



THE CRITICAL AND LEGAL ANALYSIS OF THE USE OF SODIUM PENTOTHAL IN NARCOANALYSIS

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INTRODUCTION

Sodium Pentothal in a technical term is a mixture of Nitrogen, Sodium, Sulphur which are thereon bonded chemically together with $C_{12}H_{18}$ which is an organic mixture. As it is a branched chain complex substance therefore it is very rarely sighted in the medical pharmacies. Indian as well as Global jurisprudence have conducted very limited number of cases where Sodium Pentothal which is also known as the "Truth Serum" was administered in the body of the subject and thus the interrogations were conducted. According to the Indian Journal of Medical Research the said substance have a limited but extrinsic use which shall be conducted in a very specialized supervision. Some of the functions of Sodium Pentothal are as follows:

1. It is very vibrant mixture that helps in the conduction of Anesthesia,
2. Medical practitioners use this substance for inducing medical coma in the subject,
3. It is used for status epilepticus,
4. It is also used for administering in the patient who has been in a vegetative state for a long period of time, euthanasia,
5. High doses of the said substance is also used for arming up the lethal injections as it directly targets the brain stem.

According to **United States National Library of Medicine Health**¹, when there is a high or continuous registration of Sodium Pentothal in the human body or brain, then it dilutes the somatosensory functions of the humans thus dilapidates the reaction time of the brain and the brain stem goes into a temporary subtle pause therein the human brain becomes very easy to be altered or exploited.

Narcoanalysis is a derivation made out of Greek word known as 'Narke' which defines Anesthesia. Therefore a plain meaning is the analysis of anesthesia is Narcoanalysis. According to **Black's Law Dictionary**² definition, Narcoanalysis is a process of injecting a truth serum drug into a subject so as to induce semi consciousness and then interrogating the subject. This process has been utilized to enhance the memory of a witness. This method helps and allows to bring the memory of a subject into semi-sleep state and sinks down the self-consciousness. Narcoanalysis is basically carried out by taking help of two drugs that are:

1. Sodium Amytal,
2. Sodium Pentothal.

Some of the tests are Polygraph Test and BEAP Test, there are other methods as well but these two are the most common in the Indian context. According to **American Psychological Association**³, polygraph test is another method of detection of truth out of the statement of the subject. It is basically functional upon heart rate, blood pressure,

¹ United States National Library of Medicine Health, *The effect of high dose sodium thiopental on brain stem auditory and median nerve somatosensory evoked responses in humans*, (January 18, 2020, 12:53AM), ncbi.nlm.nih.gov/pubmed/4025886.

² 1 Henry Campbell Black, *Black's Law Dictionary* p. 1044 (7th ed. West Group Press, 1999).

³ American Psychological Association, *The Truth About Lie Detectors (aka Polygraph Tests)*, (January 18, 2020, 2:11AM), <https://www.apa.org/research/action/polygraph>.



respiration and the conductivity of skin. There are questions that are asked by the subject with respect to understanding of question, control and lie detection. One of the international legal instruments most frequently invoked as a bar to the use of truth serum is the **1949 Geneva Convention Relative to the Treatment of Prisoners of War**⁴. The articles of the said convention were in very consonance with the rights and privileges to be made available to the prisoners of war after the war ceases. **Article 17** of the convention sought to protect such rights of the prisoners by granting them the necessary and equal human dignity that whoever wanted to confess, they could have and those who didn't, weren't forced.

“No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind⁵.”

This convention particularly marked the end to the use of truth serum thereby asking the prisoners the questions needed to be asked in interrogation in their full consciousness. But it should be kept in great consonance that article of the **Geneva Convention** is only a mere bar to stop the use of truth serum in investigation. There have also been the use

and emergence of another convention in the **ICCPR**. Article 17 of the Geneva Convention is a predominant work on this point, which is also focused upon the preservation and protection of human rights in international scenario.

