



# INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

## A Legal Analysis On Admissibility Of Forensic Report With Reference To Dna Testing, Narco-Analysis And Polygraph Testing In Indian Court

<sup>1</sup>Name of 1<sup>st</sup> Author is Ayagh alva,<sup>2</sup>Name of 2<sup>nd</sup> Author is Prof Dr. Nagaraja .v,<sup>3</sup>Name of 3<sup>rd</sup> Author

<sup>1</sup>Designation of 1<sup>st</sup> Author,<sup>2</sup>Designation of 2<sup>nd</sup> Author,<sup>3</sup>Designation of 3<sup>rd</sup> Author

<sup>1</sup>Name of Department of 1<sup>st</sup> Author is School of Legal Studies,

<sup>1</sup>Name of organization of 1<sup>st</sup> Author is Reva University, Bangalore, India

### ABSTRACT

This article focuses on the issues involved in the admissibility of forensic strategies such as DNA profiling, use of narcotics, and polygraph test in the courts of India. It assesses the position of the law in each state, the opinions from judges, and the constitutional safeguards, when deeming their admissibility and relevance to the suspect.

**Index Terms - Component, formatting, style, styling, insert.**

### INTRODUCTION

Forensics remains very useful in modern criminal investigation, where the use of many scientific processes to consider the evidence and establish some facts is permitted. Techniques that can be employed in investigations and inquiries include DNA profiling, narco-analysis and polygraph tests, and such are being applied increasingly in elaborate cases by law enforcement agencies. These objectives aim at ensuring that the investigations are accurate through the presentation of details that go beyond the usual narration of events through an eyewitness or findings of circumstances.

It is also concerning the role that science has attested in the modern jurisprudence due to its objectivity of the results that can be obtained. However, this depends on the legal review of its admission in a court by considering constitutionalism that focuses on the rights of an individual and the fairness of the procedure in the court. But the Indian juridical process, as per the Indian Evidence Act and Article 20(3) and Article 21 protection, has to ensure that the usefulness of such methods is balanced with it. The main aim of this paper is to critically analyse the issue of admissibility of forensic reports, DNA profiling, narco analysis and polygraph tests in India.

### LEGAL FRAMEWORK GOVERNING FORENSIC EVIDENCE IN INDIA

Although in India, the rules of admissibility of the above-stated forensic evidence are regulated mainly by the Indian Evidence Act, 1872. Sections 45 and 46 of the Indian Evidence Act, 1872 deal with an expert's opinion. According to section 45, summons may be granted to the court to admit any evidence of skill when in the opinion of a court it is necessary to give an opinion on any matter involving such skill, knowledge and fact.

Section 46 supports this by permitting facts that favour or disparage an expert's opinion to be tendered into practice (Baldavaand Agarwal, 2022).

Opinion is significant not only for the identification of certain evidence, such as DNA, or the results of a polygraph test. For that reason, the court exercises some control over the assessment of such evidence, relevance and admissibility being reasons that are different. Relevance determines a connection of one evidence to the case, while admissibility has certain legal standards such as authenticity, reliability, and adherence to the constitution. Thus, while a number of the methods applied in forensic sciences are scientifically sound, the fact is that this evidence is not always admissible and has to meet the legal criteria (Imwinkelried, 2020).

### **DNA TESTING: ADMISSIBILITY AND JUDICIAL APPROACH**

This has made DNA testing one of the most acceptable forensic evidence because of the science that is attached to it. It is thus clear that DNA is generally admitted in the courtroom in the Indian courts, provided it has been collected, stored, and analysed properly to ensure that the chain of custody has been maintained (Becker, Derenčinović, and Primorac, 2023).

There are landmark decisions that form the following approaches that are used in handling DNA evidence. In *State of Bombay v. In Kathi Kalu Oghad* (1962) Criminal Appeals, the Supreme Court ruled that the notion of taking physical evidence such as fingerprints and blood samples does not offend Article 20(3) of the Constitution, which inhibits compelling a person to be a witness against himself. In *Kamti Devi v. In a case of Poshit Ram* (2001), the Court of Constitutional Appeal and other superior courts made it clear that a DNA result is positive but conclusive in definite aspects such as paternity, and more evidence must be adduced. In *Bhabani Prasad Jena v. As for the decision-making criteria*, the Court held in *Orissa State Commission for Women* (2010) that DNA tests should be prohibited as main evidence because ordering such tests undermines the right to privacy and the dignity of the family.

The proposed Bill titled as DNA Technology (Use and Application) Regulation Bill, 2019 has been crafted to regulate the utilisation of DNA technologies legally and morally. Despite allowing DNA evidence as a form of proof, courts would ensure that an applicant follows the legal processes to ensure the admissibility of the DNA evidence and to protect the rights of the Constitution (Singh, 2021).

### **NARCO-ANALYSIS AND POLYGRAPH TESTING**

Polygraph test includes administering drugs such as sodium pentothal, thus the suspect is given drugs that put him/her into a hypnotic state before interrogating him/her. These are also known as lie detector tests that check the body reactions, which include the rate of pulse and blood pressure, among others. Even though both techniques are employed in criminal investigations, their applicability in Indian courts raises legal questions about the constitution (Kumar, 2020).

Thus, under section 20(3) of the Constitution in India, an accused person cannot be forced to become his witness. Article 21, however, protects the freedom from being deprived of life and personal liberty, including protection from unreasonable searches and seizures as well as protection of one's physical integrity. In the landmark case of *Selvi v. In the case of the State of Karnataka* in the year 2010, the Supreme Court ruled that narco-analysis, polygraph, or brain mapping is unconstitutional if an individual is compelled to do so against his or her will. The Court pointed out that they are also impermissible for infringing on one's mental privacy and for being contrary to Article 20(3) and Article 21 (Lighthart, 2024).

