

ISSN: 2582-6433



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed 6th Edition

**VOLUME 2 ISSUE 7**

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**

#### **Megha Middha**



*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can*

*bring a change to the society*

#### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March

14th, 2019

## Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



## Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research

methodology and teaching and learning.

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# Right against Self-incrimination in India

*Authored By- Ankit Pranav &*

*Dr. Vivek Kumar*

**Assistant Professor**

## Introduction

### Self-incrimination

According to Black's Law Dictionary, "a declaration or an act that occurs during an investigation where a person or witness incriminates themselves either explicitly or implicitly is known as self-incrimination."<sup>1</sup>

In Simple words During criminal trial when a person who is accused of an offence is compelled to become a witness against himself. During criminal proceeding a person who is presumed to be guilty of crime has full right to talk investigating officers and can share whatever necessary details regarding crime to them but this can't be forced to him during investigation by the officers on him. He can't be punished by officers under law for not speaking to them.

It can be done in two ways direct and indirect. An example of direct self incrimination can be that during an interrogation accused himself with any external pressure or force discloses all the truth he knew regarding the matter of case and vice versa.

## Historical Background

It originated in England and Wales. All countries around the globe have derived this concept into their domestic law from English Common law. Origin of this concept can be seen by this maxim "*nemo tenetur seipsum accusare*," that "no man is bound to accuse himself." This maxim is one of the two different systems of law enforcement, accusatorial and inquisitorial. In accusatorial system, predated during Henry II, community was first and government was second to proceed against

---

<sup>1</sup> thelawdictionary.org

the alleged wrongdoer by examination by others and at that time examination of victim was also done. Inquisitorial system developed ecclesiastical courts, which basically compelled the wrongdoer to say himself the wrong he has committed by forcing him to take oath of bible. We all know that at that time people were following religion and church blindly. During that time person was told to tell in depth of all things he knows about the incident which led to this case. He was not informed about the charges imposed against him due to which he is standing in the court. He was not even told that whether he is a accused or witness in the case. It took a very long time to understand that a person can't accuse himself under oath in any proceeding in equity or common court. Later many colonies of England incorporated this concept in there laws like USA in federal bill of rights. Madison gave the version as, "nor shall be compelled to be a witness against himself" but house amendment inserted "in any criminal case" in provision.

## **Present status**

### **Right against Self-incrimination in India**

#### **Provision in constitution and law**

#### **Compulsion to give evidence "against himself"**

Indian constitution talks about Self incrimination under Article 20(3)

"No person accused of any offence shall be compelled to be a witness against himself."

Here, "to be a witness" is disobeying observation or knowledge or information relating to relevant facts. Supreme court 300 failed to determine scope of this article furnish evidence in context of non verbal testimony.

The protection under Article 20(3) is available only against the compulsion of accused to give evidence "against himself". But left to himself he may voluntarily wave his privilege by entering into the witness-box or by giving evidence voluntarily on request. Request implies no compulsion; therefore, evidence given on request is admissible against the person giving it.<sup>2</sup>

Here protection is only available against compulsion of accused to give evidence "against

---

<sup>2</sup> State of Bombay v. Kathi Kalu, AIR 1961 SC 1808

himself". But it is totally upon the discretion of accused to whether he/she want to give evidence "against himself/herself" or not. It is totally left to him whether he/she voluntary wave his/her privilege by entering the witness-box during trial or on request giving evidence voluntary. Because by requesting someone one doesn't compel any person so in this case the evidence provided by the accused may on request be used against him as the trial proceeds.

To apply protection under this article it must be proved that the accused was bound to speak a statement which will lead to incriminating him. Compulsion means duress (duress means a physical act and cannot be a state of mind) which also includes inducement, promising, threatening, beating or imprisoning wife, parent or children of person. Under duress most of human beings can be compelled to do or say anything or even compelled to be a witness. This was applied during the case State(Delhi Administration) v. Jagjit Singh. Article 20(3) is not applicable on those accused during trial who are not under any inducement, threat or promise while confessing.

Protection offered under Article 20(3) are as follows:-

1. Defendant must be informed and made understand by the authorities about his rights before recording his statement. He should be told clearly that his statement can be used against him during trial in future.
2. He should not be compelled to confess anything in any way.
3. If the court thinks that there are sufficient evidences and circumstances which proves beyond reasonable doubt that there were forceful means used to obtain defendant's confession or statement then court has full power to reject that statement.

CPC, 1908 provides defendant Right to Remain Silent. There is one condition to it as the defendant must clearly speak and express that he is using this right and will not answer any further question.

