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Beyond the Rule of Law, Extra Judicial Killings and Democratic Governance in Assam: A Critical Study of Human Rights and Accountability

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Abstract:

This paper examines extrajudicial killings in Assam from a human rights and constitutional perspective focusing on the misuse of police authority, the influence of political power, effectiveness of existing institutional accountability and legal mechanisms. It analyses the constitutional protection of life and personal liberty under Article 21 of the Indian Constitution relevant to legal safeguards, judicial decisions and the role of human rights institutions in investigating allegations of unlawful killings. The study adopts a mixed method approach based on primary and secondary sources it includes extra judicial killings related police cases, legal documents, statutory provisions, human rights reports, academic literature and credible newspaper reports. It argues that the legitimacy of law enforcement depends not merely on maintaining public order but also on ensuring that every exercise of state power remains subject to constitutional and legal scrutiny. The study emphasises the need for independent investigations, transparent encounter reporting, victim centred justice, police reforms and accountability or punishment for those officials who found responsible and guilty for unlawful acts. It seeks to contribute to a broader understanding of the challenges involved in protecting human rights and strengthening democratic governance in Assam.

Keywords: police, extra judicial killings, law, constitutional governance, Assam.

Introduction:

In contemporary time allegations of extrajudicial killings have raised serious concern in Assam. It questioned about the rule of law, due process of law, police conduct, executive authority, the protection of fundamental rights and human rights. From the periods of secret killings of the late 1990's to the police encounters reported after 2021 these incidents have generated debates about the balance between internal security and civil liberties. The Supreme Court's intervention concerning allegations surrounding 171 police encounters May 2021 to August 2022 has further highlighted the importance of independent investigation and institutional

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accountability. This study therefore examines extrajudicial killings in Assam as a question of constitutional governance, threat to human rights and democratic accountability. As the second largest democracy of the world, India should maintain its constitutional decorum. In this paper we are going to discuss about the development of extrajudicial killings, protections of human rights, legal mechanisms or its implications and challenges. This paper also suggests some measures to tackle with the issue.

Objectives of the Study:

- To examine the evolution patterns of alleged extrajudicial killings in Assam.
- To determine the effectiveness of legal safeguards and institutional accountability mechanisms in addressing encounter related incidents.
- Analyse the implications of alleged extrajudicial killings for human rights, constitutional governance and public trust in Assam.

Significance of the study:

Existing legal frameworks and judicial guidelines establish safeguards against unlawful killings; however, a focused assessment of their implementation, institutional effectiveness and impact on public trust in Assam remains necessary. The study will contribute to understanding police accountability and human rights protection in Assam by evaluating existing safeguards and identifying institutional reforms necessary to strengthen constitutional governance and the rule of law or due process of law.

Literature Review:

Agamben (2005) in State of Exception, Agamben (2005) examines the relationship between state sovereignty, emergency powers and the suspension of ordinary legal protections. His theoretical framework is useful for examining how security emergencies may affect constitutional safeguards and institutional accountability.

Arendt (1963) in Eichmann in Jerusalem: A Report on the Banality of Evil, Arendt (1963) examines individual responsibility, obedience and bureaucratic participation in wrong doing. Her analysis raises questions about personal accountability within institutional structures. This perspective can inform a theoretical discussion of responsibility within state institutions accused of unlawful conduct.

Baruah (1999) in India against Itself: Assam and the Politics of Nationality, Baruah (1999) examines Assamese nationalism, identity and political conflict. His work provides historical context for understanding the political environment in which insurgency and state responses developed in Assam.

Baruah (2005) in Durable Disorder: Understanding the Politics of Northeast India, Baruah (2005) examines political conflict and governance challenges in Northeast India. His analysis provides a framework for understanding the relationship between insurgency, security policies and political instability.

Baruah (2007) in Post frontier Blues: Toward a New Policy Framework for Northeast India, Baruah (2007) examines policy and governance challenges in Northeast India. His work provides a broader perspective on regional politics and the relationship between state interventions, security and political development.

Baruah (2012) in In the Name of the Nation: India and Its Northeast, Baruah (2012) explores nationalism, state authority and political conflict in Northeast India. His analysis helps explain how national security and territorial integrity influence state policies in conflict affected regions.

Bayley (1991) in Forces of Order: Policing Modern Japan, Bayley (1991) examines policing institutions and their relationship with public order. Although the book focuses on Japan rather than India, its comparative perspective can help develop questions about police organisation, institutional practices and accountability.

