
NARCO-ANALYSIS AND THE RIGHT AGAINST SELF- INCRIMINATION: A CRITICAL STUDY OF CONSTITUTIONAL VALIDITY IN INDIA

Yafrin Ramana, Law Researcher (Punjab and Haryana High Court), Punjab, India

ABSTRACT

The use of scientific methods in criminal investigations has evolved a lot, and narco-analysis is one of the disputed methods used by Indian law enforcement agencies. Narco-analysis is a technique where certain drugs are given to a person to bring him/her into a hypnotic or semi-conscious state so that he/she may reveal the truth without being in a voluntary control. Supporters of these methods believe that they help in crime detection, while opponents raise strong concerns about fundamental rights violations. This paper assesses the constitutional legality of narco-analysis vis-a-vis the right against self-incrimination under Article 20(3) and the right to life and personal liberty under Article 21 of the Constitution of India.

Besides, scrutinizing judicial decisions, particularly the landmark judgment, *Selvi v. State of Karnataka*, this research analysis if forceful narco-analysis disrupts the fundamental rights and personal freedom. The paper also explores the evidentiary value of statement through such techniques and their admissibility as per the Indian Evidence Act, 1872. The study concludes that when Narco-analysis is conducted without informed consent not only constitutes a direct infringement of constitutional rights and protections but also undermines the principles of fair trial and human dignity. There is a need for strict legal safeguards and a cautious approach towards the use of such techniques within the criminal justice system.

Keywords: Narco-analysis, Self-incrimination, Article 20(3), Article 21, Criminal Investigation, Evidence Law, Constitutional validity, Narco Analysis Test, Judicial Pronouncement.

1. Introduction

The evolution of criminal investigation has always involved the continuous dilemma of enabling the law enforcement to work efficiently, and at the same time safeguarding the rights of the individuals. Nowadays, law enforcement has grown more inclined towards the use of scientific techniques such as narco-analysis, polygraph tests, and brain-mapping to procure information from suspects and accused persons. Among these, narco-analysis has attracted significant attention due to its intrusive nature and its potential to bypass conscious control over responses. Narco-analysis refers to the administration of psychotropic drugs, commonly referred to as “truth serums,” which are believed to lower an individual’s inhibitions and compel them to give information that they may otherwise not. While this method is often portrayed as a means of revealing hidden facts and speeding the investigation process, its scientific reliability and legal permissibility remain a matter of debate for a long time. Moreover, its use raises serious concerns, particularly in relation to the right against self-incrimination as well as the protection of personal liberty.

Article 20(3) of Indian Constitution protects individuals from being compelled to be witnesses against themselves.¹ The judiciary has ruled that this protection extends to include statements that are obtained through coercion or undue influence. Therefore, the involuntary administration of narco-analysis raises an important question: whether information gained by narco analysis amounts to compelled testimony. Additionally, the right to life and personal liberty under Article 21 has expanded its scope through judicial interpretations and includes the right to privacy, mental autonomy, and human dignity². The use of narco-analysis, which directly interferes with an individual’s consciousness challenges these fundamental protections. The contradiction between investigative necessity and constitutional safeguards thus forms the core of the legal debate around the use of this technique.

The Supreme Court of India addressed these concerns in the landmark case of *Selvi v. State of Karnataka*, wherein the court examined the legality of narco-analysis and similar techniques.³ The Court held that the involuntary administration of such methods violates the right against self-incrimination as well as the principles of personal liberty and privacy. However, the judgment also left open certain questions regarding voluntary consent and the evidentiary use

¹ The Constitution of India, Article 20(3)

² *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

³ *Selvi v. State of Karnataka*, (2010) 7 SCC 263

of information derived from the use of such scientific tools. This paper examines the constitutional validity of narco-analysis in India by analysing its compatibility with Article 20(3) and Article 21⁴. It further evaluates the evidentiary value of statements obtained through the use of such tools and explores whether it is justified legally. By situating narco-analysis within the broader view of criminal justice and human rights, the study aims to assess whether the pursuit of truth can override fundamental constitutional guarantees.

