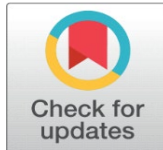
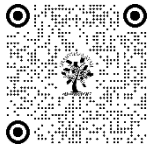


IS INDIA MOVING FROM RULE OF LAW TO RULE OF GUN AND JUDICIAL RESPONSIBILITY

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ABSTRACT

The rule of law will not be used in the execution of power. Article 21 of the law, which guarantees the right to life and personal liberty, contains a procedure for criminal investigations. It is essential, non-negotiable, and accessible to everybody. That right cannot even be infringed by the State. Nobody questions this. No one, not even the police or other investigating body, has the authority to penalize an accused person without following the proper legal procedures. Only the court has the authority to inflict a prison term or the death penalty after following all legal procedures and providing a fair trial and hearing. Until a person is proven guilty by the legal system, they are presumed innocent. The core of the Indian Constitution is found in Article 21. The framers of the Constitution placed the burden of protecting this right from infringement on the government, not even granting the state the power to violate it. An institution that has long been trusted to uphold and assist in enforcing the law is the police force. They have historically instilled confidence in the nation's residents by upholding security and providing the best possible protection for all. But recent events have shown that this was a myth, as it is difficult to fully trust the criminal justice system in light of the recent police interactions and violence that rocked the nation. After reviewing all available evidence and establishing the accused's guilt in a court of law, the burden of proof always rests with the prosecution. The nation's sluggish criminal justice system makes the police problem worse. Trials last for years on end, and the verdict is still up in the air, especially when it comes to the criminals who have financial, political, and physical clout. This is why there is pressure on the police to use shortcuts and illegal tactics. Conspiracy by the political elites and public backing are commonplace. The judiciary is given the authority to determine who is right or wrong. It punishes the wrongdoer without turning it into a retaliatory act and strives for true justice.

Keywords: Constitution of India, Rule of Law, Extrajudicial Killings, Judicial Responsibility, Right to Life and Personal Liberty

1. INTRODUCTION

Fake encounters are nothing more than ruthless, cold-blooded killings committed by those who are meant to enforce the law. If a superior gives a police officer an illegal order to conduct a fictitious "encounter," it is his responsibility to refuse to comply; if he does not, he will be prosecuted with murder and, if proven guilty, given the death penalty. All police officers should be aware that the "encounter" ideology is criminal in nature. The gallows is waiting for trigger-happy police officers who believe they can kill people in the name of an encounter and get away with it. Fake encounters are nothing more than ruthless, cold-blooded killings committed by those who are meant to enforce the law. If a superior gives a police officer an illegal order to conduct a fictitious "encounter," it is his responsibility to refuse to comply; if he does not, he will be prosecuted with murder and, if proven guilty, given the death penalty. All police officers should be aware that the "encounter" ideology is criminal in nature. The gallows is waiting for trigger-happy police officers who

believe they can kill people in the name of an encounter and get away with it. In case titled "**Beenu Rawat v. Union of India**"¹ the Hon'ble Supreme Court has held that, in part III of the Constitution of India, Article 21 enjoys special status. The rights to liberty and life have historical significance. The long-running conflict between the sovereign power and common people is what led to the rise of the modern democratic state. It is now widely established that the State or its agents cannot deny anyone their life, including their right to a dignified existence, unless it is required by law. Any form of activism or protest against the police force for self-evident reasons poses the greatest threat to such a fundamental right. To safeguard the public, police officers are authorized to carry firearms. This in itself creates a situation where the power of arms may be abused due to a lack of awareness of the democratic rights of the people to peacefully demonstrate against injustices, particularly those committed by public servants, or because to a misguided belief in the absolute power of the police.

Since it is merely a corollary of the right to peaceful protest, the respondents' arguments that no one should be allowed to halt the operation of the police or other state institutions in the name of public protest cannot be dismissed outright. This is essentially the opposite of the well-known idea that rights without obligations tend to turn into licenses for the abuse of rights. Such inferences may be drawn from the facts of a particular situation. Therefore, it is necessary to thoroughly examine the facts and circumstances in these cases.