Bhaumik (2009) in Troubled Periphery: Crisis of India's North East, Bhaumik (2009) examines political instability, insurgency and the challenges facing Northeast India. His work provides a regional perspective on armed movements and the state's security responses.

Dallaire (2003) in Shake Hands with the Devil: The Failure of Humanity in Rwanda, Dallaire (2003) reflects on mass violence, institutional failure and the international community's response to atrocities. Although the book concerns Rwanda rather than Assam, it provides comparative insights into institutional responsibility and failures to protect human life.

Goldstein (1977) in Policing a Free Society, Goldstein (1977) examines the responsibilities of policing within a democratic system. His work is relevant to understanding the relationship between law enforcement, professional standards and public accountability.

Hazarika (1994) in Strangers of the Mist: Tales of War and Peace from India's Northeast, Hazarika (1994) explores political conflict, insurgency and the experiences of communities in Northeast India. His account provides historical context for understanding the region's prolonged conflicts and the effects of violence on local populations.

Ignatieff (2004) in The Lesser Evil: Political Ethics in an Age of Terror, Ignatieff (2004) examines the ethical dilemmas governments face when responding to terrorism and threats to national security. His analysis considers the tension between public security and the protection of individual rights.

Klockars (1985) in The Idea of Police, Klockars (1985) examines the nature and role of policing. His work c help develop a theoretical discussion of police authority, professional discretion and the limits of coercive state power.

Sen (1999) in Development as Freedom, Sen (1999) argues that development should be understood in terms of expanding human freedoms and capabilities. His approach provides a broader framework for examining human dignity, individual rights and the responsibilities of democratic institutions.

Skolnick (1966) in Justice Without Trial: Law Enforcement in Democratic Society, Skolnick (1966) examines the relationship between police authority, professional discretion and the

administration of justice. His work provides a theoretical foundation for understanding the challenges that arise when law enforcement agencies exercise coercive powers.

Research Methodology:

This study adopts a qualitative and quantitative research design using a descriptive and analytical approach. It will examine relevant judicial decisions, legal provisions, official reports, human rights documentation and selected cases of alleged extrajudicial killings in Assam. A case-study approach will be used to identify patterns, assess accountability mechanisms and analyse the relationship between policing, state power and constitutional rights.

Results:

The primary result of extrajudicial killings is the complete collapse of the rule of law which transforms a constitutional democracy into a police state. When the state bypasses its own legal mechanisms, it triggers a dangerous chain reaction across society, governance and human rights; it causes various issues like -

It erodes the institutional accountability and trust. Public faith in the judiciary, police and government completely erodes when the state itself acts as a criminal entity. Regular courts lose their authority and legitimacy, as law enforcement agencies bypass them entirely to deliver arbitrary punishments. The Investigating agencies stop relying on forensic evidence and scientific investigation, turning instead to custodial torture and staged encounters. It increase the Culture of Impunity, when police officers are rewarded or protected for extrajudicial killings, it removes any fear of accountability leading to widespread corruption and abuse of power. When the citizens realize the state will not provide a fair trial, it can trigger cyclic violence, vigilante justice and insurgent backlashes against law enforcement. Without a judicial trial, the risk of executing entirely innocent individuals- mistaken identity, framed suspects or marginalized targets is catastrophic and irreversible. Governments frequently weaponize extrajudicial actions to target political rivals, human rights activists, journalists and whistleblowers under the guise of maintaining law and order. The Communities living under the constant threat of state violence suffer from chronic fear, anxiety and a complete loss of personal security. Nations with high rates of state-sponsored killings face severe condemnation from bodies like the United Nations, damaging their geopolitical standing. Global businesses and investors avoid operating in countries where the legal framework is unpredictable and the state operates outside the law.

Supreme Court's landmark judgement on extra judicial killing:

The Definitive Landmark Case: PUCL vs. State of Maharashtra (2014): In this seminal case, the Supreme Court addressed the lack of structured legal mechanisms for investigating encounter deaths. It laid down a 16- point mandatory guideline that carries the force of law under Article 141 of the Constitution: A First Information Report (FIR) must be registered without delay whenever a police encounter results in death. They advised for Independent Investigation, the probe cannot be done by the same police station involved. It must be conducted by the State CID or a police team from another station under a senior officer's

supervision. A mandatory magisterial inquiry under Section 176 of the CrPC must be conducted in every encounter death case. Also, no out-of-turn promotions or gallantry awards can be granted to the involved officers until their innocence is fully established by the probe. The police officers involved must surrender their firearms for forensic ballistic examination.

