

Constitutional Validity of Narco Analysis Test under Article 20(3) of the Constitution of India with reference to Judicial Pronouncements

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Abstract

In this article the researcher has tried to discuss about constitutional validity of Narco Analysis Test under Article 20(3) with reference to Judicial Pronouncements. Narco analysis test is used for purpose of extracting truth from accused or suspect. The main aim of Narco Analysis test is to detect the truth from criminal. Narco analysis is scientific form of investigating tools. The main object of Narco analysis test is to go in the root of truth as well as to reduce the criminal behavior in society. But today one of the biggest legal controversies which around Narco Analysis Test are its alleged violation of the fundamental rights against self incrimination guaranteed under Article 20(3) of the Indian Constitution. Therefore the researcher has tried to discuss the constitutional validity of Narco Analysis Test in India under Article 20(3) and also tried to discuss the admissibility and reliability of Narco Analysis test or report of the test by the courts.

KEYWORDS: Constitutional validity, Narco Analysis Test, Article 20(3), Judicial Pronouncement.

Introduction:

The term Narco-Analysis is derived from the Greek word. Its meaning "numbness" or "anaesthesia" or "torpor" and is used to describe a diagnostic and psychotherapeutic technique that uses psychotropic drugs, particularly barbiturates, to induce a stupor in which mental elements with strong associated affects come to the surface, where they can be exploited by the therapist. The advancement of science has led to many great and modern machines and methods. A great number of discoveries and research has led to the overall betterment of human civilization as we know it. Many fields have benefited from major advancements in medical sciences. Man has had an immemorial quest for truth and has been search of various techniques to discover truth. Thus, man has turned to the field of medical science in search of the holy grail of truth detectors. It has so far eluded him but this quest has turned up a few tricks with which the police would be able to apprehend the culprit. The need for quick methods of discovering truth along with the impatience of man has had a great deal to contribute to this particular field of forensic science.

The main provision regarding crime investigation and trial in the Indian Constitution is Art. 20(3). It deals with the privilege against self incrimination. The privilege against self incrimination is a fundamental right under Art. 20(3) which embody this privilege read, "No person accused of any offence shall be compelled to be a witness against himself". Subjecting the accused to undergo the test, as has been done by the investigative agencies in India, is considered by many as a blatant violation of Art. 20(3). The application of Narco analysis test involves the fundamental question pertaining to judicial matters and also to fundamental and Human Rights. The legal position of applying this technique as an investigative aid

raises genuine issues like this technique violates fundamental right of an accused person such as right against self incrimination under Article 20(3) of the Constitution and also encroachment of an individual's rights, liberties and freedom.

Objectives of this research:

While doing this research the researcher has framed following objectives-

1. To find out the constitutional validity of Narco Analysis test in India.
2. To highlight the issues on Narco Analysis Test in India.
3. To examine the evidentiary value of Narco Analysis test in India.
4. To explore the role of Judiciary while dealing cases relating to Narco Analysis test in India.

Research Methodology:

This research article based on doctrinal and analytical research. While writing this article the researcher has collected data from books of eminent authors, Law Journals, articles and websites.

Use of barbiturates in Narco Analysis Test and its Effect on Human Body:

While using this drug in Narco Analysis Test it has got depressant effect on CNS and also over cardiac and respiratory system. It interferes and depresses cytochrome enzyme system. It reduces renal output, temperature regulating center fails and also cause rapid paralysis of respiratory system.¹ In this test as with most drugs, little is known about the way barbiturates² work or exactly how their action is related to their chemistry. But a great deal is known about the action itself. They can produce the entire range of depressant effects from mild sedation to deep anaesthesia and death. In small doses they are sedatives acting to reduce anxiety and responsiveness to stressful situations; in these low doses, the drugs have been used in the treatment of many diseases, including peptic ulcer, high blood pressure, and various psychogenic disorders. At three to five times the sedative dose the same barbiturates are hypnotics and induce sleep or unconsciousness from which the subject can be aroused. In larger doses a barbiturate acts as an anaesthetic, depressing the central nervous system as completely as a gaseous anaesthetic does. In even larger doses barbiturates cause death by stopping respiration.