2. POLICY OF POLICE ENCOUNTERS, LACK OF STATE ACCOUNTABILITY AND DENIAL OF JUSTICE

Since it is merely a corollary of the right to peaceful protest, the respondents' arguments that no one should be allowed to halt the operation of the police or other state institutions in the name of public protest cannot be dismissed outright. This is essentially the opposite of the well-known idea that rights without obligations tend to turn into licenses for the abuse of rights. Such inferences may be drawn from the facts of a particular situation. Therefore, it is necessary to thoroughly examine the facts and circumstances in these cases. Thus, one often witnesses the paradox that human rights are protected by law and yet are often at risk from the law enforcers.² Controlling crime is the police's primary goal. Nobody questions this. Article 21 of the law, which guarantees the right to life and personal liberty, contains a procedure for criminal investigations. It is essential, non-negotiable, and accessible to everybody. That right cannot even be infringed by the State.

Because of the criminals' violent reputation, police officers would assume that gangsters would attack them soon. In most cases, it is unrealistic to expect police officers exercising their right to private defense to act with common sense and consideration when dealing with dangerous criminals. An average citizen would not even dare to confront a feared gangster, but a police officer has a duty to confront the gangster or desperado who is carrying a weapon; if he does not, he may be charged with having an override attitude. In the absence of these protections and immunity, society would be left without anyone to enforce the law. Very few would want to choose how to handle a scenario if they were later held accountable because doing so would give them legitimacy and possibly incite cowardice, which is unacceptable for police work. Therefore, the enforcement officers' impromptu choice is not justified unless it is completely incorrect. The Bombay Police Act's Section 161 (1) is clearly defined and relevant in this situation.

We are aware that the police in India have a challenging and delicate job, especially when a large number of hardcore criminals, such as terrorists, extremists, drug dealers, and smugglers who have organized gangs, have established strong social ties. These criminals must be dealt with by the police in an efficient and effective manner in order to bring them to justice by upholding the law. We believe that establishing suitable criteria would be beneficial and successful in restoring public trust in the police force. Extrajudicial killings must be thoroughly and independently investigated in a society where the rule of law is upheld in order to bring about justice. Pertinent, at this stage, to advert a case law held by the Supreme Court in **People's Union for Civil Liberties v. Union of India**³, wherein their Lordships has held that, "It may also be that under these conditions, certain additional and unusual powers have to be given to the police to deal with terrorism.

¹ (2013) 16 SCC 430

² Indian Institute of Human Rights, "Human Rights and Police", (New Delhi: Indian Institute of Human Rights, 2000), p. 70.

³ AIR 1997 (SC) 1203

It might be important to combat terrorism with a strong hand, which could entail giving police officers or other paramilitary forces combating them a fair level of discretion. There would have been no possibility of any court intervention if the police's account of the incident in question had been accurate. No one can argue that officers ought to wait until they are shot. The on-scene force is responsible for determining when, how, and where to take action. The Court has no right to dictate the best way to combat terrorists.

We cannot ignore the fact that our territorial integrity is still not entirely secure, even after fifty years of independence. Different sections of the country have different kinds of terrorist activity and separatists. They must be restrained. It is a question of policy for the government to decide whether they should be resolved through force or through political means. To decide those issues, the courts might not be the best places to go. There is no question about any of this. The notions of justice and the rule of law are completely at odds with encounter murders, often known as extrajudicial killings. The Honorable Supreme Court has occasionally been faced with encounter cases. In case titled **Chaitanya Kalbagh and Ors. v. State of UP and Ors**⁴ the Hon'ble Supreme Court was concerned with a writ petition filed under Article 32 of the Constitution wherein the impartial investigation was sought for the alleged killing of 299 persons in the police encounters. The Court noted that under the facts and circumstances that were brought before it, it was crucial to make sure that the law enforcement officials were actually adhering to the code of conduct that was expected of them and that they were acting solely as the guardians of innocent persons. In the case of **Raghubir Singh V. State of Haryana**⁵, the Supreme Court expressed that "We are deeply disturbed by the diabolical recurrence of police torture resulting in terrible scare in the minds of common citizens that their lives and liberty are under a new peril when the guardians of law gore human rights to death." In **R.S. Sodhi Advocate v. State of U.P. and Ors.**⁶ a writ petition was filed under Article 32 of the Constitution relating to an incident in which 10 persons were reported to have been killed in what were described as "encounters" between the Punjab militants and the local police. "Whether the loss of lives was due to a real or a fake encounter is a matter which has to be inquired into and investigated closely," the Honorable Supreme Court noted. In order to make sure the inquiry was credible, the Court gave it to the Central Bureau of inquiry. In the case of **Satyavir Singh Rathi vs. State through CBI**⁷, the matter before the Hon'ble Supreme Court arose from the First Information Report registered against police personnel involved in a shoot-out for an offence punishable under Sections 302/34 of the Indian Penal Code. According to the complaint, two people were killed and a third was seriously injured when police officers encircled the vehicle and opened fire on its occupants without cause or indiscriminately. As it was determined that the accused's defense, which relied on Exception 3 in Section 300 IPC, was not in good faith or a proper fulfillment of their duty, this Court rejected the defense put out by the accused, concurring with the High Court and the trial Court on the conviction under Section 302 IPC. In case titled **Prakash Kadam and ors. v. Ramprasad Vishwanath Gupta and Anr**⁸, the allegation was that the accused persons decided to eliminate the deceased in a false police encounter. According to the Court, this was a very serious case in which some private individuals allegedly hired police officers and personnel to kill their opponent, and the officers and staff worked as contract killers for the private individuals. Police personnel who commit murder in the name of "encounter" under the guise of following directions from politicians or higher-ranking officers would not be exempted, the Court warned. The "encounter" philosophy is a criminal philosophy, according to the Court.

