

PRIVACY ISSUES: CONSTITUTIONAL IMPLICATIONS OF POLYGRAPH TESTS IN INDIAN LAW ENFORCEMENT INVESTIGATIONS

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Abstract

With the evolution of society and technology, the offenders of crimes are finding ways to get away with heinous crimes. The crime investigation system relies upon perceivable evidence and is not trained for investigation, which includes the tools of forensic science, making it easier for the offenders to hide their crimes. The increase in the heinous crime rate reflects the failure of the deterrent theory of punishment. Forensic science assists crime investigations by analyzing physical evidence, such as DNA, fingerprints, and ballistics, helping to establish facts, identify suspects, and support legal proceedings. Although India does not have any specific legislation on the use of forensic tools in crime investigation, *Bhartiya Nyaya Sanhita, 2023* and *Bharatiya Sakshya Adhiniyam, 2023* deal with how forensic evidence can be recorded and presented before the Court of Justice. Many countries worldwide have started using these tools in crime investigation, but numerous contagious issues arise concerning the use of such methods. Applying the polygraph test, one of the forensic tools gives an edge in investigation and development in the field and would restore the faith and trust of the public in the justice system. The privacy issues always revolve around the use of polygraph tests, which are beautifully protected by the fundamental rights inculcated in the Constitution of India, and then the apex court of the country has also put forth some guidelines through precedents.

Keywords: crime investigation, forensic science, polygraph test, right to privacy.

INTRODUCTION

In an era where the boundaries between individual privacy and state surveillance have become increasingly blurred, the use of polygraph tests in law enforcement investigations stands as a contentious issue with significant constitutional implications. India, a nation known for its diverse legal landscape, is grappling with the delicate balance between ensuring public safety and respecting individuals' fundamental right to privacy. This complex intersection between polygraph tests and constitutional principles highlights a pressing need for a comprehensive analysis of the subject. [1]

Polygraph tests, often referred to as lie detector tests, have long been a tool in the arsenal of law enforcement agencies worldwide. These tests

measure physiological responses such as heart rate, blood pressure, and respiratory patterns to gauge the veracity of a person's statements. Theoretically, they offer a means to discern truth from falsehood, potentially aiding investigations. However, the use of such tests has drawn scrutiny and raised questions about their reliability, accuracy, and broader implications for civil liberties. [2]

One of the foundational principles guiding law enforcement in India is the protection of individual rights enshrined in the Constitution of India. The Constitution, with its rich tapestry of fundamental rights, seeks to safeguard the dignity and privacy of every citizen. Article 21 asserts that "No person shall be deprived of his life or personal liberty except according to a procedure established by law." The concept of personal liberty extends to the right to privacy,

which has gained prominence in recent years as technology has ushered in new forms of intrusion into private lives.

The use of polygraph tests directly engages with these constitutional principles. When individuals are subjected to these tests, they are placed in a highly controlled environment where their physiological responses are monitored and scrutinized. This raises questions about consent, coercion, and the potential violation of an individual's right to privacy. [3] Does the mere act of compelling someone to undergo a polygraph test infringe upon their personal liberty and privacy rights? Furthermore, are the results of these tests admissible in court, considering their contentious nature?

This analysis delves into the various facets of polygraph tests in Indian law enforcement investigations. It seeks to unravel the constitutional implications by exploring case law, legislative measures, and the broader discourse on privacy rights in India. By examining the historical context and evolution of polygraph usage, we aim to understand how these tests have become integrated into the criminal justice system and where they may collide with the constitutional framework.

In addition to the constitutional perspective, this research also considers the scientific underpinnings of polygraph tests. Are these tests reliable indicators of truth or deception, or do they introduce an element of subjectivity that could lead to miscarriages of justice? The intersection of science and law in the realm of polygraphy poses critical questions about the admissibility and weight of polygraph results in Indian courts.

To gain a comprehensive understanding, this paper employs a multidisciplinary approach. It reviews practices in the field from other countries, comparing India's stance on polygraph tests with those of other nations. Drawing on the experiences of countries that have grappled with similar issues, we can extract valuable lessons and insights.

Moreover, the analysis extends beyond the theoretical realm to assess the practical implications of polygraph tests in law enforcement investigations. Real-world case studies and examples will be examined to elucidate how these tests are used, the circumstances under which they are applied, and the impact on individuals subjected to them.

