
RIGHT AGAINST SELF-INCRIMINATION: A COMPREHENSIVE STUDY

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ABSTRACT

The constitutional protection granted by Article 20(3) of the Indian Constitution is deeply rooted in the principles of natural justice and fairness. Its origins can be traced back to ancient Roman administrative law, encapsulated in the Latin maxim "*Nemo tenetur seipsum accusare*," meaning "No one is bound to accuse themselves." This principle evolved over time, gaining prominence during the Middle Ages in England as a reaction against the oppressive inquisitorial practices prevalent in criminal trials. The protection against self-incrimination subsequently became a cornerstone of British common law and later found its way into the American Constitution under the Fifth Amendment, which states, "No person shall be compelled in any criminal case to be a witness against himself." In India, Article 20(3) enshrines this protection, exclusively applicable to criminal cases. It ensures that no individual accused of an offense can be compelled to testify against themselves, thereby safeguarding the right to silence and personal liberty. This provision is a critical aspect of the broader right to a fair trial, forming an integral part of the constitutional framework aimed at preventing abuse of power by investigative authorities. However, this privilege is not absolute and is subject to judicial interpretation and specific conditions. The right under Article 20(3) does not extend to actions like the search or seizure of objects or documents from an accused person, as these do not involve testimonial compulsion. Similarly, it does not bar the medical examination of the accused or the collection of physical evidence such as fingerprints, handwriting samples, or voice samples, which are considered non-testimonial in nature. The judiciary plays a pivotal role in delineating the scope of this right, balancing the interests of justice with the protection of individual liberties.

Keywords: Right Against Self Incrimination, Protection, Accused, Witness, Fundamental Rights

I. INTRODUCTION

- History & Origin

The privilege to not testify against oneself is a constitutional safeguard under Article 20(3) of the Constitution, 1949. It is grounded in the legal principle “*Nemo Tenetur Seipsum Accusare*,” which translates to “No person, not even the accused, can be compelled to answer a question that may incriminate them.” The Indian Constitution borrowed this protection from the Vth Amendment of the United States Constitution,¹ which has its origins in the British criminal justice system. This entitlement, acknowledged as far back as the 18th century, came about at the same time as other fundamental principles like the assumption of innocence and the requirement for the prosecution to prove guilt.

Together, these legal principles equip the accused person with device to defend themselves against the power of the state.²

Article 20(3) is a fundamental right enshrined in Part III of the Indian Constitution. It serves as a cornerstone of criminal law and is supported by various principles, including:

- i. The presumption of innocence until proven guilty.
- ii. The obligation on the prosecution to prove guilt beyond a reasonable doubt.
- iii. The accused has right to remain silent and not to disclose information that could be self-incriminating.

- Rationale

The underlying rationale for this right was well-articulated in case of *Saunders v. United Kingdom*, 23 EHRR 313 (1997),³ where court emphasized the need to protect the accused from improper compulsion, ensuring that justice is not miscarried. One ethical foundation of this right is the necessity to safeguard individuals from torture or coercion by

¹ U.S. Constitution - Fifth Amendment | Resources | Constitution Annotated | Congress.gov | Library of Congress, <https://constitution.congress.gov/constitution/amendment-5/> (last visited Sep 29, 2024).

² Gautam Swarup, *Narco Analysis and Article 20(3) of the Indian Constitution: Blending the Much Awaited*, (2009).

³ *Saunders v. the United Kingdom*, <https://www.cilvektiesibugids.lv/en/case-law/saunders-v-the-united-kingdom-1> (last visited Sep 29, 2024).

investigators, which could lead to false confessions. In cases where involuntary statements are treated as sufficient evidence, the risk of wrongful arrests increases. Such methods not only violate human rights but also undermine the integrity of the legal process. Therefore, this protection helps to regulate police conduct during the investigation and shield innocent individuals from making incriminating statements out of fear, stress, or anxiety.