The barbiturates affect higher brain centres generally. The cerebral cortex that region of the cerebrum commonly thought to be of the most recent evolutionary development and the centre of the most complex mental activities seems to yield first to the disturbance of nerve-tissue function brought about by the drugs. Actually, there is reason to believe that the drugs depress cell function without discrimination and that their selective action on the higher brain centres is due to the intricate functional relationship of cells in the central nervous system. Where there are chains of interdependent cells, the drugs appear to have their most pronounced effects on the most complex chains, those controlling the most "human" functions.

The lowest doses of barbiturates impair the functioning of the cerebral cortex by disabling the ascending (sensory) circuits of the nervous system. This occurs early in the sedation stage and has a calming effect not unlike a drink or two after dinner. The subject is less responsive to stimuli. At higher dosages, the cortex no longer actively integrates information, and the cerebellum, the "lesser brain" sometimes called the great modulator of nervous function, ceases to perform as a control box. It

no longer compares cerebral output with input, no longer informs the cerebrum command centres of necessary corrections, and fails to generate correcting command signals itself. At this stage consciousness is lost and coma follows. The subject no longer responds even to noxious stimuli, and cannot be roused. Finally, in the last stage, respiration ceases

An Outline of Narco-analysis Test:

Narco-analysis refers to the practice of administering barbiturates or certain other chemical substances, most often Pentothal Sodium, to lower a subject's inhibitions, in the hope that the subject will more freely share information and feelings. The subject is administered with Pentothal Sodium, Sodium Thiopental and Suxamethonium Chloride, barbiturates or even a cocktail of these drugs. The Narco-analysis test is conducted by mixing 3 grams of above chemicals dissolved in 3000 ml of distilled water and expert inject a subject the solution under controlled circumstances in a laboratory or in an operation theater. The dose depends on the person's sex, age, health and physical condition. The subject, in a state of hypnosis, cannot speak on his/her own but can answer specific but simple questions after giving some suggestions. These drugs are also called 'truth serums' and help in extracting the truth in the form of repressed feelings, thought or memory of a person.

A person is able to lie by using his imagination, but in Narco-analysis Test, the subject's inhibitions are lowered by interfering with his nervous system at the molecular level. In this state, it becomes difficult though not impossible for him to lie. The subject which is put in a state of Hypnotism is not in a position to speak up on his own but can answer specific but simple questions after giving some suggestions. The answers are believed to be spontaneous as a semi-conscious person is unable to manipulate the answers. This drug works on the principle of inhibiting the thought filtration process of the brain. The theory behind this is that when we lie, our brain filters our thoughts and decides what is to be revealed and what has to be concealed. If this process is inhibited, a person can no longer filter his thoughts and has to speak the truth, or so is assumed. In such sleep-like state efforts are made to obtain "probative truth" about the crime.

How to conduct of Narco-Analysis Test?:

The team that conducts Narco-analysis consists of one anaesthetist, one physician and one clinical/ forensic psychologist. The responsibility of each expert in the team is well defined. The physician certifies the fitness of the person before and after Narco-analysis, the anaesthetist modulates the depth of anaesthesia required depending upon the quantum of information to be obtained and monitors the various stages of anaesthesia. Only the clinical or forensic psychologist interacts with the individual who is a "trance" and gives reports along with videotapes to the courts on behalf of the team. No medical professional in the team is involved in interrogating the individual. This task is the exclusive domain of the clinical/forensic psychologist. The revelations made during this stage are recorded both in video and audio cassettes.³ The forensic psychologist will prepare the report about the revelations, which will be accompanied by a compact disc of audio-video recordings. The strength of the revelations, if necessary, is further verified by subjecting the person to polygraph and brain mapping tests. The report prepared by the experts is what is used

in the process of collecting evidence. This procedure is conducted in government hospitals after a court order is passed instructing the doctors or hospital authorities to conduct the test. Personal consent of the subject is also required.

Wrong dose can send the subject into coma or even result in death. The rate of administration is controlled to drive the accused slowly into a hypnotic trance. The effect of the bio-molecules on the bio-activity of an individual is evident as the drug depresses the central nervous system, lowers blood pressure and slows the heart rate, putting the subject into a hypnotic trance resulting in a lack of inhibition.