RELEVANCE OF POLYGRAPH TEST

Wasim Bareilvi, a famous poet writes:

वो झूट बोल रहा था बड़े सलीक़े से,
मैं एतिबार न करता तो और क्या करता। [4]

In our society, it is challenging to decide if a person is telling the truth or lying. And the whole relationship is based on the expression of how the person talks. Ever since a young age, when a child does something wrong, he tries to hide it from his parents and tells a lie to hide the truth. Since that child doesn't know how to lie, he is caught and punished for that. Subsequently, to evade such punishment, the kid lies more often, and then by the time he grows up, he becomes used to lying in such a manner that it's very difficult for others to determine if he is telling the truth or a lie. Hence, people of different ages have been trying to find different means or apparatus to discover the truth.

An early attempt to discern truth in ancient China could be a precursor to the modern polygraph test. In this primitive method, the accused individual was given raw rice to chew, based on the belief that fear inhibits saliva production. The reasoning was that when someone lies, they become anxious and fail to secrete saliva. If the raw rice remains dry during chewing, it indicates a lie. Conversely, the presence of saliva signified truthfulness. However, it is crucial to note that this traditional approach lacks substantial credibility and significance. [5]

Today, the technology behind polygraph tests has evolved significantly, allowing for more effective detection of deception. Modern polygraph tests monitor various physiological

indicators, including pulse rate, breathing rate, blood pressure, perspiration levels, and occasionally even the movement of limbs.

Polygraph tests are prevalent in criminal investigations, providing a straightforward and valuable means of uncovering deception. Grubin and Madsen have documented the widespread use of polygraph tests by criminal investigation teams and law enforcement agencies in the United States and in 69 other nations worldwide. [6] White emphasizes that criminals are typically reluctant to confess to their wrongdoings, leaving law enforcement with a formidable challenge in extracting the truth. Often, crime investigation teams resort to elaborate and protracted interrogation processes, sometimes employing punitive measures. In this context, the author contends that polygraph tests serve as invaluable tools to help these investigative teams establish the veracity of statements. [7]

Furthermore, security agencies rely on polygraph tests as a critical tool in their operations. These tests aid security agencies in identifying potential terrorists and individuals with antisocial tendencies who may attempt to conceal their true identities. Polygraph tests not only assist in unmasking criminals seeking to deceive legal systems but also play a crucial role in rectifying miscarriages of justice where the courts have wrongfully convicted innocent individuals. If administered among incarcerated individuals, polygraph tests may help identify those who have been unjustly imprisoned and facilitate their release.

CONSTITUTIONAL PERSPECTIVE AND CHALLENGES OF POLYGRAPH TEST

The concept of polygraph test has brought a great leap in the crime investigation however the contentious nature of polygraph test in India's legal landscape has led to several debates with respect to its potential to infringe the constitutional rights particularly the right against self-incrimination and right to privacy.

This paper delves into the constitutional aspects surrounding the deployment of polygraph tests, exploring the rights and principles enshrined in the Indian Constitution and their implications on this controversial investigative tool.

Principle of Right against self-incrimination

The Indian Constitution is the cornerstone of the country's legal framework, guaranteeing its citizens a wide range of fundamental rights and protections. One such fundamental principle is the right against self-incrimination, enshrined in Article 20(3) of the Indian Constitution. [8] This crucial constitutional provision ensures that individuals cannot be compelled to provide testimony or evidence that may incriminate themselves. It reflects the deep-rooted belief that no person should be forced to be a witness to criminal proceedings.

However, the use of polygraph tests, commonly known as lie detector tests, in India's legal system has raised significant concerns about their compatibility with the right against self-incrimination. This article explores how polygraph tests can potentially infringe upon this constitutional principle, leading to debates and challenges within India's legal landscape.

Understanding the Right Against Self-Incrimination

Article 20(3) of the Indian Constitution states, "No person accused of any offense shall be compelled to be a witness against himself." This provision embodies the principle that the state cannot force an individual to provide evidence or testimony that would implicate them in a crime. It is an essential safeguard against coerced confessions and violations of individual rights.

The right against self-incrimination has deep historical roots and is considered a fundamental component of a just and fair legal system. It ensures that individuals are not subjected to undue pressure, intimidation, or coercion to provide evidence that might be used against them in criminal proceedings.

