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MIRANDA WARNING, ALERT!- Nikita Sharma¹**• Abstract:**

Miranda Warning is a precautionary criminal procedure rule that law enforcement must follow to protect a person in custody who is being questioned directly or in a functionally equivalent manner from a violation of their Fifth Amendment right not to be forced to incriminate themselves. This regulation is also part of a preventive statute that guards against pressured confessions and violations of due process. This paper examines the origin of this rule, its function, and the impact of the Miranda warning while also mapping the importance of such rights along with some exceptions to this warning. It also runs the US concept of Miranda warning parallel to the existing criminal laws in India and how the Indian legal system adheres to the foreign concept.

• Key Words:

Warning, Rule, Miranda, Concept, Law

• Introduction:

The Miranda warning grew out of the landmark case of the U.S. Supreme Court, *Miranda v. Arizona*. The decision held in this case plays an integral part in the U.S. criminal justice system. This paper examines the Origin of this rule, its function and the impact of the Miranda warning while also mapping the importance of such rights along with some exceptions to this warning. This paper also runs the US concept of Miranda Warning parallel to the existing criminal laws in India and how the Indian legal system adheres to this foreign concept.

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1. What is Miranda Warning?

The Miranda Warning, simply referred to by the term 'Miranda' is a legal warning given by a law-enforcing individual to a person who is in the custody of the officer or is about to go under any custodial interrogation where he will be questioned for the alleged crime committed by him, during the interrogation if there is a possibility that the individual might confess to his crimes or provide with any self-incriminating evidence. Then the Miranda Warning comes into the picture, this warning consists of a set of rights that the officer in charge is required to inform the suspect/person in custody before questioning begins. Usually, these rights include the right to remain silent, the right to an attorney, and the warning that anything said can and will be used against them in a court of law.

2. Background to its origin:

The genesis of the concept of Miranda Warning is deeply rooted in the troubling history of custodial abuse that the suspect goes through along with the violation of his rights due to the lack of awareness of one personal rights. The postulation² of Miranda Warning is a cornerstone of criminal procedure in the United States, this theory represents a pivotal safeguard in the realm of custodial interrogations and confessions. The law-enforced practices are often induced with coercion while interrogating, leading to the confessions obtained during such duress. A similar confession was recorded of Ernesto Miranda in the 1960s during the police interrogation, which was conducted without informing Ernesto of his legal rights. This confession catalyzed the legal battle that gave origin to the Miranda Warning in the case of Miranda Vs. Arizona, a case that serves as a legal bedrock ensuring that all individuals are made aware of their constitutional rights while they are questioned in police custody. And this case has since then become an integral part of the American criminal justice system. The notion of Miranda Warning is named after the landmark U.S. Supreme Court case Miranda v. Arizona³

In Miranda, the Court held that a suspect cannot be questioned by police officers during his custodial interrogation until the person in question is made aware of his constitutional rights which include:

- a. Right to remain silent
- b. Right to consult with an attorney

²A suggestion or assumption of the existence, fact, or truth of something as a basis for reasoning, discussion, or belief.

³ Miranda v. Arizona, 384 U.S. 436 (1966)

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c. Right to have an attorney appointed if incapable of appointing one himself.

All these rights branch from the Fifth and Sixth Amendments, the former being a privilege against self-incrimination and the latter being the right to appoint a council.

- **The Miranda Warning: Legal Foundation of the rule:**

Since the Fifth Amendment was historically considered to solely protect Americans against formal sorts of coercion to confess, such as threats of contempt of court, Miranda was widely regarded as a revolutionary change in American criminal law. Establishing what is now known as the "Miranda Warning" as a standard police process to ensure that suspects must be notified of their rights, had a tremendous impact on law enforcement in the USA.

The formal warning that must be given by law enforcement in the United States to criminal suspects in police custody (or in a custodial position) before they have been interrogated is known as the "Miranda Warning" (often abbreviated as "Miranda" or "Mirandizing" a suspect) in accordance with the "Miranda ruling". Before asking questions or taking other acts that are logically expected to elicit an incriminating answer, the accused should be made aware of their rights and reminded of them.