Constitutional Validity of Narco Analysis Test in India:

Article 20 (3) provide protection against self incrimination clause (3) of Article 20 of Constitution of India provides that no person accused of any offence shall be compelled to be a witness against himself. Thus Article 20 (3) embodies the general principle of English and American jurisprudence that no one shall be compelled to give testimony which may expose him to prosecution for crime. The principle of criminal law which is really the bed rock of English jurisprudence is that an accused must be presumed to be innocent till the contrary is proved. It is duty of prosecution to prove the offence. The accused need not make any admission or statement against his own free will the Fifth Amendment of American constitution declares that no person shall be compelled in any criminal case to be witness against himself.

The Fundamental rule of criminal jurisprudence against self incrimination has been raised to a rule of constitutional law in Article 20 (3). This guarantee extends to any person accused of an offence and prohibits all kinds of compulsions to make him a witness against himself. Explaining the scope of this clause in *M. P. Sharma Vs Satish Chandra*.⁴ The Supreme Court observed that this right embodies the following essentials.

- 1) It is right pertaining to a person who is accused of an offence.
- 2) It is a protection against “compulsion to be witness”.
- 3) It is a protection against such compulsion relating to his giving evidence against such compulsion relating to his giving evidence against himself.

For invocation of Article 20(3) of the constitution of India all the three ingredients must co-exist. The privilege under clause (3) is confined only to an accused i.e. a person against whom a formal accusation relating to the commission of an offence has been levelled which is in the normal course may result in the prosecution. A person against whom a first information report has been recorded by the police and investigation has been ordered by the Magistrate can claim the benefit of the protection. Further, the guarantee in Article 20 (3) is against the compulsion to be ‘a witness’.

In *State of Bombay v. Kathi Kalu Oghad*⁵ a Bench of the Supreme Court consisting of eleven judges held that, “It is well established that clause (3) of Article 20 is directed against self-incrimination by the accused person. Self-incrimination must mean conveying information based upon personal knowledge of the person giving the information and cannot include merely the mechanical process of producing documents in court which may throw a light on any of the points in the controversy, but which do not contain any statement of the accused based on his personal knowledge.”

The third component of Article 20 (3) is that it is a prohibition only against the compulsion of the accused to give evidence against him. In *Kalawati v H.P. State*⁶, the Supreme Court held that Article 20 (3) does not apply at all to a case where the confession is made by an accused without any inducement, threat or promise.

It is a right pertaining to a person accused of an offence:

The word accused of an offence make it clear that this right is only clear that this right is only available to person is said to be a accused of offence. A person against whom a formal accusation edating to the commission of offence has been leveled which in normal course may result to the in his prosecution and conviction⁷. The discussion on Article 20 (3) spells out three requirements which must be met with in order to claim protection under Article 20 (3) If any of these requirements is not met with, Article 20 (3) cannot be invoked. If Narco Analysis is carried out on an accused, it definitely fulfils the first requirement of Article 20 (3). However, the question is whether subjecting a suspect to such a test also fulfils the requirement of Article 20 (3).

In the case of *State of Andhra Pradesh v. Smt. Inapuri Padma and Ors*⁸, the Court held that, it is the safe test to elicit information relating to the crime from the above persons, instead of resorting to third degree methods, therefore he submitted that the Police may be granted permission to conduct Narco Analysis Test. In this case further averred that the Narco Analysis Test is a complicated procedure, which has adverse reactions as well as drastic side effects and sometimes it may be even fatal. to subject the petitioner for Narco Analysis as part of the investigation lacks authority of law as the same is violative of fundamental rights guaranteed to the petitioner and direct the respondents not to compel the petitioner to undergo Narco Analysis Test without assuring the petitioner as well as the Court that the Narco Analysis is totally harmless and the same would not in any manner injurious to the physical and mental constitution of the petitioner.by ordering a few suspects to undergo a Narco Analysis test held that the question of putting the test of testimonial compulsion in case of suspects does not arise.

It is a protection against compulsion to be a witness:

The protection is against compulsion to be witness In *M. P. Sharma Vs Satish Chandra*⁹ The Supreme Court interpreted the expression to be witness very widely so as to include oral, documentary and testimonial evidence. The prosecution under Article 20 (3) covers not merely testimonial compulsion in a court room but also compelled testimony previously obtains any compulsory process for production of evidentiary document. Which are reasonably likely to support the prosecution against him.