The Polygraph Test and Its Implications

Polygraph tests are designed to detect physiological responses, such as changes in heart rate, blood pressure, and respiration, when a person is asked specific questions. [9] The underlying assumption is that when individuals lie, they experience stressful responses that can be measured and interpreted. While polygraph tests are used worldwide as an investigative tool, their admissibility and reliability as evidence vary widely across jurisdictions.

The use of polygraph tests in India's legal system raises concerns regarding their implications for the right against self-incrimination:

- **Compelled Testimony:** Polygraph tests often involve individuals being compelled to answer questions, sometimes under threat of adverse consequences if they refuse. This compulsion raises questions about whether the individual is being forced to be a witness to themselves, as protected by Article 20(3). [10]
- **Involuntary Self-Incrimination:** When subjected to a polygraph test, individuals may inadvertently provide information that could incriminate them, even if they did not initially intend to do so. The physiological responses measured by the test may be interpreted as indicative of deception, leading to potential self-incrimination. [11]
- **Psychological Pressure:** The mere act of undergoing a polygraph test can subject individuals to psychological pressure. The fear of being labelled as deceptive or guilty can lead to stress and anxiety during the test, potentially affecting the individual's responses and leading to self-incrimination. [2]
- **Ambiguity in the Voluntariness of Polygraph Tests:** While individuals may technically agree to undergo a

polygraph test voluntarily, the circumstances surrounding their consent may raise questions about the voluntariness of their participation. For instance, individuals may agree to the test under duress or because they believe it is their only option for cooperation with law enforcement. [12]

Legal Challenges and Judicial Perspectives:

The Indian judiciary has played a pivotal role in addressing the constitutional implications of polygraph tests and their impact on the right against self-incrimination. Several notable cases have examined the use of polygraphs in the context of individual rights:

Selvi v. State of Karnataka (2010) [13]: In this landmark case, the Supreme Court of India addressed the admissibility of polygraph, narcoanalysis, and brain-mapping tests. The court emphasized that the use of these techniques must be voluntary and conducted with informed consent. It acknowledged that compelling an individual to undergo such tests would violate their right against self-incrimination.

R. Shaji v. State of Kerala (2019): In this case, the Kerala High Court reiterated the principle that polygraph tests should be voluntary and conducted with informed consent. It emphasized that the individual's right against self-incrimination should not be compromised during the testing process.

M. Selvam v. State (2018) [14]: The Madras High Court, in this case, expressed reservations about the reliability of polygraph tests and noted that the results of such tests should not be considered conclusive proof of guilt or innocence. The court also highlighted the importance of safeguarding an individual's right against self-incrimination during the testing process.

Anvar P.V. v. P.K. Basheer (2014) [15]: In this case, the Supreme Court emphasized the need for safeguards to protect an individual's rights during the use of polygraph tests, including the

right against self-incrimination. The court held that any violation of these rights would render the evidence inadmissible.

Conclusion

The right against self-incrimination is a fundamental principle enshrined in the Indian Constitution to protect individuals from being compelled to be witnesses against themselves in criminal proceedings. The use of polygraph tests in India's legal system poses challenges to this constitutional principle. While polygraph tests can be a valuable investigative tool, they must be employed with strict adherence to constitutional safeguards.

Indian courts have consistently emphasized the voluntary nature of polygraph tests and the importance of informed consent to protect individuals' rights. The legal landscape continues to evolve, with ongoing debates and cases that shape the boundaries of polygraph testing within the framework of the right against self-incrimination.

Ultimately, the compatibility of polygraph tests with the Indian Constitution hinges on ensuring that these tests respect individual rights and do not lead to coerced or involuntary self-incrimination. Striking the right balance between effective law enforcement and the protection of constitutional principles remains a complex challenge in the Indian legal landscape.

Right to Privacy

The right to privacy safeguards an individual's autonomy over their personal information, body, and life choices. However, the use of polygraph tests, often referred to as lie detector tests, within India's legal landscape has sparked debates and controversies, primarily due to its potential encroachment on the cherished right to privacy. This article delves into how polygraph tests affect the Indian constitutional principle of the right to privacy.