Another key rationale for this right is the reliability of evidence. When an accused is pressured to provide self-incriminating testimony, their mental state can be compromised, resulting in unreliable evidence that may mislead the court. This concern was addressed in *State of Bombay v. Kathi Kalu Ohgad*,⁴ where court warned that without this privilege, law enforcement might resort to coercive tactics rather than diligently investigating the facts.

- **Scope & Essentials**

In *M.P. Sharma v. Satish Chandra*,⁵ the SC of India broadened the boundaries of Article 20(3), highlighting the following crucial elements:

- The right applies specifically to individuals “accused of an offense.”
- It includes protection from being “compelled to testify.”
- The right extends to any compulsion to provide evidence that may be self-incriminating.
- The right provided in Article 20(3) is also reinforced by Article 21⁶ of the Constitution, which ensures a fair and just legal process. The 44th Amendment to the Constitution (1978)⁷ further strengthened this protection by establishing that It cannot be put on hold, not even in times of emergency.

- **Instances of Self-Incrimination**

The privilege to not testify against oneself becomes relevant when an individual is coerced by authorities into giving evidence or making statements that might harm their defence. This right

⁴ *State of Bombay v. Kathi Kalu Ohgad*, (1961) 2 S.C.R 10 (India).

⁵ *M.P. Sharma v. Satish Chandra*, (1954) 1 S.C.R 1077 (India).

⁶ India Const. art. 21.

⁷ The Constitution (Forty-Fourth Amendment) Act, 1978, No. 88, Acts of Parliament, 1978 (India).

provides the accused with the “right to remain silent” and prevents them from being forced to incriminate themselves under duress. It is a well-established legal principle that no individual can be presumed guilty until proven so by the court. Even when an accused confesses to a crime during trial, the court must ensure that such a confession was made voluntarily and without undue influence. The primary objective of this defence is to uphold human dignity and set clear standards for the administration of justice.

II. ARTICLE 20(3)⁸

It was designed to encourage the principles of natural justice and ensure a fair trial. In *Kanti Kumari v. State of Jharkhand*,⁹ the Supreme Court ruled that no individual can be compelled to give testimony that may be self-incriminating. The court further outlined specific criteria that must be met to invoke the protections offered by Article 20(3). These criteria are discussed below:

- **The Accused Must Be “Accused of an Offense”**

The protection under Article 20(3) is only available to someone who is formally charged with committing an offense under Indian penal laws. The judiciary clarified this point in a series of landmark cases, which distinguished between ordinary individuals and those formally accused of a crime.

- **Charges resulting to Prosecution:** In *K. Joseph v. Narayana*,¹⁰ the court stated that an individual is considered “accused of an offense” once an accusation has been made that is likely to lead to criminal prosecution.
- **Formal Accusation:** In *Vera Ibrahim v. State of Maharashtra*,¹¹ the court ruled that the protection under Article 20(3) does not apply to someone who has merely been detained on suspicion, without the filing of a formal First Information Report (FIR). Court emphasized that the right against self-incrimination is only applicable once formal charges have been made.

⁸ India Const. art. 20, cl. 3.

⁹ *Kanti Kumari & Ors. v. State of Jharkhand*, (2012) AIR Jhar 74 (India).

¹⁰ *K. Joseph v. Narayana*, (1964) 1 S.C.R. 552 (India).

¹¹ *Veera Ibrahim v. State of Maharashtra*, (1976) AIR 1167 (SC) (India).

- **Contempt of Court Cases:** In *Delhi Judicial Service Association v. State of Gujarat*,¹² the court clarified that individuals charged with contempt of court are not considered “accused persons” for the purposes of Article 20(3), as this right only applies to criminal actions, not contempt cases.
- **Stage of Accusation:** The question of when an individual becomes eligible for the protections under Article 20(3) was addressed in *R.B. Shah v. D.K. Guha*.¹³ The court determined that the right applies once an individual has been formally named in an FIR and the magistrate has ordered an investigation.
- **Witness in the Same Case:** In *Balasaheb v. State of Maharashtra*,¹⁴ the court ruled that an individual who is a witness in one case and an accused in other criminal case involving the subject matter which is same cannot claim complete immunity. However, they may refuse to answer specific questions that would incriminate them in the other case.