1. Self-Incrimination: The Fifth Amendment

The Fifth Amendment to the United States Constitution establishes this freedom. If he is being questioned by law authorities and doesn't want to say anything that can be used against him in court, in such cases one can use the Fifth Amendment. The Miranda Warning was developed within this constitutional framework to operationalize and protect these rights during custodial interrogations.

These warnings are a component in the preventive criminal process that law enforcement is required to follow to safeguard a person who is in police custody and is being interrogated or in any functionally equivalent cases, where they were coerced into incriminating themselves.

Many of the rights and ideas incorporated in the Miranda Warning are based on the Fifth Amendment's protection against self-incrimination. By forcing law enforcement to inform suspects of their rights, the Miranda Warning operationalizes these Fifth Amendment rights and protects against coerced confessions and due process abuses.

2. Right to Council: The Sixth Amendment

The Sixth Amendment focuses on a variety of rights in criminal proceedings, the right to legal representation makes it most applicable to the Miranda Warning. A vital component of the Miranda Warning and the safeguarding of people's rights during custodial interrogations, this

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constitutional right ensures that people are notified of their right to have a council present during questioning.

Although the Miranda Warning is not specifically mentioned in the Sixth Amendment, it is directly tied to the larger topic of defending people's rights in the criminal justice system⁴. When a person receives the Miranda Warning, the Sixth Amendment's right to legal representation is extremely important. During a custodial interrogation, if a suspect asks a council, law enforcement must halt questioning until an attorney is present. The right to counsel is explicitly protected by the Sixth Amendment in this clause.

Therefore, if law enforcement officers choose not to read a Miranda warning to a person in their custody, they may question that person and take appropriate action based on the information they learn. Still, they usually are not allowed to use that person's words as evidence against them in a criminal trial.

- **Essentials to Miranda Warning:**

"Nemo Tenetur Seipsum Accusare" is a legal maxim that translates to *"No one is bound to accuse himself."* A person cannot be forced to testify against oneself or be used as evidence against them in a criminal case; this is a basic rule of the legal system. It is a fundamental right that is legally protected in many countries throughout the world. The privilege against self-incrimination is sometimes known as the right against self-incrimination. The first known basis of the rule on self-incrimination, which allows people to refuse to testify against themselves in court, is Roman law.

Although Miranda Warning does not require to be quoted in the exact wording as stated, the police must inform the suspect that they have the right to remain silent, that anything they say can and may be used against them in court, that they have the right to an attorney present before and during questioning, and that if they cannot afford an attorney, one will be appointed to represent them at no cost to them and public expense⁵. There is no precise language that is to be used while advising a suspect of their Miranda rights⁶.

⁴Lisker, C. (2023). GEOGRAPHIC AND LINGUISTIC BELONGING: A PREREQUISITE FOR FULL CONSTITUTIONAL RIGHTS. *Chicanx-Latinx Law Review*, 39(1), 183–208. <https://www.jstor.org/stable/48747595>

⁵Brown Vs. Crosby, 249 F. Supp. 2d 1285 (S.D. Fla. 2003).

⁶California Vs. Prysock, 453 U.S. 355 (1981).

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⁷Whatever the language may be used the substance of the rights outlined above must be communicated to the suspect in the same context⁸. These rights can be advised either orally or in writing⁹.

1. Requirements for the Warning:

To sustain the notion of Miranda Warning, the six requirements are to be satisfied before:

- a. Evidence must have been gathered.
- b. The evidence must be testimonial
- c. The evidence must be obtained while the suspect was present in the custody
- d. The evidence must be the conclusion of interrogation
- e. State agents must have conducted the interrogation
- f. The evidence must be offered by the state during a criminal prosecution.