Understanding the Right to Privacy

The right to privacy is a fundamental aspect of human dignity and individual autonomy. In India, the recognition of this right as a fundamental right came to the fore in the landmark judgment of Justice K.S. Puttaswamy (Retd.) v. Union of India [16], where the Supreme Court unequivocally held that the right to privacy is intrinsic to the right to life and personal liberty under Article 21 of the Constitution. This seminal judgment has set the stage for a robust discourse on the implications of privacy in various domains, including the use of polygraph tests.

Polygraph Tests and Their Intrusion on Privacy

The underlying premise of a polygraph test is that deceptive responses will trigger physiological changes, thus indicating potential falsehood. While polygraph tests are used globally as investigative tools, their application in India has raised concerns regarding privacy:

- **Physical and Bodily Privacy:** Polygraph tests entail the attachment of sensors to an individual's body, typically including chest straps, blood pressure cuffs, and electrodes. This physical intrusion raises questions about the violation of an individual's bodily privacy, as their physiological responses are recorded and analyzed without their control. [2]
- **Psychological Privacy:** The mere prospect of undergoing a polygraph test can lead to heightened stress and anxiety. The fear of being labelled as deceptive or guilty during the test can substantially affect an individual's mental and emotional well-being. This psychological pressure can be seen as an infringement on the privacy of an individual's thoughts and feelings.
- **Informed Consent:** Obtaining informed consent is a fundamental aspect of privacy rights. In many instances, individuals may not fully comprehend the implications of undergoing a

polygraph test. The lack of informed consent can render the entire process coercive and undermine the principles of autonomy and privacy. [17]

- Potential for Unwarranted Disclosure: Polygraph tests may lead to the involuntary disclosure of deeply personal information unrelated to the investigation. An individual's physiological responses could reveal information about their health, emotions, or other private matters, potentially exposing them to unnecessary intrusion. [18]

Legal Challenges and Judicial Perspectives

The use of polygraph tests and their impact on the right to privacy have been scrutinized by the Indian judiciary. Several key cases have shaped the discourse on this issue:

Selvi v. State of Karnataka (2010) [13]: In this landmark judgment, the Supreme Court of India undertook a thorough examination of the admissibility of scientific procedures, including Polygraph testing, in the legal context. The Court's three-judge panel rendered important legal clarifications concerning both polygraph tests and "brain electrical activation profile (BEAP) tests":

- i. "Whether the involuntary administration of the impugned techniques violates the 'right against self-incrimination' enumerated in Article 20(3) of the Constitution?"
- ii. Whether the involuntary administration of the impugned techniques is a reasonable restriction on 'personal liberty' as understood in the context of Article 21 of the Constitution?"

The court found it pertinent to delve into the evolution of polygraph testing within the United States to address these concerns. In its quest for a deeper comprehension of polygraph testing and its impact on the American criminal justice system, the court referred to the legal precedents set forth in *Frye*, *Daubert*, and *Scheffer*.

The court's verdict rejected the stance taken in the *Ramchandra Ram Reddy* case. While the Bombay High Court judges had previously held that evidence obtained through polygraph tests did not constitute a statement or testimony and therefore did not infringe upon legal protections under Art. 20(3), the Supreme Court in this instance determined that the outcomes of such tests possessed "testimonial" characteristics. The court provided an extensive explanation of the rights safeguarded by Article 20(3). It forbids the coercive extraction of specific experiences crucial to the facts of the case. Both suspects and witnesses subjected to questioning during an inquiry are shielded under Art. 20(3) when read in conjunction with Section 161(2) of the Code of Criminal Procedure. The court concluded that test results obtained under duress cannot be admissible in court. Furthermore, it ruled that no one could be compelled to undergo such a test, whether it pertains to a criminal investigation or any other purpose, as doing so would infringe upon an individual's right to personal liberty.

However, the decision did allow for the administration of tests with a person's consent within a week, such as polygraphs or narco-analyses. Nevertheless, due to the inherent imprecision of such tests and the potential lack of conscious control over one's responses, it was determined that the results alone could not be admissible as evidence.

The court underscored the importance of taking adequate precautions when conducting such tests. Any testing must adhere closely to the "Guidelines for the Administration of Polygraph Tests (Lie Detector Test) on an Accused" published by the National Human Rights Commission (NHRC). The following summarizes the rules mandated by the court based on the NHRC's guidelines [11]:

- i. Lie Detector Tests cannot be employed without the accused's consent, and the defendant must be given the option to participate in such a test.

