
NARCOANALYSIS IN CRIMINAL INVESTIGATION: A CONFLICT BETWEEN TRUTH-SEEKING AND THE RIGHT TO FAIR INVESTIGATION AND PRIVACY UNDER ARTICLE 21

Santhosh, The Central Law College, Salem, Tamil Nadu

ABSTRACT

Narcoanalysis, together with allied scientific interrogation techniques such as the polygraph (lie-detector) test and the Brain Electrical Activation Profile (BEAP), has been employed by Indian investigating agencies as a supposed aid to uncovering the truth in criminal cases. While proponents present these methods as valuable investigative tools capable of cutting through an uncooperative suspect's silence, their involuntary use raises serious constitutional concerns chiefly, the right against self-incrimination under Article 20(3) and the right to life, personal liberty, privacy, and fair investigation under Article 21 of the Constitution of India. This paper traces the scientific and legal nature of narcoanalysis, surveys the trajectory of Indian High Court and Supreme Court jurisprudence culminating in *Selvi v. State of Karnataka*¹, identifies the constitutional, procedural, and scientific problems the technique generates, and evaluates existing regulatory gaps. It then proposes a set of legal and legislative reforms designed to reconcile investigative utility with constitutional fidelity. The study adopts a mixed-methods design, combining quantitative analysis of reported judicial and forensic-practice trends with qualitative doctrinal analysis of constitutional text, case law, and comparative jurisprudence, in order to arrive at a balanced and implementable set of conclusions.

Keywords: Narcoanalysis, Article 21, Article 20(3), self-incrimination, right to privacy, fair investigation, criminal procedure, forensic science, *Selvi v. State of Karnataka*

¹*Selvi & Ors. v. State of Karnataka & Anr.*, AIR 2010 SC 1974 (Supreme Court of India, 5 May 2010) (three-judge bench of K.G. Balakrishnan, C.J.I., R.V. Raveendran and J.M. Panchal, JJ.).

1. Introduction

1.1 Background

The Indian criminal justice system is founded on the presumption of innocence and on the principle that guilt must be established through evidence gathered by lawful and fair means, not merely by expedient ones. Yet the pressure on investigating agencies to secure quick results particularly in cases involving terrorism, organised crime, sexual offences, and high-profile financial fraud has repeatedly tempted the State toward scientific interrogation techniques that promise to bypass an uncooperative suspect's silence. Narcoanalysis, colloquially called the "truth serum" test, is the most controversial of these techniques.

During the early-to-mid 2000s, Indian investigating agencies increasingly relied on narcoanalysis in high-visibility cases, including the Abdul Karim Telgi fake stamp-paper scam,² the Arushi Talwar murder investigation, and various terrorism-related prosecutions. Defence lawyers and human-rights organisations challenged this practice, contending that forcibly drugging a suspect or accused to extract information is irreconcilable with constitutional guarantees of liberty, dignity, and the privilege against self-incrimination. This conflict was authoritatively though not conclusively in every respect resolved by the Supreme Court of India in *Selvi*.³

1.2 Statement of the Problem

The central problem this paper addresses is the persistent tension between two legitimate but competing State and individual interests: the State's interest in effective, timely criminal investigation and truth discovery, particularly where conventional interrogation and evidence-gathering methods have failed; and the individual's constitutionally guaranteed rights against compelled self-incrimination under Article 20(3)⁴ and to personal liberty, dignity, mental privacy, and a fair investigative process under Article 21.⁵

²The Abdul Karim Telgi fake stamp-paper scam investigation, in which narcoanalysis was administered to the accused and co-accused; see *Ramchandra Ram Reddy v. State of Maharashtra*, Bombay High Court, Criminal Writ Petition No. 1924 of 2003, decided 5 March 2004.

³*Selvi & Ors. v. State of Karnataka & Anr.*, AIR 2010 SC 1974 (Supreme Court of India, 5 May 2010) (three-judge bench of K.G. Balakrishnan, C.J.I., R.V. Raveendran and J.M. Panchal, JJ.).

⁴Constitution of India, 1950, art. 20(3): "No person accused of any offence shall be compelled to be a witness against himself."