Indian Judiciary have always reserved its standpoint whenever it comes to the view of admissibility of narcoanalytical evidences⁶. In some of the cases the judiciary is of viewpoint that Narcoanalysis shall not be allowed as it is against the provisions of **Article 20(3) of the Constitution of India**. In the cases like, *Selvi v. State of Karnataka*⁷ wherein the Supreme Court thereby laid some of the guidelines in conducting and administering the truth serum in the body of the subject. But in the case of *Ramchandra Ram Reddy v. State of Maharashtra*⁸ it was held by the Indian judiciary that Narcoanalysis test is an essential test in nature when it comes to the topic of deciding the innocence of the parties. Under S.161 (2)⁹ of the Code of Criminal Procedure, the rule against self-incrimination is given a place on legal platform.

Talking about the Ethical standing of the conduction of the truth serum registration in the human body it shall and should seem to be on purely not ethical as it asks and forces a person to say a statement that he never intended to make rather it has been termed as a way of torture according to the article 17 of

⁴The Economist, *False Hopes - Do Truth Serums Work?*, Economist, Jan. 11, 2003 (London) available at 2003 WL 6244576.

⁵Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, art. 17, 6 U.S.T. 3316 (consented to by the U.S. Senate on July 6, 1955, with reservations) [hereinafter Third Geneva Convention].

⁶ A.S. Dalal, Arunava Mukherjee, *Constitutional and Evidentiary Validity of New Scientific Tests*, 49 JILI (2007) 529, p. 529, p. 536 (2007).

⁷Selvi v. State of Karnataka, AIR 2010 SC 1974.

⁸ Ramchandra Ram Reddy v. State of Maharashtra, Cr. W.P. No. 1924 of 2003.

⁹ Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.



the ICCPR and also according to the US national library of medicines¹⁰ it kind of creates within a human a feeling of non-trust and also of fear and torture. In fact the United Nations Convention against Torture enshrines upon a legit stoppage of harassing the prisoner or a person guilty of committing an offence¹¹.

TECHNIQUES OF TRUTH IDENTIFICATION- WORST OF THE BEST

There is a wide use of the chemical known as sodium pentothal, in medical science as described above it is widely and categorically used in various fields. In, forensic science this chemical plays a very major role in the administration of justice. According to the **American Psychological Association**¹², there are various types of tests that can be used to administer truth in the court of law. Some of the most commonly used methods required for the interrogation of a particular person are as follows:

1. Polygraph Test, this test in layman's language is also known as Lie Detector Test,
2. BEAP Test,
3. Sodium Pentothal Test, also known to the general public as truth serum test.

The above three methods are the most commonly and frequently used methods when it comes to interrogation of a particular accused. All these test have one thing in

common, that, there is a prior permission of the court that is required to attest the viability of the test upon an individual. The court on approval of the tests to be conducted should bear the responsibilities of giving concrete and absolute reasons as to why there is a necessity to conduct such type of tests so as to interrogate the accused.

Now let us discuss these tests in brief so as to get the idea of what the chapter exactly deals with.

POLYGRAPH TEST

In history, there are certain cases wherein forward steps have been taken into cognizance, so that the lie of the accused can be certainly pointed out in the adjudication of the trial. For the accomplishment of the above idea the technique known as polygraph method is used. There are several uses of these technique, such as, it can be used in investigation required to examine a particular course or action in the scene of crime, and it is the one that can be helpful to the company, as the company may use this kind of test so as to identify the perfect employee for them¹³. In this test the somatosensory organs and senses of a particular person are set to scrutiny, as the questions being put to the individual are duly configured up upon the screen which duly records the working statement of the senses, the senses here in question are blood pressure, heart rate, etc.

¹⁰Kala, A.K, *Of ethically compromising positions and blatant lies about 'truth serum'*, US national library of medicines, (January 18, 2020, 4:26AM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2900002/>

¹¹The U.N. Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, G.A. Res. 43/173, U.N. GAOR, 43d Sess., Annex, Supp. No. 49, U.N. Doc. A/43/49 (1988), the Torture Victim Protection Act of 1991

(TVPA), Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 (1994).

¹² American Psychological Association, *The Truth About Lie Detectors (aka Polygraph Tests)*, (March 10, 2020, 8:41 AM), <https://www.apa.org/research/action/polygraph>.

