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ADMISSIBILITY & FUTURE OF EVIDENCE IN INDIAN LAW: A CRITICAL ANALYSIS

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Abstract

This research seeks to analyse the Indian legal system and the law of evidence, focusing on its application in both criminal and civil jurisdictions. It analyses the Indian Evidence Act of 1872 and details the evidence types provided within the Act: oral, documentary, as well as primary and secondary evidence, and their significance in the achievement of justice. The Research also analyses the difference between relevance and admissibility of evidence because of its importance in the accomplishment of justice. In addition, the study discusses the persistence of problems in the aspects of evidence management, for example, delays, discrepancies, and the inadequacy of technology. In addition, the paper discusses emerging evidence laws in the context of new inventions of artificial intelligence and blockchain technology and how such technology can streamline the processes of transparency and security in the collection and management of evidence¹. Lastly, the paper focuses on the balance that must be maintained between upholding traditional legal principles and the need to modernize evidence law in India so that it is fair and just for all.

Keywords: *Legal, evidence. Law, accomplishment, technology, justice.*

Introduction

The law of evidence has a lot of impact in guaranteeing justice in the judicial framework as it provides a premise for establishing the truth in criminal and civil proceedings. In India, the law of evidence is primarily governed by the Indian Evidence Act of 1872. This Act specifies the categories of evidence allowable in judicial proceedings and the rules concerning its relevance,

¹ Vasuki, Prajwal. "A Comparative Analysis of Admissibility and Relevance of Electronic and Digital Evidence in Criminal Cases." *Part 1 Indian J. Integrated Rsch. L.* 2 (2022): 1.

admissibility, and weight in a court of law. In its simplest form, evidence refers to anything that is presented before a court in a bid to support or contest the veracity of a contested fact. It includes witness statements, tangible items, and even data.

Evidence is fundamentally important because it ensures that the decisions within courts are based on factual information as opposed to assumptions which may infringe on the core ideals of justice². Evidence marks the difference in the criminal process between a guilty verdict and an acquittal. The burden of proof lies with the prosecution who must prove guilt beyond reasonable doubt. In civil cases, evidence goes to prove the preponderance of probabilities and the rights, liabilities, and obligations of the parties concerned.

While the law of evidence seeks to maintain equity within the boundaries of its scope, it is often affected by delays in the collection of evidence, administrative inefficiencies, and the emerging complications of collecting digital evidence. The new artificial intelligence and blockchain technologies provide solutions to these problems. This paper attempts to study these aspects of law of evidence in India. In particular, it tries to understand how the old law operates in the contemporary setting and how law and technology can improve the efficiency and equity in the collection and presentation of evidence.

Understanding Evidence in Law

Evidence is referred to as any material submitted in front of a court that is meant to prove or disprove the validity of the fact in contention. Under Indian Evidence Act, 1872, Section 3 states that evidence shall mean (i) oral evidence in which witness gives oral evidence before the court, and (ii) documentary evidence which comprises all documents that are made available for examination. Nonetheless, this definition does not cover materials like expert testimony, tangible artefacts, and electronic proof; it does so through interpretation made by the judges and changes made to the statutes.

It is known that proof is divided into two broad categories which are oral and documentary. Oral evidence includes an account given by a witness in verbal form under an oath, while documentary evidence is associated with written records like contracts, letters, wills, and other legal forms. More so, primary evidence is concerned with an actual document, whereas

² Kavlekar, Pooja Chandrakant. "Use, Admissibility and Proof of Electronic Evidence, in Investigation and Trial: A Critical and Empirical Study With Special Reference to the State of Goa." PhD diss., Goa University, 2022.

secondary evidence refers to copies, duplicates³, like certified copies, photocopies, etc. Direct evidence concerns facts that do not call for any additional conclusions, including an eyewitness account, while circumstantial evidence deals with proof of some facts based on the outcome of some other related and established facts. The classification of evidence is equally the test of the admissibility and value of the evidence which helps in ensuring that only correct information guides the decision of the court⁴.