1.2 Objectives of the Study

This research aims to examine the constitutional and legal validity of narco-analysis within the scope of Indian criminal justice system. It seeks to analyze the scope and limitations of the right against self-incrimination under Article 20(3) and to evaluate whether narco-analysis falls within the ambit of prohibited compulsion. Further, the study aims to assess the implications of narco-analysis on the right to personal liberty and mental privacy under Article 21. It also aims to examine the evidentiary value of statements obtained through such techniques and their admissibility under the Indian Evidence Act, 1872.⁵

In addition, the research attempts to critically evaluate judicial precedents, especially the decision in *Selvi v. State of Karnataka*, to determine whether the existing legal position adequately safeguards individual rights.⁶ Finally, the study seeks to propose recommendations regarding the permissible scope, if any, of narco-analysis in India.

2. Understanding Narco-Analysis

2.1 Meaning and Concept of Narco-Analysis

Narco-analysis refers to an investigative technique in which certain psychoactive drugs are administered to an individual with the intention of inducing a semi-conscious state. In this condition, the individual is believed to experience reduced inhibitions and an increased tendency to give information that may otherwise remain hidden. It is also referred to as the use of “truth serums,” this method has been widely adopted by investigative agencies with the objective of extracting information during criminal investigations.

⁴ INDIA CONST. art. 20(3), 21

⁵ The Indian Evidence Act, 1872

⁶ *Selvi v. State of Karnataka*, (2010) 7 SCC 263

The underlying assumption behind narco-analysis is that the administered substances impair the subject's consciousness making it difficult to provide false or misleading responses. However, this assumption has been contested, both scientifically and legally. Critics argue that individuals under the influence of such drugs may remain susceptible to suggestion, confusion, or disorientation, which raises serious concerns about the reliability of the information obtained.

2.2 Procedure and Administration

The process of narco-analysis is conducted in a controlled medical environment under the supervision of medical professionals. The team that conducts Narco-analysis consists of one anesthetist, one physician and one clinical/ forensic psychologist. The responsibility of each expert in the team is well defined. The physician certifies the fitness of the person before and after Narco-analysis, the anesthetist modulates the depth of anesthesia required depending upon the quantum of information to be obtained and monitors the various stages of anesthesia. Only the clinical or forensic psychologist interacts with the individual who is a "trance" and gives reports along with videotapes to the courts on behalf of the team. No medical professional in the team is involved in interrogating the individual. This task is the exclusive domain of the clinical/forensic psychologist. The revelations made during this stage are recorded both in video and audio cassettes. The forensic psychologist will prepare the report about the revelations, which will be accompanied by a compact disc of audio-video recordings. The report prepared by the experts is what is used in the process of collecting evidence. This procedure is conducted in government hospitals after a court order is passed instructing the doctors or hospital authorities to conduct the test. Personal consent of the subject is also required.⁷

Wrong dose can send the subject into coma or even result in death. The rate of administration is controlled to drive the accused slowly into a hypnotic trance. The effect of the bio-molecules on the bio-activity of an individual is evident as the drug depresses the central nervous system, lowers blood pressure and slows the heart rate, putting the subject into a hypnotic trance resulting in a lack of inhibition.⁸ It is important to note that the individual does not lose

⁷ Kalpana V. Jawale, "Constitutional Validity of Narco Analysis Test under Article 20(3) of the Constitution of India with reference to Judicial Pronouncements," *Online International Interdisciplinary Research Journal*, Vol. IV, March 2014 Special Issue, pp. 409-418

⁸ Ibid.

consciousness entirely rather, they exist in a state between wakefulness and sleep. In such a state, the ability to exercise rational judgment and voluntary control over responses is relatively diminished. This aspect becomes particularly crucial when examining the legal implications of such statements under constitutional and evidentiary frameworks.

2.3 Purpose and Use in Criminal Investigation

Narco-analysis has primarily been justified on the ground of investigative necessity. Law enforcement agencies often argue that in complex criminal cases especially those involving terrorism, organized crime, or multiple accused, traditional methods of interrogation may prove insufficient to uncover critical information. In such scenarios, narco-analysis is presented as a tool to break through silence, or non-cooperation. In India, the technique gained prominence in cases where investigators need to expedite the process of information gathering. It has been used not only on accused persons but, in some instances, on witnesses and victims as well. This expansive application further intensifies concerns regarding its legality and ethical acceptability.