- Prerequisites:

If all six conditions are satisfied and Miranda applies, the statement will be suppressed unless the other party can show that the suspect was informed of their rights and voluntarily waived them, or that the situation qualifies for an exception to the Miranda rule. In accordance with state criminal procedural laws and provisions of state constitutions, the suspect may also be allowed to contest the admissibility of the statement

2. Exception to the rule:

If all six conditions are satisfied, the Miranda rule would be applicable unless the prosecution can prove that the statement qualifies for an exception to the rule. There are three exceptions to the rule of Miranda:

- i. Routine Booking Question Exception
- ii. Jail House Informant Exception
- iii. Public Safety Exception

All three situations are regarded as exceptions to the rule. The jailhouse informant exception applies when the suspect is speaking to a state agent while unaware that the person is one, this could be a police officer impersonating an inmate, a cellmate who is also an agent for the state, or a relative or friend who has agreed to assist the state in gathering evidence against the suspect. Police must Mirandize a suspect only if they want to question them while they are in custody. Arrests can take place without the Miranda Warning being read, but if the police decide to

⁷Duckworth Vs. Eagan, 492 U.S. 195 (1989).

⁸Bloom and Brodin, Criminal Procedure, 5th ed. (Aspen 2006) 268.

⁹U.S. Vs. Labrada-Bustamante, 428 F. 3d 1252 (9th Cir. 2005).

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conduct an interview, the warning must be read. This regulation lessens the possibility that a case may be reversed for improper procedure. If there is a risk to the public, the defendant may be questioned without being Mirandized, and any information gathered may be utilized against the suspect. The person who was arrested is still required to give information regarding their identity, age, and residence. A confession made before receiving the Miranda Warning may be used as proof in court.

These warnings made sure that all the suspects were aware of their rights and had rightfully opted for the same or voluntarily waived it off, along with this these warnings also helped the law enforcers to establish that the confession obtained by them was provided voluntarily and within the capacity of the suspect and hence to be considered admissible before the bench. These rights reduced the chances of any sort of coercion or duress during the questioning and accepted the request to remain silent or demand an attorney.

- **Compliance with Miranda Warnings in India:**

The system for Miranda Warning followed in the United States is not parallel to that of India. The Miranda Warning is a legal obligation created by their Apex Court in the case of *Miranda Vs. Arizona* in the year 1966. This advised the public of their legal rights, including their right to remain silent and their right to demand the presence of their legal advisors before they are met with custodial interrogations. Although the Indian statute doesn't follow the Miranda warning in its literal sense the legal justice system does possess the provisions in place to protect the rights of individuals in custody.

1. *The Indian Constitution*

The wording 'Miranda Warning' is not explicitly drawn in the Indian Constitution since is a special obligation of the U.S. criminal system. The Indian Constitution and the other relevant statutes do, however, bear clauses that are consistent with a few elements that are included in the Miranda Warning. These provisions emphasize the key principles of individual rights protection, preventing self-incrimination and the right to appoint and obtain a legal council.

2. *Protection of Individual Rights:*

The criminal justice system in India has chosen a contentious legal system that maintains that anyone detained or arrested by the police on the basis that they believe they have committed a crime should be presumed innocent and punished in and of themselves.

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A. CRPC Sec 50¹⁰:

A police officer who is arresting the suspect has a duty to communicate to inform, full particulars of the offence that is alleged to have been committed and the grounds of arrest. If a person is arrested for a bailable offence, he has a right to be released on bail when arrested. The police officer must inform him of his right to be released on bail. Bailable and Non-bailable offences: Bailable offences are mostly less grave and the bail can be granted by the police officer himself. Though the term Non-bailable gives the impression that bail is not available, bail can be obtained from the Magistrate. Every person has a right to bail.

B. CRPC Sec 56 and 57¹¹:

The person arrested has to be brought before the magistrate within 24 hours of his arrest.

C. CRPC Sec 303¹²:

Any individual if accused of any offence before the criminal court or any accused against whom proceedings are initiated, has a right to be defended by a pleader of his choice or have one be appointed by the government.¹³

D. Confession:

The Cr.P.C. states that only a Metropolitan Magistrate or Judicial Magistrate has the authority to record confessions and statements made during an investigation under section 164(1). Before recording any confession, the Magistrate must explain to the subject that he is under no obligation to do so and that, should he do so, any confession could potentially be used as evidence against him. Additionally, under Section 164(2), the Magistrate may not record a confession unless he has cause to think that the confession is being given voluntarily in response to interrogation.

