



ILE

JOURNAL OF EVIDENCE AND
JURISPRUDENCE

VOLUME 1 AND ISSUE 1 OF 2023

INSTITUTE OF LEGAL EDUCATION



ILE JOURNAL OF EVIDENCE AND JURISPRUDENCE

APIS – 3920 – 0049 | ISBN – 978-81-964391-3-2

(Free Publication and Open Access Journal)

Journal's Home Page – <https://jevj.ilededu.in/>

Journal's Editorial Page – <https://jevj.ilededu.in/editorial-board/>

Volume 1 and Issue 1 (Access Full Issue on – <https://jevj.ilededu.in/category/volume-1-and-issue-1-of-2023/>)

Publisher

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NARCO-ANALYSIS TEST: EVIDENTIARY VALUE IN INDIAN LEGAL SYSTEM

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Best Citation – MUBASHARA FATIMA, NARCO-ANALYSIS TEST: EVIDENTIARY VALUE IN INDIAN LEGAL SYSTEM, *ILE JOURNAL OF EVIDENCE AND JURISPRUDENCE (ILE JEVJ)*, 1 (1) of 2023, Pg. 8-13, APIS – 3920 – 0049 | ISBN – 978-81-964391-3-2.

Abstract

The evidentiary significance of the Narco-analysis test plays a crucial role in the process of criminal investigation. However, the Indian Evidence Act of 1872 does not specifically address the utilization of this scientific process. The use of Narco-analysis as an interrogation tool in India has been a topic of extensive discussion and debate. According to the Indian Law of Evidence, witnesses are allowed to state facts but not draw inferences, while experts are permitted to provide opinion evidence. Judges, on the other hand, are not experts in all fields, particularly in cases involving technical knowledge. It is essential for forensic scientists to employ their scientific methods to guide the police without violating established norms. This article explores the validity, admissibility, and criticism of narco-analysis in the Indian legal system. The Indian Evidence Act does not specifically address the use of narco-analysis, leading to debates on its legality and the admissibility of the statements obtained through this process as evidence in court. Ultimately, the future of narco-analysis as a forensic tool in the Indian legal system depends on ongoing discussions, legal interpretations, and advancements in scientific research.

Keywords – Narco-analysis test, Indian Evidence Act of 1872, Admissibility, Evidence, Rights

Introduction

The term "narco-analysis" refers to a procedure in which drugs are administered to induce a state similar to sleep, allowing for a form of psychoanalysis. It involves conducting a chemical test on a person or suspect with the aim of extracting information from their subconscious mind. The person is in a state of hypnotism or semi-unconsciousness while being injected with drugs such as sodium pentothal or sodium Amytal. Questions are then directed at the person in this state, and the process is referred to as a "narco-analysis test." These drugs are commonly referred to as "truth serum," although the extent to which they can guarantee truthfulness remains a subject of debate.

The narco-analysis test, also known as the "truth serum test," involves the use of certain drugs,

some of which are used clinically. Examples of these drugs include seconal, Hyoscine (scopolamine), Sodium Penthonol, Sodium Amythal, and Phenobarbital. When these drugs are administered, they induce a state of unconsciousness in the subject where their reasoning faculties become ineffective. The drugs work by inhibiting the brain's thought filtration process. Normally, when we lie, our brain filters our thoughts and determines what should be revealed and what should remain hidden. However, under the influence of these drugs, the individual is no longer able to filter their thoughts and is presumed to speak the truth.

Narco-analysis has been a topic of intense debate among the legal community, media, and the general public. In today's technologically advanced world, criminal investigations have been influenced by various



advancements. Narco-analysis is one such scientific investigative technique that aims to obtain statements from the accused, which can potentially serve as evidence. However, the Indian Evidence Act does not specifically address the utilization of this scientific process. Consequently, the employment of narco-analysis has faced criticism for potentially violating constitutional principles, while others argue that it is necessary to address complex issues. There are several concerns surrounding the validity of narco-analysis as a scientific tool in investigations and its admissibility as evidence in a court of law. These concerns continue to shape the ongoing discourse on the subject.

