

## NARCO-ANALYSIS AND THE LAW OF CONFESSIONS IN INDIA: CONSTITUTIONAL AND EVIDENTIARY PERSPECTIVES

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### Abstract

Narco-analysis, often described as a “truth serum” technique, has occupied a controversial space within the Indian criminal justice system. While investigative agencies have occasionally relied upon it to extract concealed information from suspects, its legitimacy under constitutional and evidentiary law remains deeply contested. This paper critically examines the admissibility of confessions obtained through narco-analysis within the Indian legal framework. It analyses statutory provisions under the Indian Evidence Act, 1872, alongside constitutional safeguards enshrined in Articles 20(3) and 21 of the Constitution of India. Through an examination of judicial pronouncements—particularly the landmark decision in *Selvi v. State of Karnataka*—this paper argues that narco-analysis fails to meet the standards of voluntariness, reliability, and procedural fairness required for admissible confessions. Furthermore, it highlights the ethical and human rights implications of such techniques and situates India’s position within a comparative global context. The study concludes that narco-analysis, while potentially useful as an investigative aid, cannot be treated as substantive evidence and must remain strictly regulated to prevent abuse.

### Introduction

The criminal justice system constantly grapples with the challenge of balancing effective investigation with the protection of individual rights. With advancements in forensic science, investigative authorities have increasingly turned towards scientific techniques to aid in uncovering truth. Among these techniques, narco-analysis has emerged as one of the most debated and controversial methods. Narco-analysis gained prominence in India during the early 2000s, particularly in high-profile criminal cases where traditional investigative methods appeared insufficient. The technique involves administering drugs such as sodium pentothal, which induce a hypnotic or semi-conscious state in the subject. In this state, it is believed that the individual becomes less capable of deception and more likely to reveal truthful information.

However, this assumption raises serious legal and ethical questions. Can statements made under the influence of such substances be considered voluntary? Do they comply with constitutional safeguards against self-incrimination? Can they be admitted as evidence under existing legal provisions? This paper seeks to answer these questions by examining narco-analysis from both constitutional and evidentiary perspectives. It argues that despite its perceived utility, narco-analysis is fundamentally incompatible with the principles of fairness, voluntariness, and human dignity that underpin Indian criminal law.

### Concept and Scientific Basis of Narco-Analysis

Narco-analysis is a forensic technique rooted in the use of psychotropic drugs to induce a state of reduced consciousness. Commonly used substances include sodium pentothal, also known as thiopental sodium, which depresses

the central nervous system. The underlying theory is that in this sedated state, the subject's ability to fabricate lies is diminished, making it easier to extract truthful responses. However, this assumption is highly contested within the scientific community.

### 2.1 Scientific Limitations

Several concerns undermine the credibility of narco-analysis: Suggestibility: Individuals under the influence of drugs are highly suggestible and may provide responses influenced by the interrogator's questions. Memory Distortion: The technique does not guarantee accurate recall; subjects may mix imagination, dreams, and actual memories. Lack of Control: The subject is not in a position to consciously verify or correct their statements. Absence of Standardization: There is no universally accepted protocol ensuring reliability or consistency. Thus, narco-analysis does not produce verifiable truth but rather a stream of potentially unreliable information.

### Legal Framework Governing Confessions in India

The admissibility of confessions in India is governed primarily by the Indian Evidence Act, 1872. The Act reflects a cautious approach, recognizing the potential for abuse in obtaining confessional statements.

3.1 Sections 24–30 of the Indian Evidence Act These provisions establish safeguards against involuntary confessions: Section 24 excludes confessions obtained through inducement, threat, or promise. Section 25 renders confessions made to police officers inadmissible. Section 26 prohibits confessions made in police custody unless recorded before a magistrate. Section 27 allows limited admissibility of information leading to discovery of facts. Narco-analysis falls afoul of these provisions because it involves a form of compulsion and is typically conducted under police supervision.

3.2 Principle of Voluntariness The cornerstone of admissibility is voluntariness. A confession must

be: The product of free will Made with full mental awareness Free from coercion or undue influence Narco-analysis inherently violates this principle, as the subject's mental autonomy is compromised.

### Constitutional Dimensions

The use of narco-analysis directly implicates fundamental rights guaranteed under the Constitution of India.