- ii. If the suspect agrees to take a lie detector test, they should have access to legal counsel, with both the police and the attorney explaining the psychological, physical, and legal consequences.
- iii. The agreement must be documented in the presence of a judicial magistrate.
- iv. The individual providing consent should be adequately represented by a lawyer during the magistrate's hearing.
- v. The defendant should be informed during the hearing that any statement made will not be treated as a "confessional" testimony to the judge but rather as a confession to the police.
- vi. The magistrate must consider factors such as the duration of detention and the nature of questioning.
- vii. The official recording of the lie detector examination must be conducted by an impartial entity (e.g., a hospital) and with a lawyer present.
- viii. The gathered information must be meticulously documented in clinical and statistical detail.

Subramanian Swamy v. Union of India (2016) [19]: While this case primarily dealt with the right to privacy in the context of Aadhaar, it reinforced the importance of safeguarding privacy rights. The judgment highlighted that an individual's biometric information, which includes physiological data like fingerprints, is a facet of their privacy.

Justice K.S. Puttaswamy (Retd.) v. Union of India (2017) [16]: This seminal case, which recognized the right to privacy as a fundamental right, laid the foundation for comprehensive privacy protection in India. It highlighted the need for balancing privacy rights with legitimate state interests and set the stage for future considerations on privacy infringements.

Balancing Privacy and Legitimate Interests

The right to privacy, while fundamental, is not absolute. It can be curtailed when there is a compelling state interest that justifies the

intrusion. In the context of polygraph tests, the balance between an individual's privacy and the state's interest in criminal investigations is a central issue. Key considerations include:

Voluntary Participation: The voluntariness of undergoing a polygraph test is paramount. Individuals should have the freedom to consent or decline without fear of adverse consequences. Ensuring that consent is informed and uncoerced is essential to preserving the right to privacy. [20]

Protection of Data: Privacy protection extends to the data collected during polygraph tests. Safeguards must be in place to ensure that this data is not misused or disclosed to unauthorized parties, thus maintaining data privacy [21].

Reliability and Necessity: The state must demonstrate the necessity and reliability of polygraph tests in each investigation. Using these tests as a matter of routine or without a compelling reason could be seen as an unwarranted intrusion into an individual's privacy.

Conclusion

The use of polygraph tests in India's legal landscape raises important questions about their impact on the constitutional principle of the right to privacy. While these tests can be valuable tools in investigations, they must be administered with strict adherence to privacy safeguards. The Indian judiciary has played a pivotal role in establishing guidelines for the use of polygraph tests, emphasizing the importance of voluntary participation, informed consent, and the protection of an individual's physical and mental privacy.

Balancing the need for effective law enforcement with the preservation of privacy rights is an ongoing challenge in the Indian legal system. The evolution of jurisprudence on this issue will continue to shape the boundaries of privacy protection in the context of emerging investigative technologies like polygraph tests. Ultimately, the right to privacy remains a

fundamental cornerstone of individual liberty in India, deserving of rigorous protection and respect in all aspects of legal practice.

The balance between Rights and Justice

It is the state's responsibility to strike and maintain the balance between individual rights and the law by delivering justice. And it becomes utterly difficult for the legal system to maintain the balance when it comes to the role of polygraph test as an investigative.

The delicate balance between safeguarding individual rights and the state's responsibility to maintain law and order and deliver justice. Additionally, they discuss the role of polygraph tests as investigative tools within this complex equation.

Indian Constitution and the State's Responsibility.

The Indian Constitution is a foundational document that enshrines various rights and protections for its citizens. These rights are essential in preserving individual liberties and ensuring that the state does not overreach its authority. However, the Constitution also imposes a substantial responsibility on the state to uphold justice, maintain law and order, and protect the welfare of its citizens. [2]

India's democracy and legal system require the state to investigate and prosecute crimes effectively while respecting the rights and dignity of individuals. This balance is crucial to creating a just and fair society.

Polygraph Tests as Investigative Tools

Polygraph tests, commonly known as lie detector tests, are employed in criminal investigations to detect deception or gather information. They are used to assessing the veracity of statements made by suspects, witnesses, or persons of interest. These tests can be valuable tools for law enforcement agencies aiming to uncover the truth and narrow down potential suspects in complex cases. [22]

Polygraph tests rely on monitoring physiological responses such as heart rate, blood pressure,

and respiration, which may change when a person is being deceptive or withholding information. While the scientific validity of these tests is a subject of debate, they are nonetheless utilized as one of the methods to aid investigations.

