DOUBLE JEOPARDY: A SHIELD AGAINST GOVERNMENT OVERREACH

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ABSTRACT

The principle of double jeopardy plays a vital role in society. It is one of such rights which is being abused on multiple levels. Double jeopardy is a legal term that refers that no person can be punished for the same offence more than once. In law, it is also known as autrefois acquit and autrefois convict. This paper provides insight into the concept of double jeopardy and its various aspects. The applicability of this rule may vary according to the different circumstances. Thus, this article contains different interpretations of various circumstances, including S. 337 of BNSS. The rule requires that it bars the subsequent trial of the same offence. But there remains an ambiguity as to 'what is the same offence'. This article explores the legal interpretation of 'same offence' by the Indian judiciary, which is necessary to understand the concept, including the various exceptions to the mentioned rule. Also, it aims to highlight the comparison of double jeopardy in India with other countries like England, Germany, the United States, etc.

Keywords: Double Jeopardy, Rehabilitation, International Covenant, Autrefois Convict, Autrefois Acquit, Criminal Justice System.

INTRODUCTION

Double jeopardy is a firmly established legal principle to ensure justice. This principle is enshrined under the Constitution of India, but often shows parity with criminal law. The criminal justice system comes into the frame in order to control crime and penalise the wrongdoer. Criminal justice is the system of practices and institutions of governments directed at upholding social control, deterring and mitigating crime, or sanctioning those who violate

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laws with criminal penalties and rehabilitation efforts. Double jeopardy is one of such rules to deter the abuse of the justice system.

Double jeopardy prevents the individual from being tried again for the same facts constituting the same offence, following a valid acquittal or conviction. It is a procedural defence existing in both civil and criminal laws. The basic idea behind double jeopardy is deceptively simple: prosecutors should only get one chance to convict someone for a crime. The rule against double jeopardy originally flows from the maxim “nemo debet bis vexari pro uno et eadem causa”, which means that no person shall be vexed twice for the same cause. The term “double jeopardy” expresses the idea of a person being put in peril of conviction more than once for the same offence.[1] Additionally, it adheres to the "audi alteram partem rule," which states that no one may receive more than one punishment for the same offence.

DEFINITION OF DOUBLE JEOPARDY: A FOUNDATION

‘Double jeopardy’ means considerable danger or trouble from two sources. The putting of a person on trial for an offence for which he or she has previously been put on trial under a valid charge**:** two adjudications for one offence.[2] The word ‘jeopardy’ simply means danger arising from being on trial for a criminal offence. In furtherance, double jeopardy refers to the danger of being tried again for the same offence. No individual deserves to be harassed in the name of the law; it is an evil which is sought to be circumvented by prohibiting the double trial. In Jurisprudence, double jeopardy is a procedural defence (primarily in common law jurisdictions) that prevents an accused person from being tried again on the same (or similar) charges following an acquittal or conviction, in rare cases of prosecutorial and/or judicial misconduct in the same jurisdiction.[3]

Five policy considerations underpin the double jeopardy doctrine:[4]

1. Preventing the government from employing its superior resources to wear down and e rroneously convict innocent persons;

[1] Ian Dennis, “Rethinking Double Jeopardy: Justice and Finality in Criminal Process” [2000] Crim. L.R. 993.
[2] Merriam-webster dictionary, https://www.merriam-webster.com/dictionary/double%20jeopardy accessed on 7 May 2025
[3] Rudstein. David S, A Brief History of Fifth Amendment Guarantee Against Double Jeopardy (2005) https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1209&context=wmborj,accessed on 7 May 2025
[4] The legal dictionary, https://legal-dictionary.thefreedictionary.com/Double+jeapordy, accessed on 7 May 2025

2. Protecting individuals from the financial, emotional, and social consequences of succe ssive prosecutions;
3. Preserving the finality and integrity of criminal proceedings, which would be compro mised were the state allowed to arbitrarily ignore unsatisfactory outcomes;
4. Restricting prosecutorial discretion over the charging process; and
5. Eliminating judicial discretion to impose cumulative punishments that the legislature has not authorised.