Importance of Evidence in legal Proceedings

Evidence is very important in the judicial process since it is the basis on which guilt or innocence of an accused is determined in criminal cases, and a person's rights and obligations in civil matters. In criminal proceedings, it is up to the prosecution to convince the jury that the accused is guilty beyond reasonable doubt. They do so through eyewitness accounts, forensic evidence, and documentary evidence. In civil cases, however, the standard of proof shifts to the balance of probabilities, as the party who puts forth more evidence is likely to win the case⁵.

From the above, it can be deduced that evidence is important in legal cases whether civil or criminal in nature. For example, in civil cases which result from contracts, property disputes or torts, evidence plays a major role in proving the agreements, ownership, quantum of damages or liabilities. In criminal cases, tangible evidence such as documents, admissions, forensic evidence and the testimony of witnesses helps to prove the particulars of offenses and make sure that people are not unfairly convicted. The rules on admissibility of evidence provides that only relevant, admissible, and properly obtained evidence may be considered by the court.

Moreover, the law supports rules of natural justice such as 'audi alteram partem' (the right to listen) and 'nemo iudex in causa sua' (no one ought to be a judge of his own case). To ensure fairness, all parties in a legal proceeding must have the opportunity to present and cross-

³ Stephen, James Fitzjames. *The Indian Evidence Act (I. of 1872): with an introduction on the principles of judicial evidence*. Macmillan, 1872.

⁴ Patel, Nirpat, Vidhwansh K. Gautaman, and ShyamSundar Jangir. "The role of DNA in criminal investigation—Admissibility in Indian legal system and future perspectives." *Int J Humanit Soc Sci Invent* 2, no. 7 (2013): 15-21.

⁵ Ryzhyi, Oleksii. "The court as a subject of examination and evaluation of evidence in criminal proceedings." *Scientific Journal of the National Academy of Internal Affairs* 27, no. 1 (2022): 91-99.

examine the evidence so that a decision is reached based on facts rather than bias or conjecture⁶. Reasonable procedural justice promotes confidence in the system of law and protects essential human rights. Thus, in every democratic society, the accurate collection, presentation, and assessment of evidence is necessary for the proper dispensation of justice.

Relevance of Evidence

Sections 5 through 55 of the Indian Evidence Act of 1872 assign significance to certain facts in regards to legal proceedings. As per Section 5, relevance of evidence is restricted to the facts in issue, which implies that no fact can be added as evidence in a court of law unless it is strictly backed by the Act. A certain fact is considered relevant if it is logically connected to an argument for or against a claim that is in dispute. Sections 6 to 55 further elaborate on different types of relevant facts, including parts of transactions in Section 6, causation in Sections 7, motive, preparation and conduct in Sections 8, 14, and confession and admission in Sections 17 through 31⁷.

From the aforementioned contextual information, it is clear that interpretation of relevance differs across borders. As already pointed out, different jurisdictions have strived to reconcile relevance with, or place it within the context of, different systems of logic, and beauty. In K.M. Nanavati, the Supreme Court held that logical connection does not necessarily indicate relevance. The court interpreted relevance through consideration of beauty, which is a metaphysical concept and therefore transcendental.

Relationship between Relevance and Admissibility

In regards to K.M. Nanavati, the supreme court was contemplating the rules of evidence. The relevance of a statement in question is intended to prove a particular set of facts in issue. In other words, the purpose sensitivity is a measure at ideal ends. Logically speaking, there is no such relationship, but in this context, such relationship is intended. Relevance and questions are fundamental to the law of evidence and aim to achieve different goals. Further, while relevance satisfies the condition of logic with respect to the dispute, the admissibility condition

⁶ Visser, Christy A. "Juror decision making: The importance of evidence." *Law and Human Behavior* 11, no. 1 (1987): 1.