If a person is suspected to have some information regarding the commission of an offence, there should be no prohibition on conducting a Narco Analysis test on him as the protection under Article 20 (3) is available only to a person accused of an offence. Another requirement of Article 20 (3) is that there should be no compulsion on the accused to give testimony against him. However, in Narco Analysis test, the question of compulsion does not arise because the prior consent of the person who is supposed to undergo such a test is always taken.

In one case the Supreme Court in *State of Bombay v Kathi Kalu Oghad and others*¹⁰, held that there is no compulsion when a police officer, in investigating a crime against, a certain individual, asks him to do a certain thing. The fact that a person was in police custody when he made the statement is not a foundation for an inference that he was compelled to make the statement. The mere questioning of an accused by a police officer, resulting in a voluntary statement, which may ultimately turn out to be incriminatory, is not compulsion.

Considering all these issues on Narco Analysis test we can easily conclude that Narco Analysis does not violate Article 20 (3) to the extent that the person undergoing such a test is not compelled to do so, rather it is done with the consent of the person who has full knowledge of such a test.

It is a protection against such compulsion resulting in his giving evidence against himself:

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 waive 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.¹¹

The Indian Courts have so far refused to admit the Narco Analysis as evidence, but Narco Analysis is being carried out by the investigators. The reason is that although confession made to the police or in the presence of police is not admissible in Courts, the information is admissible by which an instrument or object used in commission of crime is discovered.

This is clear from the wording of Section 27 of the Indian Evidence Act, 1872. Section 27 of the Indian Evidence Act, 1872 is founded on the principle that if the confession of the accused is supported by the discovery of a fact, the confession may be presumed to be true, and not to have been extracted. It comes into operation only-

- I. if and when certain facts are deposed to as discovered in consequence of information received from an accused person in police custody; and
- II. if the information relates distinctly to the fact discovered. If the self incriminatory information given by an accused person is without any threat that will be admissible in evidence and will not be hit by Article 20 (3).

Judicial Approach towards Narcoanalysis Test in India:

The ambit of protection of right against self incrimination enshrined under Article 20(3) has been clearly laid down by Supreme Court in the case of *Nandini Satpathy V. P L Dani*¹² Here disagreeing with the narrow construction of the expression accused of an offence by court in other cases¹³ the supreme court clearly laid down that protection under Article 20(3) begins to operate at pre-trial stage.

Any giving of evidence, any furnishing of information, if likely to have an incriminating impact, answer the description of being witness against oneself not being limited to the forensic stage by express words in Article 20(3) we have to construe the expression to apply to every stage where furnishing of information and

collection of material takes place. That is to say even the investigation at the police level is embraced by Article 20(3).

Hence Article 20(3) may be attracted even at the interrogation stage. In this context, Supreme Court held that the protection under Article 20(3) extends to any compulsory process for gathering evidence against the accused. Further compelled testimony resulting in violation of the Article 20(3). It is defined by Apex Court as any mode of pressure, subtle or crude, mental or physical, direct or indirect but sufficiently substantial, applied by the police for obtaining information from accused strongly suggestive of guilt. Hence through this land mark case the Supreme Court widen the scope of compelled testimony under Article 20(3) to not just evidence admitted in the court but also state compulsion in this context could mean both physical and mental. The critics of the procedure argue that Narco Analysis test amount to mental compulsion. Mental compulsion result when the mind has been so conditioned by some extraneous process as to render the making of the statement involuntary and therefore extorted¹⁴

At the same time the court also acknowledge the fact that a voluntary statement by accused can be invaluable in solving a crime and emphasizes the need for safeguard to erase involuntariness and ensure free will of the accused to make statement during investigation. It has also been held in the case of *Kalawathi V. State of H. P.*¹⁵ by the Supreme Court that Article 20(3) does not apply at all to a case where the confession is made by accused without any inducement threat or promise.

Consent of an accused is required in Narco Analysis Test:

It is at this point that the concept of informed consent of the accused should come into play by becoming a prerequisite for carrying out the procedure on the accused. Informed consent means that the accused should be made well aware of the technicalities of the procedure the effect of the narcotics under whose influence he / she shall be interrogated as well as the physical, psychological and legal ramification of understanding the procedure this knowledge becoming the basis on which he renders his voluntary consent. This is to say that the consent of the accused to undergo Narco Analysis will extend to answering the question in the uninhibited state of mind induced by the narcotics used in the procedure thereby rendering the making of any statement during the process completely voluntary and hence in no way extorted.