In summary, the privilege to not testify against oneself is limited to individuals who have been accused of a crime. Witnesses do not enjoy the same protection, which means they may still be subjected to questioning that could lead to self-incrimination.

- **Safeguard Against “Compulsion” to Be a “Witness”**

The term “witness” refers to any individual who holds relevant information about a matter under investigation and provides testimony, either voluntarily or under compulsion. The meaning of the phrase “to be a witness” u/a 20(3) has been broadened by the courts. In *M.P. Sharma v. Satish Chandra*,¹⁵ the Supreme Court held that an accused can be considered a witness even if they are only required to produce documents. This ruling extended the protection against self-incrimination to cover documentary evidence as well. However, subsequent case law has limited this interpretation to ensure the proper administration of justice.

¹² *Delhi Judicial Service Association v. State of Gujarat*, (1991) AIR 2176 (SC) (India).

¹³ *R.B. Shah v. D.K. Guha*, (1973) AIR 1196 (SC) (India).

¹⁴ *Balasaheb v. State of Maharashtra*, (1994) CRILJ 3044 (India).

¹⁵ *Id.* at 5.

- **Personal Knowledge:** In *State of Bombay v. Kathi Kalu Oghad*,¹⁶ The court specified that “self-incrimination” must pertain to sharing information that is known by the accused personally. The court ruled that the production of documents, unless they contain incriminating statements made by the accused, does not constitute self-incrimination.
- **Fingerprints and Handwritings:** In *State v. M. Krishna Mohan*,¹⁷ the court ruled that compulsory collection of fingerprints, handwriting samples, or photographs does not fall under the protection of Article 20(3), as these forms of evidence are not testimonial in nature.
- **Admissibility of Statements Leading to Discovery:** In *Pershadi v. State of U.P.*,¹⁸ the court held that a statement made by the accused after arrest, which leads to the discovery of incriminating evidence, is admissible in court. This ruling is supported by Section 27,¹⁹ which allows for the admissibility of statements leading to the discovery of facts.

Although the judiciary has provided clarity on what constitutes “self-incrimination,” the application of these principles still depends on the specifics of every case.

- **“Compulsion” to Incriminate Oneself**

The right given u/a 20(3) can only be invoked if the person is being coerced to provide testimony that would incriminate them. If an accused individual voluntarily provides self-incriminating evidence or makes a statement upon request, they waive their right under Article 20(3). The courts have defined what constitutes “compulsion” in various rulings:

- **Compulsion Must Be Applied:** In *Mohd. Dastgir v. State of Madras*,²⁰ the court ruled that the protection under Article 20(3) is only available to individuals who are being compelled to provide evidence or testimony under duress.

¹⁶ Id.at 6.

¹⁷ *State v. M. Krishna Mohan*, (2008) 6 S.C.C. 368 (India).

¹⁸ *Pershadi v. State of U.P.*, (1957) AIR 211 (SC) (India).

¹⁹ The Indian Evidence Act, 1872, No. 1, Acts of Parliament, 1872, § 27 (India).

²⁰ *Mohd. Dastgir v. State of Madras*, (1960) AIR 756 (SC) (India).

- **Psychological Coercion:** In *Nandini Satpati v. P.L. Dani*,²¹ the Supreme Court expanded the definition of compulsion to include psychological pressure. The court ruled that prolonged interrogation, environmental pressure, and mental intimidation are also forms of compulsion, which can lead to self-incriminating statements.
- **Involuntary Disclosures:** In *Yusufali v. State of Maharashtra*,²² the court ruled that information obtained without the knowledge of the accused is admissible as evidence, provided it was not obtained through compulsion or force. Additionally excluded by Article 20(3) is the seizure of documents from the premises of accused.

The courts have ruled that an accused individual cannot be compelled to provide evidence that contradicts their own defence. For instance, if the accused refuses to provide a sample of their hair for forensic analysis, they cannot be compelled to do so, as this would violate their right under Article 20(3).