Indian Evidence Act, 1872

Section 3 of the Evidence Act, 1872 provides the definition of evidence. It states that evidence includes two types of statements:

1. **Oral Evidence:** This refers to all statements made by witnesses before the court regarding the matters under investigation. These statements are permitted or required by the court and are presented verbally. Oral evidence typically consists of witness testimonies given during the proceedings.
2. **Documentary Evidence:** This category includes statements presented in the form of documents or electronic records for the court's examination. Documentary evidence encompasses written materials, such as contracts, letters, reports, photographs, and any other form of recorded information that can be produced as evidence.

The question arises as to whether any answers obtained through the Narco Analysis P300 Test would be considered evidence. It is important to note that such answers or statements would not automatically be considered evidence unless they satisfy certain additional criteria. Merely because a statement has been permitted or required by the court does not make it admissible as evidence. The

admissibility of such statements depends on various factors.

Statements obtained during a semi-conscious state through narco-analysis may not be admissible as evidence. The general principle in criminal jurisprudence is that the person making the statement must be in a fit state of mind. In a recent Supreme Court case, it was argued that the accused could not have made a confessional statement due to the influence of medicine. However, upon examination, the Supreme Court found no evidence of such influence and deemed the confessional statement valid. Nevertheless, controversies may arise in cases where the influence of medicine or other factors comes into question. The combined effect of Sections 24 to 26 and Section 327 of the Evidence Act places restrictions on the admissibility of statements as evidence. If there is even the slightest doubt of coercion, intimidation, fear, harassment by the police, or any factor that compromises the free and frank nature of the statement, such statements would be deemed meaningless and inadmissible.

Furthermore, Section 25 of the Indian Evidence Act, 1872 states that any confessional statement made by a person while being interrogated by investigating agencies or the police, in the presence of doctors during a narco-analysis test, is also impacted. Such statements are generally rendered inadmissible.

Confessions obtained from the accused under any form of physical or moral compulsion, including being in a hypnotic state of mind, should be rejected by the court. The key issue at hand is the admissibility of narco-analysis as a scientific technique in investigations and its ultimate admissibility as forensic evidence in court.

Constitutional provisions regarding Narco-analysis in India

In India, the constitutional provisions related to narco-analysis are primarily centered around the protection of fundamental rights and the



right against self-incrimination. These provisions play a crucial role in determining the legality and admissibility of narco-analysis as a crime detection technique.

1. Right against Self-Incrimination: Article 20(3) of the Indian Constitution guarantees the right against self-incrimination, which states that "No person accused of any offence shall be compelled to be a witness against himself." This provision ensures that individuals have the right to remain silent and cannot be forced to provide evidence or testify against themselves. Narco-analysis tests, which aim to extract information from an individual, have raised concerns regarding the violation of this constitutional right.

2. Right to Privacy: The right to privacy is not explicitly mentioned in the Indian Constitution; however, it has been recognized as an intrinsic part of Article 21, which guarantees the right to life and personal liberty. The Supreme Court of India, in the landmark judgment of Justice K.S. Puttaswamy (Retd.) v. Union of India (2017), declared that the right to privacy is a fundamental right protected under the Constitution. Narco-analysis tests, which involve invasive techniques and potentially infringe upon an individual's privacy, have been subjected to scrutiny in light of this right.

3. Admissibility of Evidence: The Indian legal system follows the principle of admissibility of evidence, which determines the validity and relevance of evidence presented in court. The Supreme Court's decision in the Selvi case stated that the statements made during narco-analysis tests are not admissible as evidence in court due to concerns about reliability, coercion, and the potential for false confessions. These ruling underlines the importance of considering the quality and legitimacy of evidence obtained through narco-analysis.

The courts play a significant role in interpreting and applying these provisions to determine the legality and admissibility of narco-analysis in specific cases, taking into account constitutional rights and principles.

The implementation of narco-analysis in India

The practice of narco-analysis in India has been a subject of controversy and debate due to its ethical, legal, and scientific implications. Here is an overview of the practice of narco-analysis in India:

1. Legal Status: The legality of narco-analysis in India has been a matter of scrutiny. In the aforementioned case of Selvi v. State of Karnataka (2010), the Supreme Court of India ruled that narco-analysis tests violated an individual's right to privacy and dignity. The court held that such tests could only be conducted with the informed consent of the individual. The statements obtained during narco-analysis are not admissible as evidence in court.