⁵Constitution of India, 1950, art. 21: "No person shall be deprived of his life or personal liberty except according

Despite the Supreme Court's clear pronouncement in *Selvi*, India continues to lack a dedicated statute governing the administration of narcoanalysis and allied techniques, leaving significant gaps in consent verification, procedural safeguards, and evidentiary treatment that this paper seeks to identify and address.

1.3 Objectives of the Study

1. To examine the scientific and legal nature of narcoanalysis and allied investigative techniques.
2. To trace the evolution of Indian judicial thinking on the constitutionality of these techniques, from early High Court decisions to *Selvi*.
3. To identify the specific constitutional, procedural, and scientific problems created by the involuntary use of these techniques.
4. To examine the adequacy of the existing regulatory and guideline-based framework.
5. To propose concrete legal and legislative solutions that would reconcile investigative utility with constitutional protections.

1.4 Research Questions

1. Does the involuntary administration of narcoanalysis violate Article 20(3) and Article 21 of the Constitution of India?
2. How has Indian jurisprudence evolved on this question, and what inconsistencies existed prior to *Selvi*?
3. What are the principal legal, procedural, and scientific problems associated with narcoanalysis as an investigative tool?
4. What legislative or regulatory reforms would best address these problems while preserving legitimate investigative utility?

to procedure established by law."

1.5 Scope and Limitations

This paper is confined to the Indian constitutional and statutory context, though it draws comparative insights from other common-law jurisdictions where relevant. It does not purport to offer a clinical or pharmacological evaluation of narcoanalysis; its treatment of the scientific reliability of the technique is limited to what is legally relevant to admissibility and constitutionality. The quantitative component of the methodology relies on secondary, publicly reported data rather than primary field data collection, given the sensitivity and limited public availability of forensic laboratory statistics on this subject.

1.6 Significance of the Study

As India transitions to a new criminal law framework the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023⁶ there is a timely opportunity to codify clear, rights-protective standards for scientific investigative techniques. This paper is intended to contribute to that legislative conversation.

2. Definitions and Conceptual Clarification

Narcoanalysis: An investigative technique in which a barbiturate drug (commonly sodium pentothal, also known as sodium amytal in some variants) is administered intravenously to induce a hypnotic, semi-conscious state in which the subject's inhibitions are lowered, with the stated aim of eliciting information that the subject would not otherwise disclose voluntarily.

Polygraph Test: A test that records physiological responses blood pressure, pulse rate, respiration, and skin (galvanic) conductivity while a subject answers a structured series of questions, used to infer the truthfulness of the subject's answers based on the theory that deception produces measurable physiological arousal.

Brain Electrical Activation Profile (BEAP) / Brain Mapping / Brain Electrical Oscillation Signature (BEOS): A neuro-scientific technique that measures electrical activity in the brain in response to auditory or visual stimuli connected with a crime, purportedly to determine

⁶Bharatiya Nyaya Sanhita, 2023; Bharatiya Nagarik Suraksha Sanhita, 2023; Bharatiya Sakshya Adhiniyam, 2023 (replacing, respectively, the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, with effect from 1 July 2024).

whether the subject possesses “experiential knowledge” of the event in question.

Testimonial Compulsion: The act of compelling a person to disclose facts within their personal knowledge, as distinguished from compelling the production of physical evidence (such as fingerprints, blood samples, or handwriting specimens), which Indian courts have held falls outside the protection of Article 20(3).⁷

Article 20(3) of the Constitution of India: Provides that "no person accused of any offence shall be compelled to be a witness against himself."⁸ This is the Indian constitutional analogue to the privilege against self-incrimination.

Article 21 of the Constitution of India: Provides that "no person shall be deprived of his life or personal liberty except according to procedure established by law."⁹ Through an expansive line of judicial interpretation beginning with *Maneka Gandhi v. Union of India*,¹⁰ this has come to encompass the right to privacy, human dignity, and the right to a fair, just, and reasonable investigative and trial process.

Right to Fair Investigation: A judicially recognised facet of Article 21 requiring that investigation be conducted through lawful, non-coercive, and impartial means, and that the fruits of an unfair or coercive investigation be treated with suspicion by courts.

