BLOGS

Notes on Article 20 of the Indian Constitution

Ruchika Mohapatra · 05 Apr 2023

Edit TABLE OF CONTENTS Introduction Clauses under Article 20 Landmark Cases under Article 20 Conclusion

Introduction

Article 20 of the Indian Constitution provides protection to the citizens of India against arbitrary and unjust treatment by the state. This article is a part of the Fundamental Rights and guarantees certain safeguards to individuals against conviction and punishment for offences.

The principles enshrined in Article 20 are crucial to ensuring the rule of law and protecting the rights of individuals in a democratic society. They are also essential to preventing the abuse of power by the state and maintaining the balance between individual liberty and the interests of the society as a whole.

The article is divided into three clauses which deal with different aspects of the protection provided by it.

Clauses under Article 20

Article 20 provides protection in respect of conviction for offences. Following are the three clauses under Article 20:

(1) No person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

Clause (1) of Article 20 of the Indian Constitution states that no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence. This means that a person cannot be convicted for an act that was not an offence at the time of its commission. This clause is known as the principle of ex post facto law. It is an essential

safeguard against the arbitrary and retrospective application of criminal laws.

Article 20 is not absolute and is subject to reasonable restrictions. For instance, Clause (1) of Article 20 does not prevent the legislature from making a law retrospective if it is for the benefit of the public or for any other reasonable purpose.

(2) No person shall be prosecuted and punished for the same offence more than once.

Clause (2) of Article 20 of the Indian Constitution provides protection against double jeopardy. It states that no person shall be prosecuted and punished for the same offence more than once. This clause ensures that a person cannot be tried and punished twice for the same offence. However, if a person commits different offences arising out of the same act, he can be charged and punished separately for each offence.

(3)No person accused of any offence shall be compelled to be a witness against himself.

Clause (3) of Article 20 of the Indian Constitution provides protection against self-incrimination. It states that no person accused of any offence shall be compelled to be a witness against himself. This means that a person cannot be forced to testify against himself or herself. This clause is based on the principle that it is the duty of the prosecution to prove the guilt of the accused and not the duty of the accused to prove his or her innocence.

Clause (3) of Article 20 does not prevent the state from compelling a person to give evidence in certain situations, such as when a public servant is being investigated for corruption or when the safety of the public is at risk.

Landmark Cases under Article 20

- Kedar Nath Singh v. State of Bihar: In this case, the Supreme Court held that Clause (1) of Article 20 applies only to substantive criminal laws and not to procedural laws. The court also held that the principle of ex post facto law applies only to criminal laws and not to civil laws.
- State of Bombay v. Kathi Kalu Oghad: In this case, the Supreme Court held that Clause (2) of Article 20 applies not only to subsequent prosecutions, but also to subsequent punishments. The Court also held that the protection against double jeopardy applies only to a person who has been tried and acquitted or convicted and punished for the same offence.

- Nandini Satpathy v. P.L. Dani: In this case, the Supreme Court held that the protection against self-incrimination is not absolute and can be waived by the accused. The Court also held that the accused cannot be compelled to give evidence against himself or herself, but he or she can voluntarily give such evidence.
- Mithu v. State of Punjab: The Supreme Court of India has interpreted Article 20 in various cases to expand and clarify its scope. In this case, the Court held that the protection against double jeopardy also applies to cases where a person has been convicted by a lower court and is subsequently acquitted by a higher court.
- Selvi v. State of Karnataka: In this case, the Court held that the protection against self-incrimination also applies to narcoanalysis, brain mapping, and lie detector tests.

Conclusion

In conclusion, Article 20 of the Indian Constitution provides essential safeguards to the citizens of India against arbitrary and unjust treatment by the state. It ensures that a person cannot be convicted for an act that was not an offence at the time of its commission, cannot be tried and punished twice for the same offence, and cannot be forced to testify against himself or herself. These safeguards are critical to protecting the fundamental rights and freedoms of the individuals in India.

Previously Asked Questions on Article 20

1. What is Double Jeopardy? Explain. [MPJS 2013]
2. Write a comprehensive note on constitutional guarantees against Ex-Post Facto.
3. Write a note regarding involuntary subjection of a person to narco-analysis test, polygraph test, and brain mapping test with special reference to the latest judgments of the Supreme Court of India. [RJS 2016]