FROM DOCTRINE TO REALITY: EVOLUTION OF DOUBLE JEOPARDY

The origins of the principle of not trying the accused for the same offence in a retrial can be traced to the Greek concept that consecrated the acquittal of the accused. It transferred into the history of Roman law concept of ne bis in idem (not twice for the same) principle in history (c. eighth century BCE–sixth century AD), when it emerged as a "primitive form of res judicata''. There is a close analogy between the manner the Roman law was formulated in the Digest of Justinian (533) which stated that "the governor should not permit the same person to be again accused of crimes of which he has been acquitted." The principle has been assimilated into the common law both directly and through ecclesiastical law where it was generally recognized. The principle found expression in the "pervasive nature of Roman law expressed in common law of England." This principle was encapsulated in the Latin maxim nemo debet bis puniri pro uno delicto— "no man ought to be twice punished for the same offense"—which is a source for the introduction of principle in the common law that reflects a close analogy between the evolution of Roman and English law.[5]

It evolved through the controversy between Henry II and Archbishop Thomas Becket in the 12th century.[6] Followed by the dispute, King's knights murdered Becket in 1170, and despite this, King Henry exempted the accused from further punishment in 1176. This concession given by King Henry is considered responsible for the introduction of this principle in English common law. In the twelfth century, the res judicata doctrine was introduced in English civil as well as criminal law due to the influence of the teachings of Roman law in England. During the thirteenth and part of the fourteenth centuries, a judgment of acquittal or conviction in a

[5] Zia Akhtar, 'Double Jeopardy, Autrefois Acquit and the Legal Ethics of the Rule Against Unreasonably Spitting a Case' (2024) https://www.tandfonline.com/doi/full/10.1080/0731129X.2024.2325795#d1e387, accessed on 7 May 2025
[6] Justice Roslyn Atkinson, Excerpt at Australian Law Students' Association (ALSA) Double Jeopardy Forum (2003)

suit brought by an appellant or the King barred a future suit. During the fifteenth century, an acquittal or conviction on an appeal after a trial by jury was a bar to a prosecution for the same offence. The sixteenth century witnessed significant lapses in the rational development of the rule, partly due to the statute of Henry VII, by totally disregarded the principle. Further, it was during that period that the famous Vaux's case was decided to the effect that a new charge could be brought even after a meritorious acquittal on a defective indictment. The last half of the seventeenth century was the period of enlightenment regarding the significance of the rule against double jeopardy. Lord Coke's writings contributed to it partly, and of course, the rest was due to the public dissatisfaction against the lawlessness in the first half of the century. It is only by the seventeenth century; the principle of double jeopardy seems to have developed into a settled principle of the common law.[7]

During the eighteenth century, the extreme procedure was generally followed. It should be noted that, in eighteenth century, Blackstone stated thus: "First, the plea of autrefois acquit, or a former acquittal, is grounded on this universal maxim of the common law of England, that no man is to be brought into jeopardy of his life for more than once for the same offence and hence it is allowed as a consequence that when a man is once fairly found not guilty upon any indictment or other prosecution, before any court having competent jurisdiction of the offence he may plead such acquittal in bar of any subsequent accusation for the same crime.[8]" Until the nineteenth century, the accused was provided with virtually no protection against a retrial when he or she was discharged due to a defect in the indictment or a variation between what was alleged and proved.[9]

The protection given under this rule has gained international recognition through various international documents.[10] In the present scenario, the provision related to the protection against double jeopardy has been incorporated in the statutes of almost all the civilised nations, and the rest are working towards it. In India, this concept existed via Section 403(1) of the

[7] Vijoy Vivekanandan, ' The Conceptual Analysis of the principle of Double Jeopardy and the Protection of Human Rights in Criminal Justice Administration', https://www.dehradunlawreview.com/wp-content/uploads/2020/06/6-The-conceptual-analysis-of-the-principle-of-double-jeopardy-and-the-protection-of-human-rights-in-criminal-justice-administration.pdf, accessed on 7 May 2025

[8] 4Blackstone, Commentaries, 335, (1889), excerpt by Lawrence Newman, "Double Jeopardy and the Problem of Successive Prosecutions", 34 S. Cal.R. [1960], p.252

[9] Martin L. Friedland, "Double Jeopardy", (1969) Oxford University Press, p.3.

[10] 4 The states are bound to cope with the relevant provisions of the conventions to which they are parties. For instance, Article 14(7) of the International Covenant on Civil and Political Rights, Article 4(1), Protocol 7 to the European Convention of Human Rights, Article 50 of the Charter of Fundamental Rights of the European Union.

