



INNOVATION TO ILLEGALITY: THE RISE AND RESTRICTION OF NARCO-ANALYSIS IN INDIAN JURISPRUDENCE

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ABSTRACT

*This paper critically examines the constitutional validity and ethical implications of narco-analysis within India's criminal justice system, focusing on its tension with fundamental rights under Articles 20(3) and 21. Although framed as an advanced forensic tool capable of aiding investigations, Narco-analysis raises serious concerns regarding scientific reliability, bodily autonomy, mental privacy, and its compatibility with due process. The study traces the evolution of this technique in India through high-profile cases and evaluates its regulatory framework, particularly the NHRC Guidelines of 2000, which emphasized voluntary consent and judicial oversight. Landmark judgments—including **Selvi v State of Karnataka** and **Amlesh Kumar v State of Bihar**—form the core of this analysis, reaffirming that involuntary narco-analysis violates the right against self-incrimination and personal liberty. Comparative insights from jurisdictions such as the USA, UK, Canada, and Australia further highlight widespread global skepticism due to the method's questionable evidentiary value and human-rights risks. The paper concludes that while forensic innovations may support investigations, they must operate within a robust legal framework rooted in constitutional morality, informed consent, and protection of human dignity.*

Keywords: Narco-Analysis, Article 20(3), Article 21, Self-Incrimination, Mental Privacy, Bodily Autonomy, Forensic Science, Due Process.

INTRODUCTION

The Evolving structure of Technology and its merits have seen a growth in pattern of very certain fields and scientific investigation methods is one of those growing fields where these methods tend to advance the level of investigation and broaden the scope of transparency into

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these incidents that have occurred in due course of time as the part of evolving structure the methods also face some serious ethical and constitutional violations at the same time while contributing to these advancements

Narco-analysis stands at the forefront of this debate. Often sensationalized as a "*truth serum*" technique, it represents both the promise and the peril of modern forensic science. While proponents argue that such methods can expedite investigations and extract critical information from uncooperative suspects, critics contend that they fundamentally violate human dignity, bodily autonomy, and constitutional protections against self-incrimination. This dichotomy has compelled courts worldwide to grapple with questions of admissibility, reliability, and the ethical boundaries of state power in criminal investigations.

This research critically examines the constitutional validity of narco-analysis within the Indian legal framework, with particular focus on its conflict with Articles 20(3) and 21 of the Constitution. The study traces the evolution of this investigative technique from its initial deployment in high-profile cases to its current status following landmark judicial pronouncements. By analyzing key judgments, statutory guidelines, and scientific literature, this article evaluates both the investigative utility and the constitutional hazards posed by narco-analysis.

The research will also highlight the evolution and recent developments that this test has gone through in several years, and what the Supreme Court had to say in the recent case, which raised the very same query of the test being constitutionally valid and its ethical concerns.

BACKGROUND

These tests were first used in a high-profile case in India, where the Supreme Court recently acquitted the Accused. Performed for the first time in the Institute of Forensic Science, Bangalore, this test showcased significant advancements in forensic investigation techniques, aiding law enforcement in complex cases by extracting information from uncooperative suspects.

The *ICCPR (International Covenant on Civil and Political Rights, 1966)*¹ has also proposed strong regulations to such practices, particularly concerning the ethical implications and potential for human rights violations inherent in involuntary truth serum administrations.

¹ ICCPR, UN General Assembly, Article 7 (1966)

Adhering to these regulations, countries like the USA, UK, CANADA, AND Australia have largely restricted the use of such tests and their admissibility in the court of law. The Supreme Court of India has also drawn a similar stance, which will be discussed in the latter part of this paper. Specifically, the Indian Supreme Court, in a landmark 2010 judgment, declared the involuntary use of narcoanalysis unconstitutional, citing violations of Article 20, which protects against self-incrimination, and Article 21, which guarantees due process.

Later, the same test was used in the Abdul Kareem Telgi case², which is the 2nd biggest scam after the Harshad Mehta case³. The clip of the accused giving his statements is available on all social media platforms, which was actually the first time people in India noticed a Narco test being performed and its effects on the body and the Statement of the Accused.