⁷ Vasuki, Prajwal. "A Comparative Analysis of Admissibility and Relevance of Electronic and Digital Evidence in Criminal Cases." *Part 1 Indian J. Integrated Rsch. L.* 2 (2022): 1.

ensures only what is legally appropriate is presented to the court. To add, all evidence that is verifiably true is irrelevant, this certainly serves as a validity statement⁸.

As per The Indian Evidence Act of 1872, the term relevance has one's logic as the test for measuring the relationship of the facts to the issue at hand. However, as far as admissibility is concerned, it relies on other legal issues like genuineness, credibility, and even statutory prohibitions. Take, for example, a hearsay evidence which, at first glance, seems relevant but is nonetheless impermissible because it lacks the opportunity for test via cross examination. The same applies to illegally obtained evidence if the admission of such evidence is proved to infringe constitutional rights. Indian courts, however, are described as not being bound by a strict exclusionary rule in this situation.

The difference between relevance and admissibility is most conspicuously evident in the examination of confessions. A confession made by the accused may be of great value in the evidence of his guilt, but the law does not allow certain confessions to be put forward lest it be used for coercive or abusive purposes. Under section 25 of The Indian Evidence Act, any confession made to a police officer is deemed to be inadmissible regardless his relevance so as to avoid self-incrimination. Likewise does section 26, but in this case regarding confessions made while in detention, does so of admitting confessions made in police custody other than what has been recorded in the presence of a magistrate. This is in a nutshell what is meant by legal policy trumping logical relevance - legal policies implement in order to guarantee equity in judicial processes⁹.

Definitions of what constitutes privileged communications vary from jurisdiction to jurisdiction. For instance, within a marriage one spouse cannot go on to disclose conversations made privately within the marriage unless consented to do so by the other spouse. On the other, communications involving physicians and patients are similarly protected by different sets of statutes such as the Indian Evidence Act Section 126 relating to the disclosure of prima facie evidence to the court. Such provisions, even where evidence has prima facie, helps maintain the privacy and the duties of confidentiality which individual's professional relationships tend

⁸ Damaska, Mirjan. "Presentation of evidence and factfinding precision." *U. Pa. L. Rev.* 123 (1974): 1083.

⁹ Moitra, Moulinath, and Akash Chatterjee. "Logical and Legal Relevance of Facts." *Issue 3 Int'l JL Mgmt. & Human.* 4 (2021): 929.

to hold presuming that a balance is achieved between each individual's rights and their professional obligations.

Additionally, the ones that build their reputation around the evidence tend to introduce other forms, for instance, character which is often irrelevant and has no basis in suspicions. In a criminal case, the character of the suspect accused is often not taken into consideration since every action has an equal and opposite reaction which is why the accused is put on trial with strong biases against them, but with restrictions brought upon them. Nonetheless, this gives rise to the new defense witnesses where the accused bears the burden of establishing it. This is the more prominent duality that is undesirable where he is presumed not on the basis of the information given but rather because of the attitude held toward them.

While relevance assesses whether evidence relates to the matter at hand, admissibility looks further into legal considerations so as to ensure fairness, reliability, as well as justice. These matters require a nuanced approach on the part of the courts to avert the potential for wrongful convictions as well as respecting key considerations that ensure proper functioning of the law.

Test to Determine Relevance

Legal evidence has two aspects of determining relevance, which are logical relevance and legal relevance. Understandably, logical relevance refers to something that seems reasonable, an assessment of a fact's relevance to the matter being dealt with. A fact is considered to be logically relevant if its existence, or non-existence, significantly alters the probability of a certain disputed fact. Court cases have one major distinct feature; they do not all regarding single matters. In logic there is one major feature, significance in probability of a certain disputed fact. Between the two there are conditions that restrict admission of such scenarios into evidence due to procedural injustice, public order, and statute. As a definition therefore legal relevance has factual connections where law permits a given fact to be adduced as evidence¹⁰.