2. Availability and Conducting of Tests: Narco-analysis tests are typically conducted in specialized forensic laboratories or hospitals equipped with the necessary medical facilities. In India, these tests are conducted by a team of experts, including a medical professional, a psychologist, and law enforcement officials.

3. Procedure: During a narco-analysis test, an individual is injected with a truth serum, such as sodium pentothal or sodium amytal, to induce a state of semi-consciousness. The subject is then questioned by trained interrogators while under the influence of the drug. The aim is to extract information that the individual may otherwise withhold.

4. Informed Consent and Ethical Considerations: Following the Supreme Court's ruling in the Selvi case, informed consent has become a crucial requirement for conducting narco-analysis tests in India. Individuals must be fully aware of the nature, purpose, and potential risks involved in the procedure before giving their consent. Ethical concerns revolve around the potential coercion, invasion of privacy, and violation of an individual's rights during the process.

5. Scientific Validity and Reliability: The scientific validity and reliability of narco-analysis have been a subject of debate. Critics



argue that the truth serum may not necessarily induce truthful statements and can lead to confabulation or false memories. The effects of the drug can vary from person to person, making standardization and accuracy challenging. The absence of a foolproof method to differentiate between truth and falsehoods obtained through narco-analysis raises concerns about its scientific validity.

6. Use in Investigations: Narco-analysis has been used in certain high-profile cases in India as an investigative tool. Proponents argue that it can help uncover hidden information, identify perpetrators, and provide leads to solve complex cases. However, its effectiveness as a standalone method of gathering evidence is questionable, and it is often used in conjunction with other investigative techniques and evidence.

It is important to note that after the Supreme Court's ruling, the practice of narco-analysis in India has significantly diminished. The focus has shifted towards more legally and ethically acceptable investigative methods, such as modern forensic techniques, DNA analysis, and advanced interrogation techniques that comply with constitutional provisions and human rights standards.

The admissibility of narco-analysis as evidence in the Indian legal system.

The admissibility of narco-analysis in Indian courts is a complex issue. The Supreme Court of India, in the case of *Selvi v. State of Karnataka* (2010), has ruled that the statements obtained through narco-analysis tests are not admissible as evidence in court. This ruling was based on several factors, including concerns about reliability, coercion, violation of privacy, and the potential for false confessions during the procedure.

The court held that narco-analysis violates an individual's right against self-incrimination, which is guaranteed under Article 20(3) of the Indian Constitution. The right against self-incrimination ensures that an individual cannot be compelled to provide evidence or testify

against themselves. Narco-analysis, being a method that aims to extract information from an individual, was deemed to be in conflict with this constitutional right.

Moreover, the court highlighted the potential for inaccuracies and false memories that can arise from the use of truth serums during narco-analysis. The influence of external factors, such as leading questions and the interrogator's bias, can also affect the reliability of the information obtained. Given these concerns, the court concluded that the statements obtained through narco-analysis lack the necessary legal reliability to be admissible as evidence.

However, it is important to note that this ruling does not completely negate the value of narco-analysis in investigations. The court acknowledged that the information obtained through narco-analysis can be used as a tool for further investigation and gathering other evidence. It can provide leads and help direct the investigation in the right direction. But when it comes to the admissibility of the statements obtained through narco-analysis as direct evidence in court, the Supreme Court's ruling is clear that they are not admissible.

It is crucial for law enforcement agencies and the judiciary to adhere to this ruling and consider alternative legally permissible methods of evidence collection to ensure that constitutional rights are upheld and the principles of fairness and reliability are maintained in the Indian criminal justice system.

Criticisms raised about the narco-analysis test.

Narco-analysis tests have faced significant criticism from various quarters due to a range of ethical, legal, and scientific concerns. Here are some key criticisms of narco-analysis tests:

1. Violation of Rights: One of the primary criticisms of narco-analysis tests is that they violate an individual's rights, particularly the right against self-incrimination and the right to privacy. Administering truth serums and



extracting information through semi-conscious or unconscious states raises questions about coercion and the potential infringement of an individual's autonomy.