Right to Privacy: Recognised as a fundamental right flowing from Article 21 and reaffirmed as a facet of life and personal liberty; encompasses “mental privacy” the autonomy to control what one discloses about one's own thoughts, memories, and knowledge.

3. Literature Review

Academic and judicial commentary on narcoanalysis in India can be grouped into three broad strands.

The investigative-utility strand argues that scientific techniques, used judiciously, can assist

⁷*State of Bombay v. Kathi Kalu Oghad*, AIR 1961 SC 1808 (11-judge bench), holding that the privilege under Article 20(3) does not extend to physical evidence such as fingerprints, signatures, or handwriting specimens.

⁸Constitution of India, 1950, art. 20(3): "No person accused of any offence shall be compelled to be a witness against himself."

⁹Constitution of India, 1950, art. 21: "No person shall be deprived of his life or personal liberty except according to procedure established by law."

¹⁰*Maneka Gandhi v. Union of India*, AIR 1978 SC 597, expanding the interpretation of Article 21 to require that any procedure depriving a person of life or liberty be fair, just, and reasonable.

under-resourced investigating agencies in breaking through the silence of hardened or well-coached suspects, particularly in organised crime and terrorism cases where conventional evidence is difficult to obtain. Early High Court decisions such as *Ramchandra Ram Reddy v. State of Maharashtra*¹¹ reflect this strand, upholding the use of brain mapping and narcoanalysis in the Telgi stamp-paper scam investigation and holding that evidence procured through such tests could be admissible.

The rights-protective strand, which ultimately prevailed in *Selvi*, argues that the involuntary use of these techniques amounts to a modern form of coercive interrogation dressed in scientific legitimacy, and that it offends both the specific textual guarantee of Article 20(3) and the broader liberty and dignity guarantees of Article 21. This strand draws on earlier privacy and dignity jurisprudence, including *Kharak Singh v. State of Uttar Pradesh*¹² and *D.K. Basu v. State of West Bengal*,¹³ which condemned custodial excesses and recognised the need for procedural safeguards during investigation and detention.

The scientific-reliability strand approaches the debate from outside constitutional doctrine, focusing on medical and psychological research questioning whether narcoanalysis reliably distinguishes truth from confabulation, given the suggestibility of subjects in a drug-induced state and the risk of false memories or invented narratives. This strand informed the Supreme Court's own scepticism in *Selvi* about treating narco-statements as substantive evidence.

This paper draws on all three strands, but aligns its normative conclusions with the rights-protective strand while incorporating the scientific-reliability critique into its proposed legislative safeguards.

4. Judicial Evolution: From High Court Divergence to *Selvi v. State of Karnataka*

4.1 Early High Court Decisions (Pre-2010)

Prior to the Supreme Court's intervention, High Courts across India took varying and at times conflicting positions:

¹¹*Ramchandra Ram Reddy v. State of Maharashtra*, Bombay High Court, Criminal Writ Petition No. 1924 of 2003, decided 5 March 2004.

¹²*Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

¹³*D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

Ramchandra Ram Reddy v. State of Maharashtra: ¹⁴ In the context of the Telgi fake stamp-paper scam, the Bombay High Court upheld the legality of P300 (brain mapping) and narcoanalysis tests, holding that they did not, without more, violate Article 20(3), and suggested that evidence procured through such tests could be admissible.

Dinesh Dalmia v. State: ¹⁵ The Madras High Court held that subjecting an accused to narcoanalysis was not, by itself, testimonial compulsion, reasoning that while the accused might be taken to the laboratory against his will, the revelations made during the test were technically “voluntary.” The Court also observed that where an accused had not come forward with the truth, investigating agencies were entitled to resort to scientific tests as an aid to completing investigation within a reasonable time.

Sh. Shailender Sharma v. State: ¹⁶ The Delhi High Court held that narcoanalysis was a permissible “step in aid of investigation” and did not suffer from constitutional infirmity, while clarifying that any self-incriminatory statement made by the accused during the test could not be relied upon by the prosecution.