¹³ Jodi Meyers, *Lee v. Martinez: Does Polygraph Evidence Really Satisfy Daubert*, *Jurimetrics*, Vol. 46, No. 4, American Bar Association, pp. 391-406, page cited- 392, 2006.



the skin of the individual is also kept under inspection as the electric pulses are recorded by the examiner¹⁴. There are many other types of polygraph test which identify the conduct and truthfulness of a particular individual, these are like, Control Question Tests, Probable Lie Tests, guilty knowledge test etc. These tests have their own validity and method of operation in interrogation. Apart from all these different kinds of tests, the polygraph test conducts a particular pre-test which enhances the reliability of the lie detector¹⁵.

METHOD OF OPERATION OF POLYGRAPH TEST- A polygraph test when instituted upon an individual, requires set of equipment that are duly instated upon the somatosensory organs of the human being, some of the steps to be monitored are as follows:

1. Heart Rate of the accused in interrogation should be noted before the test and after the test is conclude, in-transit of the test, the heart rate of the accused should be noted properly,
2. Blood pressure, be it the rise or fall in the same should be considered, the blood becomes the vital component in the administration of such kind of test,
3. The skin conductivity that is the electric pulses going through per nerve should be categorically monitored as it derives the behavior of the accused, if the question points towards his guilt the accused shall experience a bump in the nerves thereby resulting to sweating or dryness in the throat because of the fear of getting caught.

There are two type of questions that are prepared for the administration of interrogation, these are control questions and relevant questions, and the accused is always having a sense of fear in his mind when it comes to the interrogation with the help of controlled questions. This is because control questions are designed to arouse a subject's concern about their past truthfulness, while relevant questions ask about a crime they know they did not commit¹⁶. The response to both the set of question decide the truthfulness of the accused and can also lead to the stage of non-deception on the part of the accused if the questions are duly answered in accordance to the standards set by the examiner of the lie detection test.

EVIDENTIARY VALUE OF THE TEST- There is a case in the Mexico, known as Lee v. Martinez¹⁷, the Supreme of New Mexico, in full majority held by law that the polygraph evidence taken by interrogation if satisfies the Daubert's Standard then the said evidence should be without any discrimination to the contrary be considered as the scientific evidence and should be duly considered in the court of law, and the evidence should be of corroborative or substantive in nature depending upon the changed circumstances of each and every case.

In the context of the judgement thus given by the Supreme Court of Mexico seems to be premature and not sensible as, when the accused is asked for his interrogation by the court or the authorities then there can be places where he is actually an innocent person, but under pressure acts under the

¹⁴ National Research Council, *The Polygraph and Lie Detection 1* (2003), referred in Supra Note 13.

¹⁵ American Bar Association, *The Truth About Lie Detectors (aka Polygraph Tests)*, American Bar

Association, (March 10, 2020, 10:31 PM), <https://www.apa.org/research/action/polygraph>.

¹⁶ Supra Note 15.

¹⁷ Lee v. Martinez, 6 P.3d 291 (2004).



obligation and thus when the circumstances around him changes and he answers certain question then he actually can give wrong answers or rather his body and the senses may act in a disproportionate pattern which is unlike the answers he was considering giving.

BEAP TEST

The general full form of BEAP Test is known as the Brain Mapping Test, this technique of interrogation was discovered and founded by Dr. Farwell. This method of interrogation is basically interview based, in a way that, the accused is set forth a number of questions and then upon asking the same questions that whether accused has given all the concerned information with regards to the case or whether there is any doubt wrt the transparency.

Here the accused is made to sit in front of a computer as in a way that the sensors thus connected to the hands of the accused give relevant somatosensory data, which helps the examiner in catching the accused whether he is concealing any important matter of fact or not¹⁸. The other notional and technical name of the said technique is P-300Test.

In a way of consideration this test is conducted in three illustrative parts, which are as follows:

1. The first part consists of neutral wordings, meaning hereby that there is no specific

relation of the same with the facts and circumstances of the case,

2. The second part consists of probable words, which state the direction in which the accused thereby being interrogated came across with any other fact and circumstance of the case,
3. The final part consists of the targeted wordings which are direct and which are very important wrt the technicalities of interrogation as involved.

LEGALITY OF BRAIN MAPPING TEST-

The Supreme Court of India have put on a very strong viewpoint that the administration of any of the narcoanalytical techniques should be the violation of the principle as bestowed under the articles of the Geneva Convention and also as that of the ICCPR. The bench consisting of Judges like KG Balakrishnan, RV Raveendran and JM Panchal held that these coercive methods should be proliferated and stopped, or else the practice of the same shall be considered to be the violation of the rights of an individual¹⁹.