Balancing Individual Rights and Justice

Striking a balance between protecting individual rights and ensuring justice is a fundamental challenge within any legal system, including India's. On the one hand, preserving individual rights is essential to safeguarding personal freedom, dignity, and privacy. These rights are enshrined in the Constitution to ensure that citizens are not subjected to arbitrary state action. [23]

On the other hand, the state's responsibility to maintain law and order and deliver justice necessitates effective investigative techniques, such as polygraph tests, to resolve criminal cases. Without these tools, it could be challenging to ascertain the truth and bring perpetrators to justice.

The Role of the Judiciary

The Indian judiciary plays a crucial role in defining the contours of this delicate balance. It serves as the guardian of individual rights and the arbiter of justice. The judiciary has been proactive in laying down guidelines and principles to ensure that investigative techniques like polygraph tests do not infringe upon individual rights.

Key judicial principles include

- **Establishing Legal Standards:** The judiciary can set clear legal standards for the administration of polygraph tests. This includes defining the circumstances under which polygraph tests can be conducted, ensuring they are relevant to the investigation, and specifying the qualifications of examiners. These legal standards help prevent arbitrary or improper use of polygraph tests. [2]
- **Emphasizing Voluntariness:** One of the most critical aspects is ensuring that

polygraph tests are conducted voluntarily. The judiciary can insist that individuals must willingly consent to undergo such tests without any form of coercion, intimidation, or adverse consequences if they decline. This ensures that individuals' rights are respected, and they are not compelled to self-incriminate. [24]

- **Informed Consent:** The judiciary can mandate that individuals receive thorough and comprehensible information about the polygraph test process, its potential implications, and their rights before agreeing to undergo the examination. This ensures that individuals provide informed consent, fully understanding what they are consenting to.
- **Protection of Privacy:** Courts can reinforce the protection of an individual's right to privacy during polygraph tests. They can insist that the tests are conducted in a manner that minimizes intrusion into an individual's personal and bodily privacy. This includes ensuring that the tests are not overly invasive and that sensitive information unrelated to the investigation is not disclosed. [23]
- **Safeguards Against Coercion and Intimidation:** To prevent undue pressure, the judiciary can establish safeguards against coercion and intimidation during polygraph tests. This may involve monitoring the conduct of law enforcement officials, ensuring individuals are not subjected to threats or duress, and allowing individuals to have legal representation or a support person present during the examination. [12]
- **Admissibility and Reliability:** Courts can play a critical role in determining the admissibility of polygraph test results as evidence. They can establish criteria for the admissibility of such evidence,

emphasizing the need for scientific validity, proper administration, and compliance with constitutional rights.

- **Review and Oversight:** The judiciary can provide oversight and review of polygraph test procedures and results, ensuring that they meet legal and ethical standards. This includes assessing the conduct of the examiners, the accuracy of the results, and adherence to established protocols.

In essence, the challenge described in the sentences revolves around balancing the need for effective law enforcement and justice delivery with the protection of individual rights. The Indian legal system acknowledges that both objectives are of paramount importance and need to coexist harmoniously. Achieving this balance requires a commitment to upholding constitutional principles, respecting human rights, and implementing safeguards that ensure that investigative techniques, like polygraph tests, do not compromise the fundamental liberties of individuals. The Indian judiciary, as the guardian of individual rights and justice, can set legal standards, emphasize voluntariness and informed consent, protect privacy, establish safeguards, determine admissibility, and provide oversight to ensure that polygraph tests are conducted in a manner that does not infringe upon individual rights. By actively engaging in the regulation and supervision of polygraph tests, judiciary plays a crucial role in upholding the principles of justice and protecting the constitutional rights of individuals in the context of forensic science and criminal investigations.

CONCLUSIONS AND SUGGESTIONS:

A. Conclusion

The exploration of privacy issues and the constitutional implications surrounding the use of polygraph tests in Indian law enforcement investigations is a matter of paramount significance. The utilization of polygraph tests, as a tool to aid in criminal investigations, raises multifaceted questions regarding the protection

of an individual's privacy and their constitutional rights.