In Nandini Satpathy v. P. L. Dani<sup>3</sup> the Supreme Court has considerably widened the scope of clause (3) of Article 20. The Court has held that the prohibitive scope of Article 20(3) goes back to the stage of police interrogation not commencing in court only. It extends to, and protects the accused in regard to other offences - pending or imminent – which may

---

<sup>3</sup> AIR 1977 SC 1025

deter him from voluntary disclosure. The phrase ‘compelled testimony’ must be read as evidence procured not merely by physical threats or violence but by psychic (mental) torture, atmospheric pressure, environmental coercion, tiring interrogatives, proximity, overbearing and intimidatory methods and the like. Thus, compelled testimony is not limited to physical torture or coercion, but extends also to techniques of psychological interrogation which cause mental torture in a person subject to such interrogation. In that case, the appellant was a former Chief Minister of Orissa. Certain charges of corruption were leveled against her and in the course of inquiry she was called upon to attend at a police station and to answer certain written questions. The appellant refused to answer questions and claimed the protection of Article 20(3). She was prosecuted under Section 179, I.P.C., for refusing to answer questions put by a lawful authority. According to the Court, self incrimination is less than “relevant” and more than “confessional”. Irrelevance is impermissible, relevance is licit, but when relevant questions are loaded with guilty inference in the event of an answer being supplied, the tendency to incriminate springs into existence. The accused person cannot be forced to answer questions merely because the answers there to are not implicative when viewed in isolation and confined to the particular case. He is entitled to keep his mouth shut if the answer has a reasonable prospect of exposing him to guilt in some other accusation, actual or imminent, even if the investigation is not which reference to that. However, he is bound to answer where there is no clear tendency to criminate. This means that the protection is available when police examines that accused during investigation under Section 161 of the Cr.P.C.. Further, the right of silence is not limited to the case for which he is examined but extends to the accused in regard to other offences pending or imminent which may deter him from voluntary disclosure of criminatory matter.

In Mohd. Dastgir v. State of Madras,<sup>4</sup> the appellant went to the bungalow of Deputy Superintendent of Police to offer him bribe in a closed envelope. The police officer on opening in found the envelope containing currency notes. He threw it at the face of the appellant who took it. Thereafter, the police officer asked the appellant to handover the envelope containing the currency notes. The appellant took out some currency notes from his pocket and placed it on the table which was seized by the police officer. The appellant contended in appeal before the Supreme Court that the currency notes should not be produced in evidence as he was compelled by the police officer to give to him. The Supreme Court held that the accused was

---

<sup>4</sup> AIR 1960 SC 756

not compelled to produce the notes as no duress was applied on him to produce the notes. Moreover, the appellant was not an 'accused' at the time the currency notes were seized from him.

In Yusufali v. State of Maharashtra,<sup>5</sup> a tape – recorded statement made by the accused though made without knowledge of the accused but without force or oppression was held to be admissible in evidence.

In V. S. Kuttan Pillai v. Ram Krishnan,<sup>6</sup> the court held that search of the premises occupied or in possession of person accused of an offence or seizure of anything from there was not violative of Article 20(3) of the Constitution. If any document is recovered as a result of search and seizure it can be produced in the courts as an evidence against the accused as he is not compelled to give witness against himself.

In Amrit Singh v. State of Punjab<sup>7</sup> it has been held that asking an accused of his hair for purpose of identification amounts to testimonial compulsion. That accused has right to refuse to give specimen of his hair for purpose of identification. He cannot be made witness against himself in view of Art. 20(3) of the Constitution.

In India, Maneka Gandhi vs. Union of India ((1978) 1 SCC 248) held while considering Article 20(3), that the right against self-incrimination should be construed with due regard for the inter-relationship between rights, namely the various dimensions of the right to personal liberty under Article 21, such as the right to fair trial and substantive due process.

## **Narcoanalysis, Polygraphy and Brain Finger Printing tests of accused-Violates Article 20(3).- In Selvi v. State of Karnataka<sup>8</sup>**

The accused had challenged the validity of certain scientific techniques namely, Narcoanalysis, Polygraphy and Brain Finger Printing (BEAP) tests without their consent as violative of Article

---

<sup>5</sup> AIR 1968 SC 147; S.K. SINGH v. V.V.GIRI, AIR 1970 SC 2097.

<sup>6</sup> AIR 1980 SC 185.

<sup>7</sup> AIR 2007 SC 132.

<sup>8</sup> AIR 2010 SC 1974.

