorities.
- The investigation of the case has not been transferred to the CBCID or any other independent investigation agency, as mandated by the Supreme Court guideline.

- The Post Mortem Report and other documents pertaining of Furqan death has not been made available to his family as yet, inspite of multiple attempts made by them.
- A report of the Magisterial inquiry must mandatorily be sent to a Judicial Magistrate of competent jurisdiction for inquiry. The same has not been done even 6 months after the killing of Furqan.
- Even though Mir Hasan had sent a letter to NHRC apprising them about the partial and malafide role of the police in investigating the case, there has been no response from NHRC, which is mandated in cases raising serious doubt about independant and impartial investigation.
- Chargesheet under Section 173 CrPC has not yet been filed by the police, 6 months after the incident.
- The Guidelines state that if family members of the victim find that the procedure laid down by the Court has not been followed or there exists a pattern of abuse or lack of independent investigation or impartiality by any of the functionaries of the State, then it may make a complaint to the Sessions Judge having territorial jurisdiction over the place of incident. Upon such complaint being made, the concerned Sessions Judge shall look into the merits of the complaint and address the grievances raised therein. When the Chief Judicial Magistrate, Muzaffar Nagar was not competent to decide the 156(3) application filed by Mir Hassan in light of the above guidelines, he should have referred the matter to the Sessions Judge for proper enquiry and redressal of the grievances. Instead the CJM dismissed the application of Mir Hasan taking a shallow view of the matter and in violation of the SC guidelines.

Police Version of the alleged encounter as stated in the FIR:

F.I.R. No. 797/2017, 798/2017, 799/2017 and 800/2017 was lodged on 23.10.2017 in PS Budhana, District MuzaffarNagar, u/s. 147,148,149,307, 414 and 411 I.P.C., 1860; Section 41 and 102 CrPC and Section 3, 25, 27 and Section 4/ 25 Arms Act,1959 against Furqan and unknown accused persons.

Police have stated in the FIR that SI Sobir Nagar with other officials were at a check post when 5 persons on 2 motorcycles were seen coming from Barot road, police threw torch light and gesticulate them to stop on which they fire two shots on police men and ran away. Police followed the criminals in their jeep but the motorcycles disappeared near village Bitawada. In the meanwhile, the STF team who were already in search of these criminals arrived and accompanied police team. A man informed the police that some criminals were seen near poultry farm. Police divided themselves into two parties one under supervision of SI Yogendra Singh and other under SI Sobir Nagar. To seize the criminals police formed a blockade, when they saw 5 criminals with 2 bikes. When police asked them to surrender, 2 criminals ran away on their bike and other 3 ran into the sugarcane field and started firing on police. At around 22:30 police started firing back and after 15 minutes of firing, police went close and caught them, in which SI Adesh Tyagi and Co. Harvendar got injured. Meanwhile two criminals fled away and one who got injured fell down in the fields. Co. Kaluram and Co. Aditya confirmed that the injured criminal is Furqan s/o Mir Hassan, a wanted criminal. Later he was sent for treatment to CHC Budhana.

Points raising doubts on police version:

It is interesting to note that even though 4 guns were recovered from the scene of crime which have been stated to be used by the criminals for firing on the police party, the police were able to recover only 5 bullet shells of the gun shots fired by the criminals. The FIR states that the firing between the police and criminals lasted for around 15 minutes, in which the criminals shot at the police indiscriminately. At the same time, while 20 gun shots were fired by the police on the criminals, recovery was made of only 10 9mm pistols used by the police officers. The FIR offers no explanation as to why the other bullet shells could not be recovered. Further, it is stated in the FIR that one bullet fired by the criminals hit the bullet proof jacket of SI Sobir Nagar. There is no mention of the bullet proof jacket being seized and parcelled for investigation. The FIR is also silent about the nature of injuries received by the the two police officers who got injured in the cross firing and the nature of injuries received by Furqan.

A cursory look at the points mentioned above raise a prima facie doubt about the veracity of the claims made by the police. A detailed, fair and impartial investigation is therefore required in the present case to bring out the true and correct facts of the alleged encounter.

CASE MEMORANDUM – SUMIT KUMAR S/O KARAM CHAND, R/O JAINUDDIN CHIRCHITA, PS SINGHAWALI AHIR, DIST – BAGHPAT, UP.

Context:

On 03.10.2017, in Uttar Pradesh's Baghpat district, Karam Chand learned that his son, Sumit Kumar, had been killed in a shootout with the police.The FIR lodged by the police said Sumit and an accomplice had robbed a bank and escaped. The police, the FIR said, spotted them the next day and Sumit was killed in a shootout that followed. However, family's narration of the sequence of events before and after the alleged encounter raises serious doubt about the police story.

Following are the major points which calls for an urgent intervention and an independent investigation into this case:

Family Narrative: context

Sumit's father Karam Chand states that Sumit was a 25 year old boy, living with his parents and helping his father in farming. He did not have any cases registered against him before the alleged encounter and no reward was declared on him prior to the incident.

Unfolding of the incident as per family narrative:

Karam Chand states that on 30.09.2017 at around 10.00 am, Sumit had gone to Balauni after he got a call from an unknown number and was called there. Upon reaching Balauni, Sumit was standing at a shop whose owner he knew and made a call from the owner's mobile phone to the unknown number from which he had got a call. Suddenly, 6-7 people in plain clothes came and abducted Sumit in a car and fled towards Baghpat. Karam Chand states that Sumit's adbuction was witnessed by many people standing there. When the family got to know about Sumit's kidnapping they went to different police stations, but they got no information about Sumit. Karam Chand states that he tried to give a complaint to PS. Balauni, Singhwali Ahir and SP Baghpat, but they did not take his complaint and no investigation was conducted. On 2.10.2017, Baghpat police told Sumit's family that Sumit is in police custody and is being questioned regarding FIR No. 394/2017 dated 20.9.2017 registered in PS Ecotech – III, NOIDA. Karam Chand further states that FIR No. 394/17 does not name Sumit as an accused. (the FIR is registered against unknown persons). When the family members requested the Bagpat police that they be allowed to meet him, Bagpat police told them that Sumit is not in their custody, and that he is being questioned by police officials from different teams regarding cases of loot registered against him. Bagpat police however assured the family that Sumit will be let off by 3.10.2017.

On the night of 2.10.2017, NOIDA police came to Sumit's house and took away all his identification documents such as Aadhar Card and Sumit's mobile phone box. When Sumit's family tried to ask the NOIDA Police regarding Sumit's whereabouts, they threatened the family and stated that they will pick up all the members of the family and encounter them in different places.

How family got to know about the incident:

On the morning of 3.10.2017, Karam Chand got to know from his relatives and through newspaper that Sumit has been declared absconding by the police in a case registered against him and a reward was announced on him. Karam Chand states that on hearing this news, they suspected that the NOIDA police has taken Sumit and will kill Sumit in a fake encounter. In the afternoon of 3.10.2017, Praveen, Sumit's brother faxed complaint letters to DGP, UP Police, Chief Minister, UP, National Human Rights Commission. A complaint was also sent to Mr. Luv Kumar, SSP NOIDA, Gautam Budh Nagar, UP, however no investigation was conducted. In the night of 3.10.2017, Sumit's family got to know from NOIDA News Channels that Mr. Luv Kumar, SSP NOIDA, Gautam Budh Nagar has issued a press statment stating that officials of PS Kasna and Bisrakh and other officials were conducting a joint operation in which Sumit was killed in an encounter and 3 other unknown accused managed to escape. The news report also stated that Sumit was a gangster who was abscond-

ing from the police in cases of murder and dacoity and had an award of Rs. 50,000 on his head.

Post Mortem and Torture marks on the body:

Karam Chand also states that after the alleged encounter, the police officials were refusing to give Sumit's body to the family members. The family had to protest outside the Mortuary in Sector 94 NOIDA and stopped the traffic at Mahamaya Flyover. Only then did the police give Sumit's body to his family. When the family saw Sumit's body, it had grave marks of torture on it. His back bone, arms and legs were broken, and his left eye was was grieviously mutilated. His neck and back had blue injury marks.

As per PM Report he had one bullet injury on left side of his chest, and a bullet was recovered from his chest cage. There was also an abrasion on his right shoulder blade region, below shoulder line. Sumit's family has been given one page of the PM report. They have been meeting and writing to several government/police officials to get PM report.

Legal Recourse taken by the family:

Sumit's family wrote a complaint letter to City Magistrate, NOIDA, Gautam Budh Nagar, for initiating inquiry prooceedings against the police officers involved in killing their son, but they received no response. On 17.10.2017, the family again wrote complaint letters to SP Baghpat, SSP Gautam Budh Nagar, City Magistrate NOIDA, IG Police, Meerut. Since the family got no response, an application u/s 165(3) was filed before the CJM, Baghpat on 23.10.2017 for filing an FIR against the police officers.. On 3.11.2017, the application was dismissed by the CJM Bagpat, stating that the said application should be filed in District Gautambudh Nagar. Thereafter an application u/s 156(3) was filed in NOIDA Court, which dismissed and the case is currently pending in the Allahabad High Court.

The National Human Rights Commission took suo moto cognisance of the matter in case number - **30160/24/30/2017-AD** and issued notice to the SSP and District Magistrate, Gautam Budh Nagar to submit postmortem report, inquest report, findings of the magisterial enquiry report/enquiry by senior officers disclosing (a) names and designation of police officials, if found responsible for the death; (b) whether use of force was justified and action taken was lawful; (c) result of the forensic examination of 'handwash' of the deceased to ascertain the presence of residue of gun powder to justify exercise of right of self-defence; and (d) report of ballistic expert on examination of the weapons alleged to have been used by the deceased and his companions. Pursuant to the directions of the Commission, communications were received from S.P. (Human Rights), Uttar Pradesh and Under Secretary to the Government of U.P. through which copies of FIR and post mortem report had been forwarded. The SSP and District Magistrate, Gautam Budh Nagar have now been directed to submit the remaining reports mentioned above.

Pressure on the family, threats and counter cases:

On 02.10.2017, when police had declared Sumit as absconding, his family was asked for Rs. 3,50,000 as bribe through a mediator if they want the police to release Sumit. After the encounter, police has been meeting family's relatives through some mediators in order to get them to compromise on the case. Sumit's family also reports that they are being continuously followed and intimidated. Some time after the encounter, Sumit's brother Raj Singh and Pravin were implicated in a case false for charges of rape and dacoity. A lady who runs a canteen in Subharti Hospital/University was the victim and one Ajay Sharma was the complainant. Family has got a stay on the matter from HC.

Promotion of Police Officers accused of Murder:

Sumit's family states that Jitender Kumar was among those who encountered Sumit. He has now been promoted from SHO of PS Kasna to DSP Meerut.

Police Version of the alleged encounter as stated in the FIR:

The FIR states that SHO Jitendra Kumar got to know from an informer that criminals armed with .315 bore rifle and other arms are roaming around in a Swift Car neat ATS roundabout. The Rifle was reported to be stolen from PS Ecotech-III. SHO PS Kasna alongwith 6 other police officials all armed with pistols and rifles and bullets alongwith SHO PS Sector 58, Anil Pratap Singh alongwith 2 police officials also armed and SO PS Bisrakh Ajay Kumar Sharma, alongwith 5 other police officials all armed reached the ATS Chowk to look for the criminals. They saw 4 people holding guns were standing near a Swift Car. When the police spotted them, they fired at the police and ran away in their car. Police chased them in their vehicles. The criminals fired at the police vehicles, SHO PS Kasna fired one bullet in retaliatory firing which hit the Swift car's glass and the car got disbalanced and crashed in the gate of a colony. The criminals got out of the car and started firing at the police party. Police officers demanded the criminals to surrender, but they instead intensified the firing. One bullet each fired by the criminals hit the bullet proof jacket of SHO Sector 58 and SO Bisrakh and SI Satish Kumar got injured with the bullet fired by the criminals. Thereafter, police officials fired 5 bullets at the criminals. One criminal got injured in the police firing and the 3 others managed to escape. The injured criminal and SI Satish Kumar were sent to District Hospital, Gautambudh Nagar for treatment. The injured criminal was declared dead by the doctors in the hospital. A wallet was recovered from the criminal's pocket which contained his Voter ID Card. The criminal was identified as Sumit s/o Karam Singh. The FIR surther states that the Forensic team was called to the scene of crime, who secured it with a yellow tape and the forensic team was directed to visit the District Hospital to take the finger swabs of the accused. The FIR states that the following items were recovered from the spot from the accused– 1 pistol .32 bore, with 2 live catridges inside the magazine; 1 rifle 315 bore, with 1 live catridge 315 bore inside the magazine, two mobile phones of the accused and a Swift Car. The police recovered 4 bullet shells of .32 bore and 4 bullet shells of .315 bore from the spot which were fired by the accused. The FIR further states that the police were able to recover only 2 out of the 6 bullets fired by the police, due to bushes around the area where the firing had taken place.