2.4 Scientific Reliability and Criticism

One of the most significant challenges to narco-analysis lies in its questionable scientific reliability. Contrary to the name given, the substances used in such procedures do not function as definitive “truth serums.” Rather than absolute truth, they may induce a state in which the subject becomes more talkative, but not necessarily more truthful. Medical and psychological experts have pointed out that individuals under the influence of these drugs may provide inaccurate, incomplete, or even fabricated information. The susceptibility to suggestion during the procedure complicates matters, as responses may be influenced by the manner or tone of questioning. As a result, the evidentiary value of statements obtained through narco-analysis remains highly doubtful. This lack of reliability has direct legal consequences. If the information obtained cannot be considered trustworthy, its use in criminal proceedings becomes problematic. Moreover, reliance on such techniques risks diverting investigative efforts away from more reliable and legally sound methods of evidence collection.

2.5 Legal and Ethical Concerns

Beyond questions of scientific validity, narco-analysis raises legal and ethical concerns. The

administration of mind-altering substances without informed consent can be viewed as a violation of personal rights and autonomy. It represents a form of intrusion not only into the physical body, but also the consciousness of the individual. From a constitutional perspective, the technique challenges the foundational principle that no person should be compelled to incriminate themselves given under Article 20(3) of the Indian Constitution.⁹ By extracting information through narco-analysis, it blurs the distinction between voluntary disclosure and compelled statement. In light of these concerns, it becomes essential to examine whether the alleged benefits of narco-analysis can ever justify its intrusion into fundamental, personal and constitutional rights.

3. Constitutional Framework

The constitutional validity of narco-analysis must be examined within the broader framework of fundamental rights guaranteed under the Constitution of India. The use of narco-analysis, raises critical questions regarding the permissible limits of state action, particularly in relation to the right against self-incrimination under Article 20(3) and the right to life and personal liberty under Article 21. Constitutional analysis requires an understanding of what is written and also their judicial interpretation over time. The ever-evolving nature of the Supreme Court has expanded the scope of these rights, bringing within their ambit aspects such as mental privacy, autonomy, and human dignity. In this context, the use of narco-analysis presents a direct challenge to established constitutional principles.¹⁰

3.1 Article 20(3) and the Right Against Self-Incrimination

Article 20 (3) provide protection against self-incrimination, that no person accused of any offence shall be compelled to be a witness against himself. This protection serves as a fundamental safeguard against coercive investigative practices and ensures that the burden of proof lies on the prosecution rather than the accused. The scope of Article 20(3) has been interpreted by the Supreme Court in a manner that extends to include testimonial compulsion. In *State of Bombay v. Kathi Kalu Oghad*, the Court distinguished between physical evidence and testimonial acts, holding that the protection applies primarily to evidence that is communicative in nature.¹¹ However, the distinction becomes blurred in the context of narco-

⁹ INDIA CONST. art. 20, cl. 3

¹⁰ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

¹¹ *State of Bombay v. Kathi Kalu Oghad*, AIR 1961 SC 1808

analysis, where responses are drawn out through interference with the subject's mental processes.

Further, in *Nandini Satpathy v. P.L. Dani*, the Court emphasized that the right against self-incrimination includes the right to remain silent during interrogation and extends to the stage of police questioning.¹² This interpretation reinforces the principle that individuals cannot be compelled, directly or indirectly, to provide information that may incriminate them. The Fundamental rule of criminal jurisprudence against self-incrimination has been raised to a rule of constitutional law in Article 20 (3). This guarantee extends to any person accused of an offence and prohibits all kinds of compulsions to make him a witness against himself. Explaining the scope of this clause in *M. P. Sharma v. Satish Chandra*¹³ The Supreme Court observed that this right embodies the following essentials-

1. It is right pertaining to a person who is accused of an offence.
2. It is a protection against "compulsion to be witness".
3. It is a protection against such compulsion relating to his giving evidence against such compulsion relating to his giving evidence against himself.¹⁴

Narco-analysis, particularly when conducted without consent, raises the question of whether chemical inducement can be equated with compulsion. While there may be no external physical force, the administration of mind-altering substances alters the individual's capacity to exercise free will. In such circumstances, the line between voluntary disclosure and compelled testimony becomes blur.