- Applicability

The wordings of Article 20(3) clearly indicates that the protection against self-incrimination is only obtainable in criminal cases. However, over the years, the courts have broadened the scope of this right by addressing whether it can apply in civil and administrative proceedings.

- **Civil Proceedings:** In *Sharda v. Dharmpal*,²³ the Supreme Court considered whether *Section 151* of the CPC, 1908,²⁴ allows a person to be compelled to provide testimony. The court ruled that individuals involved in civil lawsuits do not have the right to constitutional protections according to Article 20(3) and that the main responsibility of a civil court is to determine the facts. According to Section 151 of the CPC, civil courts possess the inherent power to issue orders necessary to maintain the rule of law. Therefore, the protection under Article 20(3) does not extend to civil cases.
- **Administrative Proceedings:** The right against self-incrimination is also unavailable in administrative proceedings, as these do not involve investigative

²¹ *Nandini Satpati v. P.L. Dani*, (1978) AIR 1025 (SC) (India).

²² *Yusufali v. State of Maharashtra*, (1968) AIR 147 (SC) (India).

²³ *Sharda v. Dharmpal*, (2003) 4 S.C.C. 493 (India).

²⁴ The Code of Civil Procedure, 1908, No. 5, Acts of Parliament, 1908, § 151 (India).

processes with individual testimony. Since administrative procedures are based on documentation and facts, the essential elements of Article 20(3) are not applicable, and no protection can be claimed.²⁵

In conclusion, the right against self-incrimination is confined to criminal proceedings, involving offenses under the IPC. It does not extend to civil or administrative cases.

III. SECTION 161 OF CrPC

*Section 161*²⁶ of the CrPC outlines the procedures that police officers must follow when interrogating individuals. While this provision is applicable to all persons subject to police questioning, the judiciary has interpreted the term “person” more narrowly in certain contexts. In *Pakala Narayan Swami v. Emperor*,²⁷ it is clarified that the term “person” in *Section 161* includes anyone who may later be suspected of a crime.

While *Section 161* requires individuals to truthfully answer police questions, it also provides protection against self-incrimination. Specifically, *Section 161(2)* of the Code protects individuals from answering any questions that could later be used to incriminate them. This provision extends the protections offered u/a 20(3) of the Constitution.

- Scope & Applicability

Section 161(2) also encompasses the Right to be Silent. While individuals are required to answer questions truthfully, they have the option to remain silent if they believe their answers may be self-incriminating. The provision does not permit coercion or compulsion to obtain a statement. As a result, when read together with *Article 20(3)*, *Section 161* provides protection not only to accused persons but also to witnesses and suspects.

- Other Provisions

Several other provisions further safeguard the right against self-incrimination:

²⁵ (PDF) “Protection Against Self-Incrimination” as a Fundamental Right in India: A Critical Appraisal, https://www.researchgate.net/publication/305656462_'Protection_Against_Self-Incrimination'_as_a_Fundamental_Right_in_India_A_Critical_Appraisal (last visited Sep 30, 2024).

²⁶ The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974, § 161 (India).

²⁷ *Pakala Narayan Swami v. Emperor*, (1939) 41 B.L.R. 428 (India).

- **Section 313(3):**²⁸ This section safeguards the privilege of not speaking during a trial, making sure the defendant cannot be penalized for staying silent or giving misleading information.
- **Section 315(1) and Clause (b):**²⁹ These rules prevent any party or court from commenting on the accused's decision not to present evidence in court. These measures enhance the belief in the accused's innocence and uphold their right to remain silent, whether during questioning or in court. They also prevent the court and parties from drawing negative inferences based on the accused's silence.³⁰

IV. RIGHT TO REMAIN SILENT

The right to remain silent is deeply embedded in the framework of criminal law, forming a fundamental part of the legal protection for individuals accused of crimes. The principle that “it is the prosecution's duty to prove the accused's guilt”³¹ runs through the entire criminal justice system.