Investigation by State authorities:
FIR No. 861 and 862 was filed against Sumit Gujjar and three other unkonown accused persons u/s 307 IPC and Sections 25 and 27 of Arms Act 1959 in PS. Kasna Distt Gautam Budh Nagar, on 4.10.2017 at 12.10am on the statement of SHO Jitendra Kumar, PS. Kasna. Post Mortem was conducted by a panel of two doctors on 4.10.2017. Videography was also done. A Magisterial Inquiry was initiated by SDM, Gautambudh Nagar and the family had given their written submissions to the SDM.

Violation of Guidelines laid down by Supreme Court in *People's Union of Civil Liberties vs. State of Maharashtra, (2014)10SCC635* :

- Sumit's family was not informed by the police about the killing of Sumit in a police encounter, as is mandated by the above mentioned guideline. Infact as stated by the family, from 30.9.2017, the police officials have deliberately given false information to the family.
- FIR was registered against the victim which is alleged to be false and fabricated as per Sumit's family. No FIR/inquiry has been initiated against the policemen involved, inspite of the letters/representations sent by Karam Chand to various police, state and national authorities.
- The investigation of the case has not been transferred to the CBCID or any other independent investigation agency, as mandated by the Supreme Court guideline.
- The Post Mortem Report has not been made available to his family as yet, inspite of multiple attempts made by them.
- A report of the Magisterial inquiry must mandatorily be sent to a Judicial Magistrate of competent jurisdiction for inquiry, in all cases of death which occur in the course of police firing. The same has not been done even 6 months after the killing of Sumit.
- Even though Karam Chand had sent multiple letters to NHRC apprising them about the partial and malafide role of the police in investigating the case, there has been no response from NHRC, which is mandated in cases raising serious doubt about independant and impartial investigation. NHRC initiat-

ed a complaint suo moto based on newspaper reports, however no inquiry has been ordered as yet.

- Chargesheet under Section 173 CrPC has not yet been filed by the police, 6 months after the incident.
- Guidlines state that no out-of-turn promotion or instant gallantry rewards shall be bestowed on the concerned officers soon after the occurrence. It must be ensured at all costs that such rewards are given/recommended only when the gallantry of the concerned officers is established beyond doubt. It is pertinent to note SHO PS Kasna - Jitender Kumar was promoted on 1.1.2018 to DSP Meerut in clear violation of the guidelines.
- The Guidelines state that if family members of the victim find that the procedure laid down by the Court has not been followed or there exists a pattern of abuse or lack of independent investigation or impartiality by any of the functionaries of the State, then it may make a complaint to the Sessions Judge having territorial jurisdiction over the place of incident. Upon such complaint being made, the concerned Sessions Judge shall look into the merits of the complaint and address the grievances raised therein. When the Chief Judicial Magistrate Baghpat or Gautambudh Nagar were not competent to decide the 156(3) application filed by Karam Chand in light of the above guidelines, they should have referred the matter to the Sessions Judge for proper enquiry and redressal of the grievances. Instead the CJM dismissed the application of Kamal Chand taking a shallow view of the matter and in violation of the SC guidelines.

Points raising doubts on police version:

The following points raise serious doubts about the police version of the encounter:

- The family's testimony falsifies the police version of the story. While the family tried its best to get information about their son, by writing multiple complaints letters to police authorities, NHRC, state and district administration, no action has yet been taken.
- As per the family's testimony, the police deliberately gave false information to the family about the whereabouts of Sumit.
- Further, the torture marks seen on Sumit's body by his family members also raises doubts on the sequence of events mentioned by the police.
- The events which are mentioned in the FIR seem to be unbelievable. 16 armed police personnels with 3 cars at their disposal, could not arrest 3 criminals who are alleged to have escaped on foot.
- It is also unbelievable that 16 armed police personnels who were engaged in a armed confrontation with 4 armed criminals fired only 6 bullets in their defence, out of which 2 bullets hit one criminal while the others managed to escape. In contrast, the criminals have been alleged to fire 8 or more bullets.
- It is also interesting to note that while the police officials were able to recover 8 bullets fired by the accused, they managed to recover only 2 of the bullets fired by the police.
- The process of identification of Sumit as mentioned in the FIR also raises doubts when seen in light of the testimony given by Sumit's father.
- The bullet proof jackets which received bullets from the criminals were not seized by the police for investigation.

A cursory look at the points mentioned by the family contradict the police version of the alleged encounter and raise a prima facie doubt about the veracity of the claims made by the police. A detailed, fair and impartial investigation is therefore required in the present case to bring out the true and correct facts of the alleged encounter.

CASE MEMORANDUM – MANSOOR S/O AKBAR, VILLAGE PATHANPURA, JASMOUR NO. 3, PS BEHAT, DISTRICT SAHARANPUR, UP.

Context:

On 27.09.2017, it was reported in media that Mansoor, was killed in a police encounter, while his accomplice was successful in escaping from the police. It was stated that the criminals fired at the police and the police had to open fire in self defence. An FIR was registered against unknown accused persons mentioning a similar sequence of events. The police later identified the arrested accused as Mansoor S/O Akbar. However, family's narration of the sequence of events before and after the alleged encounter raises serious doubt about the police story.

Following are the major points which calls for an urgent intervention and an independent investigation into this case:

Family Narrative: context

Mansoor belonged to a destitute family of Pathanpura Jasmor PS Behet, Saharanpur, Uttar Pradesh. In his youth he would undertake odd jobs such as daily agricultural labour, electric appliances repair, etc. Poor, uneducated, without regular employment, yet a man of health and strong temperament, Mansoor was a perfect proxy (informer) for the state police to put to various uses such as intelligence gathering, extortion, extra judicial violence, robbery, dacoity, murders. In 2006-2007 Mansoor was forced by the local police men namely Prashant Kapil (SHO PS Sadar Bazar) and Rashid Ali (SHO PS Lisadigate) among others to act as their proxy in their area. He was granted impunity for waylaying, robbery , dacoity, etc and was provided the proceeds of the crime which was shared between these policemen and Mansoor on an 80:20 ratio. This was not an agreement Mansoor could have simply refused to enter as refusal would have lead to threats, violence, custody without charge, torture, framing of false charges, even murder by way of false encounter of Mansoor by the police. Such extreme police coercion and perhaps the abject poverty made Mansoor a petty criminal generating money for the police. Mansoor was arrested for a crime in 2013 and he spent 3 years in Saharanpur Jail. Mansoor's family alleges that his mental health condition deteriorated during his time in jail as he was electrocuted and tortured in prison. After his release in 2015, he became totally dependent on his family. He was undergoing treatment by local physicians and was not able to eat, drink, take bath or be aware of his whereabouts. Villagers would often bring him home in the evening, from the village area where he would roam unaware.

Unfolding of the incident as per family narrative:

Mansoor's mother, Javeda states that on 26th September 2017, around 12 noon, Prashant Kapil (SHO, PS Sadar Bazar, Meerut) and Rashid Ali (SHO, PS Lisargate) visited Mansoor's house. Javeda, who knew them for past 10-12 years since they were posted in Saharanpur previously, called Mansoor from the village forest on their insistence. After spending some time with Mansoor, they declared they wanted to take Mansoor with them for a while and would return by evening. Being old acquaintances of Mansoor, family expected no foul play. However it was evident that Mansoor did not want to go with them and the two policemen forced him inside their vehicle, in which two other policemen were already sitting.

How family got to know about the incident:

Next day, 27th September 2017, at around 3.00 am, local police official from PS Behat visited their house and asked Mansoor's father to sign on some papers. They did not inform them about Mansoor's killing and just stated that those were warrant papers on Mansoor's name. Few hours later, early morning, villagers informed the family that the media is reporting about Mansoor's killing in an encounter. The family went to Meerut Medical College in the afternoon, where Mansoor's post mortem was conducted.

It is interesting to note that the General Diary No. 5 recorded at 2.30 am on 27/9/2017 at PS Medical, Meerut states that at 2.30 am SHO Prashant Kapil. PS. Sadar Bazaar, Meerut informed the P.S. Medical Meerut that the accused killed in the police encounter has been identified as Mansoor s/o Akbar R/o village Pathanpura, PS Behat, Dist Saharanpur, by Co. Jayvardhan, Crime Branch Meerut. The GD further states that at 2.30 am SHO Prashant Kapil informed the SHO of PS Behat Dist. Saharanpur, in a telephonic conversation, about the details of the encounter and the identity of the deceased accused and Co. 1049 Vinod Kumar was sent to give

information about the incident and for necessary investigation. Thus, at 2.30 am the police officials of PS Behat were aware about the details of the encounter, and the identity of the deceased accused. Thus, the police officials of PS Behat deliberately hid the fact that Mansoor was killed in an encounter and intentionally did not provide complete details about the encounter to the family which is not only violative of the guidelines laid down by the Apex Court but also points towards police complicity.

Bullet wounds on the body:
Javeda, Mansoor's mother further states that when Mansoor's body was brought home, they noticed that his body had one bullet wound on the left side of his chest, with marks of tatooing around it. The Post Mortem Report also states the same. This indicates that Mansoor was shot from a close range straight on his chest which led to his immediate death.

Legal Recourse taken by the family:

On 26th April, 2018 Mansoor's mother, Javeda has sent a representation to the National Commission on Minorities, New Delhi narrating the facts leading upto Mansoor's alleged killing in police action. The letter further states that the family has got to know that a closure report has been filed by the police in the case. It also states that no statements have been recorded of Mansoor's family either by the police or by any Magistrate. Due to fear of possible police backlash, and the struggle of survival that the family is undergoing, the family has not pursued any legal action against the police officials so far.

Investigation by State authorities:
The SHO of PS Sadar Bazaar, Prashant Kapil filed FIR No. 489/17 dated 27/9/17 in PS Sadar Bazar, District Meerut under section 307 (attempt to murder) of the Indian Penal Code 1860, against unknown accused persons. Another FIR No. 490/17 dated 27/9/17 was filed by PS Sadar Bazar, District Meerut under Section 25 and 27 (use and possession of arms or ammunition) of Arms Act 1959, against unknown accused person. The accused killed in the police encounter was later identified as Mansoor s/o Akbar R/o village Pathanpura, PS Behat, Dist Saharanpur, by Co. Jayvardhan, Crime Branch Meerut. Inquest Report was prepared by Santosh Kumar, Tehsildar, Sadar, Dist Meerut. Post Mortem was conducted at Meerut Medical College and the same was videographed. On 10th October 2017, the investigation of the case was transferred to Crime Branch, Meerut by SSP Meerut. On 3.12.2017 a final report was submitted u/s 173 CrPC to CJM, Meerut for FIR Nos. 489/2017 and 490/2017 on the ground that the accused in the FIRs died on his way to the hospital. The GD enteries attached with the Final Report state that the identity of the accused who escaped the encounger could not be ascertained by the informers relied upon by the police. A Letter dated 9.12.2017 from the complainant Prashant Kapil, SHO, P.S. Sada Bazaar to the CJM, Meerut states that he has no objection to the Final Report submitted by the police in the abovementioned cases.

Violation of Guidelines laid down by Supreme Court in *People's Union of Civil Liberties vs. State of Maharashtra, (2014)10SCC635* :

- Mansoor's family was not informed by the police about the killing of Mansoor in a police encounter, as is mandated by the above mentioned guideline. Infact as stated above, the police deliberately gave false information to the family.

FIR was registered against the victim which is alleged to be false and fabricated as per Mansoor's family. No FIR/inquiry has been initiated against the policemen involved in the alleged encounter.

The investigation of the case has not been transferred to the CBCID or any other independent investigation agency, as mandated by the Supreme Court guideline.

A report of the Magisterial inquiry must mandatorily be sent to a Judicial Magistrate of competent jurisdiction for inquiry, in all cases of death which occur in the course of police firing. The family has not received any summons from the Court and is thus, not aware if an inquiry by a Judicial Magistrate has been held, as is mandated by the Supreme Court.

Instead a Final Closure Report u/s 173 CrPC was submitted by the police which was accepted by the CJM, Meerut. The CJM instead of accepting the final report submitted by the police, should have instituted an inquiry into the manner and cause of death as is mandated in the abovestated guidelines.

Forensic examination of the weapons seized, bullet shells recovered, blood stained earth etc have not been conducted.

Police Version of the alleged encounter as stated in the FIR:
As per the police story, Mansoor was killed during an 'encounter' on 27th September, 2017, an hour after mid-

night, by the Meerut Police. PS Sadar Bazar, Meerut filed FIR 489/17 and 490/17 against unknown person, who was later identified as Mansoor. As per the police complaint, information was received by SHO Prashant Kapil, PS Sadar Bazar, that three criminals on a bike have looted a WagonR car. The Police states that they spotted the car and tried to stop the WagonR car, which was now being driven by the two criminals. On being asked to stop, the criminals tried to speed away in the car, which was followed by SHO Prashant Kapil and his team of 4 constables. He also called for reinforcements and the SHO Rashid Ali of Lisadigate Police Station, also reached the spot with his team. Near Gandhi Bagh Gate No. 2, the car was surrounded by police from both sides. On finding themselves being trapped, the two criminals got out of the car and started firing at the police officials. The police officials also fired in self defence, due to which one of the criminals was injured and he fell near the car. The other criminal managed to escape by firing at the police officials and climbing over the wall of Gandhi Bagh. The injured criminal, was sent to the Medical College, Meerut for treatment.