CONSTITUTIONAL PROTECTION AND GUARANTEE

The Indian Constitution, through its fundamental rights framework, safeguards individuals against the state's intervention, especially during criminal investigations. Articles 20(3) and 21 collectively form a constitutional safeguard protecting the accused from being compelled to self-incrimination and invasive investigative techniques. This constitutional protection, however, it is worth noting that it has been repeatedly tested against evolving forensic technologies like Narco-analysis, which seek to balance truth-finding with human dignity with respect to fundamental rights of a citizen

Article 20 (3)⁴ exclusively protects the right of an accused person not to become self-incriminating evidence against himself, which can be corroborated or fabricated in the light to divert from the main man behind the agenda

Article 21⁵ guarantees a person's right to life, which cannot be infringed by forcing these kinds of tests on a person by making him undergo such tests without his consent. Which can be harmful to his health and body, highlighted by major studies as a part of side effect

² Press Trust of India, 'Abdul Kareem Telgi: From Vegetable Vendor to Stamp Paper Scam Mastermind' *NDTV* (17 October 2017) <https://www.ndtv.com/people/abdul-kareem-telgi-from-vegetable-vendor-to-stamp-paper-scam-mastermind-1767679> accessed 20 November 2025.

³ 'Harshad Mehta' *Wikipedia* (10 November 2025) https://en.wikipedia.org/wiki/Harshad_Mehta accessed 20 November 2025.

⁴ Constitution of India, Article 20 Cl. 3

⁵ Constitution of India, Article 21.

STATUTORY FRAMEWORK OF THIS TEST

The test was not governed by any legislation or recognized by any institution in India; it was merely an investigative methodology for agencies such as the CBI and police investigators. However, *Guidelines for the administration of the polygraph test (Lie Detector Test) on an accused were issued in 2000⁶ as follows -*

1. **Voluntary Consent:** The test should be voluntarily consented by the accused
2. **Informed Consent:** They should be given access to a lawyer and the physical, emotional, and legal implications of the test
3. **Recorded Consent:** The consent must be recorded before a Judicial Magistrate.
4. **Legal Representation during Hearing:** During the hearing before the Magistrate, the person alleged to have agreed to the test should be duly represented by a lawyer.
5. **Statements Not Confessionals:** the person in question should also be told in clear terms that any statement made shall not be a "confessional" statement to the Magistrate but will have the status of a statement made to the police.
6. **Documentation:** Complete documentation of the test procedure, including a full medical and factual narration of the information received, must be taken on record.
7. **Independent Agency/Presence of Lawyer:** The test itself should be conducted by an independent agency (such as a hospital) and in the presence of a lawyer.
8. **Judicial Consideration of Factors:** The Magistrate shall consider all factors relating to the detention, including the length of detention and the nature of the interrogation, before allowing the test.

They stressed the very admissibility of these tests while addressing their conflicts with the fundamental rights of the Constitution. This framework aimed to reconcile the investigative utility of such tests with the constitutional protections against self-incrimination and the right

⁶ National Human Rights Commission, *Guidelines Relating to Administration of Polygraph Test (Lie Detector Test) on an Accused* (12 November 1999) <https://nhrc.nic.in/press-release/guidelines-administration-lie-detector-test> accessed 20 November 2025.

to life and personal liberty, particularly given the scientific reliability concerns associated with narco-analysis and polygraph tests.

The *2000 NHRC Guidelines* marked the first formal recognition of an accused's consent rights in investigative procedures, where some of the most important parts of the guidelines were that the test should have been conducted with the consent of the accused. If the accused did not consent to the test, the agencies had no right to force the accused into the test, and the tests would be conducted under the supervision of *a Judicial Magistrate*. The guidelines also made it clear that these tests will not be the only basis on which the courts will hold the accused liable, and called them leads for the investigation agencies for further leads.

Although the only edge these agencies had was that the statements made under these tests can be recorded under *Sec 27 of the Indian Evidence Act*⁷ [Discovery Rule], which is the only legal way of admissibility in this scenario in the Court of law. However, this limited admissibility clashed with fundamental rights, particularly the right against self-incrimination, leading to significant judicial scrutiny regarding the evidentiary weight and constitutional compliance of such practices.

THE TRUTH SERUM MISS OR HIT?

Narco-analysis, often sensationalized as “**truth serum**,” involves the intravenous administration of psychoactive drugs to induce a semi-conscious state where subjects are purportedly more susceptible to revealing information. This technique operates on the assumption that in this state, an individual's inhibitions are lowered, making them less capable of deception and more prone to disclosing facts they might otherwise conceal.

The existing literature has highlighted major holes and a lack of reliability on these tests, it has explicitly this can be affirmed that these tests have no scientific safety protocol and also are misleading in some cases⁸, where instead of leading the direction of investigation stand flawed after conducting these tests, which shows that these tests are not a very necessary part to the investigative process. This inherent unreliability poses significant challenges to their use in

⁷ *Indian Evidence Act 1872*, s 27.

⁸ Shibu Thomas and Rebecca Samervel, ‘How Narco Tests Gave More Misses Than Hits’ *The Times of India* (29 June 2013, 1:30 AM) <https://timesofindia.indiatimes.com/city/mumbai/how-narco-tests-gave-more-misses-than-hits/articleshow/20823599.cms> accessed 20 November 2025.

forensic contexts, raising questions about their admissibility and ethical implications within the legal framework.