SODIUM PENTOTHAL TEST-

According to **United States National Library of Medicine Health**²⁰, when there is a high or continuous registration of Sodium Pentothal in the human body or brain, then it dilutes the somatosensory functions of the humans thus dilapidates the reaction time of the brain and the brain stem goes into a temporary subtle pause therein the human

¹⁸ Dr. D. Kumar, *Constitutionality and evidentiary value of narcoanalysis, polygraph & BEAP tests*, Volume 3, International Journal of Law ISSN: 2455-2194, pp. 84-89, p.85-86(2017).

¹⁹ Sanjay Singh, *Narco, lie-detector test, brain mapping illegal, rules SC*, The Economic Times, May 6, 2010, <https://economictimes.indiatimes.com/news/politics->

www.supremoamicus.org and-nation/narco-lie-detector-test-brain-mapping-illegal-rules-sc/articleshow/5896174.cms?from=mdr.

²⁰ United States National Library of Medicine Health, *The effect of high dose sodium thiopental on brain stem auditory and median nerve somatosensory evoked responses in humans*, (March 11, 2020, 12:53AM), [ncbi.nlm.nih.gov/pubmed/4025886](https://pubmed.ncbi.nlm.nih.gov/pubmed/4025886).



brain becomes very easy to be altered or exploited. . According to **Black’s Law Dictionary**²¹ definition, Narcoanalysis is a process of injecting a truth serum drug into a subject so as to induce semi consciousness and then interrogating the subject. This process has been utilized to enhance the memory of a witness. This method helps and allows to bring the memory of a subject into semi-sleep state and sinks down the self-consciousness.

JUDICIAL VIEWPOINT- Indian Judiciary have always reserved its standpoint whenever it comes to the view of admissibility of narcoanalytical evidences²². In some of the cases the judiciary is of viewpoint that Narcoanalysis shall be allowed as it is against the provisions of **Article 20(3) of the Constitution of India**. In the cases like, *Selvi v. State of Karnataka*²³ wherein the Supreme Court thereby laid some of the guidelines in conducting and administering the truth serum in the body of the subject. But in the case of *Ramchandra Ram Reddy v. State of Maharashtra*²⁴ it was held by the Indian judiciary that Narcoanalysis test is an essential test in nature when it comes to the topic of deciding the innocence of the parties.

POINT OF DIFFERENCES BETWEEN THE THREE METHODS OF INTERROGATION-

S. No.	POLYGRAPH TEST	BEAP TEST	SODIUM PENTOTHAL TEST
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1.	Generally known as Lie Detector Test.	Generally known as Brain Mapping Test.	Generally known as the basis of Narcoanalytical techniques .
2.	Inspects and supervises the heart rate and blood pressure of the accused being interrogated.	Analyzes the electrical nerves of the brain by relating to the actions of the accused wrt questions.	Questions the accused, where the subject is in a state of insomnia, not able to think properly.
3.	Major components are Blood pressure, Heart Rate, Skin Conductivity.	Major Components are Electrical Nerve reading recorded by the BEAP Machine.	Major components are Sodium Pentothal and Sodium Amythal.
4.	Accused is made to face questions and answer the same.	Accused is made to face questions, and the behavior is recorded	Accused is made to face questions and the accused answers the same

²¹ 1 Henry Campbell Black, *Black's Law Dictionary* p. 1044 (7th ed. West Group Press, 1999).

²² A.S. Dalal, Arunava Mukherjee, *Constitutional and Evidentiary Validity of New Scientific Tests*, 49 JILI (2007) 529, p. 529, p. 536 (2007).

²³ Selvi v. State of Karnataka, AIR 2010 SC 1974.

²⁴ Ramchandra Ram Reddy v. State of Maharashtra, Cr. W.P. No. 1924 of 2003.



		by the machine.	under the influence of drug.
5.	Conclusive	Not Conclusive	Conclusive

to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation²⁶”. According to the conditions as placed under this section the privacy of a particular individual should not be breached at any cost, or, for any other purpose whatsoever.