4.1 Article 20(3): Protection Against Self-Incrimination Article 20(3) provides that no person accused of an offence shall be compelled to be a witness against themselves. This right serves as a critical safeguard against coercive investigative practices. Narco-analysis conflicts with this provision in multiple ways: It extracts personal knowledge without voluntary consent It bypasses the individual's conscious control It compels testimonial responses indirectly The Supreme Court has interpreted "compulsion" broadly to include both physical and mental coercion, thereby encompassing techniques like narco-analysis.

4.2 Article 21: Right to Life and Personal Liberty Article 21 has been expansively interpreted to include: Right to privacy Right to dignity Right to bodily integrity Right to fair procedure Narco-analysis infringes these rights by: Intruding into the mental domain of an individual Administering substances that alter consciousness Undermining personal autonomy Thus, it raises serious concerns regarding the violation of human dignity and procedural fairness.

Judicial Response in India The judiciary has played a crucial role in determining the legality of narco-analysis.

5.1 Pre-Selvi Era Before 2010, courts occasionally permitted narco-analysis, particularly when the subject consented. However, the legal position remained unclear, leading to inconsistent practices.

5.2 Selvi v. State of Karnataka (2010) This landmark judgment fundamentally reshaped the legal status of narco-analysis in India. The

Supreme Court held: Involuntary administration of narco-analysis violates Article 20(3) It also violates Article 21 by infringing personal liberty and privacy Statements obtained through such techniques are inadmissible as evidence The Court emphasized that: The right against self-incrimination includes mental privacy Compelled extraction of information is unconstitutional Scientific techniques cannot override fundamental rights However, the Court allowed limited use: With informed consent, such tests may be conducted Information obtained may be used for investigative leads Not as direct evidence in court This judgment established a clear boundary between investigative utility and evidentiary admissibility.

Evidentiary Value of Narco-Analysis Even when conducted with consent, narco-analysis faces significant evidentiary challenges.

6.1 Reliability Concerns Statements made under drug influence are inherently unreliable due to: Impaired cognitive function Lack of conscious control Increased suggestibility

6.2 Corroboration Requirement Courts require independent corroboration of any information obtained. Narco-analysis cannot independently establish guilt.

6.3 Section 27 Exception In limited cases, information leading to the discovery of facts may be admissible under Section 27. However, this does not validate the entire statement.

Ethical and Human Rights Concerns Narco-analysis raises profound ethical questions: Autonomy: It undermines the individual's right to control their own mind and body. Consent: Genuine consent is difficult to establish in custodial settings. Dignity: The technique treats individuals as objects of investigation rather than rights-bearing persons. International human rights principles emphasize: Protection against inhuman or degrading treatment Respect for mental integrity Fair trial rights Narco-analysis conflicts with these principles.

Comparative Legal Perspective Globally, narco-analysis is largely rejected as admissible

evidence: In the United States, courts have consistently held such techniques unreliable. In the United Kingdom, they are not recognized as valid evidence. International human rights law discourages coercive interrogation methods. India's position post-Selvi aligns with these global standards.

Practical Challenges in India Despite legal restrictions, several challenges persist: Investigative agencies may still rely on narco-analysis in difficult cases Public pressure in sensational cases encourages its use Lack of awareness about legal limitations leads to misuse This creates a gap between legal principles and ground-level practices.

Critical Analysis Narco-analysis reflects a tension between: The desire for efficient investigation The need to protect fundamental rights While it may appear to offer quick solutions, it compromises: Legal fairness Reliability of evidence Constitutional values The technique ultimately undermines the credibility of the justice system.

Conclusion

Narco-analysis, despite its scientific appearance, fails to meet the legal standards required for admissible confessions in India. It violates the principle of voluntariness, infringes fundamental rights, and produces unreliable results. The Supreme Court's ruling in Selvi v. State of Karnataka represents a crucial step in safeguarding individual rights against invasive investigative practices. It reinforces the idea that the pursuit of truth must be balanced with respect for human dignity and constitutional guarantees. In a democratic society governed by the rule of law, ends cannot justify means. Narco-analysis must remain a limited investigative tool, subject to strict safeguards, and cannot be accepted as substantive evidence in criminal trials.