Furthermore, the use of narco-analysis raises profound concerns regarding human rights and constitutional protections, particularly the privilege against self-incrimination and the right to personal liberty. Critics argue that subjecting individuals to drug-induced interrogation without their informed consent constitutes a violation of bodily autonomy and mental privacy, essentially forcing them to testify against themselves in an altered state of consciousness. The procedure's invasive nature, combined with its questionable accuracy, has led several jurisdictions to restrict or prohibit its use as evidence in criminal proceedings. Courts have increasingly recognized that confessions or statements obtained through narcoanalysis lack the voluntary character required for admissibility, as the subject cannot be said to have exercised free will while under the influence of mind-altering substances, thereby undermining fundamental principles of justice and due process.

JUDICIAL PRECEDENTS AND DEVELOPMENTS

The Indian judiciary has grappled with the use of narcoanalysis and similar techniques, with landmark judgments shaping their legality and application within criminal investigations.

*The Aarushi Talwar Murder Case (2008)*⁹

Aarushi Talwar murder case, for instance, prominently featured narco-analysis, bringing the technique under intense public and judicial scrutiny regarding its efficacy and ethical boundaries. Despite the use of narcoanalysis in the investigation, the technique's findings were not conclusive, underscoring persistent concerns about its scientific validity and reliability as an evidentiary tool.

The investigation into the Aarushi Talwar murder case became a high-profile example of the complexities and controversies surrounding narcoanalysis in India. The initial interpretation regarding the *validity of consent*—including the alleged lack of parental consent for the tests on the minor's family or associates, as reported by the media—was ultimately not the pivotal consideration for the higher courts regarding the evidence itself.

⁹ *Aarushi Talwar Murder Case* (CBI v Dr Rajesh Talwar & Anr) (2013) 16 SCC 279.

Jitubhai Babubhai Patel v. State of Gujarat

Although it did not definitively settle the broader constitutional validity of Narco-Analysis tests, it served as an important precursor to the landmark judgment on the matter. Requirement of Consent: The Supreme Court's order heavily implied that the test could not be forced upon the accused, reinforcing the importance of consent even before the definitive constitutional ruling came years later.

Selvi vs State of Karnataka 2010¹⁰

This was the first time the constitutional validity of the Narco test analysis was addressed. The court ruled that these tests were unconstitutional and violated the accused's fundamental rights. They also clearly stated that the evidence recorded in the procedure would not be admissible in a court of law under any circumstances. The court was clear about its stance, as the test violated the very principle of **Article 20 (3)** of the Constitution, which clearly states that no person can be compelled to incriminate themselves to become evidence. This was a major development with respect to the practices of polygraph tests on the accused in high-profile cases in India.

This ruling significantly reshaped investigative procedures by mandating voluntary participation and clarifying the evidentiary limitations of such techniques, especially regarding the right against self-incrimination. The court also relied upon some foreign judgments which explicitly state that ***"The U.S. Supreme Court held that such invasive methods constituted a violation of due process under the 14th Amendment"***¹¹. The Indian Court drew a direct parallel, arguing that involuntary narco-analysis similarly breaches the mental privacy and dignity of individuals, much like the physical intrusion condemned in *Rochin*.

The court also referred to some of the foreign judgments which have ruled against the constitutionality of this test, and also, highlighted the scientific unreliability of these methods, which often lead to unreliable outcomes due to the nature of the drugs administered during the test. These rulings underscored that while techniques like narcoanalysis might offer investigative leads, their involuntary application infringed upon fundamental human rights and often yielded inadmissible evidence due to ethical concerns and scientific uncertainty.

¹⁰ Selvi Vs. State of Karnataka, AIR 2010 SC 1974; MANU/SC/0325/2010
Rochin v California 342 US 165 (1952).

Even after numerous cases where these methodologies are used today, it is also the court's priority to first obtain consent from the accused before proceeding. In recent cases, courts have declined requests from these agencies to conduct these tests on individuals involved in high-profile cases or scandals. Recently, the Jammu and Kashmir court denied the CBI's request¹² to perform these tests on two accused persons detained in connection with the Pahalgam attack. The court maintained that the consent of the accused is the prime objective before proceeding with these scientific techniques.