However a contrary approach to the necessity of consent of the accused was adopted by the Indian Judiciary in other cases¹⁶ the reasoning behind this approach of the court is that Narco Analysis is a part of routine investigation procedures.

Investigation as defined under code of Criminal Procedure includes all the proceeding under the code for the collection of evidence conducted by police officers or any person other than Magistrate who is authorized by a Magistrate in this behalf.¹⁷ Hence it was laid down that a statutory right is derived in virtue of this provision to carry out Narco Analysis as part of the investigation irrespective of the consent of accused. It is submitted that this ambiguity must be cleared by making informed consent of the accused a prerequisite for the procedure to be administered.

It may be well argued that when no other scientific test. Viz. blood, semen, etc. require consent of what special significance is consent in context of Narco

analysis test? Narco Analysis Test takes scientific investigation a step further by eliciting information by injection of narcotic substance. Even other similar tests viz. Polygraph and Brain mapping tests merely monitor the responses during interrogation. This is to say that Narco analysis is big leap as far as investigation techniques are concerned and consent plays a vital role in ensuring that the procedure does not violate the constitutional right against self incrimination of the accused.

Reliability and Admissibility of Narco Analysis Test in India:

Although the result of this test is not 100% accurate but it can be take in an account on the basis of some collected evidence or correlated. There is question in the mind that whether this test or the report of this test is admissible as evidence before court? There are several issues on the same point in India. However doubts are raised whether it amounted to testimonial compulsion in judiciary and violation of fundamental rights and human rights of an individual. The results of Narco analysis and P300 tests are admissible as evidence in courts, as they claim that confessions made by a semiconscious person is not admissible in court. A Narco analysis test report has some validity but is not totally admissible in court, which considers the circumstances under which it was obtained and assessed its admissibility.

Results of such tests can be used to get admissible evidence, can be collaborated with other evidence or to support other evidence. But if the result of this test is not admitted in a court, it cannot be used to support any other evidence obtained the course of routine investigation. In India, Narco Analysis was first used in 2002 in the Godhra carnage case. It was also in the news after the famous Arun Bhatt kidnapping case in Gujarat wherein the accused had appeared before NHRC and the Supreme Court of India against undergoing the Narco-Analysis.

It was again in the news in the Telgi stamp paper scam when Abdul Karim Telgi was taken to the test in December 2003. Though in the case of Telgi, immense amount of information was yielded, but doubts were raised about its value as evidence.

The Bombay High Court, in a significant verdict in the case of *Ramchandra Reddy and Others v State of Maharashtra*¹⁸, upheld the legality of the use of P300 or brain mapping and narco-analysis test. The Court also said that evidence procured under the effect of narco-analysis test is also admissible. As crimes going hi-tech and criminals becoming professionals, the use of narco analysis can be very useful, as the conscious mind does not speak out the truth, unconscious may reveal vital information about a case. The judgment also held that these tests involve minimal bodily harm. The court also said that evidence procured under the effect of Narco Analysis test is also admissible.

In 2004, the Bombay High Court ruled in famous Telgi case that subjecting an accused to certain tests like Narco-analysis does not violate the fundamental right against self-incrimination. Statements made under Narco-analysis are not admissible in evidence. However, recoveries resulting from such drugged interview are admissible as corroborative evidence.

But it seems in the offing, as in 2006 the Supreme Court of India stayed the order of a metropolitan judge to conduct Narco Analysis on K. Venkateswara Rao in the *Krushni Cooperative Urban Bank case*. *Krushni co op. Bank case*¹⁹ Supreme Court held that it is interesting to note that the Forensic Science Laboratory in Gandhi Nagar

in fact refused to conduct the test on a suspect when he did not give his consent. The Magistrate nevertheless ordered the laboratory to conduct the test. However, the Supreme Court stayed the order of a Metropolitan Judge to conduct Narco Analysis. Utility in investigative processes the scientific tests may be employed in two ways, that is, they may directly be used as evidence in court in a trial or they may be used merely as clues for investigation. Where the tests involve the making of a statement, they may be directly adduced in evidence, provided they do not amount to a confession because proof of a confession before a police officer or in the custody of a police officer is prohibited.²⁰ However, if the statements are merely admissions, they may be adduced in evidence