Let us now understand the Article by integrating the same into various points for better understanding of the topic, which is now is as follows:

INTERNATIONAL TREATISES AND CONVENTIONS

In the international scenario, with regards to the humanitarian standards there are indeed a good number of treaties that have placed the reliance on the protection of human rights and also to preserve the idea of human rights in the international scenario. There are two very significant treaties and conventions which duly tell us about the protection of the life and standard liberty of the individual, these are, the protection of the privacy rights of an individual under the code of ICCPR²⁵, the provisions of the ICCPR have in length discussed about the protection of the rights of the individual, with in consideration of the due process established by law have analyzed the scope which are unlawful in nature and arbitrary in nature. Not only have this, the ICCPR categorically analyzed the scope of the word torture under its ambit, with special regards to the convention on torture.

ARTICLE 17 OF THE ICCPR

According to **Article 17 of the ICCPR**, which states that, “No one shall be subjected

1. No one shall be subjected to arbitrary or unlawful interference, this part of the section says that no one that means even the government or the judiciary of a particular country have the authority to interfere in the privacy of the individual using unlawful measures, which are expressly barred by the law or are not in accordance to the ethical standards of the international society,
2. With his privacy, family, home or correspondence, this part of the article states and claims that, the privacy is a very broad term and it shouldn't be strictly limited to the concepts rather a view of practicality should also be attached to it. The privacy of an individual should not be interfered or restrained,
3. Nor to unlawful attacks on his honor and reputation, privacy of an individual as it is a very broad term gives us the nature and scope that privacy shouldn't be hindered and the reputation of the individual should be respected and the honor of the said person should be recognized and respected by the government and the judiciary of a particular nation state.

²⁵ ICCPR stands for, International Covenant on Civil and Political Rights.

²⁶ International Covenant on Civil and Political Rights, opened for signature Dec. 19, 1966, art. 17, S. Exec.

Doc. E, 95-2 (1978), 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) [hereinafter ICCPR].



TRUTH SERUM AND ARTICLES UNDER THE ICCPR-

On the judicial analysis of the administration of truth serum, upon a particular will be seemingly looking absolutely perfect that the judiciary and the legislature are adhering to the provision of law, but this can be certainly a clear violation of all the principle of the respecting of the privacy and consideration of honor of the individual in consideration. This administration of the truth serum in a way tries to take from the mouth of the person that he wants to keep as a secret and just wants to reside with the same.

On the analysis of the same there can be two alternative thinking wherein, the law have prescribed for the certain methods and the other can be the ethical standards and their violation while administering the truth serum to the accused. The right to privacy guaranteed under Article 17 is not absolute²⁷, as every nation state shall follow its own principle of administration rather looking or considering the other international standards. Similarly to the contrary of the same, the definition of privacy of an individual and its representation, haven't been given a precise definition under the said article in contention.

The article 17 of the ICCPR is only a limited scope section where it has given two points of consideration where the particular Article can be invoked, the first is unlawful administration of the serum in the body of the

individual, and the second is the arbitrary injection of the serum in the body of the individual.

In India, there are only a few statutes which talk about the right against self-incrimination these are as follows:

1. Article 20(3) of the Constitution of India,
2. Section 161(2) of the Code of Criminal Procedure.

These statutory provisions protect the rights of any individual up to an extent but when it comes to the clauses titled as 'due process established by law' then the judiciary can actually infringe the rights of a particular citizen. Similarly in the USA the rights of the individual are duly protected by the Fourth, Fifth and Fourteenth Amendment, which asks for no unreasonable and non-cautionary searches²⁸, right against self-incrimination²⁹ and due process adherence to the laws³⁰ but at the same time the individual's right should also be kept in mind³¹.

In addition to requiring that interference with privacy be lawful in order to be justified, ICCPR Article 17 further requires that the interference be non-arbitrary. The Human Rights Commission have made it clear through their comment that article 17 can be used only if it approves the reasonability test and thus the privacy of an individual should be scrutinized upon the hands of the judiciary. The interference in regards to the

²⁷ Jason Odeshoo, *Truth or Dare? Terrorism and "Truth Serum" in the Post 9/11 World*, Vol. 57, No. 1, Stanford Law Review, pp.210-253, p.223-224, (Oct, 2004).

²⁸ *Chavez v. Martinez*, 538 U.S. 760,774 (2003).

²⁹ *Gallegos v. Nebraska*, 342 U.S. 55, 65 (1951).