Amlesh Kumar vs State of Bihar¹³

A shocker came to light when the Patna high court issued a clearance to the police for conducting a Narco test analysis on the accused charged with dowry death and kidnapping, and his consent was not necessary for this determination. When the same came before the Supreme Court through an SLP filed by Amlesh Kumar, claiming that his consent was determined before issuing clearances to conduct the test. The Supreme Court clarified and overturned the Patna High Court's order, emphasizing its previous judgments and saying that Narco test analysis is a clear violation of **Article 20 (3)** if they are conducted without the consent of the accused, and also emphasized that these tests cannot be considered as 'Material Evidence' before the law. They allowed the tests only with the due permission of the court after the accused had voluntarily consented to the same.¹⁴

They also stressed Article 21, stating that ***"The boundaries of privacy of a person are also breached when these tests are conducted without consent."***

The court also clarified the scope of the accused to ask for a narco test analysis on its own and the role of the court in determining the necessity of the test, considering the stage of the trial or case, and giving clearance to such tests with this, they observed that the said evidence can be taken on record under the Section 27 of Indian Evidence Act

¹² 'Jammu and Kashmir Court Declines Narco-Test on Two Pahalgam Attack Accused Without Their Consent' *The Hindu* (14 June 2023) <https://www.thehindu.com/news/national/jammu-and-kashmir/jammu-and-kashmir-court-declines-narco-test-on-two-pahalgam-attack-accused-without-their-consent/article70039285.ece> accessed 20 November 2025.

¹³ Amlesh Kumar v. State of Bihar, 2025 INSC 810 (India).
Gursimran Kaur Bakshi, 'Accused Has Right to Voluntarily Undergo Narco-Analysis Test Subject to Court's Permission: Supreme Court' *LiveLaw* (9 June 2025) <https://www.livelaw.in/top-stories/accused-has-right-to-voluntarily-undergo-narco-analysis-test-subject-to-courts-permission-supreme-court-294577> accessed 20 November 2025.

the court reinforced the necessity of obtaining informed consent, explicitly acknowledging that involuntary narco-analysis constitutes a violation of an individual's right to privacy and self-incrimination. This ruling has set a safeguarding standard principle for protecting the rights of the accused and also reminding the agencies about the rights of the accused retained even after being on trial.

THE WAY FORWARD

The Judiciary has to keep a check on these evolving standards of technology and their advancements, which contribute to a procedural investigation. Thus, establishing a comprehensive legal framework for the conduct of narco-analysis and similar scientific tests is crucial to balance investigative efficacy with the protection of fundamental rights

This framework must delineate strict protocols for voluntary consent, specify the conditions under which such tests can be administered, and clarify the evidentiary value and limitations of the results to prevent their misuse in investigations and legal proceedings in cases.

This comprehensive approach would ensure adherence to human rights principles while optimizing the utility of forensic science in the pursuit of justice.

Moreover, the development of such a regulatory framework should involve multi-stakeholder collaboration, bringing together legal experts, forensic scientists, ethicists, medical professionals, and human rights advocates to establish evidence-based guidelines that reflect both scientific validity and constitutional safeguards. Regular judicial oversight and periodic review mechanisms must be institutionalized to assess the efficacy and ethical implications of these techniques as new research emerges and technological capabilities evolve. Additionally, law enforcement agencies should be provided with comprehensive training on the limitations of narco-analysis and alternative investigative methods that are both scientifically sound and legally permissible. By creating transparent standards for the administration, interpretation, and presentation of such tests in court, the legal system can prevent the potential for coercion, protect the dignity of individuals under investigation, and maintain public confidence in the integrity of criminal justice processes while remaining open to legitimate scientific advancements that genuinely serve the cause of truth-seeking.

CONCLUSION

It is important to note that now the position is simple and unambiguous, as the courts have clarified the complications and their value as a new standardized technique to formulate and find evidence in the era of advancements. But the Constitutional guarantees remain unshaken as they are the most basic rights inherited by the citizens of this country, and they cannot be taken away just for the sake of an investigation analogy.

Therefore, while forensic tools like narco-analysis offer promising avenues for criminal investigation, their deployment must always be meticulously balanced against constitutional safeguards, particularly the right against self-incrimination and the right to privacy.

The Constitution of India, a visionary work of art even after 75 years, aims to protect the rights of the citizens of this country and the interests of the people to ensure justice and fairness despite the evolution of these methods and their challenging aspects. This continuous judicial scrutiny underscores a delicate balance between leveraging forensic advancements for criminal investigation and safeguarding individual liberties against potential overreach.

This judicial pronouncement has effectively established that no exigency of investigation, however grave the alleged crime, can justify the compromise of fundamental constitutional protections that define the relationship between the state and its citizens. The decision reflects a mature understanding that a civilized legal system must derive its strength not from coercive extraction of information but from rigorous, ethical investigation that respects human dignity, thereby setting a precedent that prioritizes constitutional morality over investigative convenience and reinforcing the principle that the ends, however desirable, cannot justify means that violate the foundational values of a democratic republic.

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