

## Narco Analysis - UPSC Notes

Narco analysis is a term often heard in news especially with regard to crime and criminal procedures. It is important to understand what the narco analysis test is and its legality in India for the [UPSC exam](#). In this article, you can read all about the narco analysis test.

### Narco Analysis Introduction

Before the advent of various scientific technologies, the process of investigation and interrogation in India had become defunct and redundant with police mainly relying on methods which should not be permissible in a civilized society.

- With the advent of technologies in various spheres of our lives, criminal interrogation has also adapted to the same to some extent.
- Narco-analysis is one such tool that helps in this regard.
- **Narco analysis is a statement made by the accused with the help of some scientific tools which may form a part of the Evidence against him.**
- The Evidence Act which is the primary law on admissibility of evidence in a court of law is silent with respect to narco analysis but critics have argued all along that such a test is against the [fundamental rights](#) that the Constitution guarantees to all citizens.
- Many constitutional scholars and jurists argue that procedure for narco-analysis is violative of the rights against self-incrimination, guaranteed under Article 20 (3) of the Constitution.

### Narco Analysis Test Concerns

Narco analysis consists of a statement that is made by a semi-conscious person and thus unable to determine the effect and extent of the statement that he is making and as such just like confessions they are not generally admissible in the Courts. Narco-analysis, just like other scientific techniques such as brain-mapping and lie-detector tests, is a tool to get a person to incriminate himself during the course of a trial. These techniques thus violate the fundamental right guaranteed under Article 20(3) which states that no person who is accused of an offence shall be compelled to be a witness against himself, also referred to as the right against self-incrimination.

#### Right against self-incrimination

- The right against self-incrimination is not guaranteed under the Constitution only but also in the [Code of Criminal Procedure \(CrPC\)](#).
- In the CrPC, the legislature has protected an individual's right against self-incrimination.
  - S.161 (2) of the CrPC says that every person “is bound to answer truthfully all questions, put to him by a police officer, other than questions the answers to which would have a tendency to expose that person to a criminal charge, penalty or forfeiture”.

In addition, narco-analysis is also widely believed to be an intrusion of the right to privacy of an individual, a right that is guaranteed as a part of the [right to life](#) & personal liberty given under Article 21.

### Narco Analysis Judgements

The most significant judgement in this regard came in the case of Selvi v. State of Karnataka, where the accused challenged the constitutional validity of certain scientific techniques of interrogation in criminal cases. These techniques included Narco-Analysis, Polygraphy and Brain Fingerprinting, and the petitioners argued that using these techniques are softer alternatives to the use of third-degree methods by the

investigators and violates right against self-incrimination in Article 20(3) of the Constitution. A three-judge bench of the Supreme Court unanimously held that these tests are testimonial compulsions and are prohibited by Article 20(3) of the Constitution. In addition, the Court laid down the following guidelines in this respect:

- No Lie Detector Test should be administered except on the basis of the consent of the accused. An option should be given to the accused whether he wishes to avail such a test.
- The consent should be recorded by a judicial magistrate if any of these tests are to be done.
- During the hearing before the magistrate, the person who has given the consent must be duly represented by a lawyer.
- The person in question should also be informed clearly at the hearing that the statement that is made will not be a 'confessional' statement to the Magistrate but shall have the status of a statement made to the police.
- The Magistrate shall consider all factors relating to the detention including the length of detention and the nature of the interrogation.
- A complete factual and medical narration of the way in which the information was received should be taken on record.

The current criminal justice system without the aid of these scientific techniques is weak and as such many cases result in acquittals. Since the validity of the test and admissibility of narco-analysis has been quashed by the apex court taking into consideration the circumstances under which it is obtained, the possibility of justice has weakened. One way forward in this whole affair is that these techniques can be allowed selectively in grave offences where the other evidence is not sufficient enough. This move will bring about a qualitative change in criminal justice. Every individual is innocent until proven guilty, and the same aspect should be adhered to while conducting a criminal investigation.