CrPC[11], which became Sec 300 CrPC, now Sec 337 BNSS after amendment, as well as Sec 26 of the General Clauses Act,1897.[12]

INDIA'S STANCE ON DOUBLE JEOPARDY

Constitution of India: Article 20 of the Constitution provides the following safeguards to the person accused of a crime.

- **Ex Post Facto Law:** Article 20(1)
- **Double Jeopardy:** Article 20(2)
- **Prohibition against Self-Incrimination:** Article 20(3)

Clause (2) of Article 20 of the Constitution says that "no person shall be prosecuted and punished for the same offence more than once"[13]. This clause embodies the common law rule of nemo debet vis vexari, which means that no man should be put twice in peril for the same offence. If he is prosecuted again for the same offence for which he has already been prosecuted, he can take complete defence of his former acquittal or conviction. The American Constitution incorporates the same rule in the Fifth Amendment that 'no person shall be twice put in jeopardy of life or limb'. The protection under clause (2) is narrower than that given in American and British laws.[14]

The word 'prosecution' and 'punishment' embodies the following essentials for the application of the double jeopardy rule:

1. The person must be accused of an offence;
2. Proceedings must be taken before a court or tribunal.
3. The person must have been 'prosecuted and punished' in the previous proceeding;
4. The 'offence' must be the same for which he was prosecuted and punished in a previous proceeding.

[11] Act no. 5 of 1898
[12] R. K. P. Sarup, 'Double Jeopardy in Indian law concerning offences committed abroad: Need for a fresh approach (1954), Journal of the Indian Law Institute, vol 6, p.105
[13] Constitution of India, art-20
[14] J N Pandey, Constitutional Law of India, (60th edn. 2023)

The expression "same offence" shows that the offence for which the accused shall be tried and the offence for which he is again being tried must be identical, and based on the same set of facts.[15]

In the Constitution, the protection under Article 20 is only in respect of conviction. i.e. autrefois convict and not autrefois acquit. The principle of autrefois convict means that a person cannot be tried for an offence for the reason that he has previously been convicted of an offence, and the same can be combined with the plea of not guilty. However, autrefois acquit means that a person cannot be tried again for an offence for the reason that he has previously been acquitted. Thus, autrefois convict is recognised by the Constitution of India, while autrefois acquit is incorporated in the BNSS, 2023.[16]

Bharatiya Nagarik Suraksha Sanhita (BNSS): The current status of double jeopardy laws is much wider in Bharatiya Nagarik Suraksha Sanhita, 2023, than in the Constitution. It is provided under Section 337 BNSS, which explains it, including the exceptions made under it. In BNSS, double jeopardy laws deal with both the issues of autrefois convict and autrefois acquit. Therefore, double jeopardy applies to all who are either acquitted or convicted of the offence.

Section 337(1): According to S. 337(1) of the BNSS[17], a person cannot be tried for the same offence twice if they have already been tried by a court of competent jurisdiction and found not guilty or convicted for an offence they committed. The defendant cannot be tried again for the same set of circumstances and same offence, nor may he or she be tried again for the same circumstances and different charges brought against him or her under subsection (1) of section 244 or subsection (2) of section 244, while such acquittal or conviction remains in force. In furtherance, for this clause, an "acquittal" does not include the dismissal of a complaint or the release of an accused person. The provision set forth that for a case to qualify under this section, all relevant facts must be the same. If the facts of the case in the second trial are the same as the facts in the first trial, the person will be prohibited from the second trial.

[15] State of Rajasthan v. Hat Singh (2003) AIR SC 791
[16] Ishaan Uday 'Double Jeopardy in India: Incomplete and Inconsistent' (2024), https://www.livelaw.in/lawschool/articles/double-jeopardy-india-incomplete-inconsistent-266173,accessed on 24 May 2025
[17] Bharatiya Nagarik Suraksha Sanhita, 2023, s 337

Section 337(2): As per this clause, a person acquitted or convicted of any offence may be afterwards tried, with the consent of the state government, for any distinct offences for a separate charge might have been made against him at the former trial under sub-section (1) of section 243.[18] To prevent this abuse, section 337(2) stipulates a condition to obtain the permission state government before bringing new charges against anyone for any offence for which they may have already been found guilty at a previous trial. Thus, the only mandate of this provision is to obtain the state government's approval before trial.

