

ARTICLE 20

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Fundamental rights are regarded as the cornerstones of India's Constitution. Article 20 is one of our Constitution's fundamental rights, which deals with the preservation of certain rights in the event of a criminal conviction. Individuals and businesses commit crimes in India, yet Article 20 protects their rights.

20(1) EX POST FACTO LAW:¹

This means a law that imposes penalties or conviction on an act that is already done.

Ex post facto laws are of three types-

- i. A statute that deems an act or omission to be an offense for the first time after it has been completed.
- ii. The legislation increases the severity of punishment or penalty for an offence after it has been committed.
- iii. An act of law that provides a new and different method for prosecuting criminal offences after they have occurred.

CASE LAWS

Kedar Nath v/s State of West Bengal ²

Facts:- In 1947, the accused committed an offence that, under the law in effect at the time, was punishable by an extra-fine equal to the amount of money obtained by the accused via the offence.

Judgment:- The Supreme Court found that the enhanced punishment could not be applied to the accused's activities, overturning the Amended Act's extra fine.

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¹ "A Brief Idea of Article 20: Protection Against Conviction of Offences" (*A Brief Idea of Article 20: Protection Against Conviction of Offences*) <<https://www.legalserviceindia.com/legal/article-544-a-brief-idea-of-article-20-protection-against-conviction-of-offences.html>> accessed June 12, 2022

² "KEDAR NATH BAJORIA Vs. STATE OF WEST BENGAL" (*KEDAR NATH BAJORIA Vs. STATE OF WEST BENGAL*, April 23, 1954) <<https://www.the-laws.com/Encyclopedia/Browse/Case?CaseId=004591670000&CaseId=004591670000>> accessed June 12, 2022

20(2) DOUBLE JEOPARDY³

Article 20(3) is based on a maxim *Nemo debet bis vexari* means a person must not be put behind bars for the same offence. It grants immunity to someone who has been prosecuted and sentenced for the same crime many times. In other words, if a person has been prosecuted and punished for the same crime in a previous procedure, he cannot be prosecuted and punished for the same crime in a future proceeding. Prosecution and punishment under two parts of an act are not considered double jeopardy since the offences under the two sections are separate from one another.

Essentials of double jeopardy: -

- I. There must be a previous prosecution.
- II. The accused must be punished.
- III. The punishment was for the same offence.

CASE LAWS

1. *Maqbool Husain v/s State of Bombay*⁴

Facts- The appellant transported gold from a foreign nation without making any kind of statement. The gold was confiscated/seized by Customs authorities under the 1898 Sea Customs Act. He was charged with breaking the Foreign Exchange Regulation Act of 1947, Section 8.

Judgment - The Court decided that the Sea Customs Authorities were not a court nor a judicial body and that the seizure decision issued under the Sea Customs Act did not reflect a judicial judgement, as the double jeopardy argument demanded. As a result, the Foreign Exchange Regulation Act does not prevent prosecution.

³ India legal S, "Double Jeopardy in India" <<http://www.legalservicesindia.com/article/1633/Double-Jeopardy-in-India.html#:~:text=Article%20of%20the%20Indian,Article%20of%20Constitution%20of>> accessed June 12, 2022

⁴ "Maqbool Hussain vs. State of Bombay - Law Times Journal" (*Law Times Journal*, March 19, 2020) <[https://lawtimesjournal.in/maqbool-hussain-vs-state-of-bombay/#:~:text=The%20appellant%2C%20on%20June%2012,\(2\)%20of%20the%20Constitution](https://lawtimesjournal.in/maqbool-hussain-vs-state-of-bombay/#:~:text=The%20appellant%2C%20on%20June%2012,(2)%20of%20the%20Constitution)> accessed June 12, 2022

2. Thomas Das v/s State of Punjab⁵

The Supreme Court ruled that in order to seek Article 20 (2) protection, the following conditions must be fulfilled.

1. There has been previous legal action taken against you.
2. The defendant was sentenced as a result of this.
3. The penalty was meted out for the same offence.

20(3) SELF-INCRIMINATION⁶

Article 20(3) is based on the maxim “Nemo Tenetur Prodere Accussare Seipsum,” which means no man is bound to accuse himself

Essentials of self-incrimination: -

- 1) The person must be accused of a crime.
- 2) There are safeguards in place to prevent you from being forced to testify.
- 3) The compulsion has to do with testifying against oneself.

When someone is accused of a crime, they cannot be compelled to testify against themselves. To put it another way, an accused person cannot be compelled to say anything that would harm him. If the accused is forced to testify against himself, he is considered to have committed the crime or been a party to it. The basic assumption of criminal law is that unless proven guilty, an accused person is presumed innocent. Proving the crime is the responsibility of the prosecution.

⁵ <https://www.lawyerservices.in/>, “Thomas Dana v State of Punjab on 04 November 1958 - Judgement - LawyerServices” (*Thomas Dana v State of Punjab on 04 November 1958 - Judgement - LawyerServices*) <<https://www.lawyerservices.in/Thomas-Dana-Versus-State-of-Punjab-1958-11-04>> accessed June 12, 2022

⁶ India legal S, “Article 20 (3) of Constitution of India And Narco Analysis” (*Article 20 (3) of Constitution of India And Narco Analysis*) <[https://www.legalserviceindia.com/article/1375-Article-20-\(3\)-Of-Constitution-of-India-And-Narco-Analysis.html#:~:text=Clause%20\(3\)%20of%20Article%2020,be%20a%20witness%20against%20himself.&text=3..his%20giving%20evidence%20against%20himself.](https://www.legalserviceindia.com/article/1375-Article-20-(3)-Of-Constitution-of-India-And-Narco-Analysis.html#:~:text=Clause%20(3)%20of%20Article%2020,be%20a%20witness%20against%20himself.&text=3..his%20giving%20evidence%20against%20himself.)> accessed June 12, 2022

CASE LAWS**M. P. Sharma v/s Satish Chandra**⁷

The Trial Court identified and convicted a murder suspect based on handwriting samples obtained three times while in police custody. The High Court ruled that the evidence of specimen handwriting was taken under duress since it was collected while the defendant was in police custody, rendering the evidence inadmissible. The accused was acquitted because the identity of the respondent could not be proven beyond a reasonable doubt using other relevant evidence. The State of Bombay then filed an appeal with the Supreme Court, which resulted in the decision under review.

According to the Supreme Court, the right under Article 20 (3) includes the following three elements:

- 1) A person charged with a crime has this legal right.
- 2) Being a witness protects you from such coercion.
- 3) When someone is asked to testify "against himself," it serves as a protection against such compulsion.

The Court decided that he is protected under Article 20 (3) from being forced to testify "against himself." This protection does not extend to remarks made during a court trial as evidence.

⁷ "M P Sharma and Kharak Singh: The Cases in Which SC Ruled on Privacy | Explained News, The Indian Express" (*The Indian Express*, July 18, 2017) <<https://indianexpress.com/article/explained/m-p-sharma-and-kharak-singh-the-cases-in-which-sc-ruled-on-privacy-4756964/>> accessed June 12, 2022

CONCLUSION

Let's examine all of Article 20 of the Indian Constitution. We examine all of Article 20 of the Indian Constitution, and we can see that these provisions, namely Articles 20(1), 20(2), and 20(3), demonstrate that guilty individuals are protected against the excessive legislature, judiciary, and administrative measures, respectively. These safeguards are available to everyone, both Indians and foreigners. They formed form the basis of the Indian Constitution, ensuring fundamental human rights for those who review the Indian Constitution and ensuring fundamental human rights for those who have been convicted or suspected of crimes.