Points raising doubts on police version:

The following points raise serious doubts about the police version of the encounter:

- The fact that four policemen forcibly took away Mansoor from his house a day before his killing in an encounter, falsifies the police narrative.
- Javeda, Mansoor's mother further states that both SHO Prashant Kapil and SHO Rashid Ali were aware about Mansoor's ill health and thus he was a soft target for them.
- On 27.9.2017, at 2.30 am, the police officials of PS Behat were aware about the details of the encounter, and the identity of the deceased accused. Even though they visited the family at 3.00 am, they didnot inform the family about the encounter, but also provided false information to them, thus raising doubts about the police trying to cover up the alleged incident.
- The police managed to recover only 3 bullet shells fired by the accused in the incident and only one bullet shell fired by the police. The FIR offers no explanation as to why the other bullet shells could not be recovered. It is also interesting to note that in the entire incident of encounter, the police fired only 3 bullets, out of which 1 bullet hit the accused straight in his chest which led to his death.
- The FIR also states that the second accused managed to escape by firing at the police and climbing the wall of the Gandhi Bagh where the encounter had taken place. It is interesting to note that 13 armed police personnels who had surrounded 2 accused, were not able to apprehend/injure the second accused even though it is stated that he climbed over the wall to escape the police.
- Further, it is stated in the FIR that one bullet fired by the criminals hit the bullet proof jacket of SHO Rashid Ali, P.S. Lasadigate. There is no mention of the bullet proof jacket being seized and parcelled for investigation.

A cursory look at the points mentioned by the family contradict the police version of the alleged encounter and raise a prima facie doubt about the veracity of the claims made by the police. A detailed, fair and impartial investigation is therefore required in the present case to bring out the true and correct facts of the alleged encounter.

CASE MEMORANDUM – SHAMSHAD S/O SHAHID R/O VILLAGE SHERPUR, KHANAJADPUR, DIST – SAHARANPUR, UP.

Context:

On 11.09.2017, it was reported that the police officials of PS Sadar Bazaar had killed a criminal, later identified as Shamshaad in a police encounter, while his accomplice was successful in escaping from the police. It was stated that the criminals fired at the police and the police had to open fire in self defence. An FIR was registered against Shamshaad mentioning a similar sequence of events. However, family's narration of the sequence of events before and after the alleged encounter raises serious doubt about the police story.

Following are the major points which calls for an urgent intervention and an independent investigation into this case:

Family Narrative: Unfolding of the incident

Saliha, Shamshaad's wife states that Shamshad was imprisoned in Deoband jail for past year and a half. On 7th September, 2017, Shaamshad's wife came to know that the police are saying that Shadshaad had been brought to Vikas Nagar from Deoband jail for a hearing, and on the way back to Deoband he escaped, along with an accomplice. She states that on 11th September, 2017 she heard that Shamshaad was killed in an encounter by officials of PS Sadar Bazaar. Saliha further alleges that the police officials had infact concocted the story of Shamshaad running away from jail. The police officers had illegally kidnapped Shamshaad on his way back, tortured and then killed him. Later on 11th September, 2017 the police showed that Shamshaad had been killed in an encounter.

Torture marks on the body:

Saliha states that when they received the body after post mortem they noticed marks of beatings on his neck and other body parts. She further states that it looked like the body was 2-3 days old since it was bloated. She further states that the bullet wounds were surrounded by blackening of skin, indicating that he was shot at from a close range.

It is important to note that in the FIR the time of occurrence of the event is stated as 11.09.2017 at 1.30 am. The Post Mortem Report records the time of the post mortem as 4.55 PM on 11.9.2017. The Post Mortem Report however, very clearly states that the body sent for post mortem looks 1-4 days old. This raises a question on the sequence of events stated by the police and proves the allegations made by Saliha in her testimony. Further, the post mortem also records that the 7Th, 8th and 9th rib on left side was fractured. The PMR states the following bullet wounds – 3 bullets on the front left side of the chest, one bullet on right knee joint.

Legal Recourse taken by the family:

Saliha further states that the day Shamshaad was shown as being absconding, police officers came to their house and took all Shamshaad's three brothers with them. Saliha had sent written complaints to National Human Rights Commission, State Human Rights Commission and the National Commission For Minorities, but she did not receive any reply. Due to fear of possible police backlash, and the struggle of survival that the family is undergoing, the family has not pursued any legal action against the police officials so far.

Police Version of the alleged encounter as stated in the FIR:

The FIR is filed on the statement of SO Yajdat Sharma, PS Sadar Bazaar, Dist – Saharanpur. The FIR states that the SHO, Nanota had informed the control room that two criminals on a motorcycle, ran away firing at the police at Deoband Phatak during police checking. The criminals were being chased by him alongwith 3 police officers armed with guns and AK-47 in a police car. While SO Yajdat Sharma alongwith 5 police offic-

ers, all armed with pistols, AK-47 and with 70 bullets, was stationed at a police check post near Hasanpur Chungi. SHO Nanota also reached Hasanpur Chungi and informed SO Yajdat about his chase with the criminals. SHO Nanota had also informed the SWAT team regarding the same who reached Hasanpur Chungi alongwith 8 police officers of the SWAT Team, all armed with pistols, AK-47 and 80 bullets. Another police team of Intelligence Wing, comprising of 6 police officers armed with pistols and 40 bullets were sent to Khalasi Line area to look for the criminals. While SO Jajdat Sharma and SHO Nanota alongwith 8 other officers were continuing their search at Hasanpur Chungi, they saw the two accused on the motorcycle approach the police barricade. On seeing the police, the accused tried to run away and were followed by the police officers. The accused fired bullet shots at the police team while trying to run away. The two other police teams, (SWAT Team and Intelligence Wing) were already informed and were waiting in position to surround the accused. Subsequently, the accused on seeing the other police teams turned their bike to escape, their motorcycle slipped on the road and the criminals fell down. They started firing on the police parties. The police fired back in self defence. Thereafter one criminal got injured due to the bullets fired by the police, while the other managed to escape. The police recovered one .32 bore pistol with 2 live catridges and one .9mm pistol left behind by the criminal who managed to escape. A bike was also recovered by the police. It is stated in the FIR that SI Arun Pawar and Co. Arun Rana were injured in the police firing in their hand, while 4 police officers received bullets on their bullet proof jackets. The injured accused was identified as Shamshaad by two police officers who claimed to be present when he had managed to escape from police custody while being brought back from a court hearing. It is also stated in the FIR that the police officers fired 25 bullets at the criminals. Shamshaad and the injured officers were sent to District Hospital, Saharanpur for treatment.

Investigation by State authorities:

An FIR bearing No. 433 dated 11.9.2017 was filed in PS Sadar Bazaar against Shamshad and another unknown accused person, u/s 307 IPC and Section 41, 102 CrPC. An Inspector level officer from PS Janakpuri was made the Investigating Officer in the case. Post Mortem was conducted and the same was videographed. The family is not aware of any further investigation carried out by the police.

Violation of Guidelines laid down by Supreme Court in *People's Union of Civil Liberties vs. State of Maharashtra, (2014)10SCC635* :

- Shamshaad's family was not informed by the police about the killing of Shamshaad in a police encounter, as is mandated by the above mentioned guideline.
- FIR was registered against the victim which is alleged to be false and fabricated as per the testimony of Shamshaad's wife. No FIR/inquiry has been initiated against the policemen involved in the alleged encounter.
- The investigation of the case has not been transferred to the CBCID or any other independent investigation agency, as mandated by the Supreme Court guideline.
- A report of the Magisterial inquiry must mandatorily be sent to a Judicial Magistrate of competent jurisdiction for inquiry, in all cases of death which occur in the course of police firing. The family has not received any summons from the Court and is thus, not aware if an inquiry by a Judicial Magistrate has been held, as is mandated by the Supreme Court.

Points raising doubts on police version:

The following points raise serious doubts about the police version of the encounter:

- As per the FIR, the Post Mortem was conducted Even though the FIR and the Post Mortem was conducted on the same day, within a span of 15 hours, the Post Mortem Report however, very clearly states that the body sent for post mortem looks 1-4 days old. This raises a question on the sequence of events stated by the police and proves the allegations made by Saliha in her testimony that her husband Shamshaad was actually illegally kidnapped by the police on 7th September and on 11th September, the police made up the alleged story of an encounter.
- Even though the FIR records the presence of 24 police officials from 3 departments, armed with pistols, AK-47s and 190 bullets, they were not able to arrest the second accused who allegedly ran away on foot, leaving their bike and his gun after an incident.

- Further, the FIR states that the police recovered 18 bullet shells from the spot. The FIR doesnot mention the details about the bullets recovered and is also silent about who these bullets belong to, the accused or the police parties. The FIR also states that the police party alone had fired 25 rounds.
- The FIR is also silent about the injuries received by Shamshaad or the number of bullets that wounded him.
- Further, the PM Report indicates that Shamshaad was hit by 4 bullets fired by the police, out of the 25 rounds of firing done by the police as stated in the FIR.

A cursory look at the points mentioned by the family contradict the police version of the alleged encounter and raise a prima facie doubt about the veracity of the claims made by the police. A detailed, fair and impartial investigation is therefore required in the present case to bring out the true and correct facts of the alleged encounter.

CASE MEMORANDUM – NADEEM (S/O LATE IRSHAD), R/O VILLAGE BAGHOWALI, NAI MANDI, MUZAFFARNAGAR, UP.

Context:

On 09.09.2017, it was reported in media that Nadeem, who had fled from police custody and as a result of which an award of Rs.15000 was announced on him, was encountered by the police near Jatwada Gangnahar flyover on 8th Septemeber. Within three days of fleeing custody, the police was reported of his activities near Jatwada Gangnahar flyover. Upon reaching the spot, police and the victim both started firing and the victim fell on the ground. He was declared dead upon reaching the hospital. However, family's narration of the sequence of events before and after the alleged encounter raises serious doubt about the police story.

Following are the major points which calls for an urgent intervention and an independent investigation into this case:

Family Narrative: context

Family testimony of Nadeem's uncle, Mohd. Isha Ali, attests to an altercation between Nadeem and a local jewellery shop owner. He states that Nadeem was unhappy with a ring purchased from the jewellery shop and demanded a refund or exchange. The shop owner was intimidated by Nadeem's aggressive overtures following which he approached the police and filed a case of theft against Nadeem. The family states that the police, saw this as an opportunity to extort a huge sum from Nadeem, demanding a sum of Rs. 6 Lakhs to suppress the FIR. Nadeem a man of meagre earnings refused to pay the bribe to the police officials. The police was further emboldened when it found that the complainant was unwilling to pursue the FIR and had instead agreed to settle the matter with Nadeem as the case involved a minor issue of a ring.

Unfolding of the incident as per family narrative:

Mohd. Esha Ali, Nadeem's uncle further claims that Nadeem was picked up by the police officials of PS Nai Mandi on 5th September 2017, from their village, in a false case of theft and was kept in police custody and tortured. On 6.9.2017, Mohd. Isha Ali, Mujmil, Village Pradhan along with other members of the family went to PS. Nai Mandi. In the police station, the officials showed the family that Nadeem was detained in the police station but refused to give them any documents pertaining to his detention or arrest. The family members waited outside the police station till evening and then returned back home. Thereafter, the family members got to know that the police is saying that Nadeem escaped from police custody on 06.09.2017 by throwing chillies at the police officers. When the family members got to know about this, they feared that Nadeem will be made a victim of police encounters. They immediately sent a letter through fax addressed to the National Human Rights Commission, district police officials and other authorities mentioning the illegal detention of Nadeem and that they now fear for his life.

How family got to know about the incident:

The family members got to know on 8th September, 2017 that Nadeem has been killed in a police encounter. Mohd. Isha Ali states that their worst fears came alive, and that police officials of PS Nai Mandi had handed over Nadeem to officials of PS Kakroli to murder him.

Torture marks on the body:

When Nadeem's body was handed over to his family after the post mortem, they saw that his body was covered with marks of beating and torture. The bones of his arms, legs, spinal cord and neck had all been broken due to brutal beatings. The only visible bullet wound was a clean shot in the forehead. The family however, have not been given a copy of the Post Mortem Report of Nadeem.

Legal Recourse taken by the family:

Nadeem's uncle further states that after the alleged encounter, the police officials regularly come to their house and threaten Nadeem's mother, Samar Jahan, that she will be killed and murdered in a similar manner

if they take any action. Due to fear of possible police backlash, and the struggle of survival that the family is undergoing, the family has not pursued any legal action against the police officials so far.