20(3) of the Constitution. They argued that these scientific techniques were softer alternatives to the regrettable use of third degree methods by investigators and violated right against self incrimination in Article 20(3) of the Constitution. The State argued that it was desirable that crime should be efficiently investigated particularly sex crimes as ordinary methods were not helpful in these cases. So the issue was between 'efficient investigation' and 'preservation of individual liberty'. A three Judge Bench of the Supreme Court unanimously held – These tests are testimonial compulsions and are prohibited by Article 20(3) of the Constitution. These tests do not fall within the scope of expression "such other tests" in Explanation of Section 53, Criminal Procedure Code. The protection of self incrimination is available at the stage of investigation also and it is also available to witnesses. In narcoanalysis test, a drug is given to him so that he can divulge important information. The drug is known as Sodicum Pentothal – Used or introduced as general anesthesia in surgical operations. The Polygraphy and Brain Finger Printing (BEAP) test is also known as the Wave Test. Electric waves are introduced into the mind. The compulsory administration of the narcoanalysis techniques constitutes cruel, inhuman or degrading treatment. Article 21 of the Constitution disproves of involuntary testimony irrespective of the nature and degree of coercion, threats fraud or inducement used to elicit the evidence. The popular means of the terms such a 'torture and cruel', 'inhuman or degrading' treatment are associated with gory images of blood letting and broken bones. A forcible invasion into a person's mental process is also an affront to human dignity and liberty often with grave and long and lasting consequences. The international Conventions though not ratified by Parliament are of persuasive value since they represent an involving international consensus on the issue. – Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984) – Regarding the contention raised by the respondents that compelling interests demands such techniques for investigation of crimes in future the Court held – It is the function of the legislature to consider and make proper law on the issue. But if such matter comes before the Court, the Court shall interpret the mandate of the constitutional provisions available to the citizens and apply in their favour. The Court laid down the following guidelines for these tests:

- (1) No Lie Detector Tests should be administered except on the basis of consent of the accused. An option should be given to the accused whether he wishes to avail such test.

- (2) If the accused volunteers for a Lie Detector Test, he should be given access to a lawyer and physical, emotional and legal implications of such a test should be explained to him by the police and his lawyer.
- (3) The consent should be recorded by a Judicial Magistrate.
- (4) During the hearing before the Magistrate, the person alleged to have agreed should be duly represented by a lawyer.
- (5) At the hearing the person in question should also be told in clear terms that the statement that if made shall not be a confidential statement to the Magistrate but will have the statement made to the police.
- (6) The Magistrate shall consider all factors relating to the detention including the length of detention and the nature of the interrogation.
- (7) The actual recording the the Lie Detector shall be done by an independent agency (such as a hospital) and conducted in the presence of a lawyer.
- (8) A full medical and factual narration of the manner of the information received must be taken on record.

Article 20(3) is based on legal maxim “nemo tenetur prodre accusare seipsum”, which means “No man is obliged to be a witness against himself.”

In India, Supreme Court has tried to enlarge the interpretation of this section by allowing oral and documentary evidence as well. This prohibition cannot be applied in cases where ‘an object or document is searched or seized from the possession of the accused.

This provision is not applied on thumb-impression or specimen signature.

## **Features of Article 20(3)**

### **1. Protection to a Person accused of an offence**

This Article gives the accused protection not only during the trial in court or enquiry but from

the time charge has been framed against him by any means like filing of FIR, complaint under Magistrate, formal complaint etc. It can extend to other matters which are running simultaneously in other courts for other offences even.

## 2. Compulsion to be a witness is prevented

Compulsion means duress (duress means a physical act and cannot be a state of mind) which also includes threatening, beating or imprisoning wife, parent or children of person. Under duress most of human beings can be compelled to do or say anything or even compelled to be a witness. This was applied during the case State(Delhi Administration) v. Jagjit Singh.

### 1. Prevents Compulsion resulting in giving evidence against oneself

Thumb impressions or specimen for writings or exposing body for the purpose of identification an accused can be compelled to submit them during investigation.

If the accused is voluntarily producing documentary evidence or oral statement which is incriminatory in nature then this right will be waived off.

*Most democratic countries in world has right to remain silent and right to legal counsel but there law varies from country to country.*

*For example European countries have their own set of laws in accordance with EU guidelines.*

## Right against Self-incrimination in other countries

### U.S.A.

The fifth amendment of the U.S. Constitution provides that- *'No person shall be compelled in any criminal case, to be a witness against himself'*

This right is applicable on states by fourteenth amendment.