E. Art. 22(1)¹⁴

The arrested person may consult a lawyer during interrogation, but he cannot consult him throughout the interrogation period.

3. Constitutional Provisions in India

No [person] shall be imprisoned without prompt notice of the basis for the arrest and shall not be denied the right to seek advice and protection from an attorney for election purposes, according

¹⁰Section 50: Right to be informed of the grounds of arrest.

¹¹Person arrested no to be kept in custody for more than twenty-four hours.

¹²Right of person against whom proceedings are instituted to be defended.

¹³Corresponding to Sixth Amendment of U.S. Constitution.

¹⁴Art. 22, Protection against arrest and detention in certain cases.

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to Article 22, (1) of the Indian Constitution. The Supreme Court of India established clear regulations to be followed at the time of arrest in 1997. This includes the requirement that the individual being arrested understand his or her right to be informed of the arrest.

Following Article 20's¹⁵ Clause 3, "a person accused of a crime may not be forced to testify against himself." Article 20, clause 3 of the Constitution does not apply to the straightforward guidelines that police officers must follow to look into a crime against a specific person. In *Nandini Satpathy v. P.L. Dani*, the Supreme Court significantly widened Art. 20(3)'s application. The court determined that the Art. 20(3) restriction stretches back to the time of the police interrogation and does not begin then.

- **Case Studies: Applying Miranda Warnings**

The courts will not assume that a suspect has been adequately informed of his rights or draw the inference that the privilege against self-incrimination has been safeguarded if there is no proof that he or she has received the required Miranda warnings. Although the person in custody waives her rights to appoint or obtain a lawyer, she is required to be made aware of her rights to prevent the probability of self-incrimination during interrogation.

- A. The case of *State of Bombay Vs. Ramdas Srinivas Nayak (1982)*¹⁶, the court ruled that an accused person's refusal to provide his fingerprints, sample handwriting, or voice samples could not be used as substantive evidence against them and refusing to give the testimony or by opting to remain silent is a privilege that is covered under Art.20 to depose any such statements that could amount to self-incrimination.
- B. In the case of *Selvi v. State of Karnataka (2010)*¹⁷, the Apex Court acknowledged the fact that providing lie detector tests, brain mapping or any other sort of Narco-analysis or psychological analysis amounts to infringement of an individual's right against self-incrimination. The Court ruled that without any expressed consent obtained from the accused, such evidence cannot be placed and used as evidence.

These examples emphasize the significance of the privilege against self-incrimination in Indian law and serve to interpret and apply it. For more thorough information on particular cases and any new changes in this field of law, it is crucial to consult legal resources.

¹⁵Art. 20, Protection in respect of conviction for offences.

¹⁶*State of Bombay Vs. Ramdas Srinivas Nayak*, 1982 AIR 1249, 1983 SCR (1) 8.

¹⁷*Selvi Vs. State of Karnataka*, AIR 2010 SC 1974, (2010) 7 SCC 263.

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- **Conclusion:**

The Miranda Warnings were created to protect and safeguard individuals' rights and prevent law enforcement from infringing on them. These warnings were developed as a response to the issues relating to ill-treatment of detainees, coerced confessions and violation of rights. To make the admissions that were made before the law enforcing officers before the court of law valid and admissible, the suspect must be made aware of his Miranda rights. Miranda warnings are intended to indemnify the individuals' fundamental rights, including the right to remain silent during questioning and upon request, the right to an uncompensated lawyer's presence. Once informed of their rights, individuals may freely and knowingly waive them off and speak to the police. The implementation of a Miranda-like warning system in India could potentially offer a viable remedy to address these issues and provide a foundation for a more equitable criminal justice system. If implemented in the manner of concern, such a system could help to enhance public trust in law enforcement, decrease abuses in custody, and promote fundamental rights in the country. However, incorporating such a system into the legal framework would require the implementation process to overcome various obstacles and address the criticisms. The warning system if applied and followed would have significant benefits for the criminal justice system, creating a more just and fair society.

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