Death Penalty for Staged Encounters: Prakash Kadam vs. Ramprasad Vishwanath Gupta (2011): The Supreme Court ruled that fake encounters fall into the category of the "rarest of rare cases." The bench explicitly warned law enforcement officers that if they are found guilty of executing a staged encounter, they will not be spared from the death penalty. The court observed that acting on "superior orders" is no defense for carrying out an illegal execution.

AFSPA & State Immunity Stance: EEVFAM vs. Union of India (2016): Dealing with 1,528 alleged extrajudicial executions in Manipur, the Supreme Court ruled that the Armed Forces (Special Powers) Act (AFSPA) does not grant blanket immunity to security personnel. The court established that excessive or retaliatory force by uniformed forces is completely impermissible even in conflict zones or against suspected terrorists and insurgents.

Analysis:

The term extra judicial (commonly referred to as "encounter killings") means outside the judicial process. It is unlawful and intentional deprivation of a person's life by the state authorities. It may involve the police, the armed forces or other state agents who kill a person without the legal authorities to do so. In a constitutional democracy a person accused of committing a crime must arrested, investigated, prosecuted and trial according to the law. The police cannot independently decide that an accused person deserves to die. If the police arrest a person, suspected of murder instead of presenting the accused before a court the police deliberately killed that person and claimed that the accused was attempting to escape but not every death caused by the police is automatically and extra judicial killing. The legality depends upon the facts and the applicable laws.

Fake encounter, Custodial death - these concepts are associated with extra judicial killing phenomenon. The historical development of the judicial killing is connected with the exercise of state power, colonial rule, armed conflict, policing political repression and struggle for human rights. During colonial period we have seen the Police violence in India. The Indian Police act 1861 was enacted following the revolt of 1857. It established the framework that became a major foundation of policing in British India. There were a lot of Massacres happened but the circumstances and legal categories are different.

In Post independent India police had sometimes used excessive force against Protestors, Political violence, Insurgency to maintain internal security. The key legal question is whether the use of forces was necessary or not. Insurgencies in parts of North east India and Jammu and Kashmir and other regions created difficult security situations. So the security forces were deployed to address such issue, but most of the times security operations led to allegations of fake encounters, unlawful detentions and torture or extra judicial killings. For examples - Secret killings of Assam, Punjab conflicts.etc.

Extra Judicial Killings and Human Rights: Human rights are inherent and inalienable. The modern human rights frameworks were developed after Second World War. The central principle is that the state cannot arbitrarily deprive a person's life. In 1945 United Nation was established for protection of human rights, to established peace and security. In 1948 Universal declaration of human rights (UDHR) was came and the article 3 of this charter acknowledge Right to Life, The article 6 the of International convention of cultural and political rights (ICCPR) argued for Right to life also. In 1984 the Convention against torture also claimed about human rights.

In India the National Human rights Commission (NHRC) (1993) and State human rights commission also worked for the human rights. These all are the protection mechanisms of Right to life or Human rights. The National Human Rights Commission (NHRC) of India views extra-judicial killings (commonly referred to as "encounter killings") as a grave violation of the fundamental Right to Life (Article 21) of the Constitution. The NHRC maintains that even in extreme law-and-order situations, the State and its law enforcement agencies cannot bypass due process to deliver instant justice. To curb fake encounters and bring transparency, The NHRC formulated its first set of mandatory guidelines in 1997 (under the Chairperson Justice M.N. Venkatachaliah) which were later revised in 2003.

The word encounter is commonly used to describe as an armed confrontation between the police or a suspected criminal, an encounter killing occurs when a person dies during such a confrontation. There are two important possibilities: A genuine encounter is when police use force strictly as a proportionate response to an imminent, life threatening attack. The one is fake encounter/ extra judicial killing which mean the unlawful killing, falsely defined as a self-defense shootout. The constitution of India does not permit the extra judicial killing. Article 21(Right to life) Article 14 (Equality before law), Article 22 (Protection against arbitrary arrest and detention), Also, Bharatiya Nagarik Suraksha Samhita 2023, address inquires by magistrates into certain deaths.

In contemporary times fake encounters in Assam have emerged as a serious human rights concern, posing significant challenges to the rule of law, due process of law , constitutional governance and the protection of the right to life. The alleged involvement of police and security personnel in extrajudicial killings raises disturbing questions about the misuse of state power and the accountability of law enforcement agencies. Such incidents are particularly concerning because they undermine public trust in the criminal justice system and risk normalising the use of lethal force without due process of law. In a democratic society, no individual or institution should be considered above the law and allegations of fake encounters must be subjected to impartial investigation to ensure justice, transparency and accountability. The issue of alleged extra-judicial killings and fake encounters in Assam spans decades, evolving from anti-insurgency operations in the 1990's to aggressive anti crime crackdowns post-2021.