In case titled **Om Prakash v. State of Jharkhand**⁹, it was held that, it is not the duty of the police officers to kill the accused merely because he is a dreaded criminal. Without a doubt, the accused must be taken into custody by the police and tried. Trigger-happy police officers who eliminate offenders and portray the occurrence as an encounter have been

⁴ (1989) 2 SCC 314

⁵ (1980) 3 SCC 70

⁶ (1994) SCC Supp (1) 143

⁷ (2011) 6 SCC 1

⁸ (2011) 6 SCC 189

⁹ (12) SCC 72

reprimanded by this court on multiple occasions. Such murders need to be discouraged. Our system of criminal justice administration does not recognize them as lawful. State-sponsored terrorism is what they are. However, it is impossible to ignore the fact that there are instances in which police officers are attacked and killed while carrying out their duties. Such events are becoming more frequent, and the courts need to be made aware of this. In these situations, the police must protect themselves in addition to carrying out their lawful obligation to apprehend the offenders. Police officers, who occasionally have to use harsh measures against criminals to safeguard people's lives and property as well as to defend themselves from attacks, are protected by the requirement of sanction to prosecute. They cannot face prosecution unless there is unquestionable proof that their activity was malicious, vengeful, and unjustifiable. Before they can be prosecuted, they must be sanctioned. It provides these police officers with the protection they need. At the beginning, a plea about the sanction may be made. The Hon'ble Supreme Court in **Deo Narain v. State of U.P.**¹⁰, while dealing with the scope of Section 102 of the Indian Penal Code for exercising the right of private defence, has held that, "This right rests on the general principle that where a crime is endeavoured to be committed by force, it is lawful to repel that force in self-defence. The law represented in Section 102 is completely misunderstood if one believes that an individual can only assert the right to use force after suffering a serious damage as a result of a violent wrongful assault. The right to private defence is provided to guard against unlawful aggression that has been detected, not to punish the attacker for his own crime. The right to private defence would certainly not exist if there was no fear of additional harm to the body following a catastrophic injury. Therefore, the right to private defence can be used as soon as there is a legitimate fear of harm. Once more, the way the weapon is utilized and how it is used determines the type of apprehension. It cannot be argued that the accused was not justified in using his spear only because the complainant's group had used lathis, especially when the lathi strike was directed at a sensitive area like the head.

However, the suspected offenders have been cold-bloodedly murdered by the police. They have neglected their responsibility to make arrests by following the proper legal procedures, and they have eliminated the accused criminals by deceiving the public into believing they were killed in an altercation in order to maintain the appearance that law and order is upheld in the city. Since even criminals are entitled to the protection provided by Articles 14 and 21 of the Indian Constitution, the police are guilty of violating these provisions. It is argued that gangsterism cannot be addressed by state terrorism. However, in this instance, the police had to use their right to private defence by opening fire because they were unable to carry out their mandate to apprehend criminals as outlined in the Bombay Police Act. The police had to initiate fire in order to exercise their right to private defence when the criminals, who were armed with advanced weaponry, began fire first. Extrajudicial killing is defined as an illegal killing that takes place in a public setting and causes harm and issues for the people involved. According to Section 300 of the Indian Penal Code, it is illegal to kill someone without their consent. This is a form of homicide. Both a natural right to use lethal force in self-defence and a natural obligation to use lethal force to protect the lives of others are derived from the reasonably enforced natural right to life. Therefore, police personnel have the same right to use deadly force to defend themselves and others as any other citizen. Police personnel use the phrase "encounter killings" for a variety of reasons. Encounter killings are frequently encouraged by elements such as the slow trial process, rising crime rates, and officials' capacity to interfere with internal investigations. Contrary to popular assumption, actual encounter killings are regarded as the proper use of the right to self-defence. Therefore, an interaction in and of itself is not unlawful nor unjustifiable. In India, the number of extrajudicial executions is rising. They have previously been used in various contexts by law enforcement and other organizations to put an end to insurgencies. The Hon'ble Supreme Court observed in **Som Raj v. State of Haryana**¹¹ that the absence of arbitrary power is the primary postulate of Rule of Law upon which the whole constitutional edifice is dependant.

