

What is Encounter Killing?

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Why in news?

- Recently, Gangster-turned-politician Atiq Ahmed's son Asad and his aide Ghulam were killed in an encounter.
- On these extra-judicial killings, popularly known as encounters, the National Human Rights Commission (NHRC) and subsequently, the Supreme Court have laid down proper guidelines and procedures to be followed.

What is Encounter Killing?

- The term Encounter Killing is used to describe alleged extra-judicial killings by police or armed forces, supposedly in self-defence when they encounter suspected gangsters or terrorists.
- The term police encounter is not defined specifically in the Indian Penal Code and the Code of Criminal procedure.

Laws relating to encounter

- **Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR)**
 - Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
- **Article 14 and 21 of the Indian Constitution**
 - The staged/ fake encounters (referred to as instant justice by masses) are against the key constitutional provisions Article 14 and 21 of the Indian Constitution.
- **Section 96 & 100 of Indian Penal Code**
 - These sections provide with right to private defence.
 - As per Section 96, no offence is made out if any act is done in self-defence.
 - Section 100 provides when the right of self-defence extends to causing death.
- **Section 300(3) of IPC**
 - It provides that if any public servant causes death while acting for advancement of justice and which is lawful and mandatory for discharging their duty without any wrong intention, then they will not be liable for murder.
- **Section 46(2) of the Code of Criminal Procedure**
 - If any person tries to escape arrest, the person making the arrest has power to use all necessary force required for making the arrest.

What has the Supreme Court said on “encounters”?

- In September 2014, SC issued detailed guidelines enumerating 16 points to be followed in the matters of investigating police encounters in the cases of death.
- The guidelines came in the case **“People’s Union for Civil Liberties v State of Maharashtra”**.
- Some of these guidelines included:
 - The registration of a first information report (FIR) as mandatory along with provisions for magisterial inquiry;
 - The next of kin of the deceased must invariably be associated in such inquiry;
 - Keeping written records of intelligence inputs;

- Investigation to be carried out by an independent agency, such as the CID, to ensure a fair and impartial investigation;
- **SC on the involvement of the National Human Rights Commission:**
 - The court deemed it as not necessary, unless there is serious doubt about independent and impartial investigation.
 - However, the information about the incident must be sent to NHRC or the State Human Rights Commission.
- The apex court had said that 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**.
 - Article 141 says that the law declared by the Supreme Court shall be binding on all other courts in Indian territory.

What did the NHRC say on encounters?

- The NHRC, in 1997, under its former chairperson Justice MN Venkatachaliah, had given a set of guidelines in cases where death is caused in police encounters.
- These included:
 - The police's duty to enter all information received about encounter deaths in an appropriate register;
 - Provisions for investigation by independent agencies like the State CID;
 - The grant of compensation to the deceased's dependents may be considered where police officers may be convicted and prosecuted after investigation;
- In 2010, these were amended under the then NHRC chief Justice GP Mathur, to include:
 - Provisions for registration of an FIR,
 - magisterial inquiry and reporting of all death cases to the NHRC by a Senior Superintendent of Police or Superintendent of Police of the District within 48 hours of such death.
 - Three months after the encounter, a second report must be sent to the NHRC, providing information, inclusive of the post mortem report, inquest report and the enquiry findings.

What is a recent case that saw action on cops?

- In December 2019, the Supreme Court ordered an independent investigation headed by former SC judge VN Sirpurkar into the killing of four men by the Hyderabad police.
 - These men were accused of the gangrape and murder of a 26-year-old veterinary doctor in Hyderabad.
 - The Telangana police had claimed that the accused were shot when they tried to snatch firearms from the police in an attempt to flee.

- However, in May 2022, the Commission booked the 10 policemen for murder, deeming the encounter to be a fake one.
 - It directed the registration of FIRs against the police personnel.
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Q1) What is NHRC?

NHRC stands for the National Human Rights Commission, which is an independent statutory body in India established under the Protection of Human Rights Act, 1993. The NHRC is responsible for the protection and promotion of human rights, and it investigates allegations of human rights violations and recommends actions to be taken in cases of violations. The NHRC has the power to inquire into complaints of human rights violations, intervene in legal proceedings involving human rights violations, and undertake research and educational programs to promote human rights awareness.

Q2) What is International Covenant on Civil and Political Rights (ICCPR)?

The International Covenant on Civil and Political Rights (ICCPR) is a treaty adopted by the United Nations General Assembly in 1966. The ICCPR is one of the two international human rights treaties that make up the International Bill of Human Rights, the other being the International Covenant on Economic, Social and Cultural Rights. The ICCPR is designed to protect and promote civil and political rights, such as the rights to life, liberty, freedom of speech, religion, and assembly.

Source: [Atiq Ahmed's son Asad killed: What SC, human rights commission have said on encounters](#) | [iPleaders](#)

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