Surender Koli was main accused in the Nithari case, was brought to Forensic Science Laboratory in Gandhinagar in January 2007 for narco analysis. Polygraph test was conducted on Moninder Singh Pandher and his servant Surender Koli, accused of serial killing of women and children in Nithari, to ascertain the veracity of their statements made during their custodial interrogation. Various confessional statements were made by the accused under the effect of the drug, he could remember the names of the females he had murdered and revealed his urge to rape them after murdering them. Supreme Court upholds death penalty for Nithari's accused.

*In Selvi v. State of Karnataka*²¹, the Supreme Court rejected the High Court's reliance on the supposed utility, reliability and validity of narco analysis test and other tests as methods of criminal investigation. First, the Court found that forcing a subject to undergo narco-analysis, brain-mapping, or polygraph tests itself amounted to the requisite compulsion, regardless of the lack of physical harm done to administer the test or the nature of the answers given during the tests. Secondly, the Court found that since the answers given during the administration of the test are not consciously and voluntarily given, and since an individual does not have the ability to decide whether or not to answer a given question, the results from all three tests amount to the requisite compelled testimony to violate Article 20(3). The Supreme Court found that narco-analysis violated individual right to privacy and amounted to cruel, inhuman or degrading treatment.

Conclusion:

On the basis of above made discussion it is very clear that, there are various orders of various High Courts upholding the validity of Narco analysis test. These judgments are in stark contrast with the earlier judgments of the Supreme Court interpreting Art. 20(3). The authenticity lies in the fact that Narco analysis is still an emerging interrogation technique in the Indian criminal justice system without any rules or guidelines. The other view regarding the legal validity of Narco analysis test is that it is used as an aid for collecting evidence and helps in investigation and thus does not amount to testimonial compulsion. Thus it does not violate the constitutional provision regarding protection against self-incrimination. Narco analysis can evolve as viable effective alternate to barbaric third degree methods. But that much care should be taken and procedure should not be misused by investigating officer while conducting this test. Therefore final analysis and admissibility of Narco analysis Test

is depend on correlated with corroborative evidences collected by the investigation authority.

The present criminal justice system is passionate with individual liberty and freedom in the context of fundamental rights of an individual under the Constitution of India. The constitutional validity and admissibility of Narco analysis test is upheld taking into consideration the circumstances under which it was obtained or conducted, sometimes there may be a little possibility of miscarriage of justice if due care and caution is not taken by the authority.

References:

1. Karmakar R.N. , Forensic Medicine and Toxicology, Academic Publishers, P. 386.
2. Any derivative of barbituric acid (an organic acid from which various sedatives and sleep-inducing drugs are derived) used in the preparation of sedative and sleep-inducing drugs.
3. Recordings of such narco-tests are helping electronic channels to meet their insatiable demand for material to fill time on a dry day, fill the pockets of those police personnel who have access to these recordings and a useful tool of blackmail by those who have access to them. But above all it projects the accused as a criminal.
4. AIR 1954 SC 300.
5. 1962 SCR (3) 10
6. AIR 1989 HP 5
7. Narayanlal Vs. M. P. Mistry, AIR 1961 SC 29.
8. 2008CriLJ3992
9. AIR 1954 SC 300.
10. 1962 SCR (3) 10
11. State of Bombay Vs. Kathi Kalu AIR 1961 SC 1808.
12. (1978)2 SCC 424
13. R. N. Bansilal V. M. P. Mistry AIR 1961 SC29.
14. State of Bombay V. Kathi Kalu Oghad (1962) 3 SCR 10 Para 17.
15. 1953 SCR 546
16. Dinesh Dalmia V. State of Madras, 2006 Cri LJ 2401, Para 14.
17. Section 2(h) of the Cr.p.c.
18. 2004 All MR (Cri) 1704.
19. For more details visit <http://www.nerve.in/news:253500170205>
20. Section 25 and 26 of the Evidence Act, 1872.
21. AIR (2010) 7 SCC 263.