- Nexus Between the Right to Remain Silent and Self-Incrimination

In India, The Right to Stay Quiet is included within the larger right to not self-incriminate, which is protected by Article 20(3) of the Constitution. Indian criminal jurisprudence operates on the principle of “guilt beyond reasonable doubt,” meaning an accused person cannot be forced to forfeit their rights unless their guilt is proven in a court of law. In *D.K. Basu v. State of West Bengal*,³² the Supreme Court underscored that any individual apprehended must be explicitly notified of their right to stay silent, as enshrined in Article 20(3).

Justice Krishna Iyer, in *Nandini Satpati v. P.L. Dani*,³³ reiterated the importance of this right, stating that an accused person is entitled to remain silent if the questions posed to them may lead to self-incrimination. He examined the development of the right to stay quiet from

²⁸ The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974, § 313(3) (India).

²⁹ The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974, § 315(1) proviso, cl. (b) (India).

³⁰ 180 Th Report On Article 20(3) Of Constitution Of India And The Right To Silence, <https://indiankanoon.org/doc/10337889/?type=print> (last visited Sep 30, 2024).

³¹ *Woolmington v. DPP*, [1935] A.C. 462 (H.L.).

³² *D.K. Basu v. State of West Bengal*, (1997) AIR 610 (SC) (India).

³³ *Id.* at 22.

Talmudic Law to the Fifth Amendment, viewing it as a protection against torture and coercion in criminal inquiries.

Thus, if an individual chooses not to speak upon arrest, this silence cannot be held against them, as it is their constitutional right. Furthermore, the right to silence is linked to The freedom, as given in Article 19(1)(a) of the Constitution, also encompasses the right to remain silent.

- **Refusal of the Right Against Self-Incrimination**

While this right is a fundamental right, there are instances where an accused may voluntarily waive this right. As a general rule, fundamental rights cannot be waived, but in certain cases, the protection against self-incrimination may be considered waived if the accused voluntarily and knowingly makes incriminating statements.

The key condition for waiving this right is that it must be done with full knowledge and without any form of coercion. As highlighted in *D.K. Basu*,³⁴ the accused must be informed of their rights at the time of arrest. Similarly, in *Kartar Singh v. State of Punjab*,³⁵ the court ruled that it is the responsibility of law enforcement officials to ensure that the accused are aware of their rights. Hence, the renunciation of the privilege to remain silent is legitimate only when the defendant consciously and willingly decides to give up this safeguard, without any outside influence.

V. SCIENTIFIC EXAMINATION

Scientific techniques used to gather evidence in criminal cases must meet three main criteria: validity, reliability, and legality.³⁶ These standards are influenced by the methods used and the consistency of results obtained. Scientific examinations, such as DNA tests, are often vital in establishing facts, but their compliance with Article 20(3) has been a subject of debate.

- **DNA Test Analysis**

³⁴ Id. at 33.

³⁵ *Kartar Singh v. State of Punjab*, (1994) 3 S.C.C. 569 (India).

³⁶ Id. at 31.

There is ongoing debate regarding whether DNA testing infringes on an individual's rights to privacy and against self-incrimination. DNA tests have been widely accepted as one of the most accurate methods of uncovering the truth in criminal investigations. However, the question of whether they violate Article 20(3) was raised in the cases of *Kharak Singh v. State of U.P.*³⁷ and *Govind Singh v. State of M.P.*,³⁸ where the court observed that fundamental rights are subject to reasonable restrictions in the interest of public welfare. Consequently, the court held that DNA tests is not violative of Article 20(3).

While there have been differing opinions on the matter, DNA tests are seen as necessary in specific circumstances. For instance, in cases of disputed parentage, the courts have ruled that DNA tests are not unconstitutional. However, the judiciary has also stressed the need for proper procedures and safeguards, including:

- Incorporating specific provisions for DNA testing into the Criminal Procedure Code (CrPC).
- Establishing reliable regional DNA databases.
- Striking finding equilibrium between the defendant's entitlements and the requirement for effective and precise legal proceedings.