Police Version of the alleged encounter as stated in the FIR:

The First Information Report (FIR) filed by the police states that Nadeem was injured in police firing on 8th September, 2017 and he later succumbed to his injuries. The FIR states that Station Officer (SO), P.S. Kakroli Anil Kumar Singh got the information around 8:30 pm that on Sambhalheda – Jatwada road a motorcyclist, who have tried to loot other motorcyclists, are on a pulsar bike and are coming towards Jatwada. The SO with other officials were standing near a chowk heading towards sambhalheda, when a motorcycle was seen coming from Sambhalheda. The Police officials gesticulated them to stop with the torch light, after which motorcyclist turned the bike toward north and the motorcycle slipped. When the police officials tried to go towards them both the persons on the motorcycle stood up and started firing on the police officials in which Sub Inspector (SI) Vijay Kr Tyagi got hit by a bullet in his arm. Seeing the situation the SO gave orders for firing. One of the two assailants got injured and the other managed to escape. Both, injured person and injured SI were sent to govt. hospital janseth for treatment, where the assailant succumbed to his injuries. Later through whatsapp and newspaper the accused was identified as Nadim s/o Irshad r/o Bagowali, Nai Mandi , Muzzafarnagar Uttar Pradesh.

Investigation by State authorities:

Three FIRs (FIR No. 0396/17, FIR No. 0397/17, FIR No. 0398/17) related to the incident have been filed against Nadeem and an unknown accused dated 8/09/2017 filed in Kakroli Police Station, District Muzaffarnagar for attempt to murder (Section 307, Indian Penal Code (IPC), 1860), possession of arms and ammunition (Section 25(3) of Arms Act 1959), assisting in concealment of stolen property (Section 414 of IPC, 1860) stating that Nadeem was injured due to police firing and captured, while the other accomplice escaped. A post mortem was conducted by the police officials. Nadeem's family is not aware of any further investigation being carried out by the police. Further, the family has not been given the Post Mortem Report by the police officials as yet.

Violation of Guidelines laid down by Supreme Court in *People's Union of Civil Liberties vs. State of Maharashtra, (2014)10SCC635* :

- FIR was registered against the victim which is alleged to be false and fabricated as per Mansoor's family. No FIR/inquiry has been initiated against the policemen involved in the alleged encounter.
- The investigation of the case has not been transferred to the CBCID or any other independent investigation agency, as mandated by the Supreme Court guideline.
- A report of the Magisterial inquiry must mandatorily be sent to a Judicial Magistrate of competent jurisdiction for inquiry, in all cases of death which occur in the course of police firing. The family has not received any summons from the Court and is thus, not aware if an inquiry by a Judicial Magistrate has been held, as is mandated by the Supreme Court.

Points raising doubts on police version:

The following points raise serious doubts about the police version of the encounter:

- The entire sequence of events stated by the police is falsified on the basis of testimony of Nadeem's family. It is pertinent to note that Nadeem was illegally detained in PS Nai Mandi, and was thereafter shown to have fled police custody, on the same day on which Nadeem's family visited PS Nai Mandi and saw Nadeem in police custody. Further, Nadeem's uncle also states that he alongwith other people were standing outside the police station till evening, waiting for the police officers to release Nadeem.
- The marks of beatings on Nadeem's body and fractured limbs and spinal cord, as noticed by his family, are a testimony of torture before Nadeem was killed. This further raises questions on the the sequence of events mentioned in the FIR.
- The FIR is vague. It does not mention important aspects such as the injuries sustained by the accused, the number of shots fired by the police officials alongwith the type of weapon used .

A cursory look at the points mentioned by the family contradict the police version of the alleged encounter and raise a prima facie doubt about the veracity of the claims made by the police. A detailed, fair and impartial investigation is therefore required in the present case to bring out the true and correct facts of the alleged encounter.

CASE MEMORANDUM – IKRAM S/O MUNSHI, R/O 13/279 NEAR GURUDWARA PATTI MEHAR, BADOT, BAGHPAT, UP.

Context:

It was reported in the media, that on 12th August 2017, two people were trying to abscond after looting a bike. The police chased the criminals, who opened fire on the police. Police fired in self defence Ikram was injured and was taken to Meerut Medical College where he was declared dead. Police retrieved looted bike, 8700 rupees, gold ring and watch pistols and catridges from the place where the incident took place and also informed that 13 cases were registered against the deadred criminal. An FIR was registed on the same sequence of events. However, the family's narration of the sequence of events before and after the alleged encounter raises serious doubt about the police story.

Following are the major points which calls for an urgent intervention and an independent investigation into this case:

Family Narrative - Unfolding of the incident:

Hanifa, Ikram's wife states that on 10th August, 2017, at around 12.30 pm, Shakeel s/o Munsab and Sunil along with 5-6 other men came to her house and inquired about Ikram's whereabouts. They were informed by Hanifa that Ikram had gone to Aastha Hospital, Badot. Hanifa further states that the men left her house and went to Aastha Hospital, Badot and called Ikram out of the hospital. Ikram was accompanied by his younger son Sajid who was sent back inside the hospital and thereafter Ikram was assaulted and taken away in a car.

How family got to know about the incident:

Ikram's family looked for him the entire night, but he could not be found. On the morning of 11th August 2017, Hanifa was informed by her relatives that Ikram was killed in a police encounter by officials of PS Kairana. She further states that the police officials did not inform her family about Ikram's death. Infact they were told about the encounter only when Ikram's minor sons went to PS Kairana to inquire about their father. When Ikram's body was returned to the family, the police officials threatened them saying that if the family takes any legal action, Ikram's wife will also be killed in a similar manner and false cases will be registered against her minor sons.

Torture marks on the body:
When the family looked at Ikram's body they noticed severe marks of torture. There was a huge injury wound on the back of the head and other marks of assault on his waist, neck and other parts of the body. Further his arms and ribs were fractured.

The post mortem report also corroborates the statement given by Hanifa. As per the PM Report, Ikram had 5 bullet wounds on his right knee, right thigh, right foot, left knee, left foot and 3 fractures on his right leg. Further, blackening marks found around the gunshot wounds indicate close range fire.

Legal Recourse taken by the family:

On 24th April, 2018 Ikram's wife Hanifa has sent a representation to the National Commission on Minorities, New Delhi narrating the facts leading upto Ikram's alleged killing in police action. Due to fear of possible police backlash, and the struggle of survival that the family is undergoing, the family has not pursued any legal action against the police officials so far.

Police Version of the alleged encounter as stated in the FIR:

The complaint describes how an information was received by police that two criminals have looted a bike, Rs 8,700, a gold chain and a gold ring. When they were apprehended by police on the way, their bike slipped, they fired upon the police and police also fired back. According to the FIR report the police had Ikram surrounded from all sides between 11:30 and 12:00 a.m during which Ikram kept firing indiscriminately at the police team. Ikram was hit by the police firing, and thereafter captured by police while his accomplice escaped. The injured criminal identified himself as Ikram, and was taken to CHC, Kairana where he succumbed to injuries. Ikram also stated that the name of his accomplice was Shakil s/o Munsab. Weapon, money and jewellery shown as recovery from the accused. Co. Ankush Godara & Co. Raghu Raj Singh were injured by the bullets fired by the accused. Both the police officers were also sent to CHC, Kairana for treatment. As per the FIR, 15 police officials of PS Kairana, PS Kotwali and officials of SWAT Team involved in the police action.

Investigation by State authorities:

3 FIRs bearing No. 785/2017, 786/2017, 787/2017 were filed in PS Kairana, Shamli District dated 11.8.2017 u/s 307 IPC and Section 25 Arms Act against Ikram & Shakeel s/o Munsab. Investigation of the 3 FIRs was transferred to SHO Umesh Roriya, PS Kandhla by SP, Shamli. Inquest proceedings u/s 174 Crpc were undertaken and a post mortem was conducted and the process was videographed. Final report has been filed on the FIR No. 785/17, 786/17 and 787/17 on the ground that Ikram succumbed to his injuries and the accomplice called Shakeel could not be identified. The IO has taken statements of residents of Hajipur Mohalla saying that nobody called shakeel lives in that area.

Violation of Guidelines laid down by Supreme Court in *People's Union of Civil Liberties vs. State of Maharashtra, (2014)10SCC635* :

- Ikram's family was not informed by the police about the killing of Ikram in a police encounter, as is mandated by the above mentioned guideline. Infact they were told about the encounter only when Ikram's minor sons went to PS Kairana to inquire about their father. When Ikram's body was returned to the family, the police officials threatened them saying that if the family takes any legal action, Ikram's wife will also be killed in a similar manner and false cases will be registered against her minor sons.
- FIR was registered against the victim which is alleged to be false and fabricated as per Ikram's family. No FIR/inquiry has been initiated against the policemen involved in the alleged encounter.
- The investigation of the case has not been transferred to the CBCID or any other independent investigation agency, as mandated by the Supreme Court guideline.
- A report of the Magisterial inquiry must mandatorily be sent to a Judicial Magistrate of competent jurisdiction for inquiry, in all cases of death which occur in the course of police firing. The family has not received any summons from the Court and is thus, not aware if an inquiry by a Judicial Magistrate has been held, as is mandated by the Supreme Court.
- Instead a Final Closure Report u/s 173 CrPC was submitted by the police which was accepted by the CJM, Shamli. The CJM instead of accepting the final report submitted by the police, should have instituted an inquiry into the manner and cause of death as is mandated in the abovestated guidelines.
- Forensic examination of the weapons seized, bullet shells recovered, blood stained earth etc have not been conducted.

Points raising doubts on police version:

- The fact that Ikram's wife states that a day before his encounter, Shakeel s/o Munsab (named as Ikram's accomplice who escaped) and Sunil along with 5-6 other men came to her house and inquired about Ikram's whereabouts and his minor son Sajid being a witness to Shakeel meeting Ikram minutes before he was kidnapped, falsifies the police narrative.
- The role of police in the entire incident as stated by Ikram's wife raises questions on their implicity. The police officials did not inform Ikram's family about his death and infact they were told about the encounter only when Ikram's minor sons went to PS Kairana to inquire about their father. When Ikram's body was returned to the family, the police officials threatened them saying that if the family takes any legal action, Ikram's wife will also be killed in a similar manner and false cases will be registered against her minor sons.
- It is interesting to note that 16 armed police personnels were not able to apprehend the second accused who managed to escape on foot.
- The details of injuries received by the police officers is not mentioned in the FIR.

A cursory look at the points mentioned by the family contradict the police version of the alleged encounter and raise a prima facie doubt about the veracity of the claims made by the police. A detailed, fair and impartial investigation is therefore required in the present case to bring out the true and correct facts of the alleged encounter.

ANNEXE-III

Extrajudicial Execution cases in UP

List II– without affidavits

(arranged chronologically)

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
10	**Ehsaan s/o Mehmood** 25.03.2018 Place: Saharanpur, UP	As per newspaper reports police was informed on 24th March night, that two criminals had shot a farmer and had looted money from him. They were in the lookout for the criminals. The police officials of the Crime Branch saw the criminals near Ganna Mandi under PS Mandi, early in the morning. The accused fired at the police, and the police fired back in self defence. Ehsaan was injured while his accomplice managed to escape. Co. Sachin Sharma was also injured in the cross firing who was sent to District Hospital for treatment. As per UP police, Ehsaan had 40 cases of dacoity, murder and rape registered against him and had an award of Rs. 25,000 on his head. Police recovered a bike, Rs. one lakh in cash (which was loot money) and a 9mm pistol from Ehsaan.	No details available	Ehsaan's wife, Shamima states that three and a half years ago, Ehsaan had been arrested and picked up from Jhinjhana, and convicted for 5 years at Dehradun. Shamima had got him out on bail on 9th March, 2018. Since he was very unwell, he had gone to live at a relative's place. The day he was killed, he spoke to his sister (Shama) and Shamima saying that he was with his Uncle's daughter (Ruksana, w/o Usman, Nawabganj, Sarai Chowk) and that he would return the next day as he was not well. This conversation was at 2-2.30 pm. At 5.30 pm his family was informed of his demise.	No details available.

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
11.	**Akbar s/o Mahmood** 3rd February, 2018 at 7.10PM Place: Near Kali Mandir, Jhinjhana - Un Road, District Shamli	As per police records, Akbar had escaped in an encounter on 1.1.2018 in which Sabir was killed, and thereafter police had declared a reward of Rs. 50,000 on Akbar. 03.2.2018 FIR filed against Akbar for extortion & attempt to murder. SWAT team informed, plan made to capture the accused. Two people came on a motorcycle to pick up the ransom money, asked to surrender by the police, assailants fired upon the police, police fired in self defence. One criminal injured, taken to hospital, succumbed to injuries, the other accused escaped, could not be identified. Two policemen also received bullet injuries, were sent to the hospital for treatment.	5 bullet wounds including on face, stomach and chest, One arm fractured, ligature marks present on right leg, indicating that he was tied up.	Akbar was residing in Bangalore with his family. His wife & children had come to their village in UP, 8 days before Akbar's encounter. His wife is not aware how and when Akbar came to District Shamli. Akbar was in Bangalore throughout January, contradicts police claim of Akbar escaping, where Sabir was killed. No inquiries were made by the police at their house in District Shamli.	3 FIRs (76/2018, 77/2018 and 78/2018) filed on the statement of Sandeep Baliyan, SHO, PS Jhinjhana, District Shamli, against Akbar and another unknown accused u/s 307, 414, IPC & Sec 25 of Arms Act, 1959. A Post Mortem was conducted by the Police, the report of which has not been made available to Akbar's family. Family is not aware of any further investigation being carried out by the police. FIR mentions 15 bullets fired by police and recovery of 13 bullet shells. FIR further states that 11 bullet shells fired by the police were parceled and sealed from the scene of crime. No explanation given as to the discrepancy. FIR states a bullet fired by the accused got stuck in the bullet proof jacket of SI Sunil Singh. FIR makes no mention of the bullet proof jacket and the bullet being parceled and sealed for investigation.