2. **Reliability and Accuracy:** The scientific validity and reliability of narco-analysis tests have been heavily criticized. Critics argue that truth serums may not necessarily induce truthful statements and can lead to confabulation or the creation of false memories. The effects of the drugs can vary among individuals, making it difficult to standardize the procedure and assess the accuracy of the information obtained.

3. **Coercion and Manipulation:** During narco-analysis tests, interrogators have the opportunity to influence the individual's responses through leading questions and suggestive techniques. This raises concerns about the potential for manipulation and the possibility of false or unreliable information being extracted.

4. **Ethical Considerations:** Narco-analysis tests raise ethical considerations related to informed consent, privacy, and the potential for physical and psychological harm. Critics argue that individuals may not fully understand the procedure and its implications when providing consent, leading to potential violations of their rights and dignity.

5. **Alternative Investigative Techniques:** Critics argue that there are more scientifically valid and legally acceptable alternative investigative techniques available, such as modern forensic methods, DNA analysis, and advanced interrogation techniques that adhere to constitutional rights and ethical principles. These alternative methods are seen as providing more reliable and credible evidence in criminal investigations.

These criticisms have played a significant role in shaping the legal landscape and limitations surrounding the use of narco-analysis in India.

Court Precedents related to Narco-Analysis

There have been several significant court precedents in India related to narco-analysis, which have shaped the legal framework and

restrictions surrounding its use. Here are some key court precedents:

1. **Selvi v. State of Karnataka (2010):** This landmark case by the Supreme Court of India addressed the admissibility of evidence obtained through narco-analysis. The court ruled that statements obtained through narco-analysis tests are not admissible as evidence in court. It held that narco-analysis violated an individual's right against self-incrimination and right to privacy. The court emphasized the importance of informed consent and stated that narco-analysis could only be conducted with voluntary consent. This ruling set the precedent that narco-analysis statements are not admissible as direct evidence in court.

2. **State of Maharashtra v. Ramdas S. Nayak (1982):** In this case, the Supreme Court of India emphasized the right against self-incrimination and held that compelling an accused person to be a witness against themselves is a violation of fundamental rights. The court ruled that evidence obtained under duress, coercion, or compulsion, including narco-analysis, would be inadmissible in court. This judgment reinforced the constitutional protection against self-incrimination and laid the foundation for subsequent cases on narco-analysis.

3. **Raja Ram v. State of Haryana (2003):** In this case, the Punjab and Haryana High Court addressed the issue of using narco-analysis as a coercive tool. The court held that narco-analysis is an involuntary process that infringes upon an individual's rights. The court ruled that forcing an individual to undergo narco-analysis against their will is a violation of constitutional rights and that the statements obtained through such means would not be admissible in court.

4. **State of Himachal Pradesh v. Gian Chand (2001):** In this case, the Himachal Pradesh High Court discussed the issue of involuntary administration of truth serum for extracting evidence. The court held that forcing an accused person to undergo narco-analysis without their consent is a violation of fundamental rights. The court emphasized that



the process should be voluntary and conducted with the informed consent of the individual.

These court precedents have played a crucial role in shaping the legal framework surrounding the admissibility and use of narco-analysis in India. They have established the importance of informed consent, protection against self-incrimination, and the right to privacy. The rulings have set restrictions on the use of narco-analysis as evidence in court and emphasized the need for adherence to constitutional rights and principles in criminal investigations.

Conclusion

In conclusion, the practice of narco-analysis, also known as the truth serum test, has been a subject of debate and controversy in India. While it is considered a scientific tool for criminal investigation, its admissibility as evidence in court is a contentious issue. The Indian Evidence Act does not explicitly address the employment of narco-analysis, leaving room for ambiguity and differing interpretations. Critics argue that statements obtained under narco-analysis may not be reliable or voluntary, as the subject is in a semi-conscious state and may be influenced or coerced. The admissibility of such statements depends on various factors, including the mental state of the person making the statement and the absence of coercion or intimidation. Despite the potential insights it may offer, the validity and admissibility of narco-analysis in the Indian legal system continue to be a matter of scrutiny and legal interpretation. Further discussions and legal precedents are likely to shape the future of narco-analysis as a forensic tool in India.

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