



# OVERSIGHT OF OPPORTUNITIES AND UNRESOLVED CONSTITUTIONAL ENQUIRIES: SELVI v. STATE OF KARNATAKA RE- EXAMINED

**Author: Mrs. Sony Jonna**

Research Scholar

Department of Law, Sri Padmavati Mahila Visvavidyalayam,  
Tirupati, Andhra Pradesh

**Co-Author: Prof. T. Sitakumari**

Department of Law, Sri Padmavati Mahila Visvavidyalayam,  
Tirupati, Andhra Pradesh

## **Abstract:**

In this research paper, the Selvi v. State of Karnataka case is reviewed. It looks for the court's ruling as well as the issues it left open. It is well-known that this precedent prevents anyone from being forced to submit to certain scientific testing while a criminal investigation is underway. Individual liberty, dignity, and the right to remain silent would unquestionably benefit from this. However, a thorough reading of the ruling reveals a number of important problems that it fails to address.

The Court's ruling makes it quite evident that requiring such procedures would be unlawful. However, it did not fully address how the Constitution should protect the human intellect. This is still applicable today because, without the use of physical force, technology tools may cloud a person's judgement and thinking. The question of whether the law is adequately prepared to manage these new directives that disrupt your life or annoy you when you want to be private is made clear in the report.

Consent is the subject of the other difficulty. The judgement does not closely examine whether true consent is even enforceable while a subject is in police custody, but it does allow such tests if a person consents to them. In certain situations, pressure and fear can influence choices without the use of physical force. Although the Court recognised this challenge, it failed to offer a definitive resolution.

This article is framed, not as critique of the judgment but on a reading of Selvi as an important yet inadequate and unfair contribution to constitutional development. As detective technology progresses, this paper raises the question and stresses the need of broader and more transparent legal criteria to protect human liberty and mental privacy.

**Keywords:** Criminal Investigation, dignity, intellectual, safeguard, Technological Tools.

## I. INTRODUCTION

The collection of evidence and police work have been affected by the growing use of scientific and technological devices in criminal investigations. In an attempt to gather information from people who are suspected of committing a crime or who have been accused of one, narco-analysis, polygraph tests, and Brain Electrical Activation Profile tests were all introduced as objective means. Since these methods were more accurate and efficient than the normal interrogation process, people thought they were okay. But since they were being increasingly used, there were significant constitutional issues, especially those relating to liberty, dignity, and the right to remain silent.

In the landmark case of Selvi v. State of Karnataka, the Supreme Court of India addressed these issues by analyzing whether the forcing of these scientific tests on people is in violation of Articles 20(3) and 21 of the Indian Constitution. As it is equivalent to forcing a person to remove their personal knowledge, the Court clearly stated that it is in violation of their rights under the Indian Constitution. In doing this, it is abundantly clear that the State cannot imprison people in order to arrest criminals.

The positive impact of Selvi's holding aside, what is evident here is the necessity to frame a closer reading of Selvi itself beyond just the prohibition of mandatory testing. The Court's constitutional explanation is meticulous, but specifically applicable to this case rather than a broad rule. The opinion is preoccupied with physical and testimonial compulsion, while neglecting the question of how, as burgeoning techniques of investigation offer ever more ways to invade individual privacy, the Constitution would protect what Justice Frankfurter called "the sanctuary of personal privacy" indeed the human mind itself.

Behavioural analysis, mental manipulation and psychological persuasion are more important now in the detective's job than brute physical power. These developments are putting pressure on the classical constitutional arrangements and one may wonder whether or not, if he presentatives safeguards would remain untouched, they might be come less effective. It is uncertain as to the contours of future investigatory procedures due to lack of a clear mental privacy doctrine in Selvi.

This essay reflects on the important yet incompletely clear constitutional intervention in Selvi V. State of Karnataka. The focus of this article is with the doctrinal strengths and weaknesses of the case, with a particular focus on non-

physical coercion, consent to detention and mental privacy. In the interests of improving constitutional discourse, this essay identifies failures that ought to be addressed by institutions of legislation and adjudication.

## II. RESEARCH PROBLEM AND OBJECTIVES

### A. Research Problem

This paper will examine the sufficiency of the constitutional safeguards laid down in *Selvi v. State of Karnataka* to protect an individual against modern and future scientific techniques which have this potential to compromise mental autonomy. Although the Supreme Court did say that involuntary scientific testing was not permissible, it never clearly articulated a constitutional right to mental privacy or established formal rules for eliciting consent in places of detention.

The ruling does not fully account for the fact that police custody is inherently coercive, but it allows for scientific tests to be used if both parties agree. That raises a whole bunch of questions whether consent can ever truly be voluntary in this kind of situation. The Court's focus on physical coercion disregards less obvious, if no less intrusive, types of pressure, including psychological and cognitive compulsion.

The research problem also lies in the judgment's lack of prospective analysis. With the advancement of investigative technologies, they may just throw out altogether any traditional notion of questioning in favor of seeking to make inferences from data and predicting behavior. The Achilles heel of constitutional containment is a doctrinal apparatus capable of dealing with these developments.

### B. Objectives of the Study

The objectives of this research are specifically designed to systematically investigate these problems. This research has two primary objectives, first to examine the constitutional reasoning of the Supreme Court in *Selvi v. State of Karnataka*<sup>66</sup> with a specific reference to Articles 20(3) and 21.

Second, it assesses the degree to which the decision recognizes mental privacy as a part of personal freedom and dignity.

Third, the paper addresses the role of power differences on voluntariness and on protecting which consent to custodial interrogation.

Fourth, it considers the relevance of *Selvi* in the context of recent investigative techniques that rely on mental coercion rather than physical compulsion.