3.2 Article 21: Personal Liberty, Privacy, and Dignity

Article 21 guarantees that no person shall be deprived of their life or personal liberty except according to procedure established by law. Over time, this provision has been expansively interpreted to include a wide range of rights essential to human existence, including the right to privacy, dignity, and personal autonomy. In *Maneka Gandhi v. Union of India*, the Supreme

¹² *Nandini Satpathy v. P.L. Dani* (1978) 2 SCC 424

¹³ *M. P. Sharma v. Satish Chandra*, AIR 1954 SC 300

¹⁴ *Kalpna V. Jawale*, "Constitutional Validity of Narco Analysis Test under Article 20(3) of the Constitution of India with reference to Judicial Pronouncements," *Online International Interdisciplinary Research Journal*, Vol. IV, March 2014 Special Issue, pp. 409-418

Court established that the procedure contemplated under Article 21 must be fair, just, and reasonable¹⁵. This interpretation significantly broadened the scope of personal liberty and imposed substantive limitations on state action. The recognition of the right to privacy as a fundamental right in *Justice K.S. Puttaswamy v. Union of India* further strengthens the argument against intrusive investigative techniques such as Narco-analysis.¹⁶ The Court acknowledged that privacy includes not only physical integrity but also mental autonomy and the right to control one's thoughts and cognitive processes. Narco-analysis directly interferes with this aspect of mental privacy. By chemically inducing responses, it interferes with the internal domain of an individual's mind. Such intrusion cannot be easily justified, particularly when less invasive methods are available.

3.3 Judicial Determination

The constitutional questions surrounding narco-analysis required judicial determination, which was addressed by the Supreme Court in *Selvi v. State of Karnataka*.¹⁷ The judgment marked a significant development in clarifying the legal position on the use of such techniques. However, before analyzing the judicial stance, it is essential to understand the broader evidentiary implications of narco-analysis and the extent to which information obtained through such methods can be used in criminal proceedings.

4. Evidentiary Value of Narco-Analysis

The constitutional concerns surrounding narco-analysis are closely intertwined with its evidentiary implications. Even if such a technique is used during investigation, its ultimate value lies in whether the information obtained can be admitted and relied upon in a court of law. The Indian legal system, governed by the Indian Evidence Act, 1872, lays down strict rules regarding admissibility, reliability, and the manner in which evidence is obtained. Narco-analysis occupies a legally ambiguous position in this framework. While it may assist investigation in gathering leads, its direct evidentiary value remains highly questionable.

4.1 Admissibility Under the Indian Evidence Act, 1872

The Indian Evidence Act, 1872 does not explicitly recognize narco-analysis as a valid method

¹⁵ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

¹⁶ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

¹⁷ *Selvi v. State of Karnataka*, (2010) 7 SCC 263

of evidence collection. Instead, it establishes general principles that give direction to what may or may not be admitted as evidence. A fundamental requirement is that evidence must be both relevant and reliable, and must not be obtained in violation of legal safeguards. Statements made by an accused are generally treated with caution, particularly when there is a possibility of coercion or inducement. Sections 24 to 26 of the Evidence Act exclude confessions obtained through inducement, threat, or promise, as well as those made in police custody unless recorded before a magistrate¹⁸. In the context of narco-analysis, the element of voluntariness becomes highly suspect, given that the statements are made under the influence of drugs.

Further, the lack of conscious control during narco-analysis raises doubts about whether such statements can even be classified as “confessions” in the legal sense. If the individual is not in a position to understand or intend their responses, the evidentiary value of such statements becomes inherently weak.