Rojo George v. Deputy Superintendent of Police: ¹⁷ The Kerala High Court permitted narcoanalysis, reflecting concern that modern criminals had become adept at resisting conventional interrogation techniques.

This body of pre-2010 case law reveals a judiciary largely inclined to defer to investigative necessity, drawing a formalistic distinction between the compulsion to attend a test and the “voluntariness” of statements made once sedated a distinction the Supreme Court would later reject as illusory.

4.2 Selvi v. State of Karnataka: The Turning Point

The consolidated appeals in Selvi¹⁸ were decided on 5 May 2010 by a three-judge bench comprising Chief Justice K.G. Balakrishnan and Justices R.V. Raveendran and J.M. Panchal.

¹⁴Ramchandra Ram Reddy v. State of Maharashtra, Bombay High Court, Criminal Writ Petition No. 1924 of 2003, decided 5 March 2004.

¹⁵Dinesh Dalmia v. State, Madras High Court, CrI. R.C. No. 259 of 2006 and CrI. M.P. Nos. 1518 and 1519 of 2006.

¹⁶Sh. Shailender Sharma v. State, Delhi High Court, CrI. WP No. 532 of 2008.

¹⁷Rojo George v. Deputy Superintendent of Police, Kerala High Court, CrI WP No. 6245 of 2006.

¹⁸Selvi & Ors. v. State of Karnataka & Anr., AIR 2010 SC 1974 (Supreme Court of India, 5 May 2010) (three-judge bench of K.G. Balakrishnan, C.J.I., R.V. Raveendran and J.M. Panchal, JJ.).

The Court had reserved judgment after three days of hearings in January 2008, with extensive submissions from the Solicitor General and amicus curiae counsel.

Issues before the Court:

1. Whether the involuntary administration of narcoanalysis, polygraph, and BEAP tests violates the right against self-incrimination under Article 20(3).
2. Whether such involuntary administration constitutes an unreasonable restriction on "personal liberty" as understood under Article 21.

Holding:

The Court rejected the “voluntariness of the statement” fiction relied upon by earlier High Courts, holding that the compulsory administration of these techniques itself amounts to testimonial compulsion, since the resulting statements are not the product of the subject's own volition and judgment.

The protection under Article 20(3) was held to extend beyond the trial stage to the investigation stage, and to cover not only the accused but also suspects and witnesses.

The involuntary administration of these tests was held to violate the standard of “substantive due process” under Article 21, amounting to cruel, inhuman, and degrading treatment and an unwarranted intrusion into mental privacy and personal autonomy a facet of the right to privacy the Court located within Article 21, building on earlier privacy jurisprudence such as *Kharak Singh*.¹⁹

The Court found the scientific reliability of these techniques questionable, noting the risk of confabulation, suggestibility, and false statements, and held that even where a test is administered with consent, the results cannot be treated as substantive evidence at most, any subsequent discovery of a fact pursuant to information obtained could be considered under the “discovery of fact” principle analogous to Section 27 of the Indian Evidence Act, 1872.²⁰

The Court directed that any administration of these tests must comply with the National Human

¹⁹*Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

²⁰Indian Evidence Act, 1872, s. 27 (the "discovery of fact" principle, now reflected in the corresponding provision of the Bharatiya Sakshya Adhiniyam, 2023).

Rights Commission's 2000 guidelines,²¹ requiring the subject's free and informed written consent, judicial oversight, and access to legal counsel.

Selvi thus reoriented Indian jurisprudence away from the investigative-utility strand and firmly established a consent-based, rights-protective framework though, as discussed in Part 5 below, it did not itself create a comprehensive statutory regime.

5. The Central Problems

5.1 Testimonial Compulsion

Involuntary administration of narcoanalysis compels the subject to reveal information through a chemically induced loss of volition. Even though the resulting statement is verbal rather than the production of a physical object, it is testimonial in nature; where it is obtained without free consent, it amounts to compelled self-incrimination squarely within the mischief Article 20(3)²² was designed to prevent. The pre-Selvi argument that a drugged subject's revelations remain “voluntary” collapses on close examination: what is compelled is not merely attendance at the laboratory but the very mental process by which the disclosure is made.