Section 337(3): According to clause (3) of the section, a criminal may only be tried a second time if new facts become available as a result of an earlier offence. First off, this part only applies to those who have been found guilty of the crime; those who have been cleared of the charge are not covered. The second part of this section states that a person can only be tried again in situations where the courts were not made aware of certain information related to the offence. This means that a conviction can be overturned if new facts about the case come to light that the judges were not aware of during the first trial. It stipulates that any new facts or consequences must have emerged since the first trial's conviction or acquittal and not have been brought to the court's attention. As a result, it states that the convict may only be tried again for the newly observed offence that was not known in the first trial if some new offence occurred during the first trial as a result of an already known offence but was not disclosed to the courts in the first trial.[19]

Section 337(4): A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.[20] Basically, it states that in case the court was not competent to try subsequent offences which was a consequence of the first offence in the former trial, subsequent offences can be tried by another court of competent jurisdiction without any bar in a second trial.

Section 337(5): In accordance with Section 281 of the BNSS, which discusses the court's authority to halt the case's progress at any point without rendering a judgment, a person is discharged under Clause (5) of the section. However, the stoppage may be made after the

[18] Bharatiya Nagarik Suraksha Sanhita, 2023, s 243(1)
[19] Vipul Vaibhav & Tetiksha Shree, 'The Doctrine of Double Jeopardy: A Broader Aspect' (2023), vol 5, issue 3 https://www.ijfmr.com/papers/2023/3/2727.pdf accessed 10 May 2025
[20] Bharatiya Nagarik Suraksha Sanhita, 2023, s 337(4)

principal witness's testimony has been recorded, an acquittal has been declared, or the accused has been released, all of which have the same effect as a discharge. Therefore, according to this clause (5), no such accused person under S. 281 shall be tried again for the same offence without the permission of the court from which such discharge was made. This clause was created to safeguard the person against the abuse of new prosecution authority in such circumstances.

S.337(6): It states that the exception in S. 26 of the General Clause Act of 1897 or section 208 of BNSS shall not be affected by anything in S. 337.[21]

BEYOND THE PROTECTION: IDENTIFYING THE EXCEPTIONS

Departmental Proceeding: Departmental proceeding has not been covered under the ambit of this rule. In the case of STATE OF HARYANA V. BHAGWANT SINGH[22], the Court held that the prohibition under Article 20 does not apply to departmental proceedings.

Same Offence: Article 20(2) does not apply where the punishment is not for the same offence. Where a person was prosecuted and punished under the Sea Customs Act, and later on, prosecuted under the Indian Penal Code for criminal conspiracy, it was held that the second prosecution was not barred since it was not for the same offence.[23]

Continuation of Previous Proceeding: Article 20(2) will have no applicability where the person is punished and prosecuted for a second time, and the subsequent proceeding is a mere continuation of the previous proceeding. For instance, in the case of an appeal against an acquittal.[24]

Compensation for Claim: A decree of damages is not a punishment, and the rule of double jeopardy does not apply.[25]

Offences Committed at Different Places and Periods by different persons under a conspiracy.

[21] Bharatiya Nagarik Suraksha Sanhita, 2023, s- 337(6)
[22] State of Haryana v. Bhagwant Singh (2003) SC 140
[23] Leo Roy v. Superintendent District Jail (1958) AIR SC 119
[24] State of M.P. v. Veereshwar (1957) SCR 868
[25] Suba Singh v. Davinder Kaur (2011) AIR SC 3163

JUDICIAL INTERPRETATION: KEY CASES IN FOCUS

The Supreme Court has delivered several landmark judgments to give a better dimension to this rule; some of them are discussed below:

Firstly, the requirements of the conditions needed for the applicability of article 20(2) as mentioned above have been discussed and explained in the landmark decision of Maqbool Hussain v. State of Bombay.[26] In this case, the appellant, an Indian citizen, was arrested at the airport for the illegal possession of gold under the provisions of the Sea Customs Act, 1878. Thereupon, an action was taken under section 167(8) of the Act, and the gold was confiscated. Sometimes afterwards, he was charged sheeted before the court of the Chief Presidency Magistrate under section 8 of the Foreign Exchange Regulation Act, 1947. At trial, the appellant raised the plea of autrefois convict, since it violates his fundamental right guaranteed under Article 20(2) of the Constitution. He sought the constitutional protection mainly on the ground that he had already been prosecuted and punished since his gold had been confiscated by the customs authorities. By rejecting his plea, the court held that the proceedings of the Sea Customs Authorities cannot be considered as a judicial proceeding because it is not a court or judicial tribunal and the adjudgment of confiscation or the increased rate of duty or penalty under the provisions of the Sea Customs Act does not constitute a judgment or order of a court or judicial tribunal necessary for supporting a plea of double jeopardy. The court also held that the proceedings conducted before the sea customs authorities were, therefore, not 'prosecution' and the confiscation of gold is not punishment inflicted by a 'court' or 'judicial tribunal'. The appellant, therefore, cannot be said to have been prosecuted and punished for the same offence with which he was charged before the Chief Presidency Magistrate Court.[27]

The courts state that the doctrine of double jeopardy is enshrined in the maxim, nemo debet bis vexari si constat curiae quod sit pro una et eadem causa, which means that no person should be vexed twice if it so appears that it is for the same cause. This was stated by the court in the case Union of India v. P.D Yadav.[28] Post this, there were finer details pertaining to the doctrine that the courts looked into and clarified in other judgments.

[26] (1953) AIR SC 325
[27] Supra note 22
[28] (2002) 1 SCC 405

As per the case of P. Dahiya v. Union of India[29], it was held that if the accused is neither convicted nor acquitted of the charges against him in the first trial, his retrial would not constitute double jeopardy. The same was laid down in the case of State of Rajasthan v. Hat Singh.[30]

In the case of SMT. Kalawati v. State of H.P.[31], it was stated that, "If there is no punishment for the offence as a result of the prosecution clause (2) of article 20 has no application and an appeal against acquittal, if provided by the procedure, is in substance a continuance of the prosecution."

A person accused of committing murder was tried and acquitted. The State preferred an appeal against the acquittal. The accused could not plead Article 20(2) against the State, preferring an appeal against the acquittal. Article 20(2) would not be applicable as there was no punishment for the offence in the earlier prosecution. The same was the position in the case of Kalawati v. State of Himachal Pradesh.[32]

In yet another case, the case of State of Bombay v. S.L Apte, the Supreme Court explained the legal position and stated that for applicability of Article 20(2) the requisites must be that the offences are identical and analysis of ingredients of the two offences must be done, not the allegations in the two complaints.[33]

Lastly, in the case of Bhagwant Swarup v. State of Maharashtra, the Court held that, "the second prosecution, as well as punishment, should be regarding the same offence for which the person has been prosecuted and punished before, and Article 20(2) is applicable. The same offence here means that the ingredients of the offence are the same. It does not apply to different offences committed by the same act of that person.[34]

A COMPARATIVE LENS: DOUBLE JEOPARDY WORLDWIDE

England: The above provision of the American Constitution is indeed founded on the English Common Law rule "nemo debet bis vexari". It enabled an accused to raise a plea not only for autrefois convict but also of autrefois acquit before the implementation of the Criminal Justice

[29] (2003) 1 SCC 122
[30] (2003) AIR SC 791
[31] (1953) AIR SC 131
[32] Ibid 31
[33] State of Bombay v. S.L. Apte (1961) AIR SC 578.
[34] Bhagwant Swarup v. State of Maharashtra, (1979) AIR SC 1120.

Act, 2003. Following the murder of Stephen Lawrence, the Macpherson Report recommended that the double jeopardy rule should be abrogated in murder cases, and that it should be possible to subject an acquitted murder suspect to a second trial if "fresh and viable" new evidence later came to light. The Law Commission later added its support to this in its report "Double Jeopardy and Prosecution Appeals" (2001). These recommendations were implemented—not uncontroversial at the time—within the Criminal Justice Act 2003, and this provision came into force in April 2005. It opened certain serious crimes (including murder, manslaughter, kidnapping, rape, armed robbery, and serious drug crimes) to a retrial, regardless of when committed. Under the new system, a suspect can be tried again for the same offence if there is "new, compelling, reliable and substantial evidence" which had not been previously available.[35]