4.2 Section 27 and the Doctrine of Discovery

Despite the general inadmissibility of coerced statements, Section 27 of the Indian Evidence Act provides a limited exception. It allows for the admissibility of information received from an accused person in custody, but only to the extent that it leads to the discovery of a relevant fact¹⁹. This provision has often been invoked to justify the use of Narco-analysis in investigations. Under this doctrine, even if the statement itself is inadmissible, any material fact discovered as a result of that statement may be admitted as evidence. For instance, if information obtained during narco-analysis leads to the recovery of a weapon or the identification of a location, such discoveries may be considered admissible. However, this limited admissibility does not validate the entire process of narco-analysis, the reliability of such discoveries may still be questioned if the initial information is obtained through a method that questions the voluntariness and accuracy. The Supreme Court has clarified in various cases that Section 27 must be interpreted narrowly to prevent abuse²⁰. Therefore, its application cannot be used as a blanket justification for employing intrusive investigative techniques.

4.3 Judicial Approach to Evidentiary Value

The Supreme Court of India has addressed the evidentiary implications of narco-analysis in

¹⁸ The Indian Evidence Act, 1872, S. 24–26

¹⁹ *Ibid.* S. 27

²⁰ *Pulukuri Kottaya v. Emperor*, AIR 1947 PC 67

Selvi v. State of Karnataka, where it categorically held that the results of such tests cannot be admitted as evidence if they are obtained without consent.²¹ The Court emphasized that involuntary administration violates both Article 20(3) and Article 21, thereby rendering the results constitutionally impermissible. At the same time, the Court acknowledged that information discovered as a consequence of such tests may be admissible under Section 27, subject to relevant safeguards. This reflects an attempt to balance investigative interests with constitutional protections.

4.4 Reliability and Evidentiary Weakness

A significant factor affecting the evidentiary value of narco-analysis is its lack of scientific certainty. Courts rely on evidence that is credible and capable of being tested through cross-examination. Statements made under narco-analysis, however, may be inconsistent, or influenced by external factors. Unlike traditional evidence, such statements cannot be easily verified or subjected to standard evidentiary scrutiny. This deflects its value and raises serious concerns regarding their use in judicial proceedings. Moreover, the possibility of false positives, where an individual provides incorrect or misleading information, weakens the reliability of narco-analysis. In a legal system that prioritizes proof beyond reasonable doubt, reliance on such uncertain methods is inherently problematic.

4.5 Investigative Aid vs. Legal Evidence

A critical distinction must be drawn between the use of narco-analysis as an investigative aid and its status as admissible evidence. While investigative agencies may argue that the technique helps generate leads or uncover hidden information, this utility does not automatically translate into legal admissibility. The criminal justice system is not merely concerned with discovering facts but with ensuring that such facts are established through lawful and reliable means. Therefore, even if narco-analysis is viewed as an additional tool during investigation, its role must remain strictly limited.

The evidentiary value of narco-analysis remains severely constrained within the framework of the Indian Evidence Act. While derivative evidence may be admissible under Section 27, the statements obtained through the procedure itself lack both legal validity and scientific

²¹ *Selvi v. State of Karnataka*, (2010) 7 SCC 263

reliability. This limitation reinforces the constitutional concerns associated with Narco-analysis.

5. Judicial Analysis of Narco-Analysis in India

The constitutional and evidentiary concerns surrounding narco-analysis have been significantly shaped by judicial interpretation. Among the various decisions addressing this issue, the judgment of the Supreme Court in *Selvi v. State of Karnataka* stands as the most authoritative pronouncement on the legality of narco-analysis and similar investigative techniques.²² The Court's reasoning in this case provides a comprehensive framework for understanding the intersection between scientific methods of investigation and fundamental rights.

5.1 Pre-Selvi Judicial Position

Prior to the decision in *Selvi*, Indian courts had not settled the legality of narco-analysis. However, certain principles relating to self-incrimination and admissibility had already been established through earlier judgments. In *State of Bombay v. Kathi Kalu Oghad*, the Supreme Court drew a distinction between physical evidence and testimonial compulsion, holding that compelling an accused to provide fingerprints or handwriting samples did not violate Article 20(3).²³

This decision laid the groundwork for differentiating between evidence obtained through physical characteristics and that which involves communicative acts. Similarly, in *Nandini Satpathy v. P.L. Dani*, the Court expanded the scope of the right against self-incrimination by recognizing the right to remain silent during police interrogation.²⁴ Despite these developments, the absence of a direct ruling on techniques like narco-analysis led to inconsistent practices by investigative agencies, often justified on the basis of necessity rather than legality.