Finally, the article proposes doctrinal and legislative steps to strengthen constitutional protections against invasive investigation.

### III. REVIEW OF LITERATURE

Selvi v State of Karnataka in Legal Scholarship In legal scholarship, Selvi has primarily been discussed as a judgment enlarging the scope of the privilege against self-incrimination. The judgment has been lauded by scholars for eschewing the restrictive view of Article 20(3) which extended protection only to oral statement in court. In acknowledging that scientific processes remove private knowledge from the mind, the Court expanded constitutional coverage.

Several commentators underline the Court's more recent reliance on human dignity as a constitutional value structurally founded on Article 21. The decision is frequently referenced as upholding the concept of the individual not being merely an object of study. Comparative constitutional analysis consistently situates Selvi in the context of international human rights norms against coercive interrogation and inhumane treatment.

Yet criticism does point to serious flaws in the judgment. A few writers insist that Weiss, like Alachua and Robinette, rests in the Court an understanding of compulsion based on physical force without reference to pressures inherent in psychology. Research into custodial interrogations has shown that fear, doubt and power differentials frequently lead to compliance without physical force.

A further development, in a separate group of literature, involves the difficulty of consent within custodial environments. Legal experts say that such consent, while a person is under arrest, is suspect on its face and should be subject to greater scrutiny. The failure of procedural safeguards under Selvi has been recognized as one of the doctrinal fault lines.

Recent interdisciplinary work on law and technology muddies the water still more. And developments in neuroscience, behavioural science and predictive analytics make other methods of investigation possible that have nothing to do with interrogation. There is a growing chorus of scholars calling for conceptualizing mental privacy as a free-standing constitutional right separate from bodily privacy. This emerging literature sets the stage for re-evaluating Selvi as a significant but incomplete reaction to technological encroachment: It can inform discussions concerning a remedy going forwards.

### IV. METHODOLOGY

This study employs a doctrinal and analytical research methodology, which is appropriate for examining constitutional interpretation and judicial reasoning. The research is qualitative in nature and does not involve empirical data collection. The primary sources include constitutional provisions, judgments of the Supreme Court of India, and relevant international human rights principles relating to criminal investigation and personal liberty. Secondary sources consist of scholarly articles, textbooks on constitutional law, law commission reports, and interdisciplinary literature on law and technology. These sources are used to contextualize judicial reasoning and identify doctrinal trends and gaps.

The methodology involves close textual analysis of *Selvi v. State of Karnataka*, focusing on the Court's treatment of compulsion, consent, and dignity. The study also examines subsequent constitutional developments to assess the judgment's continuing relevance. Comparative references are used selectively to illuminate broader constitutional principles without undertaking a full comparative study.

The objective of the methodology is not to measure outcomes but to evaluate normative coherence. By analysing legal texts and scholarly interpretations, the study identifies doctrinal inconsistencies and proposes conceptual refinements. This approach ensures alignment between the research objectives and analytical framework.

## V. DISCUSSION AND ANALYSIS

The Supreme Court in *Selvi v. State of Karnataka* took a decisive step in limiting the State's authority to intrude upon individual autonomy. The Court recognised that scientific techniques such as narco-analysis and brain mapping extract personal knowledge from the subject's mind, thereby attracting the protection of Article 20(3). This interpretation marked a significant doctrinal shift from earlier understandings of self-incrimination.

However, the Court's analysis remains constrained by a traditional focus on physical and direct compulsion. Psychological coercion, cognitive manipulation, and induced compliance receive limited attention. This limitation becomes problematic in the context of modern investigative practices that rely on subtle influence rather than force.

The acceptance of consent as a legitimizing factor further weakens the constitutional framework. Although the Court acknowledged the coercive nature of custody, it failed to articulate objective standards for determining voluntariness. In the absence of judicial oversight or independent safeguards, consent risks becoming a procedural formality rather than a substantive right.

The judgment also lacks an explicit doctrine of mental privacy. While it indirectly protects mental processes through dignity and liberty, it does not recognize the mind as a constitutionally protected space. This omission undermines the judgment's ability to respond to future technologies that operate without physical intrusion.

## VI. FINDINGS

The study finds that *Selvi v. State of Karnataka* significantly strengthens constitutional protection against involuntary scientific testing by expanding the scope of Article 20(3). It affirms the principle that compelled access to mental processes violates human dignity.

However, the judgment inadequately conceptualizes mental privacy as an independent constitutional right. Consent in custodial settings is treated as a safeguard without sufficient doctrinal support. The Court's focus on physical compulsion overlooks psychological and technological coercion. The judgment remains reactive rather than anticipatory, addressing existing practices but failing to establish a future-ready framework.

## VII. SUGGESTIONS

This paper suggests explicit judicial recognition of mental privacy under Article 21. Consent in custody should be subjected to strict scrutiny, including mandatory judicial oversight. Legislative regulation of investigative technologies is necessary. A proportionality-based framework should govern the use of scientific techniques. Continuous judicial review of technological practices must be encouraged.

## VIII. CONCLUSION

The landmark SC decision in *Selvi v. State of Karnataka* limits coercive means of investigation & strengthens constitutional safeguards under Articles 20(3) and 21. The Court upheld the ban on forced narco-analysis, lie-detector tests and brain-mapping by stating that investigative efficacy must not come at the cost of personal liberty and dignity. But the decision doesn't go so far as to articulate anything like a doctrine of mental privacy. Psychological intrusion is largely seen as extension of physical intrusion, a conceptual gap resulting from advanced investigative technologies that are increasingly being applied to the human mind. *Selvi*, in this sense is the beginning and not an end, leaving room for further fine-tuning both from the court's side as also on part of the lawmakers.

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