According to data acknowledged in court, between May 2021 and August 2022 alone, 171 police encounters occurred in Assam, resulting in 56 deaths and 145 injuries. The legal and societal consequences of these actions culminated in a landmark May 2025 Supreme Court ruling instructing the Assam Human Rights Commission (AHRC) to conduct an independent

case-by-case inquiry into all 171 incidents. We can discuss some cases related to extra judicial killing as below:

The 1994 Dangari (Tinsukia) Army Encounter Case:

In 1994, seven military personnel detained, tortured, and killed five youths (Prabin Sonowal, Pradip Dutta, Debajit Biswas, Akhil Sonowal and Bhaben Moran) from the All Assam Students Union (AASU) in Tinsukia district. The army ignored a Gauhati High Court habeas corpus order to produce the men. In a rare victory against institutional impunity, A Summary General Court Martial (SGCM) at the Dinjan base in October 2018 convicted seven Army personnel-including a Major General (A.K. Lal) and two Colonels-sentencing them to dismissal from service and life imprisonment. It is a lesson for those who misuse their power and harassed the public without any kind of valid proof.

The Dimbeswar Muchahary "Mistaken Identity" Case (2023):

On February 24, 2023, Assam Police claimed to have killed a "hardened criminal" and dacoit named Kenaram Boro in a shootout in Udalguri district. Following immense public outrage from the victim's family, a Criminal Investigation Department (CID) probe officially concluded in March 2023 that it was a case of "mistaken identity". The deceased was actually Dimbeswar Muchahary, a small-time local farmer. The state government was forced to acknowledge the error and initiate deep investigations into the local command unit.

It describes about the failure of police verification, lack of due process so the state must ensure that allegations of wrongful killings are independently investigated.

The Cachar Hmar Tribal Youths Encounter (July 2024):

Three suspected extremists (two from Manipur and one from Assam) were killed in a police shootout in the foothills of Cachar district. Police claimed the men opened fire and were involved in drug trafficking. The apex Hmar tribal body (Hmar Inpui) vehemently condemned the killings, labelling the event as "State sponsored terrorism". The case triggered localized ethnic tensions and forced demands for independent magisterial inquiries, compensation for the next of kin and immediate termination of the officers involved.

The 1998-2001 "Secret Killings" Era (Systemic Extrajudicial Executions):

During the late 1990s dozens of immediate relatives and sympathizers of the insurgent group United Liberation Front of Asom (ULFA) were systematically assassinated at night by unidentified masked gunmen. The historic Justice K.N. Saikia Commission Report (2007) exposed a dark structural nexus. The investigation revealed that these killings were orchestrated by state home department mechanisms using surrendered ULFA (SULFA) elements with the cooperation of security forces. The revelations fundamentally altered Assam's political landscape creating lasting public distrust towards state counter-insurgency tactics.

The Post-May 2021 Collective "Fleeing Custody" Encounters (171 Cases):

Since, May 2021 Assam witnessed a sharp spike in police shootouts. According to official state records later submitted to courts between May 2021 and August 2022 there were 171 police

encounters resulting in 56 deaths (including 4 in custody) and 145 injuries. The police routinely utilized a "templated" justification-claiming the accused attempted to escape custody, attacked escorting officers or snatched service weapons. This triggered a massive civil rights battle led by human rights advocates. On October 15, 2026 (Guwahati) two alleged chain snatchers, Prasanta Boro and Rahul Das were shot in the legs. Police reported that the duo attempted to push personnel and escape under the cover of darkness during a crime scene recreation. A suspected bag-snatcher was shot in the leg after he allegedly tried to snatch a police officer's service pistol during a recovery operation October 2026 (Kokrajhar) . Similarly, on September 2026 (Sivasagar) Two men arrested for the murder of a former CRPF jawan were shot in the legs in separate incidents within three days. Police stated the suspects attacked the escorting officers during a weapon recovery search. Ramanuj Goswami, an accused individual in custody, died from severe injuries after reportedly jumping out of a moving police vehicle on September 2026 (Nalbari) Critics and family members raised questions regarding the safety and custody protocols surrounding his death. Ashik Ali, the prime accused in the high profile murder case of Gauhati University student Nimisha Thakuria, was shot and injured in a police encounter in Guwahati early morning on October 6, 2026.