5.2 The Selvi Judgment: Facts and Issues

The landmark case of *Selvi v. State of Karnataka* addressed the constitutional validity of narco-

²² *Selvi v. State of Karnataka*, (2010) 7 SCC 263

²³ *State of Bombay v. Kathi Kalu Oghad*, AIR 1961 SC 1808

²⁴ *Nandini Satpathy v. P.L. Dani*, (1978) 2 SCC 424

analysis, polygraph tests, and brain-mapping techniques.²⁵ The primary issue before the Court was whether the involuntary administration of these techniques violated fundamental rights, particularly Article 20(3) and Article 21. The petitioners challenged the use of such methods on the ground that they amounted to compelled testimony and infringed personal liberty. The State, on the other hand, argued that these techniques were essential for effective investigation and did not constitute “testimonial compulsion” in the traditional sense. The case thus, presented a complex question: whether modern scientific techniques could be reconciled with constitutional protections designed to prevent coercion.

5.3 Key Findings of the Supreme Court

The Supreme Court, in a detailed and carefully reasoned judgment, held that the involuntary administration of narco-analysis and similar techniques is unconstitutional. The Court recognized that such methods involve a significant degree of intrusion into an individual’s mental processes and cannot be equated with the collection of physical evidence. Use of such scientific methods cause a violation of:

- a) Violation of Article 20(3)
- b) Violation of Article 21
- c) Evidentiary Implications

5.4 Critical Evaluation of the Judgment

The judgment in *Selvi* represents a progressive and rights-oriented approach to criminal investigation. By recognizing mental autonomy as a core aspect of personal liberty, the Court extended constitutional protection into previously uncharted territory. However, certain aspects of the decision invite critical reflection. The allowance of narco-analysis with consent raises practical concerns regarding the authenticity of such consent, particularly in custodial settings where power imbalances are inherent. The possibility of implicit coercion cannot be entirely ruled out, even when formal consent is obtained. Further, the reliance on Section 27 to admit derivative evidence may allow the continued use of such techniques, despite their constitutional

²⁵ *Selvi v. State of Karnataka*, (2010) 7 SCC 263

limitations. This creates a tension between the Court's strong disapproval of involuntary narco-analysis and its partial acceptance of its consequences.

Nevertheless, the overall approach of the Court remains commendable for its emphasis on human dignity and procedural fairness. The judgment sets a clear precedent that investigative efficiency cannot override fundamental rights.

6. Ethical And Human Rights Perspective

While the legal validity of narco-analysis has been substantially addressed through constitutional interpretation, its ethical implications demand an equally examination. The use of such techniques raises fundamental questions about the limits of state power, the nature of human dignity, and the extent to which individual autonomy can be compromised in the pursuit of truth.

6.1 Autonomy and Mental Integrity

At the heart of the ethical debate lies the principle of autonomy, which recognizes an individual's right to control their own body and mind. Narco-analysis directly interferes with this autonomy by altering the subject's cognitive state and extracting information without the full exercise of conscious will. Unlike physical evidence, which exists independently of an individual's volition, statements obtained through narco-analysis are inherently linked to personal thought processes. By intruding into this mental sphere, the technique raises serious concerns about the violation of mental integrity.

6.2 The Problem of Consent

The Supreme Court in *Selvi v. State of Karnataka* permitted the use of narco-analysis under conditions of informed consent²⁶. However, from an ethical standpoint, the validity of such consent is highly questionable, particularly in custodial environments. Consent, to be meaningful, must be free, informed, and voluntary. In the context of criminal investigation, these conditions are rarely satisfied in their true sense. Individuals in custody often face psychological pressure, fear of adverse consequences, and an imbalance of power that may influence their decision-making. Even when formal consent is recorded, it is difficult to

²⁶ *Selvi v. State of Karnataka*, (2010) 7 SCC 263

ascertain whether it reflects genuine willingness or subtle coercion. The ethical concern, therefore, is that the notion of “consensual narco-analysis” may, in practice, function as a legal fiction rather than a reflection of true autonomy.