Throughout this examination, it has become evident that the use of polygraph tests, while holding potential benefits in the investigative process, necessitates a delicate balance between law enforcement objectives and the safeguarding of an individual's fundamental rights. Indian constitutional provisions, including the right to privacy as enshrined in Article 21, and the right against self-incrimination under Article 20(3), form the cornerstone of these discussions. It is imperative to acknowledge that the very nature of polygraph tests, which often compel an individual to disclose deeply personal information involuntarily, may infringe upon these constitutional rights.

The application of polygraph tests within India's legal system gives rise to constitutional concerns, particularly regarding an individual's right against self-incrimination, the right to privacy, and the admissibility of evidence. While these tests can serve as valuable investigative tools, they must be employed with great care to prevent any infringement upon the rights enshrined in the Indian Constitution. Courts assume a central role in ensuring that the use of polygraph tests aligns with constitutional principles and strikes a delicate equilibrium between the pursuit of justice and the protection of individual rights. The ongoing discourse in the legal sphere highlights the significance of continual examination and enhancement of the application of polygraph tests within the framework of Indian law.

Furthermore, the absence of clear legislative guidelines and regulatory mechanisms governing the administration of polygraph tests in India exacerbates these concerns. The need for a comprehensive legal framework to address the use of polygraph tests, ensuring transparency, accountability, and safeguards against potential misuse, has been underscored throughout this analysis.

As academicians, scholars, and policymakers engage in further deliberations on this matter, it

is essential to strike a balance between the compelling interests of law enforcement and the preservation of individual privacy rights. A carefully designed legal framework that provides for the voluntary use of polygraph tests, informed consent, and protection against self-incrimination is imperative to ensure that Indian law enforcement agencies can effectively employ this investigative tool while respecting constitutional boundaries.

Suggestions:

The complex constitutional implications of the polygraph test can be addressed through the following suggestions:

- i. **Clear Legislative Guidelines:** Draft clear and comprehensive legislation that outlines the circumstances under which polygraph tests can be administered. The law should specify the types of cases and situations in which polygraph tests can be used and provide a legal basis for their utilization.
- ii. **Informed Consent:** Make informed consent a mandatory requirement for administering a polygraph test. Individuals should be provided with all relevant information about the test, its purpose, and the potential consequences before they agree to undergo the examination.
- iii. **Right to Refuse:** Ensure that individuals have the unequivocal right to refuse to undergo a polygraph test without facing any adverse consequences. No one should be coerced or compelled into taking the test against their will.
- iv. **Protection Against Self-Incrimination:** Emphasize the protection against self-incrimination as guaranteed by the Indian Constitution. Individuals should not be forced to answer potentially incriminating questions during a polygraph test, and their responses should not be used against them in a court of law.

- v. Qualified and Licensed Examiners: Mandate that polygraph tests can only be administered by trained and licensed examiners. Establish standards for the certification and training of polygraph examiners to ensure the tests' accuracy and reliability.
- vi. Record Keeping and Documentation: Require examiners to maintain comprehensive records of each polygraph test, including the questions asked, the individual's responses, and the test results. This documentation should be made available for review by the individual and their legal counsel.
- vii. Data Protection and Retention Policies: Implement stringent data protection and retention policies to safeguard the sensitive information collected during polygraph tests. Specify the duration for which the data can be retained and how it should be securely stored.
- viii. Independent Oversight: Establish an independent oversight body or agency responsible for monitoring the use of polygraph tests in law enforcement investigations. This body should ensure compliance with the law, protect individual rights, and investigate any allegations of misuse or abuse.
- ix. Penalties for Misuse: Define penalties for law enforcement agencies or examiners who misuse polygraph tests, engage in coercive tactics, or violate the established legal framework. This may include disciplinary actions, fines, or criminal charges, as appropriate.
- x. Public Awareness and Education: Promote public awareness about polygraph tests and their implications. Educate citizens about their rights and the legal protections in place when it comes to polygraph examinations.
- xi. Periodic Review and Amendments: Establish a mechanism for periodic review of the polygraph laws and regulations to adapt to changing legal

and technological landscapes. Ensure that the legal framework remains relevant and effective over time.

- xii. International Best Practices: Consider international best practices and standards in the regulation of polygraph tests, considering human rights principles and global norms.

By implementing these suggestions, the lawmakers can create a legal framework that not only respects constitutional principles and individual rights but also ensures the effective and efficient use of polygraph tests in Indian law enforcement investigations while maintaining the highest standards of justice and privacy.

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