In *K. Damayanti v. State of Orissa*,³⁹ the Supreme Court recognized the importance of balancing the rights of the accused under Articles 20(3) and 21 with the need for effective procedures. Factors such as the defendant's involvement in the crime, the seriousness of the offense, and their overall well-being, including physical and mental health, need to be taken into account. Importantly, the court ruled that the accused must give consent before undergoing a DNA test, and if they refuse, the reasons for refusal should be recorded.

The court examined the possibility of drawing an adverse inference from the accused's reluctance to submit to a DNA test, using Section 114⁴⁰ of the Indian Evidence Act. This

³⁷ *Kharak Singh v. State of U.P.*, (1963) AIR 1295 (SC) (India).

³⁸ *Govind Singh v. State of M.P.*, (1975) AIR 1378 (SC) (India).

³⁹ *K. Damayanti v. State of Orissa*, (2004) CRILJ 4003 (India).

⁴⁰ The Indian Evidence Act, 1872, No. 1, Acts of Parliament, 1872, § 141 (India).

provision allows the court to infer negatively if an individual declines to present evidence that is within their control or possession.

- Narco Analysis Test

The Narco Test involves placing the accused in a semi-conscious state using drugs and stimulating their brain electronically through Brain Electrical Activation Profile (BEAP) technology to extract information. The need to treat the accused with dignity and respect for their mental and physical privacy is paramount, as reaffirmed by the courts in cases like *Kishore Singh v. State of Rajasthan*⁴¹ and *Gobind Singh v. State of M.P.*⁴²

A landmark judgment on the legality of scientific techniques such as narco-analysis, polygraph tests, and BEAP tests was delivered in *Selvi v. State of Karnataka*.⁴³ The court ruled that while these techniques may not involve physical coercion, they amount to “mental compulsion” since the accused may make self-incriminating statements under the influence of drugs or technology. The court held that individuals should not be forcibly subjected to these techniques. Nonetheless, if the accused willingly consents to these examinations, the outcomes may be utilized as evidence in court pursuant to Section 27⁴⁴ of the IEA, 1872. The ruling underscored the necessity of securing the accused’s consent, accurately documenting it, and guaranteeing the presence of legal counsel throughout the process.

VI. ROLE OF DIGITAL EVIDENCE

In today’s digital age, social media platform has become a powerful tool in criminal investigations. Platforms like Facebook, Instagram, and email accounts provide law enforcement agencies with access to a treasure trove of information that can be used as evidence. Social media activity, including posts, comments, and location data, can offer insights into an accused person’s behaviour, whereabouts, and state of mind, which are often difficult to extract through traditional investigative methods.⁴⁵

⁴¹ *Kishore Singh v. State of Rajasthan*, (1954) AIR 264 (Raj.) (India).

⁴² *Id.* at 39.

⁴³ *Selvi v. State of Karnataka*, (2010) AIR 1974 (SC) (India).

⁴⁴ The Indian Evidence Act, 1872, No. 1, Acts of Parliament, 1872, § 27 (India).

⁴⁵ Right of Self-Incrimination in Digital Age: Whether Compelled Disclosure of Password/Biometrics is Unconstitutional? | SCC Times, <https://www.sconline.com/blog/post/2023/03/18/right-of-self-incrimination-in-digital-age-whether-compelled-disclosure-of-password-biometrics-is-unconstitutional/#> (last visited Sep 30, 2024).

- **Intersection of Social Media and Self-Incrimination**

The relationship between this right and evidence obtained from social media can be illustrated by a simple example: imagine an accused individual, X, is suspected of being present at the scene of a crime. If X's Facebook check-ins or location history shows that they were indeed at the scene, this information could be used against them.

The ruling in *State of Bombay v. Kathi Kalu Oghad*, is particularly relevant here, as it established that information found on social media platforms does not fall under the protections of Article 20(3). The court reasoned that for testimony to be considered self-incriminating, it must be voluntarily given. Since social media posts are typically made voluntarily, they cannot be regarded as compelled testimony protected by Article 20(3).⁴⁶

Furthermore, content shared on social media does not qualify as testimony under the traditional definition, which involves oral or written statements made during legal proceedings. Thus, social media data cannot be protected by the right against self-incrimination, unless it can be demonstrated that the content was posted involuntarily.