6.3 Human Dignity and the Criminal Justice System

Human dignity is a foundational value that underpins constitutional and human rights jurisprudence. Narco-analysis, by its very design, risks reducing individuals to instruments of information extraction. The process prioritizes the outcome obtaining information over the manner in which that information is obtained. This instrumental approach is ethically problematic, as it disregards the intrinsic worth of the individual. A criminal justice system committed to fairness must ensure that its methods are consistent with the values it seeks to uphold. If investigative techniques compromise dignity, they ultimately weaken the moral authority of the system itself.

6.4 Risk of Abuse and Slippery Slope Concerns

Another significant ethical concern relates to the potential for misuse. Techniques like narco-analysis, once accepted even in limited circumstances, may gradually expand beyond their intended scope. The absence of clear and enforceable safeguards increases the risk of arbitrary or excessive application. There is also the danger of normalizing intrusive methods in the name of efficiency. What begins as an exceptional measure may, over time, become a routine practice, thereby eroding established protections against coercion. Ethical caution, therefore, demands a restrictive approach rather than an expansive one.

6.5 Truth vs. Justice: A Fundamental Tension

Narco-analysis is often justified on the ground that it helps uncover the truth. However, the pursuit of truth cannot be viewed in isolation from the principles of justice. The ethical question is not whether truth is important, but whether all means of obtaining it are acceptable. If the process of discovering truth involves violating autonomy, dignity, or fairness, the legitimacy of that truth becomes questionable. Justice is not merely about outcomes; it is about the integrity of the process. Narco-analysis, by compromising this integrity, creates a tension between factual discovery and ethical legitimacy.

6.6 Limited International Perspective

Many democratic jurisdictions have expressed reservations about the use of techniques that interfere with mental processes. While approaches may vary, there is a general reluctance to endorse methods that compromise autonomy and reliability. International human rights standards emphasize the importance of protecting individuals from coercive or degrading treatment. Techniques that involve chemical intervention into the mind are often viewed with suspicion, particularly when their scientific reliability is uncertain.

The ethical analysis of narco-analysis reveals deep tensions between investigative objectives and fundamental human values. The technique raises serious concerns regarding autonomy, consent, dignity, and the potential for misuse. Ultimately, the legitimacy of any investigative technique must be judged not only by its effectiveness but also by its consistency with the values of justice. In this regard, narco-analysis presents challenges that cannot be easily reconciled within an ethical framework.

7. Critical Analysis and Suggestions

Narco-analysis from constitutional, evidentiary, judicial, and ethical perspectives. While each of these aspects highlights distinct concerns, they collectively point towards a central conclusion: narco-analysis, in its current form, poses serious challenges to fundamental rights and the integrity of the criminal justice process. At the same time, the complete exclusion of such techniques raises questions about investigative limitations in complex cases. This paper seeks to combine these perspectives and provide a critical standing of the existing legal position.

7.1 Inherent Constitutional Concerns

A combined reading of Articles 20(3) and 21 makes it evident that narco-analysis cannot be freely employed as an investigative tool. The technique directly interferes with mental autonomy and undermines the voluntariness of responses. The judgment in *Selvi v. State of Karnataka* correctly recognizes that involuntary administration of Narco-analysis violates fundamental rights.²⁷ However, the decision stops short of completely prohibiting the practice,

²⁷ *Selvi v. State of Karnataka*, (2010) 7 SCC 263

leaving room for its use under conditions of consent.

7.2 The Illusion of Consent

One of the most significant weaknesses in the current legal position lies in its reliance on consent as a legitimizing factor. As discussed earlier, the notion of “informed consent” in custodial settings is deeply problematic. The imbalance of power between the individual and the state raises doubts about whether such consent can ever be truly voluntary. In practice, individuals may agree to undergo narco-analysis due to fear, coercion, or the hope of favorable treatment. This undermines the very basis on which the legality of the procedure is justified. Consequently, the existing framework risks legitimizing a practice that may, in reality, operate under conditions of implicit compulsion.