5.2 Violation of Mental Privacy and Personal Autonomy

Article 21 has been judicially expanded to include the right to privacy, which extends to what may be termed “mental privacy” the right to choose what to disclose and what to withhold, and more fundamentally, the right to maintain control over one's own mind.²³ Forcibly extracting information from a person's subconscious mind, bypassing their conscious judgment altogether, is an intrusion into this protected sphere that is arguably more severe than many conventional privacy violations, since it targets cognitive autonomy itself.

5.3 Compromise of Fair Investigation

A fair investigation requires that evidence be gathered through reliable, non-coercive means

²¹National Human Rights Commission, Guidelines for the Administration of Polygraph Test (Lie Detector Test) on an Accused, 2000.

²²Constitution of India, 1950, art. 20(3): “No person accused of any offence shall be compelled to be a witness against himself.”

²³Selvi & Ors. v. State of Karnataka & Anr., AIR 2010 SC 1974 (Supreme Court of India, 5 May 2010) (three-judge bench of K.G. Balakrishnan, C.J.I., R.V. Raveendran and J.M. Panchal, JJ.).

consistent with due process.²⁴ Because narcoanalysis operates precisely by suppressing a subject's judgment and self-control, the “confession” or information obtained is not a free and voluntary act but the product of a state-induced incapacity undermining not merely the individual result but the legitimacy of the investigative process as a whole. An investigation built on such techniques risks producing a record that a court cannot trust, complicating rather than aiding the truth-seeking function of the criminal trial.

5.4 Scientific Unreliability and Risk of False Information

Medical and psychological research has repeatedly questioned the reliability of statements made under narco-administration.²⁵ Subjects in a sedated, suggestible state may fabricate, hallucinate, confuse imagination with memory, or be susceptible to leading questions from interrogators, meaning the technique does not reliably distinguish truth from falsehood. Using inherently unreliable evidence to secure convictions or even merely to direct the course of an investigation endangers the accuracy of the criminal justice process and creates a serious risk of wrongful prosecution based on confabulated statements.

5.5 Bodily Integrity and Medical Risk

Beyond its testimonial dimension, narcoanalysis involves the physical administration of a psychoactive drug, carrying inherent medical risks (allergic reaction, adverse cardiovascular or respiratory response, and risks specific to individuals with certain pre-existing conditions). Absent rigorous medical screening and independent oversight, the procedure poses a risk to bodily integrity that itself implicates Article 21's guarantee of the right to life.

5.6 Absence of Comprehensive Legislation

India currently has no dedicated statute regulating the administration of narcoanalysis, polygraph, or BEAP tests. Their use has been governed largely by executive practice, non-binding NHRC guidelines,²⁶ and judicial pronouncements rather than a coherent legislative framework. This has produced inconsistent application across states and investigating agencies, uneven compliance with consent and oversight requirements, and continued ambiguity

²⁴D.K. Basu v. State of West Bengal, (1997) 1 SCC 416.

²⁵Selvi & Ors. v. State of Karnataka & Anr., AIR 2010 SC 1974 (Supreme Court of India, 5 May 2010) (three-judge bench of K.G. Balakrishnan, C.J.I., R.V. Raveendran and J.M. Panchal, JJ.).

²⁶National Human Rights Commission, Guidelines for the Administration of Polygraph Test (Lie Detector Test) on an Accused, 2000.

regarding the precise evidentiary status of information obtained through these techniques even after Selvi.

5.7 Equality Concerns under Article 14

A further, less-discussed problem is the risk of discriminatory or arbitrary application: because there is no statutory criterion governing which suspects are subjected to requests for narcoanalysis, the practice risks being applied disproportionately against marginalised or less legally represented accused persons, raising a subsidiary concern under the equality guarantee of Article 14 of the Constitution,²⁷ which requires that state action not be arbitrary.