The above privilege has been given a wide connotation after being judicially interpreted in many cases. In both civil and criminal proceedings these privileges against self-incrimination can be applied to witnesses and parties. It covers oral and documentary evidence and extends to all disclosures including answers which by themselves support a criminal conviction or furnish a link in the chain of evidence needed for a conviction.

## Britain

As the country is following common law, they have made this a basic principle that an accused person of an offence can't be compelled to discover documents or objects which can incriminate him. Except few cases no witness, whether from party or stranger is compelled to answer any question or produce document, which may lead to exposing of witness or spouse of witness, to any criminal charge, penalty or forfeiture. The objective behind this is to encourage common people to come forward along with evidence in courts and to protect these people as much as possible from injury or annoyance in the consequence.

## Ingredients of Article 20(3)

### The person accused of an offence

The privilege provided under this article is only for person who are presumed as to be accused by the court. In case of India, this can be done by simply filing an FIR or formal complaint against a person accusing him for certain offence. It is not necessary that there should be a case in court. Article 20(3) talks only on making of such formal accusation. It is important to note a point here that if a person made statement that he is not an accused but after trial he is found guilty then he can't claim the protection. Article 20(3) not applies against a government servant since there is no accusation of any offence to departmental inquiries into allegations.

In *M.P. Sharma v. Satish Chandra*, it was held that a person whose name is mentioned in the first information report as an accused can claim protection under Article 20(3). The privilege against self-incrimination is available at both trial and pre-trial stage i.e. when the police investigation is going on and the person is regarded as an accused, or even if his name is not mentioned in the FIR as an accused.

In the case of *Balasaheb v. State of Maharashtra*, it was held that a witness in a police case, who is also an accused in the complaint case for the same incident, cannot claim absolute immunity from testifying in the case. However, he may refuse to answer those questions which tend to incriminate him.

## Compulsion to be a witness

When narco-analysis test is used as a technique for investigation, it many times leads to violation of the Human Rights.

In *State of Bombay v. Kathi Kalu Oghad*, the court held that it must be shown that the person was compelled to make a statement which was likely to incriminate him. Compulsion is duress: it should be a physical objective act and not a state of mind like beating, threatening, imprisonment of wife, parent or child of a person. Art.20(3) does not apply if a person makes a confession without any inducement or threat.

In the case of *State (Delhi Administration) v. Jagjit Singh*, the court held that if an accused has been granted pardon under section 306 of the [Criminal Procedure Code](#), he ceases to be an accused and becomes a witness for the prosecution and his evidence cannot be used against him in other cases. Section 132 of the [Indian Evidence Act](#) protects a witness from being prosecuted on the basis of the information given by him in a criminal proceeding which tends to incriminate him.

## Compulsion resulting in giving evidence against himself

Thumb impressions or specimen for writings or exposing body for the purpose of identification an accused can be compelled to submit them during investigation. In *Kathi Kalu's case*, it was held that it must be necessarily shown that the witness was compelled to make a statement likely to incriminate him. Compulsion is an essential ingredient but if a person makes a confession without any inducement, threat or promise Article 20(3) does not apply. The accused may waive his right against self-incrimination by voluntarily making an oral statement or producing documentary evidence, incriminatory in nature.

In *Amrit Singh v. State of Punjab*, the accused had charges of rape and murder of an eight year old girl. When the body of the deceased was discovered, some strands of hair were found in the closed fist of the child. The Police wanted to analyse the hair of the accused, but the accused refused to give the sample. The court found the accused to be protected against self-incrimination, so he had the right to refuse to give hair sample. But if the right against self-

incrimination is considered in such a broad manner, then it might lead to misuse of this right by the accused.

In an interesting case of *A v. B*, the divorce proceedings on the ground of adultery were going on in the Delhi High Court. The Court allowed the paternity test of the preserved foetus as it was no longer a part of the wife's body. She was not subjected to compulsion as the right against self-incrimination does not extend to search and seizure of documents and any other object under a search warrant.

## **Narco-analysis Test vis-à-vis Self-Incrimination**

It is still a matter of debate that whether scientific technique like narco-analysis tests, brain mapping test, etc should be considered violating the right of self-incrimination under Article 20(3) for improving the investigation. In *Gobind Singh v. State of Madhya Pradesh*, the Court held that the mental state of an individual comes under the ambit of 'Right to Privacy'. Later, developments in this area observed that the authority of the State to compel an individual to expose the parts of his life which he wishes to keep to himself is ultra vires the Constitution as it is in contravention of the rights guaranteed under Article 20(3) and 21.