	Victim, Incident et al	Police version of the incident	Injuries to the body	Family testimony	Legal proceedings
12	**Noor Mohammad @ Hassen Mota** 30th December, 2017 at 10:00 PM **Place:** Near Shatabdi Nagar, Meerut	Police got information about 2 criminals about to commit a crime. Police set up barricades to apprehend the criminals. Two people on a motorcycle, tried to flee after seeing the police, chased by the police, motorcycle lost balance and fell, criminals fired gun shots at police, police fired in self defence. One criminal injured, taken to hospital, succumbed to injuries, the other accused escaped, could not be identified.	4 bullet wounds in temple and abdomen area. Family noticed severe marks of beating on the body, fractured arm and leg Strong smell of burning flesh, and blackening around the gunshot wounds indicating bullets fired from a close range.	Family alleges, he was on his way home when he was waylaid by the police, illegally detained, tortured, and subsequently shot repeatedly. The x-ray report taken on 29th October 2017 clearly suggests an issue with his bone structure indicating that Noor Mohamed was in great pain and in no condition to take on the police in an alleged gun fight. Apart from a few petty cases Noor Mohammed was never involved in any organised crime in the region, contradicts police version of Noor Mohammed being a dreaded gangster with links to the Mukim Kala gang.	FIR No. 871/2017 filed at PS Partapur on the statement of SI, Jayvir Singh, Crime Branch, Meerut against Noor Mohammad and another unknown accused, u/s 307 IPC. Empty cartridges fired by accused collected, empty cartridges fired by police not collected due to flooding in the wheat fields. 3 police officials hit on their bullet proof jackets by the bullets fired by the criminals. Jackets not parceled and sealed for further investigation. Post mortem was conducted. Noor Mohammad's family is not aware of any further investigation being carried out by the police.

13	**Waseem S/o Mustakeen** 28th September, 2017. **Place**: Saroorpur, Meerut	On 11.9.2017, FIR was registered by Kairana PS, stating Anuj s/o Veerpal was injured in police action and taken into custody and Waseem was shown as fleeing the scene of the gunfight. On 28.9.2017, information was received by STF, Meerut that Sabir along with Waseem were going to commit a crime in Meerut. Police set up barricades to apprehend the criminals. Two people on a motorcycle, tried to flee after seeing the police, chased by the police, criminals fired gun shots at police, police fired in self defence. Waseem was injured, taken to hospital, succumbed to injuries, Sabir escaped, could not be arrested. As per police records, on 1.1.2018 Sabir was killed in an encounter and Akbar was shown to have fled the scene.	PM report mentions 4 gun shot wounds – one on the left side of Waseem's temple, one on the upper left side of his shoulder, one on the abdomen, and one on the left wrist. The gun shots are at angles that suggest it was fired from close range and from above. Mild blackening found around the wound indicate extremely close range fire.	Waseem's mother states that Waseem was not with Anuj on 11/09/2017 when the alleged clash with the police took place. Waseem was working as a daily wage earner outside of U.P. She was falsely framed on the charge of trafficking drugs 6 days before Waseem was murdered. An informer working on the bidding of the police informed Waseem of his mother's arrest. Waseem came to Shamli to enquire about his mother's whereabouts. Waseem was detained by the police and taken to Meerut, where his staged encounter/ murder was carried out. On 24.9.2017 a police contingent from Shamli had arrived and vandalised Wasim's and his neighbour's house in Jaghanpura village. Four days later, police called the village pradhan to say that Waseem had been shot dead in a police encounter in Sarurpur area of Meerut. Waseem's family members were in jail when Waseem was killed and they were not allowed to attend his funeral.	3 FIRs filed at PS Saroorpur Meerut District against Sabir and Waseem charging them u/s 307 and Sec 25 of Arms Act. Post Mortem was carried out by a team of doctors and the same was videographed by the police. Waseem's mother has sent representations to NHRC and other authorities. No response yet.

14.	**Jaan Mohammad alias Jaanu s/o Iqbal** 17.09.2017 Place: NH-58, PS Khatoli, Dist - Muzaffarnagar	S.I. Subey singh alongwith 5 other officers and SI Tej Singh, PS Khatoli with 3 other officers were at a check post. At 5.30 am a white coloured Swift car had been coming from Meerut side they gesticulate with torch light to stop them but they hit the barricade and ran away towards Muzafarnagar, police then suspected them to be criminals and informed the control room. SI Subey Singh alongwith 5 officers started following them. When police tried to stop them near Khatoli turn, the accused fired on them with the intention to kill them. The police then managed to overtake the suspected car, and the accused's car collided with pipe of a tin shade. When policemen got out of their jeep and accused started firing on the police where Co Deepak and Co Sohanvir were injured. For the self defence SI gave the order to fire back. One of the accused managed to get out of the car and ran away towards the fields whereas other one sitting at the driving seat tried to escape but he got injured. Police went close to the injured accused where they found that he is Jannu @ Jaan Mohammad s/o Iqbal, a wanted criminal who escaped in police clash on 11/09/2017. Forensic department was called for investigation. The injured police officers were senty to CHC Khatoli for treatment and dead body of Jaan Mohammad was sent to Dist Hospital, Muzaffarnagar.. The police recovered 2 guns from near the accused and 13 bullet shells. The police fired 13 bullets at the accused persons, they were able to recover 6 bullet shells fired by them.	No details available.	Jaan Mohd.'s family states that he was in prison for 2 years and was out on bail 5 months ago. Since police had started harassing him and his family again, he had to leave his house in the village and stay away. Police raided his house on one occasion at night and took away some household things including their mobile phones. Family says police had threatened to kill Jaan Md. On 15.9.2017, Jaan Md visited his lawyer Adv. Sajid in Meerut to surrender himself in court. But as court timings were over for the day, lawyer asked him to come on Monday. Jaan Md. then went to Ayyub (his cousin)'s house in village Kaithwari, Meerut to seek his help to surrender. Police raided Ayyub's house and later it was heard that Jaan Md. has been encountered. Family says that Jaan Md. did not know how to ride a car. Also, when he was planning to himself surrender before the court, then why would he plan to commit any crime. Younger brother Feroz is now being implicated in the cases where Jaan Md. was earlier accused. He is currently in prison; family is not applying for bail out of fear that police will kill him in an encounter if he comes out of jail. Five days after the encounter, police raided the family's one room house in the village and vandalised it.	Three FIRs (FIR No.s 1227/17, 1228/18 and 1229/17) have been filed by PS Khatauli, Meerut against Jaan Md. and unknown accused dated 17.9.2017. He has been accused under IPC section 307, Arms Act sections 25 and 27 and IPC section 414 respectively.

	Victim, Incident et al	Police version of the incident	Injuries on the body	Family testimony	Legal proceedings
15	**Qasim s/o Sumrat** 02 August 2017 Place: Near his house, in village Bisambhra, Chhata, district Mathura, UP	Information not available.	Information not available.	Qasim was running a *chakki* shop in the village for the past 10 years. His family states that Qasim was acquitted in all criminal cases at the time of this incident. Police came into the village on early hours of 2nd August 2017, looking for Sahun (a known criminal) who managed to escape. Qasim and his mother had returned home very late from a hospital. Qasim was in his house, when police started firing at his house. He was hit by a police bullet but he tried to escape. His mother clarified to the police that its Qasim and not Sahun. Qasim ran towards the roof of the neighbours. Even neighbours tried to clarify to the police, but they were asked to go inside and close their doors. Police fired a range of bullets. Qasim was hit and he fell flat on the roof. A mother feeding her baby in the neighbouring house went unconscious due to the sounds of the gunfire.	Family has engaged a lawyer. No further information available.

16.	**Naushad @ Danny s/o Jamil** **Sarvar s/o Kamil** 29th July 2017 Place: Bhura, PS Kairana, Shamli	At around 3.15 am on 29.7.2019, SO Dharmendra Singh Pawar PS Kairana alongwith 3 police officers (PO) met an informer on the road who told him that Naushad and his accomplice will come near the Masjid next to the graveyard between 4-5 am. They are heavily armed and are planning to commit a crime. SO called for additional force, and Insp Raj Kumar Sharma Crime Branch, along with 8 officers and SO PS Jhijhana Bhagwat Singh along with 4 officers reached the spot. They took their positions in two teams waiting for the criminals. At 4.10 am they saw two people walking in their direction and one of them was carrying a gun. The informer identified the criminals. SO PS Kairana asked the criminals to stop. Both the criminals started shooting at the police party. The other police party also asked them to stop their fire, on hearing that the criminals started turning around and shooting at the police parties on both sides. SSI Sandeep Baliyan got hit by the bullet on his stomach. SO then gave the police orders to shoot at the criminals, both the criminals got shot and fell down. Co. Naresh Kumar and Co. Sandeep Kumar identified the criminals as Naushad & Sarvar. The police recovered 4 guns from the accused, which was being used by them to fire at the police and 22 bullet shells fired by the accused. The police also recovered 14 bullet shells fired by them. The accused were sent to CHC Jhinjhana for treatment. While Sarvar died on the way to the hospital, Naushad died during treatment. Injured police officers - SO PS Jhijhana Bhagwat Singh, SSI Sandeep Baliyan, SI Adesh Kumar, Co Raju Tyagi, Co Ashish Kumar. They were sent to CHC Jhinjhana for treatment.	The families of Naushad & Sarvar share that both of them had severe torture wounds and broken bones. Moreover, Sarvar received a bullet shot in his mouth and Naushad in his chest on the left side. The families have not yet been given the Post Mortem Report.	Local villagers, family members share that Naushad and Sarvar were called to one Yasmeen alias Rano's house for dinner. She personally landed up at their houses to insist for the meeting. Next day by early morning, news spread that they were killed in an encounter. Yasmeen alias Rano has filed FIR No. 732/2017 dt 4.8.2017 at PS Kairana u/s 452, 376D, 323 and 506 IPC alleging sexual violence against Naushad, Sarvar and their brothers and other family members. Yasmeen has stated in her FIR that Naushad and Sarvar came to her house many times with different people some of them named Ikram and Hamid, Inam, Bilal, Afsar, Nawab, and others (who were unknown to her) and they all raped her multiple times.	FIR No. (680, 681 and 682) were filed against Naushad & Sarvar at PS Kairana, dt 29/7/17, u/s 307 IPC and Section 25 Arms Act. A Post Mortem was conducted. The family has no further information about the investigation carried out by the police. They have not pursued any legal action against the police officers fearing that other family members would also get implicated under the false charge of sexual violence.

ANNEXE-IV

Extrajudicial Execution cases in Haryana

(listed chronologically)

S.No.	Victim(s), Incident	Police version of the incident	Family's testimony	Legal proceedings
1.	Talim, age 22 years s/o Sh. Sharif r/o Village Salaheri, District Nuh, Haryana 7 Dec 2017 at around 2.15 a.m near Janta Colony in Alwar, Rajasthan Taalim was a driver by profession, working with his sister's husband. He used to carry goods related to machine parts on the Nuh -Alwar, and sometimes to faraway cities like Kolkata. He was married, with two kids aged 3 years old and 7 months old. Taalim had no history of criminal record.	Rajasthan Police claims that on 7.12.2018, at around 2:00 a.m., a night patrolling team relayed to the Control Room that a group of smugglers, of about 5-7 people, were loading cows in a Tata 407 truck bearing registration number HR38E-6008 ("Truck"), near a certain Devyani Ranawat Hospital in Aravali Vihar, Alwar. Subsequently, when the officials of the Aravali Vihar police station tried to stop the alleged smugglers at checkpoints, they evaded such attempts and drove away. There was exchange of fire between the police and the accused - 3 rounds by the accused while 7 rounds were fired by the police. The Truck was later found to be abandoned at Janta Colony, with Mr. Talim's dead body lodged between two seats. All the other accused had fled. The Police recovered five cows from the Truck. They also recovered a country-made pistol, a mobile phone, a diary and live cartridges. The only injury suffered by any member of the police party was to SI Devendra Pratap, who was hit in the leg by one of the stones that were being pelted by the accused.	When Talim did not return home that night, next day early morning family tried to call on his phone. After several rings, phone was answered by a stranger who worked in a hospital in Alwar. He found the phone on the road side. In few hours, family found out about the encounter of Talim through social media. When the family reached Rajiv Gandhi Government Hospital, Alwar Hospital officials refused to show the Talim's body. Later, when family met police, they were threatened of consequences alleging that all of the family is involved in cow smuggling. Police refused to file FIR. Family says that SP told them *'humne haathon mein chooriyan nahi pehni hain'* [we (police) are not wearing bangles in our hands], indicating that they will take 'action' against those who are involved in cow smuggling. What was the basis of information that led the police to believe that the accused were smugglers or that the cows were being transported for the purpose of slaughter? The mere act of transporting cows is not a crime. The police claims that 5-7 people and 5 cows were involved who were riding the Tata 407 Truck. This truck has a seating capacity of 3. Even if it is assumed that somehow 5-7 people crammed into the seating space, the chances of a bullet hitting just a single person are very low. The police has claimed that Mr. Talim was driving in a stolen truck. How was this information available beforehand to the police? Furthermore, even if the ownership of the Truck is not in Mr. Talim's name, the same is entirely plausible since Mr. Talim was a driver by profession.	Family was not informed about the death of Talim by the police. Family has not been given a copy of FIR filed against Talim and post-mortem report of Talim. The police filed the FIR No. 539/17 at the Aravali Vihar Police Station against accused (including Talim) under sections 332, 353, 143 and 307 of the Indian Penal Code, 1860. Sections 3 and 25 of the Arms Act, 1959. Sections 3, 5 and 8 of the Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995. An investigation by CB-CID is underway. Family has filed a petition in Sessions Court, Alwar under section 156(3) of Cr.PC seeking registration of complaint under section 302 and 149 of IPC against SI Devendra Pratap of PS NEB Alwar, Head Constable Israv Khan, Ran Singh, Rakesh, Jaikishan, Mukesh Kr. (head constables) under sections 302, 149 of IPC for killing Talim.