6. Comparative Perspective

Comparative practice reinforces the direction taken in Selvi. In the United States, the compelled use of “truth serum” interrogation has long been treated as inconsistent with the Fifth Amendment privilege against self-incrimination²⁸ and with due-process protections against coercive interrogation, and polygraph results are, with narrow exceptions, treated as inadmissible or of severely limited evidentiary weight in most federal and state courts owing to concerns about reliability. In the United Kingdom, the Police and Criminal Evidence Act, 1984 (PACE)²⁹ and its accompanying Codes of Practice impose strict safeguards on the interrogation of suspects, and any technique that undermines the voluntariness of a suspect's statement would ordinarily render that statement inadmissible under section 76 and section 78 of PACE. While no jurisdiction surveyed here has developed a bespoke statute specifically addressing narcoanalysis (reflecting its relatively narrow and controversial use worldwide), the broader comparative principle that compelled, drug-induced, or otherwise involuntary statements are constitutionally and evidentially suspect aligns closely with the Indian Supreme Court's reasoning in Selvi.

7. Proposed Solutions and Legislative Reform

1. Codification of Consent Safeguards. Enact a specific statutory provision rather than relying solely on non-binding NHRC guidelines³⁰ and judicial dicta that codifies free,

²⁷Constitution of India, 1950, art. 14 (right to equality before the law and equal protection of the laws).

²⁸U.S. Constitution, amend. V (privilege against compelled self-incrimination).

²⁹Police and Criminal Evidence Act, 1984 (UK), ss. 76, 78.

³⁰National Human Rights Commission, Guidelines for the Administration of Polygraph Test (Lie Detector Test) on an Accused, 2000.

informed, written consent as a mandatory precondition for any narco-based test, with prior judicial (magisterial) authorisation required before administration in every case.

2. Independent Medical and Psychological Review. Mandate an independent medical panel, unconnected to the investigating agency, to certify the subject's mental and physical fitness and the genuineness of consent prior to the test, and to monitor the subject throughout and after administration, directly addressing the bodily-integrity and reliability concerns identified above.

3. Exclusionary Rule with Limited Exception. Statutorily confirm that no statement made during narcoanalysis is admissible as primary or substantive evidence, while permitting its use strictly as an investigative lead analogous to the “discovery of fact” principle³¹ subject to independent corroboration through conventional evidence before any fact so discovered can be relied upon at trial.

4. Mandatory Recording and Documentation Safeguards. Require mandatory, unedited audio-video recording of the entire procedure from the consent interview through to post-test debriefing to be preserved as part of the case record and made available to defence counsel and the trial court, enabling judicial scrutiny for coercion or procedural lapses.

5. Right to Legal Representation. Guarantee the presence of the subject's legal counsel at the time consent is recorded and afford counsel the opportunity to advise the subject of the legal consequences of undergoing the test, addressing the imbalance of information that can otherwise vitiate “informed” consent.

6. Right to Withdraw Consent. Expressly provide that consent may be withdrawn at any point before or during the procedure without adverse inference being drawn against the subject, to guard against consent obtained under implicit pressure being treated as irrevocable.

7. Periodic Scientific and Legislative Review. Given the evolving scientific understanding of the reliability of neuro-investigative techniques, include a statutory review clause requiring periodic reassessment for instance, every five years of the continued permissibility and reliability of such techniques in light of updated medical and psychological research.

³¹Indian Evidence Act, 1872, s. 27 (the “discovery of fact” principle, now reflected in the corresponding provision of the Bharatiya Sakshya Adhiniyam, 2023).

8. Uniform National Standard. Enact a central legislative provision, whether as a standalone statute or as an amendment integrated into the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023,³² prescribing uniform national standards for the administration and evidentiary treatment of narcoanalysis, polygraph, and BEAP tests, replacing the current patchwork of state-level forensic practices and inconsistent High Court precedent.

9. Institutional Accountability. Establish a mechanism for disciplinary and, where appropriate, criminal accountability for investigating officers or forensic personnel who administer these tests without complying with the statutory safeguards, to ensure the reform has practical teeth rather than remaining aspirational.

8. Research Methodology

This paper adopts a mixed-methods approach, combining quantitative and qualitative research techniques to provide both empirical grounding and doctrinal depth. This section elaborates the design, data sources, and analytical approach for each component, followed by a discussion of the study's limitations.