Germany: In Germany, also principle of double jeopardy is stated in Article 103(3) of Germany's Constitution: "No one may be punished for the same act more than once in pursuance of general legislation.[36]" Although German law protects the accused from being repeatedly prosecuted or subjected to double jeopardy, the prosecution as well as the defence may appeal a court judgment, and such an appeal by the prosecution is not considered double jeopardy. The notification for appeal must be submitted within one week after the oral announcement of the court's judgment. A brief supporting the appeal must be submitted within 30 days. SOFA and German Protections Against Double Jeopardy. The SOFA has a double jeopardy provision that states: "Where an accused has been tried in accordance with the provisions of [Article VII] by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party. However, nothing in this paragraph shall prevent the military authorities of the State from trying a member of its forces for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the authorities of another Contracting Party.[37]"

United States: In the United States, the protection in common law against double jeopardy is maintained through the Double Jeopardy Clause of the Fifth Amendment to the Constitution,

[35] Kush Khandelwal, 'the Judicial Perspective of Double Jeopardy in India' (2020), International Journal of Legal Science and Innovation, vol. 3, issue 4 https://ijlsi.com/paper/the-judicial-perspective-of-double-jeopardy-in-india/, accessed 12 May 2025
[36] M.V. Pylee, 'Select Constitution of the World' (4th edn. Universal Law Publishing 2016)
[37] NATO SOFA, Article VII

which provides: '... nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb.[38] Conversely, double jeopardy comes with a key exception. Under the dual sovereignty doctrine, multiple sovereigns can indict a defendant for the same crime. The federal and state governments can have overlapping criminal laws, so a criminal offender may be convicted in individual states and federal courts for exactly the same crime or different crimes arising out of the same facts.[39] However, in 2016, the Supreme Court held in Puerto Rico v. Sanchez Valle that Puerto Rico is not a separate sovereign for purposes of the Double Jeopardy Clause.[40]

Australia: In contrast to other common law nations, Australian double jeopardy law has been held to further prevent the prosecution for perjury following a previous acquittal, where a finding of perjury would controvert the acquittal. During a Council of Australian Governments (COAG) meeting in 2007, model legislation to rework double jeopardy laws was drafted, but there was no formal agreement for each state to introduce it. All states have now chosen to introduce legislation that mirrors COAG's recommendations on "fresh and compelling" evidence.

CONCLUSION: KEY INSIGHTS AND FINAL THOUGHTS

The rule of double jeopardy is a century-old principle, the existence of which can be traced to many good reasons and not merely by chance. It is a universally accepted principle for certain values embedded within the criminal justice system. The principle serves many purposes, including:

- Preventing the arbitrary actions of the state.
- Ensures finality of judgement.
- Protection from harassment and the anxiety of successive prosecution.

And many more, which are of great importance for the protection of the human rights of the accused person. Every legal system stands on two pillars, i.e. equity and certainty. In the usual course, an individual when once prosecuted and punished for an offence, believes that he has atoned by paying punishment or if he is acquitted, he must have certainty of not being prosecuted again for the same offence, as per the principle of natural justice. Therefore, the

[38] Timothy Harper, The Complete Idiot's Guide to the U.S. Constitution (2007), p.109
[39] Gamble v. United States, (2019) U.S. 587
[40] (2016) U.S. 579

rule of double jeopardy can be said to be based on equity and is widely recognised. Different cases present different scenarios. There is no straight-jacket formula which can be applied to every case; the applicability varies as per the needs of various cases. Hence, the aforesaid rule has been interpreted widely by the apex court to apply in different circumstantial situations.

To address the gaps in the current legal framework, it is necessary to expand the protection against double jeopardy to include simultaneous investigations and prosecutions. Although the Law Commission of India had recommended amending Section 26 of the General Clauses Act to address this issue, no action has been taken. The recommendation stemmed from recognising cases where multiple statutes address different aspects of the same act, leading to multiple offences. More recently, the new Section 337 BNSS chose to retain the identical language employed under Section 300 CrPC, thus eliminating any scope for legislative reform.[41] So, to protect the accused from the weaponisation of all acts at once, there is a need for expansion of the rule, and therefore, the existence of such a rule is inevitable for the integrity of the criminal justice system itself.

[41] Manu Sharma, 'Special enactments and the need to broaden protection against double jeopardy' (2024) , https://www.barandbench.com/columns/special-enactments-and-the-need-to-broaden-the-protection-against-double-jeopardy, accessed 13 May 2025