S.No.	Victim, Incident	Police version of the incident	Family's testimony	Legal proceedings
2.	Munfaid, age early 20s s/o Mr. Islam Hussain r/o Salahedi village, Tauru, Nuh district, Haryana 16 Sep 2017 at around 2:45 a.m. near Taoru Ghati, District Nuh, Haryana Munfaid was a driver and farmer by profession. He was under investigation for allegations of sexual harassment.	Inspector Mastana stated that, on 16.09.2017, around 2:45 a.m., whilst on patrolling duty, he came across a stationary white pickup truck near Tauru Ghhati. On further inspection, he found a young person grievously injured, though still alive, inside the truck. He immediately transported the injured to Nalhad Hospital, Nuh in his official vehicle. The person, unidentified at the time, was declared dead on arrival with bullet injuries to his neck.	The family has stated that Munfaid used to be in constant touch with the IO in the FIR filed against him. On 15.09.2017, Munfaid called his father and his father-in-law informing them that he had received a call from some police officers of CIA namely, Vikrant Shakti Singh, Satish and Siddharth who had offered to close the pending cases against him in return for some work that they wanted Munfaid to do. His family advised him to meet the police officers. That day, at around 5:00 p.m., Munfaid left for Rewari to meet with the police officials along with his three friends. These eye witnesses informed the villagers that a green Bolero car stopped in front of the vehicle near Shonkh village where they started firing at them. Munfaid was shot whilst the rest were able to escape. The villagers living nearby have also attested to the fact that around 12:00 a.m. they had seen a Bolero with police lights was seen approaching the place of the incident. Mr. Munfaid was found dead by Inspector Mastana at around 2:30 a.m. the next day. Family also claims that when they reached the Community Health Centre, Nuh where Mr. Munfaid's body was kept on 16.09.2017, they noticed that the police were trying to tamper with the body to remove evidence.	On 16.09.2017, FIR No. 0358 was filed at Police Station Tauru, District Nuh, Haryana against unknown persons under sections 302 and 201 of the Indian Penal Code,1860 and Section 25 of the Arms Act, 1959. MANGLA A criminal writ petition has been filed by the family in Punjab & Haryana High Court, Chandigarh seeking registration of complaint against police officers of CIA for killing Munfaid.

3.	Naseem, age 27 years old s/o Idris r/o Village Adbar, district Nuh, Haryana 20 August 2016, around midnight near Khori village, before Bhiwadi in Alwar district, Rajasthan. He was married and had three children aged 5 years old, 3 years old and and an year old. His youngest child was born after his death. Naseem was an electrician and had a shop in the town. At the time of this incident, Naseem was on bail. The case was related to a fight which happened at his shop. Family of Naseem says that his friends traveling in that vehicle had other criminal cases on them and they were known to the police before the incident.	As per the family, police did not register any case related to the incident.	7 people (r/o Adbar and other villages) were traveling in a pick up vehicle around midnight. Bhiwadi Cobra force, in a Swift Desire vehicle, shot at them near Khori village, before Bhiwadi. Naseem was sitting in middle, in front side of the pick up vehicle. One shot was fired on him when he was trying to look back from the window in the middle of the vehicle. This hit him from the front, bullet went through from the left shoulder. Family was informed when friends returned back with injured Naseem. He was taken to a private hospital (situated on Delhi road, opposite Balaji petrol pump), but family was soon asked to take Naseem to other hospital. But Naseem passed away before they could reach to the government hospital. Naseem narrated the incident to the family before he passed away. Family earlier went to the private hospital thinking government hospitals don't treat well. Everybody in the village, even children know that he was killed by gun. Village elders, suggested that since cases against police are difficult to pursue. Also, Naseem's father feared that police will implicate him or Naseem's brothers in false cases. Hence, family did not attempt to register FIR or get the post-mortem conducted. After Naseem, his father's meagre old age pension of Rs. 1600 is the only source of income for Naseem's wife and children.	No legal proceedings.

S.No.	Victim, Incident	Police version of the incident	Family's testimony	Legal proceedings
4.	Ruddar s/o (late) Usmaan and Fazri. r/o village Utawar, block Hathin, district Palwal, Haryana. May 2016, night. near Bhaten village, Kosi, district Mathura, UP Ruddar used to run a grocery and mobile shop in the village. He was married, had a 3 years old son. He was the sole breadwinner of the family which also included his aging mother and three younger siblings.	Information not available.	Ruddar and his other friends were returning to the village in a pickup vehicle after selling cattle. A police vehicle was parked near Bhaten village, Kosi, district Mathura, UP at a place where single road meets the Delhi-Agra Highway. Police directed them to stop their vehicle, but they didn't stop. Police started to follow and fire at them. Ruddar was hit by one bullet. He was sitting on the conductor side of the vehicle. Everybody got out of the vehicle and tried to escape. Sharif was also hit by the bullet in his right leg. Ruddar called his family and his friend, Sabir. He told them what had happened and asked for help. But he was perhaps confused about his location. He informed the family that he is in a jungle near so and so village, but the family couldn't find him. Meanwhile, Ruddar's phone was switched off by then. Next morning family received a call from Kosi PS that his body has been found near another village. When Ruddar's family enquired about his body, they were threatened and told to be silent, since a lot of media was present on the spot at that time. Later at night that day police gave the body to the family. Ruddar's post mortem was conducted in the Mathura District Hospital. But the report has not been given to the family.	Family has not been given a copy of FIR filed against Ruddar and his friends. Family was also not given a copy of post-mortem report of Ruddar. Police has filed case under Cow Protection Act of UP against friends of Ruddar who survived the incident. They were arrested, and are currently released on bail while the case is on trial in Mathura district court.

S.N	Victim, Incident	Police version of the incident	Family's testimony	Legal proceedings
5.	Zahid s/o Asaruddin and Mariyam and Qarar (19 years old) s/o Niamat r/o village Dhulawat, block Taoru, district Nuh, Haryana May 31, 2015 at 2 am Near Banipur Chowk, NH 8 Qarar was unmarried. Qarar lived with his aunt (Bua) in Badakali and worked as a driver carrying vegetables in a pickup vehicle. Zahid was married and had two children aged 5 and 4 years old.	As per the Magisterial Enquiry, submitted on 2nd Feb 2016, following is what happened in the incident: On the night of 30/31 May 2015, in a pickup vehicle no. RJ-05-GA-9781 total seven persons namely, Qarar s/o Niyamat, Zahid alias Pagla s/o Nasruddin, Leela alias Junaid s/o Jameel, Femu s/o Zafru, Tareef s/o Hasan Md., Irfan s/o Ayub Khan (all 6 of them residents of vill. Dhulawat); and Sahin s/o Asrudddin r/o Fakarpur Khori (Tehsil Nagina) were present on highway from Bhiwadi to Delhi-Jaipur national highway with the intention of loot. They had country made pistols and a country made gun, which police collected from the backside of the pickup vehicle. Police had AK48 rifles. FSL report states that all weapons were in working conditions, and bullets were fired from all. Three of them were sitting at the front, and four at the backside. Qarar was driving, and Leela and Zahid were sitting along with him on conductor side. Police vehicle was following their vehicle. Police indicated to them to stop, but they didn't. Later they took a u-turn and hit the police vehicle. Firearms were exchanged. Qarar was hit, and he died. Rest 6 of them, tried to run away. Sahin was hit by firearms on his lower back. He, and Irfan were caught by police. Rest 3 were successful in escaping. There were bullet marks on the police vehicle, on the front mirror of right side. Qarar and Sahin were taken to hospital. Sahin was later shifted to PGI Rohtak.	As per the family, before Banipur Chowk on NH8, under the jurisdiction of Kasaula police station, their vehicle was fired upon and stopped by the police. Junaid somehow jumped out of the vehicle and escaped. Qarar and Sahin were wounded by the police firing. Zahid's dead body was found at a distance of some 200m in the bushes of the road going towards Banipur village 4 days after this incident. No policeman was injured although as per police story, the 'criminals' in the vehicle had fired upon the police. A representation filed on behalf of the families of the deceased raises questions on the police story based on the following points: Magisterial enquiry did not take into consideration the evidence which prove the incident as a case of fake encounter. The statements of the survivors of the incident i.e. Irfan and Sahin were not recorded in independent and unintimidating conditions. As per statements given to the Magisterial enquiry, injured Qarar and Sahin were sent to hospital in an ambulance unaccompanied by any policeman. If Qarar and Sahin were so called "criminals", then why no policeman guarded the ambulance. And if Sahin was a criminal then why didn't he try to escape in the hospital since he had the opportunity. Police claims that a weapon was recovered from Sahin, but the recovery memo has no signature of Sahin. Post mortem report of Zahid dated 4 June 2015 indicates his date of death on 3 June 2015. Though eport records various injuries and worm infected body, but in conclusion it writes that cause of death cannot be made until they receive report from chemical examination, scene of crime and photographs. Zahid's parents say that his body was beyond recognition, they could recognise the body because of an old mark on his leg and a ring in hand. It is assumed that police during investigation would have thoroughly searched the areas around the incident. Even then, how is it that Zahid's body was found merely 200 m from the place of incident four days later. The torture marks on Zahid's body indicate that he was perhaps tortured till death in police custody post the incident. Post mortem of Qarar was conducted in Rewari on 31 May 2015; report concludes that he died due to excessive bleeding resulting from 'Firearm injury' in abdomen; dead body of Qarar and injured Sahin s/o Ashruddin were brought to the hospital, with no police personnel in company.	Kasaula PS, district Rewari, Haryana filed FIR against Zahid, Qarar and others in the FIR No. 161/2015 on 31st May 2015 under section 148, 149, 332, 353, 186, 307 of IPC, 25, 54 and 59 of Arms Act and 3 of Prevention of Damage to Public Property Act 1984. Two of the accused were convicted, while one was acquitted. Family is preparing to file a case in Rewari district using 16th point of the guidelines laid down by the Supreme Court in PUCL VS State of Maharashtra [(2014) 10 SCC 635].

S.No.	Victim, Incident	Police version of the incident	Family's testimony	Legal proceedings
6.	Arif Khan, aged 22 years old s/o Alimuddin r/o Naugaon, district Alwar, Rajasthan 20.10.2014 in front of his house in Naugaon, district Alwar, Rajasthan Arif was soon going to be married. He was studying B.Com (final year) at RR College, Alwar. He was at home for a vacation.	Police story says that one Tahir from the same village called policeman Ajay saying that a suspicious Bolero is taking rounds at the highway. And, hence the policemen started following Arif's vehicle.	On the night of the encounter, Arif was returning from their grocery shop at Bhopali chowk in Tapukra, Alwar. It is at a distance of 3 kms from their house. Arif's younger brother usually runs the shop. But this night, Arif was alone in the shop. He returned home in their Bolero car (#RJ-2-UP-2627). A police jeep was following his car from the highway, and kept on following till he parked the car in front of their house. As soon as Arif stopped, he was still seated inside and car engine was on, policemen came out of their car and shot him. Police vehicle stopped at a distance of 2 feet. Policeman Kailash, Sedu Ram (head constable), Ajay Kr. (driver) and Ram Pratap. Kailash and Ram Pratap were carrying AK 47, while Sedu Ram had a pistol. The engines and lights of both the vehicles were still on while they shot him and very soon fled from the spot. Arif passed away on the spot. He received three bullets injuries. One of the bullets hit Sedu Ram as well. His body was taken to a hospital in Gurugram. But it was given back at 4am after failed attempts of reviving him. Later in the morning, post mortem was conducted at Tapukra government hospital. In the hospital, family recognised the policemen, who had come to get Sedu Ram treated. Family confronted them, and even clicked their photos for record. FIR was filed, after protests from the family and public. Family has PM report copy. Family also met CM Raje. Accused Kailash was arrested after a week on 27th October. He confessed, but also stated that he was not aware that the gun was loaded, and that they have received only 3 days training to handle a gun like AK47. The other three accused policemen also stated that Kailash fired at Arif.	Initially, police filed an FIR under section 307 of IPC against the four policemen even though Arif had died in the incident. The chargesheet of CB-CID framed only one of the four policemen under sections 302, 307 and 427 of Indian Penal Code. The case was transferred to CBI on request of the family. But CBI's role in the investigation has been worse. They framed the policeman under section 304 (negligence) of IPC, instead of framing all four policemen under section 302 of IPC. Family has filed an appeal against the chargesheet of CBI in Rajasthan High Court. Accused Kailash filed for bail thrice in lower court and twice in high court. He was given bail when CBI filed the chargesheet with IPC s.304A. The accused policeman is out on bail currently, while the other three were never arrested.