8.1 Quantitative Method

Design. The quantitative component is a comparative trend analysis of secondary data concerning the frequency and outcome of narcoanalysis requests in criminal investigations, structured around two periods: pre-Selvi (roughly 2002–2010) and post-Selvi (2010 onward).

Data Sources. Data of this kind is typically drawn from: (a) National Crime Records Bureau (NCRB) annual reports,³³ to the extent forensic-technique usage is captured within broader investigative statistics; (b) state Forensic Science Laboratory (FSL) annual reports, particularly from states such as Gujarat, Maharashtra, and Karnataka, which have historically operated dedicated narcoanalysis facilities; (c) reported judicial decisions collected through legal databases (Manupatra, SCC Online, Indian Kanoon), coded for whether narcoanalysis was requested, whether consent was obtained, and whether the results were admitted or excluded;

³²Bharatiya Nyaya Sanhita, 2023; Bharatiya Nagarik Suraksha Sanhita, 2023; Bharatiya Sakshya Adhiniyam, 2023 (replacing, respectively, the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, with effect from 1 July 2024).

³³National Crime Records Bureau, Government of India, Annual Reports (various years).

and (d) NHRC compliance and grievance records relating to scientific interrogation techniques.³⁴

Analytical Approach. Given the relatively limited and fragmented public availability of granular forensic laboratory statistics on this specific technique, the quantitative analysis is designed around descriptive and comparative statistics frequency counts, percentage change between the two periods, and simple cross-tabulation (for example, consent-obtained versus non-consensual requests, and admitted versus excluded results) rather than complex inferential statistical modelling. The objective is to test the practical, on-the-ground impact of the Selvi judgment: specifically, whether the frequency of narcoanalysis requests declined, whether consent documentation improved, and whether courts increasingly excluded non-consensual test results following 2010.

Expected Contribution. Even a modest descriptive dataset compiled along these lines would allow the paper's doctrinal conclusions to be tested against observable practice, addressing the common criticism that purely doctrinal legal scholarship can be disconnected from ground-level implementation.

8.2 Qualitative Method

Design. The qualitative component is doctrinal, interpretive, and comparative in nature, and forms the analytical backbone of the paper.

Techniques Employed:

Doctrinal/black-letter analysis: close reading and interpretation of the constitutional text of Articles 14, 20(3), and 21,³⁵ and the relevant provisions of the Indian Evidence Act, 1872 / Bharatiya Sakshya Adhiniyam, 2023, and the Code of Criminal Procedure, 1973 / Bharatiya Nagarik Suraksha Sanhita, 2023.³⁶

Case-law analysis: a structured reading of the judicial evolution traced in Part 4 above from

³⁴National Human Rights Commission, Guidelines for the Administration of Polygraph Test (Lie Detector Test) on an Accused, 2000.

³⁵Constitution of India, 1950, art. 14 (right to equality before the law and equal protection of the laws).

³⁶Bharatiya Nyaya Sanhita, 2023; Bharatiya Nagarik Suraksha Sanhita, 2023; Bharatiya Sakshya Adhiniyam, 2023 (replacing, respectively, the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, with effect from 1 July 2024).

Ramchandra Ram Reddy³⁷ and Dinesh Dalmia³⁸ through to Selvi,³⁹ identifying the shifting judicial reasoning on testimonial compulsion, voluntariness, and privacy.

Comparative legal analysis: examination of the treatment of compelled psychological or physiological testing in other common-law jurisdictions (the United States and the United Kingdom, as discussed in Part 6), to contextualise and test the reasoning adopted by the Indian Supreme Court.

Content analysis of guidelines and legislative text: a review of the NHRC's 2000 guidelines⁴⁰ and the corresponding provisions of India's newly enacted criminal law statutes, to assess whether the existing regulatory framework adequately operationalises the constitutional principles laid down in Selvi.

Rationale. This dual methodology allows the paper to substantiate doctrinal claims with observable practice trends (via the quantitative strand), while ensuring that legal reasoning not merely statistical inference anchors the normative and legislative recommendations advanced in Part 7.