3. JUDICIAL RESPONSIBILITY

That portion of the constitutional wing that is not elected by popular vote is represented by the judiciary. In order to lessen the accountability of the people's chosen representatives, the Constitution imposes an embargo on them.

¹⁰ AIR 1973 (SC) 473

¹¹ AIR 1990 (SC) 1176

However, I believe that a judge may use the potent tool of judicial interpretation to uphold the constitutional principles regardless of how explicitly a law or regulation has been formulated if he is confronted with a legislature or a government policy that is subject to such restrictions. In **A.D.M Jabalpur v Shivakant Shukla**,¹² the question before the Apex Court was, whether there was any rule of law in India apart from Article 21 of the Indian Constitution. By a majority vote, the court ruled that the constitutional rule of law is the only rule of law. Justice Khanna disagreed with the aforementioned viewpoint, though. He correctly stated that "the State has no power to deprive a person of his life or liberty without the authority of law, even in the absence of Article 21 of the constitution." Similarly the Supreme Court while explaining the rule of law in **K.T. Plantation Pvt. Ltd. v. State of Karnataka**,¹³ held as follows; "The rule of law as a principle contains no explicit substantive component like eminent domain but has many shades and colours. A breach of the natural justice principle may cause the rule of law to become arbitrary, irrational, etc., yet it may not be sufficient to render a statute unconstitutional. The violation must be so severe as to compromise India's democratic values and the fundamental framework of the constitution. However, the aforementioned grounds are also applicable once the court determines that a statute violates the rule of law, which is regarded as a constitutional concept similar to the fundamental framework, and not the other way around. Since there is always a presumption that a statute is constitutional, any law that the court deems to be unjust, unfair, or unreasonable cannot be used as justification to overturn it. This is because doing so would always be subjective and not represent the will of the people. Depending on the type of legislation and the severity of the infraction, the rule of law as a principle is not always a guarantee for achieving equity, human rights, justice, freedom, and even democracy. In extremely rare circumstances, the constitutional courts have the authority to apply the rules of law as a general principle and to overturn laws that are oppressive, defy the fundamental principles of the constitution, or transgress the standards of fairness and the rule of law.

In **Nandini Sundar and others v. State of Chattisgarh**,¹⁴ Hon'ble Supreme Court has once again reiterated the majesty of rule of law in upholding democracy. It is believed that the executive action of arming young people in the State of Chhattisgarh in an attempt to curb naxalism is against the rule of law. In defending the rule of law and challenging the executive action of backing Salwa Judum under the pretense of containing the naxal threat, this ruling is historic.

The core of the Indian Constitution is found in Article 21. The framers of the Constitution placed the burden of protecting this right from infringement on the government, not even granting the state the power to violate it. In **Pooja Pal v. Union of India (SC)**¹⁵, the Hon'ble Supreme Court has held that, Adverting to the role of the police to be one for protection of life, liberty and property of citizens, with investigation of offences being one of its foremost duties, it was underscored in **Manohar Lal Sharma v. Principal Secretary and others 2014(1) RCR (Criminal) 370: 2014 (1) Recent Apex Judgments (R.A.J.) 90: (2014) 2 SCC 532** that the aim of investigation is ultimately to search for truth and to bring the offender to book. The following passage from Lord Denning's "The Due Process of Law" First Indian Reprint 1993, page 102, was referenced on page 553: "The police are essential to protecting our liberties. A well-led, well-trained, and disciplined police force is essential for society's defense; there must be enough of them to be able to stop crime before it occurs or, in the case that it does, to identify it and prosecute the guilty. Naturally, the cops must behave appropriately. They have to follow the guidelines for proper behavior. They must refrain from using promises or threats to coerce confessions. They must have permission before searching a man's home. They must refrain from using more force than is necessary for the situation. In the case of **Bachan Singh v. State of Punjab**¹⁶, Justice Bhagwati has emphasized that rule of law excludes arbitrariness and unreasonableness. To guarantee this, he has proposed that an independent court should be in place to safeguard the public against the abuses of legislative and executive power, and that a democratic legislature is required to enact laws, but that its authority should not be unchecked. In addition to this in **P.**