For example, in *Pakala Narayana Swami v. Emperor* (1939¹¹), the Privy Council maintained that declarations made prior to the commission of a crime regarding the transaction at hand could be relevant under section 6 (Res Gestae) Indian Evidence Act. This case is one example

¹⁰ Dhariwal, Daksh, and Niharika Verma. "Balancing Justice: Human Rights and the Law of Evidence in India." Available at SSRN 4962336 (2024).

¹¹ (1939)41BOMLR428

that stressed the point that legally important facts which are relevant to the issue, and are a part of the same transaction, take place, may be admissible in evidence. However, in *Ram Bihari Yadav v. State of Bihar* (1998)¹² the Supreme Court added that merely underlying importance is not sufficient; the admissibility of the evidence does.

Another important case is *State of U.P. v. Raj Narain* (1975) where the Supreme Court maintained that in the proof of perjury of breaches of bonds, a government document was relevant but its admissibility was restricted by privilege allegations under section 123 of the Indian Evidence Act. This case illustrates the way in which legal relevance is so strictly crafted with regard to public policy concerning law and with the right to evidence.

Thus, relevance is established both logically and legally in such a manner as a percipient reasonable man will accept what is termed evidence and it will obtain his or her approval. It is within reasonable discretion of the courts to decide what is proper or considered accepted or legal within the bounds of each relevant proceeding evidence.

Admissibility of Evidence

Also referred to as the Bhartiya Shakshya Adhiniyam, the Indian Evidence Act of 1872 serves as a complete guide to the inclusion and consideration of evidence during legal proceedings. This Act applies to almost all the courts in India, excluding military courts and some tribunals, and is important for making sure that only evidence that is pertinent and credible is taken into account in the course of the trial. The concept of admissibility within the Act is grounded in preserving the integrity of the judicial process while striving to ensure the ends of justice are achieved. Furthermore, Section 59 states that oral evidence has to be given in person, while Section 65 deals with the admissibility of copies when the original documents are missing. These sections create the legal framework for the acceptance of evidence by all the courts in India¹³.

Evidence may be admissible in court, provided that it meets the requirements set out under the Indian Evidence Act such as relevance, credibility, and legality. Ensuring relevance guarantees that the evidence will be useful in proving or disproving the issue at hand. Credibility ensures reliability while legality ensures that evidence meets certain standards such as the exclusion of

¹² 1998 SCC(CRI) 1085

¹³ Rathore, Monika. "Admissibility of Evidence in India." *Issue 2 Int'l JL Mgmt. & Human.* 6 (2023): 2739.

evidence obtained illegally or privileged communications. Thus, admissibility goes beyond the relevance of evidence to encompass the legal provisions that foster equity, justice and the rights of the parties to the case. In the Indian legal system, evidence is partitioned into categories each having its rules of admissibility¹⁴. The Rule of Best Evidence suggests that in the case of a contested document, that document itself should be used as evidence. Section 64 of the Indian Evidence Act contemplates secondary evidence such as photocopies or oral evidence of a document only when the original document is not available because it has been lost, destroyed or is beyond the jurisdiction. The principle behind that is that original evidence is the strongest form of evidence and secondary evidence can only be permitted under certain conditions.

Hearsay rule is another one, which generally excludes statements made outside the court by a person who is not available for cross examination. As provided in Section 60, the Indian Evidence Act clearly states that evidence must be oral and does not allow repetition of oral statements made by others as evidence. The reason behind this is that such evidence cannot be tested by cross-examination. Nevertheless, law provides for some of them like dying declarations (Section 32), statements in the course of business (Section 32), and statements against interest (Section 33). These exemptions permit hearsay evidence, provided it falls under a certain type of evidence that is presumptively true because of context. For instance, in the matter of *K. M. Nanavati v. State of Maharashtra* (1962), the court allowed a dying declaration to be used since it was made in circumstances that suggested the statement could be trusted.