This issue was brought before the Supreme Court in the case of *Selvi v. State of Karnataka*, the apex court rejected High Court's reliance on the utility, reliability and validity of narco analysis test and other such tests as methods of criminal investigation. The Court found that it is a requisite compulsion to force an individual to undergo narco-analysis test, polygraph tests and brain-mapping. The answers given during these tests are not consciously and voluntarily given, so the individual is unable to decide whether or not to answer a question, hence it amounts to testimonial compulsion and attracts protection under Article 20(3). The Court stated that narco-analysis test is a cruel and inhuman treatment which violated the right to privacy of an individual. That courts cannot permit administration of narco-analysis test against the will of the individual except in cases where it is necessary under public interest.

## **DNA Test and Article 20(3)**

Right of Privacy and Right against self incrimination of a person is infringed when evidence based on DNA Test of a person is presented, this is the reason why court's hesitate before

accepting these kind of evidence. Under Article 21, after landmark judgement of case Justice K. S. Puttaswamy (Retd) and Anr. v. UOI Right to Privacy is an inherent right under Right to life and Personal Liberty. But in some cases Supreme Court has held that the Right to Life and Personal Liberty is not absolute and can be subject to certain restriction. In Kharak Singh v. State of Uttar Pradesh, the apex court held that Right to Privacy is not guaranteed under the Constitution. The courts have allowed DNA tests on certain occasions to be used in an investigation for producing evidence.

In the case of Kanchan Bedi v. Gurpreet Singh Bedi, the question arose on the parentage of the infant, and the mother filed an application for conducting DNA test, to which the father opposed arguing that his rights would be violated. The Court held that where the parentage of a child is in question, directing a person to undergo a DNA Test does not amount to a violation of fundamental rights. The Court relied on the judgment given in Geeta Saha v. NCT of Delhi, where the Division Bench ordered a DNA Test to be conducted on the foetus of the rape victim.

## **Any Bill made on self incrimination**

### **Criminal procedure identification Bill, 2022**

1. This act allows police and prison officers to collect certain identity related information for example fingerprints, biological samples etc. of convicts which are arrested due to an offence. These rules empower NCRB to state specific guidelines for measurements, and handling, storage, processing, matching, destruction and disposal of these records.
2. Authorised police officer or prison officer, registered medical practitioner or any skilled person may take measurement under this act.

## **Conclusion**

Article 20(3) provides accused protection against self incrimination and right to remain silent on the matters which can lead to incrimination of himself only. This article also covers person who are being searched and seized, compelled to be a witness, an accused or person who has no obligation to be a part of these procedures. Under Article 20(3), a statement will not be

protected if it is made on some finding. An accused can't be tortured or compelled in any way to extract information or confession or no duress in any way according to law. In these cases Article 20(3) protects the accused's rights. Only in extraordinary circumstances, scientific techniques such as Narco-analysis tests, polygraph analysis, etc should be used as it is hampering the provision of Right to Privacy and Article 20(3).

## Suggestion

In my personal opinion, before applying these test I think humans have to go a long way of testing as it should not have any short or long term medical including physical and mental health effects. For rest of the time by the special permission of court they should be continue to be used in rarest of rare cases where court think it is necessary to use.

## References

### 1. Book

1. Constitutional law of India by Dr. J .N. Pandey
2. Indian Constitutional law by M P Jain

### 2. Journal

Lawjournals.org

### 3. Article

1. [Karnatakajudiciary.kar.nic.in](http://Karnatakajudiciary.kar.nic.in)
2. [Blogileader.com](http://Blogileader.com)
3. [Byjus.com](http://Byjus.com)
4. [Legalserviceindia.com](http://Legalserviceindia.com)
5. [Ijlmh.com](http://Ijlmh.com)

## Bibliography

1. [Privacylibraray.ccgnlud.org](http://Privacylibraray.ccgnlud.org)
2. [Main.sci.gov.in](http://Main.sci.gov.in)
3. [En.wikipedia.org](http://En.wikipedia.org)
4. [Law.cornell.edu](http://Law.cornell.edu)
5. [Law.yale.edu](http://Law.yale.edu)
6. [indianexpress.com](http://indianexpress.com)
7. [theprint.in](http://theprint.in)
8. [newsclick.in](http://newsclick.in)
9. [civildaily.com](http://civildaily.com)
10. [scroll.in](http://scroll.in)
11. [prsindia.org](http://prsindia.org)
12. [ijtr.nic.in](http://ijtr.nic.in)