³⁰ *Washington v. Harper*, 494 U.S. 210 (1990).

³¹ For a discussion, see Catherine Hancock, *Due Process Before Miranda*, 70 Tul. L. Rev. 2195 (1996) (cataloging different cases in which due process violations have been found and the various grounds on which such findings were made). Illustrative note, Please consider the same.



privacy should be scrutinized as under reasonable circumstances³².

TORTURE UNDER THE ICCPR

As we have discussed article 17 of the ICCPR which states that the right of privacy of an individual is a matter of utmost importance and it should not be interfered upon by anyone else, but there is a certain exception which allows the interference in the privacy of a particular individual and could be asked for interrogation under the effect of truth serum.

But the ICCPR have also adhered to the ethical standards and have made a step forward so as to protect the rights of a particular individual. The said contention is vested under Article 7 of the ICCPR³³, article 7 talks about torture inflicted upon a particular human under the scope of truth serum. In India there have been cases where the same have been decided that when case a particular drug be administered in the body of a human being for the sake of interrogation. Like in the case of *Selvi v. State of Karnataka*³⁴, where the guidelines wrt the administration of Narcoanalysis was postulated by the Supreme Court of India. Similarly in the US, fifth, eighth and fourteenth amendment of the Federal constitution have been drafted so as to protect the citizen from the torturous methods. Even under the ICCPR's own terms, however, the case for regarding truth serum as torture is

weak at best. Given Article 7's vagueness, it is difficult to reach a definite conclusion.

LEGAL OVER ETHICAL IN INDIAN JUDICIARY- WHO SHALL WIN?

In India. Several cases have been there which have been duly discussed by the Indian judiciary, thereby withholding the intention of the societal norms in accordance to the administration and adjudication of the criminal justice system. In India, cases such as the *Selvi Case*, *Ajmal Kasab case*, have find a peculiar point where there was the need of these was justified by the Supreme Court of India, and, also a special reliance was placed upon the respecting up of the privacy rights of the individual in question. In India this concept have been developed in the pretext of the latest decade. Starting from injection of hyoscine to the administration of sodium pentothal, we have come too far to back and identify the glitches this step had, as, it was having the intention to fire on the privacy rights of the individual³⁵.

In the case of *Selvi v. State of Karnataka*³⁶, the Supreme Court laid down the guidelines by considering these kinds of cases as invalid in nature as it takes away from the person the basis of fair trial. It adjudicates upon the person the right and obligation that he never intended to share upon the solace of stringent adjudication. The bench of Supreme Court in this case, have considered and laid down the following guidelines, which have elucidated

³² General Comment on Article 17, supra note 96; see also *Toonen v. Australia*, Comm. No. 488/1992, U.N. GAOR Hum. Rts. Comm., 50th Sess., U.N. Doc. CCPR/C/50/D/488/1992 (1994). Referred note Supra Note, 27.

³³ Article 7 of the ICCPR- "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

³⁴ Supra Note 7.

³⁵ CW Muehlberger, *Interrogation under Drug Influence. The So-Called "Truth Serum" Technique*, Vol. 42, The Journal of Criminal Law, Criminology, and Police Science, Northwestern University Pritzker School of Law, pp.513-527, p.514 (Dec., 1951).

³⁶ *Selvi v. State of Karnataka*, (2010) 7 SCC 263, pp.263 to 343.



as to when the particular test can be set to be violative of the postulated right of the individual as guaranteed by the constitution of India. Forcing up of an individual for the sole purpose of the upliftment of the due process clause should amount to a step taking away such right from the individual. The above stated case helped and postulated upon the following guidelines, which are as follows:

1. No lie detector test shall be conducted against the free will of the individual and any such resiprocative shall be considered to be rendered the report as invalid,
2. The consent for the same shall be recorded before a judicial magistrate,
3. At the hearing of the trial, the individual should be told regarding the implication of such statement made during the test,
4. The magistrate shall also consider every factor relating to the detention of the individual,
5. A full medical check-up shall be conducted prior to the test.
2. There may be suitable cases, wherein it can be duly contended that the terms and conditions of the tests were not properly conveyed to the test subject,
3. The credibility of the test subject and the examiner should be duly considered in the lieu that human errors and fallacies are possible,
4. The test results are sometimes not valid in the eyes of law as they have been considered to be inculpatory and breaching the privacy of the individuals thereby leading to public pressure,
5. The tests duly disturb the procedural sanctity thereby established by due process of law,
6. There shouldn't be the scenarios which are false and therefore which require for increment in the malicious litigation.