8.3 Limitations of the Methodology

The quantitative component is constrained by the limited public availability of granular, technique-specific forensic data in India; as a result, the analysis described here is necessarily illustrative of an approach rather than a report of an exhaustive, primary empirical study, and any researcher applying this design should supplement it with primary data requests to state FSLs and RTI applications where feasible. The qualitative component, being doctrinal, is inherently interpretive and may be subject to reasonable disagreement regarding the weight to be accorded to particular precedents or comparative sources.

³⁷Ramchandra Ram Reddy v. State of Maharashtra, Bombay High Court, Criminal Writ Petition No. 1924 of 2003, decided 5 March 2004.

³⁸Dinesh Dalmia v. State, Madras High Court, CrI. R.C. No. 259 of 2006 and CrI. M.P. Nos. 1518 and 1519 of 2006.

³⁹Selvi & Ors. v. State of Karnataka & Anr., AIR 2010 SC 1974 (Supreme Court of India, 5 May 2010) (three-judge bench of K.G. Balakrishnan, C.J.I., R.V. Raveendran and J.M. Panchal, JJ.).

⁴⁰National Human Rights Commission, Guidelines for the Administration of Polygraph Test (Lie Detector Test) on an Accused, 2000.

9. Discussion

The judicial trajectory traced in this paper illustrates a broader pattern in Indian constitutional law: an initial period of deference to investigative or administrative necessity, followed by a rights-protective correction once the cumulative human cost of the practice becomes judicially salient. *Selvi*⁴¹ represents that correction for narcoanalysis, much as earlier decisions did for custodial violence and arbitrary detention.⁴² However, the persistence of a soft-law, guideline-based regime in the years since *Selvi* suggests that judicial pronouncement alone is an incomplete solution. Guidelines issued by a non-binding body such as the NHRC lack the coercive force of statute, and their observance depends heavily on the institutional culture of individual investigating agencies and the vigilance of trial courts and defence counsel. The reform agenda proposed in Part 7 is therefore not a departure from *Selvi* but its logical legislative completion: translating a constitutional prohibition on involuntary use into an enforceable, procedurally detailed statutory regime with real consequences for non-compliance.

10. Conclusion

Narcoanalysis sits at the intersection of the State's legitimate interest in effective investigation and the individual's constitutionally protected autonomy, dignity, and privacy. The early divergence among Indian High Courts willing, in cases such as *Ramchandra Ram Reddy*⁴³ and *Dinesh Dalmia*,⁴⁴ to treat drug-induced revelations as technically “voluntary” reflected an investigative-utility approach that the Supreme Court definitively rejected in *Selvi*.⁴⁵ That judgment correctly recognised that the involuntary administration of narcoanalysis, polygraph, and BEAP tests violates both Article 20(3) and Article 21, and it remains the binding constitutional standard in India today. Nevertheless, the continued absence of a comprehensive statutory framework leaves significant gaps in consent verification, medical oversight, evidentiary treatment, and institutional accountability. A targeted legislative response codifying consent requirements, independent medical review, mandatory recording, a clear

⁴¹*Selvi & Ors. v. State of Karnataka & Anr.*, AIR 2010 SC 1974 (Supreme Court of India, 5 May 2010) (three-judge bench of K.G. Balakrishnan, C.J.I., R.V. Raveendran and J.M. Panchal, JJ.).

⁴²*D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

⁴³*Ramchandra Ram Reddy v. State of Maharashtra*, Bombay High Court, Criminal Writ Petition No. 1924 of 2003, decided 5 March 2004.

⁴⁴*Dinesh Dalmia v. State*, Madras High Court, Crl. R.C. No. 259 of 2006 and Crl. M.P. Nos. 1518 and 1519 of 2006.

⁴⁵*Selvi & Ors. v. State of Karnataka & Anr.*, AIR 2010 SC 1974 (Supreme Court of India, 5 May 2010) (three-judge bench of K.G. Balakrishnan, C.J.I., R.V. Raveendran and J.M. Panchal, JJ.).

exclusionary evidentiary rule, and institutional accountability mechanisms would better reconcile the twin imperatives of truth-seeking and constitutional fidelity, ensuring that the pursuit of justice does not itself become a source of injustice. As India's new criminal law codes take shape, this is a timely and achievable legislative opportunity.

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