



Extra Judicial Killing

For Prelims: Extra Judicial Killing, Supreme Court, Fundamental Rights, IPC, NHRC, CID.

For Mains: Extra Judicial Killing.

Why in News?

Recently, the [Supreme Court \(SC\)](#) has expressed its views on [Extra-Judicial Killings \(EJK\)](#) in India, after an Encounter in Uttar Pradesh, stating that **the right to life as a Fundamental Right** enshrined in the Constitution and EJKs **are a violation** of this right.

- The SC also said that in recent years, there have been several cases of encounters and extra-judicial killings in India, which have raised **concerns about the misuse of power by the police.**

What is Extra Judicial Killing?

▪ About:

- Extra judicial killing refers to the killing of a person by the **state or its agents, without any judicial or legal proceedings.**
 - This means that the person is killed without **a trial, due process, or any legal justification.**
- Extra judicial killing can take various forms, such as **extrajudicial executions, summary executions, and enforced disappearances.** These acts are illegal and violate **human rights and the rule of law.**
- They are often carried out by **law enforcement agencies or security forces** in the name of maintaining law and order or [Combating Terrorism](#).

▪ Constitutional Provisions:

- The Constitution intends that India should be **governed by the rule of law, according to which** the Constitution is the supreme power and the legislative and the executive derive their authority from it.
- The Constitution guarantees the Right to Life and Personal Liberty under **Article 21**, which is non-negotiable and applicable to everyone. It is the responsibility of the police to follow the Constitution and protect the **Right to Life of every individual**, regardless of innocence or guilt.

▪ Rights of Police:

- The police can use force, including lethal force, in self-defense or to maintain peace and order.
- Every person has the right to self-defense under **Section-96 of the [Indian Penal Code](#).**
 - **Section-46 of the Criminal Procedure Code** allows the police to use force, including lethal force, to arrest someone accused of a serious crime.

▪ Status of EJKs in India:

- While India has seen a 15% decline in encounter killing cases registered in the six years between 2016-'17 and 2021-'22 – till March 2022 – the cases shot up by **69.5% in the last two years.**

- India has registered **813 cases of encounter killings** in the last six years.
- In the six years since April 2016, Chhattisgarh recorded the **most extrajudicial killing cases at 259**, followed by Uttar Pradesh at 110 and Assam with 79.

What are the Causes behind EJKs?

- **Public Support:**
 - Sometimes, people support such killings **because they believe the court system won't provide timely justice**. This public support makes the police bolder, leading to an increase in such killings.
- **Political Support:**
 - Many political leaders believe that **more encounters will serve as their achievement** in maintaining law and order in the state.
- **Punitive Violence:**
 - Some police officials believe that using violence and torture is the only way to control crime **and create a sense of fear** among potential criminals.
- **Hero- Worshiping:**
 - Such Killings are often glorified by the public and media, portraying the police **officers involved as heroes** who are cleaning up society.
 - Amidst all this worship, the public and the media celebrating this unlawful violence forget that the police have no authority to perform such an act, and it is violative of the human rights of the accused.
- **Inefficiency of Police:**
 - The police may not have enough resources to conduct thorough investigations, leading to low conviction rates. Encounters are seen as an easy way for the police to create a positive image of maintaining law and order in the area.

What are the Guidelines Related to Encounters in India?

- **Supreme Court:**
 - In September 2014, the SC issued guidelines for investigating police encounters in cases of death, in the case of "**People's Union for Civil Liberties v State of Maharashtra**". The guidelines included the following,
 - Registration of a **First Information Report (FIR)** as mandatory, along with provisions for a magisterial inquiry.
 - Involving the **next of kin of the deceased** in the 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.
 - Information about the incident must be sent to the **National Human Rights Commission (NHRC)** or the State Human Rights Commission, although involvement of the NHRC is not necessary unless there is serious doubt about independent and impartial investigation.
 - These requirements/norms must be strictly observed in all cases of death and grievous injury in police encounters and should be **treated as law declared under Article 141** of the Constitution of India.
- **NHRC:**
 - **In 1997, the NHRC provided guidelines** for police to register information about encounter deaths, allow independent investigation by the State **CID (Central Investigation Department)**, and grant compensation to the deceased's dependents in case of police officers being convicted.
 - **In 2010, these guidelines were amended** to include registering an FIR, conducting a magisterial inquiry, and reporting all death cases to the NHRC within 48 hours by the Senior Superintendent of Police or Superintendent of Police. After three months, a second report must be sent with the postmortem report, inquest report, and enquiry findings.

Way Forward

- Encounter killings **should be thoroughly investigated to maintain the credibility of the rule of law**. The state government has a responsibility to uphold the rule of law and ensure it is followed in every case across the country.
- Police officials should be trained to handle unforeseen situations and protect those in police custody.
- The increasing **number of encounter killings is resulting in human rights violations**, so it is important to educate police officers on the importance of human rights and prevent these unlawful killings.

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