S.No.	Victim, Incident	Police version of the incident	Family's testimony	Legal proceedings
7.	Farid s/o Shri Lallu alias Cheema r/o Rundh Village, PS Khoh, District Bharatpur, Rajasthan 30 Dec 2013, near village Gulalta, district Nuh, Haryana	As per police FIR: Information received at 4am from secret sources that 6-7 criminals with weapons are traveling in a Bolero. They had stolen a tractor and a trolley and the Bolero. We intercepted the Bolero near Gulalta village. Bolero did not stop when indicated so by us and instead the criminals fired upon police. Police also fired in self defense and as a result all criminals stopped the Bolero and escaped in the farm, except for one who was found injured and unconscious in the Bolero.	On 29 March 2013, Farid, on a bike no. RJ 05-SF-6427, was visiting relatives in village Singalhedi, PS Punhana, District Mewat, Haryana. He met Hamid, along with Hamid's son Rahul and two other persons, at 10pm night at Bus station Singalhedi. Suddenly, a police vehicle arrived and 6-7 policemen forcefully pulled Farid into the vehicle and went away. Hamid tried a lot to get Farid freed of police abduction, but policemen did not stop and said they are taking him for interrogation. Farid's bike remained at Singalhedi Bus Station. On 30 December 2013 around 7.30 am, Ayyub rec'd a phone call from Zaheer Khan that police has called from Mandikheda Hospital and said that Farid has a bullet injury and he needs blood. When in sometime Ayyub reached the hospital with his family members, he saw there is lot of police. In the hospital he found Farid is dead and identified his body. Ayyub was threatened by the police and forced to sign blank papers. They said otherwise they will not give his body to the family, will burn the body as unidentified and will further implicate family members in false cases. Family reached back to their village around 9.30pm at night after postmortem of the body. Body was buried in the village then. Next day, Ayyub, Hamid and others met SHO of Punhana PS.	FIR No. 563 dated 31 December 2013 u/s 307, 332, 353, 186 IPC and 25/54/59 Arms Act at PS Punhana 943/13 on 30.12.13 at PS Nuh u/s 380 IPC by Fazru against unknown alleging theft of his tractor between 1-2 am. A petition was filed by the family in First Class Court, Firozpur Zirka, District Nuh seeking registration of complaint against Prahlad Singh, SI, Incharge Special Police Staff, District Mewat , Jaan Md. E.A.S.I., Yashpal Havaldar, Sube Singh Sipahi, Rakesh Sipahi, Mahesh Sipahi, Rajpal E.A.S.I. Special Police Staff, Punhana, District Mewat under sections 302 and 120 of Indian Penal Code. This petition was dismissed by the police.

S.No.	Victim, Incident	Police version of the incident	Family's testimony	Legal proceedings
8.	Jasmaal, age 31 years old r/o Guraksar, Hathin, Palwal 5th Sep 2011, near his village. He was married and have 5 children. He was a farm labourer by profession. Jasmaal had no criminal case in past.	Not known	As per the family, Jasmaal was involved with a local gang for past few days when on 5th September 2011, the gang's vehicle was fired upon by police at night. Jasmaal who was sitting at the back side of the vehicle (Tata 407 tempo), was hit by bullet from behind. The gang members escaped and by early morning dropped injured Jasmaal one end of the village. Jasmaal was still breathing when he was discovered by the villagers. Family says that he himself narrated the incident before he died. Village leaders/Panchas decided not to pursue this case since a gang was involved. There is no FIR or medical record of Jasmaal's death.	No legal proceedings were initiated by the family. Legal proceedings by police on the survivors of the incident are not known.

S.No.	Victim, Incident	Police version of the incident	Family's testimony	Legal proceedings
9.	Ajmat s/o (late) Saadiq r/o village Mamlika, district Nuh, Haryana Naseem s/o Liaqat alias Barbari r/o village Singar, block Punhana, district Nuh, Haryana. 17 May 2011 at around 2:30 am Near Kotvan check post near Kosi Border; in Painthka, Kosi, near Gyandeep School, Govardhan chowk; District Mathura, Uttar Pradesh Ajmat was married and had 4 children. Naseem was also married, had no children. Both of them were drivers by profession.	As per a newspaper report, an 8-member gang traveling in an Innova car looted at several places, and also captured civilians as hostage. A farm worker alerted the police. The gang looted a canter (belonging to driver Omveer and a cleaner Mahendra) near Gyandeep School near Govardhan chowk and robbed a dumfer on Bharatpur road. Police intercepted the gang in this area (near Kotvan check post) at 2.30am and fired upon them when they were trying to escape. Policemen Rishipal Singh, SI Jaypal singh, Jaypal, Constable Mayaram, Omkar singh of Kosi thana and BP Singh (of Barsana thana) were involved in the encounter. Two of the gang members were injured and captured by police, while others escaped. One was identified as Naseem s/o Liaqat of village Singar, while other was not identified.	Naseem and Ajmat were traveling in a truck when they were fired upon by police as soon as they reached Kosi border. Family says Ajmat and Naseem were returning home, in time to attend Naseem's sister's marriage. On 17th May 2011, family got to know through media news that Naseem and Ajmat have been killed in an encounter. Despite several efforts of the family, Police didn't hand over the body to the family. Family was only allowed to see the body. Naseem's body had bullet injuries on head, shoulder, waist and upper thigh area. On 19th May 2011, Police forced the family to bury Naseem's body at a burial ground in Karbala, Aurangabad, Mathura (near radio station). Police remained present during the burial and in fact, for next six months police kept the burial ground under surveillance by setting up a temporary chowki. When family enquired about the incident from the people who worked in the shops where police fired, a hotel person told the family that Naseem and Ajmat were stopped by police, enquired by them and were then told to go. But as they were leaving, they were shot several times, and killed brutally. They informed the family that Ajmat and Naseem died on the spot. Police fired out of suspicion that their vehicle was a stolen vehicle. However, police could not prove that it was a stolen vehicle. The vehicle belonged to the person for whom Ajmat worked as a driver. On the other hand, Ajmat's family was informed only three days after the encounter when police called at PS Punhana, who in turn informed Ameen (a relative of Ajmat). By the time family could reach Mathura, Ajmat's body was already buried by police. Family says that the Mathura police after 5-6 months visited their relative to make enquiries about the background of Naseem and his criminal record. Police also enquired about Ajmat's background post encounter, but did not find anything against him.	Naseem's father wrote a letter to NHRC requesting their intervention to seek the body of Naseem so that family could perform last rites. Kosi Police registered FIR No. 331/10 dated 17 June 2017 against Ajmat and Naseem under section 307 of IPC. Ajmat and Naseem's families received compensation from NHRC. But no formal case was registered against the guilty policemen.

S.No.	Victim, Incident	Police version of the incident	Family's testimony	Legal proceedings
10.	Salim, age 28 years old r/o village Sahsan, district Bharatpur, Rajasthan 15 May 2010, in Mathura under jurisdiction of Farah police station. He was married and have four children. He was a mechanic by profession.	Not known.	Post an accident in the year 2009, Salim sustained head injuries subsequently leading to paralysis. Earlier, he was being treated in Jaipur, later he started treatment in Mathura. On 15 May 2010, while he was visiting Mathura with his two relatives. As per a media report, Farah police intercepted them because they could not show a driving licence and later took Salim in custody. The relatives were forced to go home and told to get Salim released when they come back with their licence. Next day, family read in the news that Salim has been killed in an encounter. Salim had 3-4 bullet wounds in his body including in head and chest. Police refused to give the body or the documents to the family. Police told them to bury the body there itself and that they can't take it to their village. Police buried the body at Karbala same night without the presence of family. When family visited this place the next day, police was already present. They threatened the family with arrests if they were not leaving the site immediately. As per the media reports, family pleaded to the Supreme Court to restrain the police from disposing of Salim's body.	Not known.

11.	Jahul s/o (late) Phattu and Chhutni r/o village Aali, Hathin block, district Palwal, Haryana. 17.03.2010 near forests of Tehra village, Vrindavan, Mathura District, Uttar Pradesh He was married have two children aged 13 and 9 years old. He worked as a driver at a construction site in Chhattisgarh.	As per media stories, police encountered Jahul after he looted a jewelry showroom in Mathura. His other 'gang' members escaped the encounter. Jahul was said to have been involved in thefts and he had a reward of Rs. 50,000 on him. Police story is that Jahul and others looted a jewelry showroom in Mathura. Jahul was tackled and encountered by police, while other members of his gang are absconding. According to the FIR when the police were following the gang who were in their vehicle, they started firing on them with the intention to kill them. One of the bullets fired hit a policeman in his bullet proof jacket. The police while putting their lives in danger also started firing at them as a means of self -defence. There was also a collision between the two vehicles and 1 vehicle (Bolero) fell into a ditch. The gang stepped out of the car and started firing at the police and then escaped into the jungle. The firing continued. and the police even threatened them to surrender but they did not stop firing. Gang members were injured by police wound, but they succeeded in escaping. The injured policemen were sent away for immediate medical treatment. The remaining policemen found that one of gang member was lying there and since there were no traces of life left in him he was not taken to the hospital. Weapon and bullets found near him were sealed.	Jahul worked as a driver with Amar Builders Durg 36 Company, Chhattisgarh. On 11.03.2010, his mobile phone containing the SIM to the phone number 8085378766, was stolen. Few days later, while he was searching for it the person with whom his phone was, asked him to meet near us stand in Rajnand village, Chhattisgarh. On 16.03.2010, Jahul went to the bus stand with his colleagues Aleem Khan and Khurshid. But few men in a white Indica car abducted Jahul. Jahul's colleagues informed the local police, but no action was taken. Between 11.03.2010 and 16.03.2010, when family in Haryana tried to call they were told by an unknown that the phone will soon be returned to Jahul. But later the phone was switched off. On 18.03.2010 at around 2am, family was informed by the police that Jahul has been killed in an encounter in Aurangabad, Mathura. When the family reached Mathura, they noticed two bullet wounds (in his mouth and stomach) and torture marks on his dead. Police kept on threatening the family and delaying when family tried to take Jahul's body home. Family was forced to bury the body in a secluded place somewhere in Mathura, and they were not even allowed to offer prayers during the burial.	Police filed two FIRs related to the incident on 17.03.2010 i.e. FIR No. 229/10 under sections 147, 148, 149, 307, 504, 506 of IPC and FIR No. 230/10 under section 25 of Arms Act (there is one more FIR). Jahul's mother Chhutni wrote a letter to NHRC describing the whole incident, raising doubts over the police story and seeking monetary support to raise the children of Jahul. The copy of this letter were also sent to Prime Minister of India, Home Minister of India and Chief Minister of Uttar Pradesh. A notice was issued by Delhi Sessions Court on 12.01.16, directing the concerned SHO to file the report on 'death of accused Jahul'. No further information available. But the family has not been able to procure death certificate of Jahul. Neither they have been granted any compensation nor the guilty policemen were prosecuted.

ANNEXE – V

Statement of recommendations by UN Special Rapporteur on extrajudicial, summary or arbitrary executions (2012); progress of implementation by India (2015); and our own remarks on the recommendations, based on Citizens Against Hate (CAH) fact finding investigation (2018). These last, mostly confirm SR's update of 2015, informed by insights from the cases we studied.