¹² (1976) 2 SCC 521, AIR 1976 (SC) 1207

¹³ (2011) 9 SCC 1

¹⁴ (2011) 7 SCC 547

¹⁵ (2016) 3 SCC 135

¹⁶ (1982) 3 SCC 24

Sambamurthy v. State of Andhra Pradesh¹⁷ the Supreme Court has declared a provision authorizing the executive to interfere with tribunal justice as unconstitutional characterizing it as 'violative of the rule of law which is clearly a basic and essential feature of the constitution.' Therefore, it is fair to say that the judiciary in this nation has been the most tenacious guardian of democracy, democratic principles, and constitutionalism. The ordinary man's trust in the Rule of Law has been strengthened as a result of courts. The Court now upholds a strict interpretation of fundamental rights. These rights encompass a number of essential rights, both good and negative. The right to live with dignity and "all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing, and shelter" are examples of how the Court has interpreted the right to life and liberty (Article 21 of the Constitution) and facilities **Francis Coralie Mullin v Administrator, Union Territory of Delhi**.¹⁸ However, when the Constitution was ratified, it was not immediately clear that the Fundamental Rights would be interpreted so broadly. "[n]o person shall be deprived of his life or personal liberty except according to a procedure established by law," reads Article 21, which is a negative right in its most basic form. The majority of the Constitution's Part III, or Fundamental Rights, are actually negative rights. The wide range of socioeconomic rights that the Indian Court is renowned for upholding are absent from them.

4. IN-EFFICIENCY OF CRIMINAL JUSTICE SYSTEM

The reason the current justice delivery system is ineffective is because it is designed to be controlled by our rulers in order to further their objectives. In order to guarantee that laws are upheld, legal requirements are satisfied, and suitable penalties are applied when they are broken, the rule of law is predicated on efficient and equitable justice systems. All citizens' rights are safeguarded by efficient legal systems against legal violations by others, especially influential political parties and governments. It is challenging to separate the influence of effective justice systems and services on a variety of welfare outcomes from the participation of other stakeholders, including the police, the criminal justice system, and other social and justice actors.

Both individual judges and the legal system should be unbiased and unaffected by outside forces in a democracy. This is essential to guarantee that those who appear in court and the general public have faith that their cases will be decided justly and legally. Every year, a number of citizens rely on civil justice courts to solve a wide range of legal disputes including for cases of domestic violence, family/relationship breakdown, medical treatments, housing or employment issues¹⁹. Numerous parties, such as the legislative or executive branch, individual plaintiffs, pressure groups, the media, self-interest, or other judges, may exert undue influence. Every year, the World judicial Project gathers information on how professionals and the general public view the efficiency of civil judicial services and their lack of excessive government interference. The opinion of civil courts' effectiveness and its perceived independence from excessive government control are strongly correlated, according to the most recent statistics available. The delivery of civil justice services entails effective enforcement of justice decisions.²⁰ It is challenging to determine when the backlog of cases in a certain jurisdiction and time frame starts or where the delay in the justice delivery system starts. We must identify the problem's underlying causes in order to find a solution. In case titled **Ajit Mohan & Ors. V. Legislative Assembly National Capital Territory & Ors**²¹, the 03 Judge Bench of the Hon'ble Supreme Court in the postscript of the judgment has made some intriguing and riveting observations while drawing a context between judicial delay, the pendency of cases and the restriction of the period for oral submissions by counsels. The bench has stressed how the post-COVID scenarios will be handled. In a very important case which is **People's Union for Civil Liberties and Another v. State of Maharashtra and Others**²², Supreme Court bench comprising the then CJI R.M. While highlighting the significance of Article 21 of the Indian Constitution, Lodha and Justice Rohinton Fali Nariman have released a set of guidelines that must

¹⁷ AIR 1997 (SC) 947

¹⁸ (1981) 1 SCC 608

¹⁹ Efficiency in the criminal justice system, <https://www.nao.org.uk/wp-content/uploads/2016/03/Efficiency-in-the-criminal-justice-system.pdf>

²⁰ Ibid.

