

Right against Self-incrimination

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Supreme Court has recently held that **All accused** have a **right to silence** and investigators **cannot** force them to **admit** their **guilt** as the Constitution accords every person a **right** against **self-incrimination**



[Ref – Hindustan Times]

About Right against self-incrimination:

- Right to remain silent has been taken from **Miranda Rights** and rights under the **Fifth Amendment of the American Constitution**.
- According to the Indian Constitution **Article 20(3)** states, “**No** one can be compelled to be a **witness** against himself”.
- In India, the right against self-incrimination is **limited only to criminal cases**.
 - In the **US**, it is available both as a **civil** and **criminal remedy**.
- The provision gives an accused the **right against self-incrimination**, a fundamental canon of law.
- Under criminal law jurisprudence, it is considered the **duty** of the **prosecution** to prove a person guilty beyond a reasonable doubt.
 - Until proven otherwise, the accused remains **innocent** except when tried under **the Protection of Children from Sexual Offences, or POCSO, (Amendment) Bill, 2019**.
- An accused’s **decision to remain silent** can be construed as a **negative** inference in certain circumstances but it **cannot** absolve the **prosecution** from its duty to prove the guilt of that person.

About Article 20(3) of Indian Constitution:

- **Article 20(3)** states that **no person accused** of an offense shall be **compelled** to be a **witness against himself**.
- This provision consists of the following **three components**:
 - It is a right pertaining to a **person accused** of an offense.
 - It is a **protection against compulsion** to be a **witness**.
 - It is a **protection against** such compulsion resulting in his giving **evidence against himself**.
- Right against self-incrimination **does not apply** in:

- **Production of material objects** like documents, weapons, etc.
- Providing thumb impressions, signatures, and blood specimens.

Important judgements regarding Right against Self- Incrimination:

- **State of Bombay vs Kathi Kalu Oghad, 1961** - Article 20(3) is **not** violated if the **accused** is asked to give his handwriting, thumb impression, fingerprint, palmprint, etc.
- **Selvi v State of Karnataka, 2010** - a [narcoanalysis test](#) without the consent of the accused would amount to a **violation** of the right against self-incrimination.