7.3 Limited Investigative Value

Another critical issue is the limited practical utility of narco-analysis. As established in earlier chapters, the information obtained through such techniques is neither fully reliable nor directly admissible as evidence. At best, it may serve as an investigative aid leading to further discoveries. Modern investigative techniques, including forensic science, digital evidence analysis, and surveillance methods, offer more reliable and less intrusive alternatives.

7.4 Need for a Strict Regulatory Framework

Given that a complete prohibition may not align with current judicial interpretation, the use of narco-analysis, if permitted at all, must be subject to uncompromising safeguards. The absence of a clear statutory framework governing its use creates ambiguity and increases the potential for misuse. These regulatory safeguards are essential to ensure that constitutional protections are not compromised. Such a framework must prioritize individual rights while clearly defining the exceptional circumstances, if any, in which narco-analysis may be used.

7.5 Suggested Safeguards and Reforms

In light of the above concerns, the following safeguards are proposed:

Firstly, narco-analysis should only be conducted with the explicit and informed consent of the individual, recorded before a judicial magistrate. The process of obtaining consent must be

transparent and free from any form of coercion or inducement. Secondly, the presence of legal counsel should be mandatory throughout the procedure to ensure that the rights of the individual are adequately protected.

Thirdly, the use of narco-analysis must be restricted to exceptional cases involving grave offences where other investigative methods have been exhausted. Fourthly, an independent medical and legal oversight mechanism should be established to supervise the procedure and ensure compliance with ethical and legal standards.

Fifthly, the evidentiary use of information obtained through narco-analysis must remain strictly limited to derivative evidence under Section 27 of the Indian Evidence Act, and even such use should be subject to rigorous judicial scrutiny. Finally, there is a need for legislative intervention to codify clear guidelines governing the use of such techniques.

7.6 Balancing Investigation and Rights

The criminal justice system operates on the delicate balance between effective investigation and the protection of individual rights. Any attempt to tilt this balance excessively in favor of one objective risk undermining the legitimacy of the system as a whole. Narco-analysis represents a point of tension within this balance. While it may offer certain investigative advantages, these cannot justify a departure from fundamental constitutional principles. The legitimacy of the justice system depends not only on its ability to solve crimes but also on the fairness and legality of the methods it employs.

8. Conclusion

Narco-analysis, as an investigative technique, remains fraught with constitutional, evidentiary, and ethical challenges. While the Supreme Court has permitted its limited use under conditions of consent, significant concerns persist regarding the authenticity of such consent and the overall reliability of the technique. A balanced approach would require restricting the use of narco-analysis to exceptional circumstances, subject to stringent safeguards and judicial oversight. At the same time, greater emphasis must be placed on developing and utilizing more reliable and rights-compliant investigative methods. The right against self-incrimination, as judicially interpreted, extends beyond protection from physical coercion to include any form of compulsion that undermines the voluntariness of testimony. Narco-analysis, by interfering

with an individual's mental processes, challenges this principle at its core. Similarly, the expanding scope of personal liberty under Article 21, which now encompasses privacy, dignity, and mental autonomy, further limits the permissibility of such intrusive techniques.

The judgment in *Selvi v. State of Karnataka* marks a significant step in recognizing these concerns and placing constitutional restraints on the use of narco-analysis. However, the conditional acceptance of the technique based on consent introduces a degree of ambiguity, particularly in light of the practical realities of custodial environments where true voluntariness may be difficult to establish. From an evidentiary standpoint, the limited admissibility of information derived from narco-analysis further weakens its justification. If the results of such procedures cannot be reliably used as substantive evidence, their role within the criminal justice system remains inherently restricted. Ethical considerations, including the preservation of human dignity and the protection of mental integrity, reinforce the need for caution. In light of these factors, it becomes evident that narco-analysis cannot be treated as a routine investigative tool. Its use, if permitted at all, must remain strictly confined to exceptional circumstances and subject to rigorous safeguards, including informed consent, judicial oversight, and strict evidentiary limitations. At the same time, greater emphasis must be placed on strengthening conventional investigative methods that align more closely with constitutional values.