In legal matters, the importance of expert evidence cannot be overstated when a specific subject requires a deeper technical analysis or is fundamentally beyond the scope of understanding of a regular person. For example, in *State of U.P. v. Raj Narain* (1975), the Supreme Court highlighted the role of expert opinion in interpreting documents and facts that were beyond the understanding of an average individual. For example, in crimes that involve forensic evidence like DNA and fingerprinting or even medical evidence in cases of assault or murder, expert opinions tend to be immensely important. The accused is allowed to make confessions or admissions, making both of them admissible under certain conditions in Sections 17-31 of the Indian Evidence Act. Confessions are self-incriminating statements made by an accused and are highly, if not wholly, relevant and admissible when made voluntarily. However, confident statements made towards a police officer (Section 25) are usually rendered inadmissible as they

¹⁴ Jain, Rahul, and Bhabani Sonowal. "and Admissibility of Electronic Evidence." *Cybercrime Unveiled: Technologies for Analysing Legal Complexity*: 265.

are usually made under duress. On the contrary, admissions are declarations made by a party acknowledging facts for the pro or against claim and these are admissible without any restrictions.

As an example, the case of *State of Punjab v. Baldev Singh* (1999) dealt with admissibility at length but ruled out the admissibility of confessions that were made under compulsion or in the absence of a magistrate. The legal concept of admissibility has gradually developed with the passage of time through various landmark judgments which sought to define evidence that could be presented before the court. In *K.M. Nanavati v. State of Maharashtra* (1962), the Supreme Court validated the admissibility of a dying declaration because it was made in good faith and was relevant to the murder charge. It has been noted by the court that dying declarations are indeed hearsay but are treated as exceptions to the rule and their veracity is decided by the context under which they were made.

In the case of *State of Rajasthan v. Kashi Ram* (2006), the Supreme Court allowed that where the circumstances are consistent and point to a single conclusion, the evidence may be treated as sufficient. The court asserted that circumstantial evidence is sufficient in cases where there is no direct evidence available if the evidence presented leads definitively to the conclusion of the guilt of the accused.

So, the prerequisite for the judicial paradigm of admissibility determines that evidence is not only relevant, credible, and valid, but also obtained through lawful means. Major cases have contributed to the development of law of evidence in India within the principles of fairness, reasonable reliability, and justice to all parties in both criminal and civil cases.

Challenges and Emerging Trends

The legal system of India suffers from a variety of problems which largely affect the effectiveness and efficiency of evidence collection and the entire legal procedure. Perhaps the most significant, problem is prolongation for collection of evidence. Some of the issues, which essentially delay the gathering of vital evidence include slow pace of investigations, bureaucratic bottlenecks, and frequently inadequate funding for law enforcement agencies. In a number of instances, forensic evidence which is important in both criminal and civil cases is never gathered or done so well after it is too late to be useful. The particulars of the situation are often aggravated by the absence of an efficient system that is capable of gathering and

storing evidence and in some cases even leads to loss or deterioration of the evidence over time. All these particular points can make a trial process as a whole lose its integrity, and in some instances lead to wrongful convictions or the termination of the case as a consequence of the absence of vital information¹⁵.

The judicial backlog represents an additional bottleneck problem in India and makes the issue of evidence more complicated than it already is. The overwhelming number of cases for consideration in various courts implies that the judicial process is usually stalled and the timely examination of evidence in active cases gets derailed. This results in numerous cases being adjourned for prolonged periods while witnesses and evidence become antiquated or difficult to obtain. Also, different courts adjudicating similar matters not only create different outcomes, but they also determine what is relevant and permissible with judicial decisions, which is often perplexing for the general public. This issue is a consequence of different courts and jurisdictions constructing the evidence laws differently, resulting in an absence of coherence among different evidence laws. Such circumstances present a problem in effectively determining judicial outcomes and breed doubt among the public concerning the legitimacy of judicial action. The problems surrounding these issues results in blame games and lack of accountability, leading to severe delays and reasonable ineffectiveness. In a vast and diverse country like India, overcoming these issues requires monumental changes not just in the law enforcement bodies, but in the entire judicial apparatus.