Even if one is willing to be given those tests, the Court claimed that they cannot be considered as final and accurate data and can only be used for further testing. So, Indian courts do not allow these techniques because of their fairness in trials rather than efficiency in investigations based on the rights mentioned earlier.

### **COMPARATIVE ANALYSIS**

Legal and scientific validity distinguish DNA testing from narco-analysis and polygraph testing. Objectivity has made DNA testing successful; accuracy in the results obtained also proved it successful, coupled with a methodical and comprehensive science supporting it. Courts generally admit DNA evidence as long as its collection and analysis follow due process; this is because the evidence offers a high degree of certainty in establishing identity, parentage, or presence at a crime scene (Nuna and Gupta, 2024).

On the other hand, narco-analysis and polygraph tests are taken to be of low credibility since they are highly subjective and thus liable to errors. They are also adjudged as somewhat invasive, which may pose a problem as to whether or not it is a constitutional right, such as the right to privacy or even the right against self-

incrimination. They do not provide quantitative output, as with paternity testing results, and are rather vague and could be interpreted in many ways.

### CHALLENGES IN ADMISSIBILITY

There are some peculiar problems of fact and law in admitting forensic evidence in the Indian courts. The first is ethical: methods like narco-analytical mode and the polygraph test are deemed to infringe some constitutional privileges, specifically when administered compulsorily. They voice a challenge to the right of self-determination when it comes to the body, the right to psychological freedom, and the Fifth Amendment's protection against being compelled to be a witness against oneself.

The former brings out the question of misusing it as highlighted below: In the absence of controls, the techniques of forensic, can have the effect of forcing confession, or influence a jury's decision in the wrong manner. It is most unsustainable where the suspect is vulnerable or not legally represented, which will be discussed in the subsequent section.

Also, the absence of standardised standard operating procedures and insufficient forensic infrastructure in India allows for inconsistent treatment of evidence. Differences in sampling, storage, and analysis may taint the integrity of forensic reports. The absence of accreditation and training for forensic labs, even for scientifically sound methods such as DNA testing, can threaten admissibility in court.

### CONCLUSION AND SUGGESTIONS

Nowadays, forensic science cannot be overemphasised in the process of investigation and administration of justice in the criminal justice system. In the process of forensic science, DNA is a well-acknowledged methodology in India due to being scientific, non-inauthentic, specific, and, more importantly, authentic. The representativeness of DNA has been affirmed in court since the legal requirements and sample chain have been upheld rigorously.

However, narco-analysis and polygraph tests are considered to be sensitive tests. The Supreme Court, particularly in *Selvi v. State of Karnataka v. Ratnakala* 2010, it was held that such techniques are unlawful but only when consent of the individual concerned has not been sought and obtained. Still, in this case, the findings are inconclusive and allow only for investigative activity, not evidence proceedings.

To begin with, the following measures should be taken to address the challenges as discussed below. It also becomes paramount that all forensic techniques should be put under legal provisions with specific guidelines on the application of those that invade the bodily and psychological integrity of a person. It is recommended that the law enforcement agencies and the judiciary undergo special training that will enable them to handle and interpret the forensic evidence properly. Last but not least, the legislations need to safeguard and respond to what is ethical and procedural in enabling new technologies while not compromising the Constitution.

### REFERENCES

- Baldava, S. and Agarwal, D., (2022). Forensic Investigations and Fraud Reporting in India. <https://www.torrossa.com/it/resources/an/5289789>
- Becker, S.W., Derenčinović, D. and Primorac, D., (2023). DNA as Evidence in the Courtroom. In *Forensic DNA Applications* (pp. 433-448). CRC Press. <https://www.taylorfrancis.com/chapters/edit/10.4324/9780429019944-24/dna-evidence-courtroom-steven-becker-davor-deren%C4%8Dinovi%C4%87-damir-primorac>
- Imwinkelried, E.J., (2020). The admissibility of scientific evidence: exploring the significance of the distinction between foundational validity and validity as applied. *Syracuse L. Rev.*, 70, p.817. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/syrlr70&div=35&id=&page=>
- Kumar, S., 2020. Narco-Analysis Test. *International Journal of Management and Humanities*, 4(11), pp.7-9. <https://www.ijmh.org/wp-content/uploads/papers/v4i11/I0929054920.pdf>
- Lighthart, S., (2024). Mental privacy as part of the human right to freedom of thought?. In *The law and ethics of freedom of thought: Cognitive liberty and privacy*. Palgrave Macmillan. <https://repository.tilburguniversity.edu/server/api/core/bitstreams/5e94c98e-d5c2-43d8-9911-985278e0374e/content>
- Nuna, A. and Gupta, T., 2024. The Role of Forensic Evidence, DNA Tests, and Narco-Analysis in the Indian Legal System. *DNA Tests, and Narco-Analysis in the Indian Legal System* (December 23, 2024). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5069346](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5069346)

Singh, M., (2021). *A Critical Analysis of the DNA Technology (Use and Application) Regulation Bill 2019 with Special Reference to the Right to Privacy in Criminal Justice Administration* (Doctoral dissertation, Institute of Law, NU). <https://repository.nirmauni.ac.in/jspui/bitstream/123456789/9612/1/LDR0121.pdf>