²¹ AIR 2021 (SC) 3346

²² (2014) 10 SCC 635

be adhered to when looking into police encounters involving fatalities and serious injuries as a standard procedure for an exhaustive, efficient, and independent investigation. The following guidelines were issued by the Apex Court: Any intelligence or tip-off that the police receives about criminal movements or activities related to the commission of serious crimes must be put in writing, preferably in a case diary or electronic format. Such a recording does not have to disclose the suspect's identity or the party's destination. If a higher authority receives such intelligence or a tip, it may be reported in some way without disclosing the location or the identity of the suspect. If an encounter occurs and a firearm is used by the police party as a result of the tip-off or intelligence received as described above, and a death results, a formal complaint must be filed and promptly forwarded to the court in accordance with Section 157 of the Code. The process outlined in Section 158 of the Code must be adhered to when forwarding the Page 26 report in accordance with Section 157 of the Code. Under the direction of a senior officer (at least one level above the head of the police party involved in the encounter), the CID or police team of another police station must conduct an independent investigation into the incident or encounter. DGPs are required to submit to the NHRC six monthly statements detailing all instances in which police firings have resulted in fatalities. By the fifteenth day of January and July, respectively, the NHRC must receive the six monthly statements. "These requirements/norms must be strictly observed in all cases of death and grievous injury in police encounters by treating them as law declared under Article 141 of the Constitution of India," it was further held.

5. CONCLUSION

In **State of Bihar v. Brijala Prasad Sihna**²³, a Division Bench of the Hon'ble Patna High Court has observed that, "Who will guard the guard". The protector of the society had become the destructor. Three innocent people were killed for no fault of their own because the law enforcement officials had turned into marauders. It takes no words to denounce the appellants' wrongdoings. The public's trust will be destroyed and society will continue to be in danger if police officers act in this manner. The issue is whether the police officers' encounter killings are genuinely bringing justice to the victim or if the accused is being murdered. It is highly humorous to voice any opinion regarding encounter killings because it is difficult to justify such an act due to both procedural flaws and the widespread, unquestioned trust in the police. Even though police officers are granted more authority to look into the matter because they are able to independently prepare the case file and submit the police diary to the magistrate or court, some control over how the investigation process is carried out is still necessary. If there are any violations or abuses of power, those involved must be punished in order to stop more injustice. The Hon'ble Supreme court in case titled **Om Prakash v. State of Jharkhand Through the Secretary, Department of Home, Ranchi-1 and another**²⁴ held that extra judicial killings are not legal under our criminal justice administration system and equated it to state sponsored terrorism. The legitimacy of the rule of law and the operation of the criminal justice system are impacted by the killings that occur during police confrontations. Numerous conflicting positive and negative rights are recognized by the Indian Constitution and are regularly contested in court. A critical examination of a few seminal cases involving rights conflicts in the Indian Supreme Court reveals that the Court has often glossed over the case's specifics in its haste to pit constitutional norms, ideas, and rights against one another. If it had given more consideration to the circumstances, it would have recognized that conflicts of rights are frequently assumed to exist. The Court does not adhere to any framework or process for balancing rights, which contributes to the lack of attention to detail. The Court must give the process of determining rights more consideration, as this is an urgent necessity. As Madhav Khosla says, "While proportionality can do much regarding unjust laws, it can ultimately do very little about poor judging."²⁵ Since encounter killings undermine the legitimacy of the rule of law, they need to be looked into separately. The rule of law must be established in society and upheld by all governmental authorities as well as the general populace. The criminal justice system has to be completely redesigned, and much-needed police changes must be implemented. To stop the accused from attacking police officers out of personal resentment, we must make sure they are properly detained physically. In **Smt. Nilabati Behera alias Lalita Behera v. State of Orissa**²⁶, the Hon'ble Supreme Court while relied its earlier decisions of case titled in the Bhagalpur blinding

²³ 1998(1) ECRC 524; 1998(1) B.L.Jud. 153; 1998(1) PLJR 190. Law Finder Doc Id # 244750

²⁴ (2012) 12 SCC 72

²⁵ Khosla, supra note 12, at 306

²⁶ (1993) 2 SCC 746

cases: **Kharti and Others v. State of Bihar and Others**²⁷ and **Kharti and Other (TV) v. State of Bihar and Others**²⁸, wherein it was said that the court is not helpless to grant relief in a case of violation of the right to life and personal liberty, and it should be prepared to forge new tools and devise new remedies' for the purpose of vindicating these precious fundamental rights. Additionally, it was said that the appropriate process for the case's facts must be used to carry out the investigation required to determine the facts required to give the remedy as the possible form of redress for the enforcement of the fundamental rights that are protected.

²⁷ (1981) 1 S.C.C. 627

²⁸ (1981) 2 S.C.C. 493