As we've seen, the evolution of evidence law will remain dynamic due to the ongoing progress in technology that seeks to solve the existing gaps within the system. Artificial Intelligence (AI) is coming forth as a major player in the legal realm, particularly in evidence sifting and analysis. In multifaceted cases with huge amounts of documents, images, or any other forms of evidence, AI has the capacity to streamline the reviewing process significantly. Using machine learning and natural language processing, AI systems can analyze evidence to find patterns, relevant documents, or even estimate possible outcomes based on previous actions. This shift in processes is bound to lighten the burden of judges, attorneys, and other law practitioners so that they can address more critical and sophisticated decisions. AI can further

¹⁵ Kavlekar, Pooja Chandrakant. "Use, Admissibility and Proof of Electronic Evidence, in Investigation and Trial: A Critical and Empirical Study With Special Reference to the State of Goa." PhD diss., Goa University, 2022.

assist in automated hidden evidence registration by analyzing huge data sets that may be difficult for manual human investigations.

A blockchain technology application to digital evidence storage is a further evolving trend in evidence law. The transparent and immutable nature of blockchain allows for effective storage and management of digital evidence. Bolstering evidence further assures its integrity, since blockchain technology guarantees a record of data that cannot be altered or tampered with. This is of utmost significance when manipulating electronic evidence like emails, digital contracts, or surveillance footage. With blockchain, the chain of custody of evidence can be tracked and verified at every stage of its use in the legal process, starting from collection and going all the way to presentation in court. A robust digital safe that houses all evidence, enabling seamless retrieval while ensuring physical and data security for the evidence would eliminate the risks of manipulation, misplacement and other common problems that arise with traditional evidence handling methods.

Incorporating AI and blockchain into the process of evidence collection and analysis can serve as a way to mitigate the problem of judicial backlog. With automated proof reviewing tools, blockchain enabled case management systems, and safe evidence storage, the efficiency of the entire legal system can be improved, freeing up the courts to do more in less time. In addition, these innovations could foster greater visibility of the judicial process and ensure that both sides are presented with the evidence, and that decisions are based on real data that cannot be altered.

The potential of these technologies is undoubted but their application in the context of Indian law will have to address a variety of legal, ethical, and practical risks like data security, AI's misuse, and automation of judgement without human intervention. Still, it can be said that the emerging trends of evidence technology are bound to affect the future of evidence law in India, and ultimately, foster a more modern, open, and robust legal system.

Conclusion

To summarize, the law of evidence serves an integral function with regards to the administration of justice in criminal and civil cases. The process of determination of relevancy and admissibility of evidence in Indian courts is governed by the principles of fairness, reliability, and credibility through the Indian Evidence Act of 1872. The classification of evidence into types such as oral, documentary, primary, and secondary enables the court to weigh and evaluate information to determine the truth of disputed facts. Moreover, the difference between relevancy and admissibility serves to place the importance of logical relationships against legal requirements to ensure that the evidence used is credible, material, and legally obtained.

The Indian legal system is not without problems when it comes to collecting evidence, dealing with judicial backlog, and divergent case laws. But like many things, the use of technology via AI and blockchain can serve as a one stop solution to these issues. These developments could fundamentally change the way in which evidence is handled, increasing efficiency, transparency, and security within the judicial process. Rest assured, there are still legal, ethical, and privacy standards that would need to be upheld when using such technologies, so it must be done with care. In the end, the future of the law of evidence in India rests on the balance between retaining its fundamental principles and accommodating emerging technologies, in order to sustain an effective legal system for everyone.