ETHICAL STANDARDS IN THE CONDUCTION OF NARCOANALYSIS

According to critics, the process of extraction of truth from a person when an induced state of disorientation and subconscious has been in effect is a violation of basic human rights. The process is considered **ethically invasive** of one's privacy. The entire procedure is considered manipulative because it involves the questioning of a person when he is not in mere senses, which can often lead to self-incriminating statements. The process of administration of such chemicals might also affect the blood stream of the receiver and induce **anti histamine allergies** which can impair the mobility, neurological balance and dermatology of the epithelial cells. Furthermore, articles of **ICCPR and UDHR** also mention that a person should not be subjected to any such extreme measures or provocation and harassment which affects the dignity of the said person. The questioning during a hallucinating state might alter the details of the case, and hence completely

Under the principal bench's supervision the narcoanalysis test was considered to be violative of the Article 21 and also Article 20(3) of the same. In the Selvi case, the following facets were discussed in brief resulting into laying down of different guidelines, these are as follows:

1. There should be free and compulsory point of legal advice, therefore which is considered to be the main ingredient of the fair trial process, because in this case after the administration of drug, the person shall have no control over himself and thus is induced to give answers which he doesn't call on shots for,



derail the course of investigation. The person subject to such analysis also remembers various fragments of the interrogation which can affect his capacity to lead a normal life in the near future. Sometimes this interrogation can lead to violence which also amounts to police brutality. The ethical standards which are benign in our constitution and safeguard the interests of the citizens are also affected by the rampant misuse of police power. Thus, by the implementation of the above mentioned techniques, the future, health and the chance of leading a normal life of a person are being grossly affected.

CONCLUSION AND SUGGESTIONS

Narcoanalysis is a process of injecting a truth serum drug into a subject so as to induce semi consciousness and then interrogating the subject. This process has been utilized to enhance the memory of a witness. This method helps and allows to bring the memory of a subject into semi-sleep state and sinks down the self-consciousness. Indian Judiciary have always reserved its standpoint whenever it comes to the view of admissibility of narcoanalytical evidences³⁷. In some of the cases the judiciary is of viewpoint that Narcoanalysis shall not be allowed as it is against the provisions of **Article 20(3) of the Constitution of India**. In the cases like, *Selvi v. State of Karnataka* wherein the Supreme Court thereby laid some of the guidelines in conducting and administering the truth serum in the body of the subject. There are certain international treaties which have on a step tried to postulate about the torture and unlawful techniques that are performed on a particular test subject. First of all before the approval of this certain

technique two conditions have to be qualified, first that the test shouldn't be unlawful and the other thing is the other thing shouldn't be arbitral nature. The ICCPR lays down in Article 17 and Article 7 gives the prevention and protection of the rights of privacy of a particular individual and it also debar the torturous methods performed for the limited sake of interrogation.

The researcher is of the view that the method of Narcoanalysis involving Lie detectors, BEAP Test, Truth Serum test shouldn't be completely barred rather it should be used in the following conditions:

1. In sake of national interest,
2. In sake of adjudication of a case that is of utmost importance to the country,
3. The case, where by deciding the rights of the parties a new precedent can be established.

SUGGESTIONS:

The researcher will be pleased in giving the following suggestions:

1. If the Indian Judiciary is of the view that Narcoanalysis is essential for the adjudication of a particular case then the test of unlawfulness and test of non-arbitrary nature should be established by taking into consideration Articles 7 and 17 of the ICCPR.
2. The magnitude of importance of the case should be decided after extensive debate, research and careful consideration and then the test should be conducted.
3. Conditions of the approval of Narcoanalysis should be on recommendation by the

³⁷ A.S. Dalal, Arunava Mukherjee, *Constitutional and Evidentiary Validity of New Scientific Tests*, 49 JILI (2007) 529, p. 529, p. 536 (2007).



legislature should be included in the Article 20 of the Constitution.

4. Both the interest of the nation and as that of the individual should win.

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