On July 5, 2021, Assam Chief Minister Himanta Biswa Sarma addressed police officers at a conference titled Redefining Policing Standards in Assam. He stated that the police should shoot suspects in the legs if they attempted to escape from custody or tried to snatch police weapons. He also stated that police officers should be concerned about taking such action against innocent people. The Chief Minister's statement became a significant part of the public debate about police encounters in Assam. The central question is whether shooting an accused person is necessary and proportionate in the circumstances. An attempt to escape from custody does not automatically justify shooting. The legality of using firearms depends on the circumstances, the threat involved and the applicable law.

So, now a day it became a question of misuse of Political Power. A democratic society must protect the society and individuals from arbitrary state action.

Reasons: The extra judicial killing is backed by a various reasons, those are:

Lack of Fast Track Courts: The absence of speedy trial mechanisms causes cases to drag on for decades, forcing a breakdown in legal efficiency. The regular courts fail to provide timely outcomes, a perception arises that the formal legal system is incapable of punishing criminals.

Lack of Judicial Accountability: A slow bureaucratic or corrupt judicial process reduces public trust in institutional justice. If the judiciary is seen as weak or heavily influenced by political forces; it loses its legitimacy as an impartial arbiter.

Politicization of Crime: Politicians often demand "instant results" to project a tough on crime image to voters, indirectly or directly encouraging law enforcement to bypass the law. When the executive branch prioritizes short term control over constitutional checks and balances, police forces are granted unchecked power.

Public Satisfaction and Populism: A frustrated public often demands immediate retribution rather than a lengthy trial, celebrating "instant justice" as a victory over crime. So police may

adopt an unchecked, aggressive culture, viewing themselves as both judge and executioner. When crime rates are high and systemic order feels like a myth, security forces resort to illegal shortcuts under the guise of restoring control. When society tolerates or cheers for extrajudicial actions, it creates an environment where state sponsored violence is normalized.

Media Sensation: In today's society the media is no more act as the fourth pillar of democracy. Sensationalized media coverage can whip up public anger creating intense pressure on authorities to eliminate suspects immediately rather than investigating them.

Way Forward: Addressing alleged judicial killings and fake encounters in Assam requires a shift from a culture of impunity to a culture of accountability. The rule of law, independent investigations, judicial oversight and respect for human rights must remain the foundation of policing in a democratic society. The suggestions are:

Independent and Impartial Investigation: Every case of alleged extrajudicial killing or fake encounter in Assam should be investigated by an independent agency such as the Criminal Investigation Department (CID) or the Central Bureau of Investigation (CBI) wherever appropriate. Investigations must be free from police interference to ensure accountability and prevent the misuse of state power.

Strengthening Judicial Oversight: The judiciary must play a proactive role in examining alleged fake encounters and custodial deaths. The Supreme Court's guidelines in People's Union for Civil Liberties (PUCL) v. State of Maharashtra (2014) establish safeguards for investigating police encounters, including mandatory registration of an FIR an independent investigation and a magisterial inquiry. Strict implementation of these safeguards is essential in Assam.

Strengthening Human Rights Institutions: The Assam Human Rights Commission and the National Human Rights Commission (NHRC) should be empowered to investigate complaints effectively, monitor encounter related deaths and recommend appropriate action. Their findings and recommendations should receive timely consideration from the state government to ensure transparency and accountability.

Police Reforms and Accountability: The Assam government should strengthen police accountability through human rights training, improved forensic investigation, body cameras where appropriate and strict disciplinary and criminal action against personnel responsible for unlawful killings. Police officers must be encouraged to follow due process rather than resort to the use of lethal force as a substitute for arrest and trial.

Protection of Victims' Rights and Public Transparency: Victims families, witnesses, journalists and human rights defenders must be protected from intimidation. The government should ensure access to legal aid, compensation where legally justified and timely disclosure of investigation findings, subject to legitimate privacy and security restrictions.

Such measures can restore public confidence in the justice system and reinforce the principle that every person has the right to life and that no one is above the law.

Conclusion:

Extrajudicial killings challenge the constitutional foundations of democratic governance where state authorities exercise force outside the limits of law. By examining alleged encounter related deaths in Assam, this study seeks to assess the effectiveness of accountability mechanisms and identify ways to strengthen human rights protection, institutional transparency and the rule of law. Police should respect the constitutional barriers, acknowledged the fundamental rights of every citizen. We have court which will provide us justice, until and unless the court prove guilty to someone we cannot define them as criminal, police should not interfere in judiciaries work. They should always follow the laws impartially. Also, the political party should not misuse the power. Otherwise democracy will become vague or myth in near future.

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