



PRESS STATEMENT

CHRI urges court-monitored investigation of encounter killings in Uttar Pradesh, 'investigate each officer under suspicion'

New Delhi, July 13, 2020 – The India Executive Board of the Commonwealth Human Rights Initiative (CHRI) today called on the Allahabad High Court to institute and monitor an investigation into the encounter killing of Vikas Dubey and his associates, in line with the requirements laid down by the Supreme Court in the 2014 landmark judgement (*PUCL v. State of Maharashtra and Ors*).

Additional issues to be probed should be the record of custody of Dubey's journey between the time he was taken into custody and the point he was killed.

The following is the text of the statement:

The death of Vikas Dubey, while in the custody of the Uttar Pradesh Police, invokes deep suspicion and comes in the wake of the killings of five members of Dubey's gang. CHRI urges the Allahabad High Court to institute and monitor the proceedings to ensure the UP Police and state government's full compliance with the Supreme Court's requirements, and set the pathway to prosecution on their conclusion. We note that the highest court had called for "thorough, effective and independent investigation" in such incidents.

Therefore, the police actions in the killings must be immediately and thoroughly investigated following the procedures stipulated by the Court in the *PUCL* judgment.

A First Information Report needs to be registered against all the implicated police personnel under the necessary penal sections with no dilution; and for the investigation to be conducted by an independent team. On July 11, the People's Union for Civil Liberties (PUCL) moved an urgent application in the Supreme Court seeking a Special Investigation Team to conduct the probe.

The High Court's close scrutiny can safeguard that all the necessary forensic evidence, including weapons, are collected and safely preserved. Protection of witnesses is also paramount.

The full record of Dubey's 'encounter' must be thoroughly accounted for: from the time he was arrested by the Madhya Pradesh Police, his custody transferred to a special team of the UP Police, to the point of his death. Key questions that need answers are whether he was handcuffed, how he was able to snatch a weapon after the car in which they were traveling supposedly turned over, and why journalists were obstructed from reaching the site of the incident.

CHRI points out that these encounters are a continuation of a pattern of many that have gone unprobed and unpunished for too long. In December 2019, the UP Police tweeted that 103 people were killed and 1859 injured in 5178 "police engagements" in the last two years. There is little indication of the UP Police and state government's accounting for these deaths and injuries through independent investigation as mandated in *PUCL*. This underlines the pattern of police arbitrariness and impunity, backed often by political patronage, that has broken India's criminal justice system.

Institutions have called attention to the impunity, but discernible accountability remains out of reach.

In May 2018, the National Human Rights Commission (NHRC) ordered an investigation into 17 cases of killings by police in UP on complaints filed by the civil society collective Citizens Against Hate (CAH) and victim families. This was to be completed within four weeks but remains pending more than two years



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later. The NHRC has not responded to multiple complaints of reprisals against victim families and human rights defenders.

In December 2018, five UN Special Rapporteurs expressed alarm about allegations of large number of extrajudicial killings by police in UP since March 2017 and wrote a detailed communication regarding 15 of these cases to the Government of India. The experts called for an urgent review of the use of force by the UP Police, and for a prompt, independent, and thorough investigations into all allegations of potentially unlawful killings and for perpetrators to be prosecuted. To date, there are no indications that this review has even been initiated.

In 2019, responding to a public interest litigation by the PUCL with CAH, the Supreme Court had stated that the killings require “serious consideration” and agreed to examine a selection of the cases. Details of the same 17 cases were submitted to the Court by CAH. But these proceedings remain pending.

The entire weight of the UP government should have been expected to ensure thorough investigation, an effective prosecution and a fair trial. It is not only these killings, and the nexuses which enabled them which are at stake, but the investigation and prosecution of the full extent of Dubey and his gang’s criminality

We note that a large number of police personnel have since been arrested, transferred or placed under suspension. According to media reports, the Uttar Pradesh government has set up an Special Investigation Team (SIT) to not only investigate the intelligence and operational failures that led to the recent police personnel deaths in Kanpur, but also review action taken by the police in previous complaints against Vikas Dubey.

We urge the Allahabad High Court to monitor the SIT investigation and call for the final report to be submitted to it. The investigation must establish individual and systemic liabilities, whether it was active participation in criminality, abetment, complicity, or neglect of duty. This is owed to the public.

In the instant case, Dubey’s family members, especially his wife and son, who can provide details of the close cross-party-business-police connections, need assured official protection.

CHRI expresses its deep concern over the killings by state and non-state actors of UP and the anguish and losses these have caused victim families, police and non-police.

As citizens we seek democratic policing distinguished by operational competence, responsiveness, full adherence to constitutional requirements and accountability standards and processes, as the only way to ensure policing can uphold the rule of law.

Wajahat Habibullah, Chairperson, Sanjoy Hazarika, International Director

Members of the Executive Committee (India): **Justice AP Shah, Justice Madan Lokur, Jayanto N Choudhury, Vineeta Rai, Kamal Kumar, Nitin Desai, Jacob Punnoose, Maja Daruwala, Poonam Muttreja, BK Chandrasekhar and Kishore Bhargav.**

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