- **Social Media as Evidence**

Social media platforms provide prosecutors with a new avenue for gathering evidence that would otherwise be unavailable. This information can help them form a clearer picture of the accused's actions and motives. In *Kathi Kalu Oghad*,⁴⁷ the court observed that modern digital platforms could provide prosecutors with crucial evidence, though these sources did not exist at the time the case was decided. Today, the evolving nature of technology means that courts must continually assess what constitutes self-incriminatory evidence in light of new developments.

Ultimately, the right against self-incrimination must be interpreted in a way that accommodates the rapid advancements in technology. Courts must ensure that the principles behind this right are applied in a manner that addresses contemporary issues, particularly the use of social media in criminal investigations.

⁴⁶ Id. at 5.

⁴⁷ Id.

VII. CONCLUSION & SUGGESTIONS

The law is a dynamic entity that evolves with societal changes and advancements in technology. The legal framework must adapt to integrate scientific and technological progress while ensuring it aligns with fundamental principles and the greater good of society. The principles of justice and equity constitute the cornerstone of the system of criminal justice.

The right provided in Article 20(3) primarily protects individuals accused of crimes, while also serving the state's interest in maintaining law and order. The principle of self-incrimination is broad, and its effective implementation requires the courts to consider the technical, scientific, and ethical aspects while keeping legal safeguards in check.

Article 20(3)'s exclusive application to suspected offenders and limited scope to criminal procedures are noteworthy limitations. Nonetheless, it is a positive development that witnesses and key suspects are now granted this protection under Section 161(2) of the CrPC. It is firmly established that the right against self-incrimination cannot be waived; however, if an individual willingly chooses to do so while fully aware of their rights, such a waiver may be valid.

Achieving a balance between the rights of the accused and the interests of victims and the state is crucial for ensuring justice. While restrictions on these rights may be necessary for public policy purposes, whether such restrictions are reasonable is highly dependent on the specific circumstances of each case. This makes the judiciary's role vital in scrutinizing the details of each situation.

At last, the state holds the duty of safeguarding the rights of its citizens and ensuring that no person is subjected to an unjust trial. While there have been many examples of the state failing because of conflicts of interest at different levels, it is crucial to have a strong system of accountability. The public's right to know is fundamental to preserving the sanctity of these rights; individuals can only assert their claims if they are aware of them. Additionally, maintaining high standards of quality and security in legal proceedings is imperative.

BIBLIOGRAPHY

1. Statutes

- The Constitution of India.
- The Constitution of United States of America.
- Indian Penal Code.
- The Criminal Procedure Code.
- The Code of Civil Procedure.
- Law Commission Reports.

2. Websites

- <http://docs.manupatra.in/newsline/articles/Upload/E978E05B-6194-4CB1-A7FC-C0E30B6FC7EC.pdf>
- <https://www.drishtijudiciary.com/editorial/right-against-self-incrimination>
- <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1090&context=etd>
- <https://ijtr.nic.in/articles/art19.pdf>
- [https://www.scconline.com/blog/post/2023/03/18/right-of-self-incrimination-in-digital-age-whether-compelled-disclosure-of-password-biometrics-is-unconstitutional/#:~:text=The%20Supreme%20Court%20had%20determined,violates%20Article%20\(3\).](https://www.scconline.com/blog/post/2023/03/18/right-of-self-incrimination-in-digital-age-whether-compelled-disclosure-of-password-biometrics-is-unconstitutional/#:~:text=The%20Supreme%20Court%20had%20determined,violates%20Article%20(3).)
- <https://p39ablog.com/2023/12/unlocking-devices-and-the-protection-against-self-incrimination/>

- <https://www.ojp.gov/ncjrs/virtual-library/abstracts/right-remain-encrypted-self-incrimination-doctrine-digital-age>
- <https://www.lexology.com/library/detail.aspx?g=5565536a-fd9a-4674-8bb6-3e19ec0960b9>