Recommendations (2012)	Progress	CAH remarks based on fact finding
Violation of the right to life by state actors		
# 1. India should swiftly enact the Prevention of Torture Bill and ensure its compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.	No	Not implemented yet. Torture a common theme in Extrajudicial Executions we investigated
# 4. Section 46 of the Criminal Procedure Code and legislation in all states regarding use of force, including the exceptional use of lethal force, by all security officers should be reviewed to ensure compliance with international human rights law principles of proportionality and necessity.	No	Not implemented yet. Excessive force common theme in cases investigated
# 5. Section 197 of the Criminal Procedure Code should be reviewed in order to remove any legal barriers for the criminal prosecution of a public servant, including the need for prior sanction from the Government before cognizance can be taken of any offence by a public servant for criminal prosecution.	Partially	In the cases investigated, we came across no case where officers responsible were being investigated
# 8. India should ensure that the registration of First Information Reports is prompt and made mandatory in all cases of unlawful killings and death threats. The authorities should put in place an independent mechanism to monitor the registration of such Reports following any request to do so, and to punish law enforcement officials who refuse to register them.	NO	Not implemented yet. FIRs are mostly not recorded of murder. Police use identical set scenarios in FIRs across multiple cases.
9. India should ensure that command and/or superior responsibility is applied for violations of the right to life by security officers.	No	Senior police officers have been accused by victims – in testimonies - of directly instigating the killings. and UP CM has publically claimed use of encounters as a means of crime control (UP). Haryana CM was reported felicitating a senior police officer from UP for being 'encounter cop', and a role model.
Fight Against Impunity		
12. India should put in place a mechanism of regular review and monitoring of the status of implementation of the directives of the Supreme Court and the National Human Rights Commission guidelines on arrest, encounter killings, and custodial violence and death.	Sufficient information not provided to assess progress.	We asked this question of NHRC in a RTI application. WE have not received this information yet. Our assessment if no proactive action has been taken by SC and NHRC to monitor whether guidelines are being followed.
13. The establishment and effective functioning of the Independent Police Complaints Authorities should be made a priority in all states.	do	We are not aware of this mechanism working.
14. Compensation in cases of killings cannot play the role of replacement for criminal prosecutions and punishment. Alongside payment of compensation to the victims or their families, India should ensure that criminal investigations, prosecutions and trials are launched and conducted in a swift, effective and impartial manner in all cases of unlawful	Partially implemented	In a few cases, NHRC has ordered compensation, but we are not aware of prosecution even in those cases.

15. Promotions and other types of awards for security officers suspected to have been involved in unlawful killings, including through encounters, should not be granted until a proper clarification of facts.	Sufficient information not provided	There are various cases of police officers identified in encounters, being rewarded with commendations and service promotions. Moreover, UP govt reportedly has a scheme for rewarding officers apprehend criminals.
16. Autopsies should be carried out in conformity with international standards, and families of victims should have full and easy access to autopsy reports, death certificates and other relevant documentation to allow them to proceed with the closure of the cases.	Sufficient information not provided..	Out fact finding revealed, most families not provided these documents, in fact many prevented from getting these. For families trying to obtain these, the struggle is hard. In cases where autopsy conducted, not in accordance with international practice, also in violation of SC and NHRC guidelines.
17. The Nanavati-Mehta Commission, and all currently functioning commissions of inquiry on various violations of the right to life, should ensure that their findings are published in a swift and transparent manner.	Not implemented	Not applicable
18. India should consider launching a process of reflection upon the need to reform its judiciary with the aim of reducing the length of judicial proceedings and strengthening the independent functioning of the judiciary.	Sufficient information not provided	Not applicable
19. A credible Commission of Inquiry into extrajudicial executions in India, or at least the areas most affected by extrajudicial executions, which inspires the confidence of the people, should be appointed by the Government. The Commission should also serve a transitional justice role.	Partially implemented	No reports of commission of enquiry into these executions in UP and Haryana, despite wide public information and outcry. NHRC has issued notices to UP state. But nothing is available in the public realm on the outcome.
Killing of vulnerable persons		
20. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act should be reviewed with the aim of extending its scope to Dalit Muslims and Dalit Christians.	Partially?	Many victims in cases investigated by CAH belong to lower caste among Muslims. They are not included in the definition of the SC SC Act 2015.
21. The criminal legislation should be reviewed to ensure that all gender-based killings, as well as killings of any member of a tribe or lower caste receive high sentences, possibly under the form of life imprisonment.	Partially	We have not come across any instance of an official being prosecuted and convicted.
22.An effective witness and victim protection programme should be established.	NO	Almost all cases investigated had survivor families and witnesses living in fear of police reprisal, and deciding not to press cases, or doing so only in the very rare case. Absence of victim and witness protection programme hampers access to justice.
Information and awareness-raising campaigns should be launched to raise the level of knowledge of human rights and access to justice of the public at large, with a particular focus on vulnerable persons such as women and members of tribes and lower castes. Legal aid mechanisms for these vulnerable persons should be devised to enable them to seek protection, justice and redress in cases of violation of their rights.	Sufficient information not provided to assess progress.	These cases of illegal execution are touted by state authorities including the heads of governments, as valid methods for fighting crime. These create in the minds of public servants legitimacy for these illegal acts.

NHRC		
26. A legal basis should also be put in place to enable the extension of the period of one year under which the National Human Rights Commission can consider cases.	NO	We came across many cases of executions in the past, where victims could not take the cases forward including through NHRC processes, because of lack of information, ongoing pressures and the need to get on with life.
27. The National Human Rights Commission should issue guidelines on the conduct of inquests and autopsies in all cases of unlawful killings.	NO	Guidelines on conduct of autopsies/ Post mortem report have been have been issued. But what is missing is any tracking of the enforcement of those guidelines. Families we spoke with, not a part of those processes. And RTI questions from states and NHRC have not revealed much.
28. The independence and functioning of State human rights commissions should be reviewed to ensure compliance with the Principles relating to the status of national institutions.	NO	We found no role of SHRCs in the cases. Despite widespread killings, no action by them to question police or get even a report on them.
Cooperation and engagement with International organisations		
29. The practice of inviting United Nations special procedures should continue, especially in areas where international concern has been expressed, such as torture, counter-terrorism measures, enforced disappearances and minority rights. The recommendations made in 2012 by the Special Rapporteur on the situation of human rights defenders should be given serious consideration with a view to their implementation.	Partially	The 2012 visit by the SR (on ESAE) and follow up of his recommendations had positive impact in Manipur, where according to activists, extra judicial executions, widespread in the past, have largely stopped. Need for HRC to keep up the engagement, however frustrating it might be, with the Government of India, in the interest of justice for victims in the recent case of executions in Uttar Pradesh and Haryana too.
30. Ratification of the following treaties should take place promptly: (a) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; and (b) the International Convention for the Protection of All Persons from Enforced Disappearance.	NO	No
31. Ratification of the following instruments should be considered: (a) the two Optional Protocols to the International Covenant on Civil and Political Rights; (b) the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; (c) the Rome Statute of the International Criminal Court; and (d) the two Protocols additional to the Geneva Conventions.	NO	NO

ANNEXE - VI a

Questionnaire: Encounter Killings

(Informed by relevant SC Judgement and NHRC Guidelines)

Information to be sought from the family:

1. Victim details

a. Name
b. Age
c. Profession
d. Family members/dependents
e. What links did the victim have with the Police before the incident, if any?

2. Case

a. When did the family come to know about the encounter? Were they informed about it by the police? What were they informed about?
b. How many people were killed and injured? Were the injured provided medical treatment? Who bore the cost of the treatment?
c. Did the family receive dead body? Where was post-mortem conducted? Who conducted the post-mortem? Details.
d. Was FIR registered? By police or family? Under what sections of law/what were the circumstances recorded? Does the family agree with the version of the incident reported by police in FIR?
e. Has there been any enquiry into the case? Who is the enquiry officer?
f. Did police/Magistrate record statements of family members or any witness which family know of?
g. Did medical officer or magistrate record the statements of the injured?
h. Has the family engaged any lawyer?
i. Who are the accused as per the family? Names, designation, police station.
j. In the knowledge of the family, were the accused persons arrested? What is the bail status?
k. Has there been any order from the court in the case? Any convictions?
l. Was the family granted any compensation?
m. Has the family filed any complaint in court?
n. Is there any cross case on the deceased and the injured? (link to point d above)

3. Family's socio-economic condition and needs, post the incident.

a. If the main bread winner, how has the family been making both ends meet?
b. If not, what has been the financial impact of the killing? Widow, children, parents?
c. Whether the killing has also been socially stigmatizing for the family?
d. Any other impact on the family: loss of jobs, loss of education, fear and harassment by police

Information to be sought from the Police or collected through RTI:

a. Purpose of encounter and narration of the incident.
b. Under what section of law is the FIR in the case registered?
c. Did police inform the family about the incident?
d. Who is the enquiry officer? Is the investigation being "conducted by the CID or police team of another police station under the supervision of a senior officer (at least a level above the head of the police party engaged in the encounter)"?
e. What is the status of the enquiry (by independent agency and the one by the magistrate)?
f. Were NHRC's guidelines on custodial/encounter killings/death in police action followed, and appropriate reports sent to courts and NHRC?
   - death entered in an appropriate register in Police station
   - Superintendent of Police (SP) informed NHRC of death in 'police action', with in 48 hrs?
   - SP provided report to NHRC, within 3 months, along with Post-Mortem Re port, Inquest Report, Ballistic Report and findings of the Magisterial Inquiry. (to

include Video filming of Post mortem examination; and use of Model Autopsy Re port & Additional Procedures for Inquest).

- Director General of Police (DGP) provided NHRC 6 monthly report of death in 'police 'action'.

g. Details of accused persons. Their arrest, bail, suspension and conviction status.
h. Have the victim family been rewarded any compensation?
i. Have the accused persons been rewarded or given any promotion after the incident? OR disciplinary action been taken against them? Details.

Documents to be collected:

1. FIR, including any 'cross case' FIR.
2. Any affidavits, statements filed by the family
3. Case diary of the concerned police station, if there was any tip off or information from intelligence.
4. Police/CB-CID enquiry report (as per SC judgement)
   a. Color photographs of the victim, confirmation on identity of the victim
   b. Was evidentiary material, including blood-stained earth, hair, fibers and threads, etc., related to the death recovered and preserved?
   c. Identification of scene witnesses (complete names, addresses and phone numbers) and their statements
   d. Cause, manner, location and time of death, as well as any pattern or practice leading to it. Was the cause natural, accidental, suicide or homicide.
   e. Chemical analysis of intact fingerprints of the deceased; any other relevant fingerprint
   f. Post mortem reports, to be conducted by two doctors (one of them should be in-charge/Head of the District Hospital), to be video graphed.
   g. Evidence of weapons, such as guns, projectiles, bullets and cartridge cases. Tests for gunshot residue, trace metal detection.
5. SP's reports to NHRC and DGP's reports.
6. Magisterial enquiry report
7. Court orders and Judgements

Information to be sought from the Court: (by filing an application on behalf of family)

- Did the Magistrate receive information about the incident, as per section 157 and 158 of CrPC, after filing of FIR at Police Station? When? Was there delay?
- Details of magisterial inquiry. Was it submitted in 3 months? Did the inquiry follow NHRC guidelines?
- Did the court conduct trial expeditiously?

ANNEXE - VI b

Citizens Against Hate:

(citizensagainsthate.org)

Fact finding on encounter killings/custodial deaths

Initial listing form

SN	Name of deceased *Mritak ka Naam*	Address (village/ mohalla) *Pata*	Source of information: (media, or in the course of legal aid work of NGO/civil society org. *jaankaari ka source?*	Next of Kin contact person (father, wife, brother – anyone who is available to talk)	Contact details (phone number etc.)	Any further details about incident: Date of incident, and place Whether FIR registered by police current state of the case/investigation any other details?
1						
2						
3						
4						
5						
6						

ANNEXE - VI c

CAH study on EJK

Helpful templates for documentation

1. Snapshot of individual cases:

Sl no.	Date	place of incident	Victim name, details, village, district. Also family details (spouse, children)	Summary of incident as recorded in known FIR	Summary of FIR details (date, sec., charges...)	Summary of incident, per family testimony	any reference to incident in media reports?	relevant documents with family (and us)?	Action taken by family to date, to trigger legal proceedings / seek justice?	any knowledge (and participation) of family in magisterial enquiry?	Current status of the case (per family)	Status of investigation and any enquiries (from media, other sources), and of the case generally.	Any compensation received by family? Any financial help from other sources?	Any Details of lawyers and social workers helping, if any?
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

2. Summary case narrative (500 words – single A4 page)

(Based on family's testimony)

Outline:

i. Background (date, place, incident, and any cross reference to media reports)

ii. Background of the deceased: age, education, work, and any criminal record

iii. How the family came to know about the incident

iv. Version of the encounter story told to family by police

v. Version of the encounter story, the family believes is correct

vi. What the family did in the first 24 hrs and 48, to obtain body, get statutory documents (PM report, injury report); who were the interlocuters (lawyers, relatives, social workers), what officials did they meet in this process?

vii. What actions the family took, if any, to obtain justice (Viz, what steps to get case registered, or provide submission to magisterial enquiry and any other; or even attempts to reach out to senior political and administrative functionaries

viii. Summary of attitude of police in this?

ix. Current state of the family (livelihoods..) and access to justice

3. Legal document analysis (200 words)

i. Chain of events, as made out in FIR, including charges made, and sections of law used

ii. Review of documents available with family. What documents should have been there, and are missing?

iii. Whether, from the documents we have, the story holds up - analysis of anomalies in the story

iv. Our understanding, based on the documents, of the investigation made/in progress.