

Statements in Public Documents and the Evidentiary Value

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Abstract: • *When a government official records information as part of their daily job—like a birth certificate, a land record, or a court order—the law treats that record with special importance. Under India’s new evidence law, the Bharatiya Sakshya Adhiniyam, 2023 (BSA), these are called "public documents." This paper explains why these documents are trusted in court and how the new law handles them.*

• *The main reason public documents are powerful is the "Principle of Official Duty." The law assumes that since a public servant is trained and required by law to record facts accurately, the entries they make are likely true. In the BSA, Section 29 (which replaces the old Section 35 of the IEA) confirms that any fact recorded by an officer while doing their duty is relevant evidence..*

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1. Introduction

In criminal proceedings, evidence plays a crucial role in determining the truth and ensuring justice. The Bharatiya Sakshya Adhiniyam, 2023, which replaced the Indian Evidence Act, 1872, recognizes two primary forms of evidence—oral evidence and documentary evidence. Under this Act, documentary evidence refers to all documents produced before the Court for its inspection, as defined under Section 61. Such evidence holds significant, probative value, as it provides a tangible and reliable record of facts that assist the Court during investigation and trial. Documentary evidence is further categorized into public documents and private documents as per Sections 74 and 75 of the Adhiniyam. Public documents include records or acts of sovereign authorities, official bodies, tribunals, and public officers, while private documents encompass all other documents not falling within the category of public documents. These distinctions are essential because public documents are presumed to be genuine and can be proved by certified copies, whereas private documents require direct proof of authenticity. Thus, documentary evidence under the Bharatiya Sakshya Adhiniyam, 2023, serves as a vital instrument in the administration of criminal justice by ensuring accuracy, transparency, and reliability in judicial proceedings.

Under Section 74 of the BSA, public documents are categorized into three primary groups:

Sovereign Acts: Records of the acts of sovereign authorities, such as government proclamations or orders.

Official Bodies and Tribunals: Documents originating from official organizations, municipal corporations, or judicial bodies.

Public Officers: Records of legislative, judicial, or executive officers from India or foreign countries.

Public Records of Private Documents: Private documents that are required by law to be registered or maintained in public offices (e.g., land registry or company filings) acquire the status of public records.

Statements or entries made in these documents are considered relevant under Section 29 (formerly Section 35 of the IEA). For a statement to be relevant under this section, it must satisfy three conditions:

It must be an entry in a **public or official record** (including electronic records).

It must state a **fact in issue** or a **relevant fact**.



It must be made by a **public servant** in the discharge of official duty or by a person performing a duty specifically enjoined by law.

High Evidentiary Value

The BSA grants public documents a superior evidentiary position compared to private documents for several reasons:

Presumption of Genuineness: Under **Section 78**, courts are mandated to presume that certified copies of public documents are genuine, shifting the burden of proof to the party challenging the document.

No Formal Proof Required: Unlike private documents, which often require the testimony of the creator or a witness, public documents are typically admissible upon production of a **certified copy** without further authentication.

Trustworthiness: The law assumes that public officials perform their duties accurately and that the records they keep are less susceptible to tampering.

Digital Integration: The BSA significantly expands evidentiary value by treating **electronic and digital records** (such as server logs and official emails) as primary evidence if produced from proper custody.

Mode of Proof (Section 77)

The Act simplifies the introduction of these records into evidence. According to **Section 77**, certified copies issued by authorized officers serve as sufficient proof of the original document's contents, promoting judicial efficiency by eliminating the need to transport original, sometimes fragile, government records.

Document Meaning

According to [section 2 1D](#) of the BSA Act, "document" alludes to any issue communicated or portrayed upon any substance by methods for letters, figures or checks, or by more than one of those methods proposed to be utilized, or which might be utilized, to record that issue." Writing, words printed, lithographs, photos, a guide or an arrangement, an engraving on a metal plate or a stone are reports.

DEFINITION OF EVIDENCE

Under the [Bharatiya Sakshya Adhiniyam, 2023](#) (BSA), evidence is defined in Section 2(1)(e) to include all oral statements permitted or required by the court, and all documents—including electronic or digital records—produced for inspection. It explicitly expands to include digital evidence, such as emails, server logs, smartphone records, and locational data.

(1) In this Adhiniyam, unless the context otherwise requires,--

- (a) "Court" includes all Judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence;
- (b) "conclusive proof" means when one fact is declared by this Adhiniyam to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it;
- (c) "disproved" in relation to a fact, means when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist;
- (d) "document" means any matter expressed or described or otherwise recorded upon any substance by means of letters, figures or marks or any other means or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter and includes electronic and digital records.

DEFINITION OF DOCUMENT

Under Section 2(1)(d) of the Bharatiya Sakshya Adhiniyam (BSA), 2023, a **document** is defined as any matter expressed, described, or recorded upon any substance by letters, figures, marks, or electronic/digital means. This broad definition expressly includes electronic records like emails, logs, server data, websites, and messages as valid evidence.



PUBLIC DOCUMENT

Public Documents are those documents which are authenticated by a public officer and subsequently which is made available to the public at large for reference and use. Public documents also contain statements made by the public officer in their official capacity, which acts as admissible evidence of the fact in civil matters. These documents are also known as public records as these are issued or published for public knowledge.

DOCUMENTS SAID TO BE PUBLIC DOCUMENTS ARE

Of sovereign authority

Of official bodies and tribunals

Of public officers, legislative, judiciary and executive of any part of India or of the commonwealth, or of a foreign country.

The public record kept in any State of Private document

PREPARED BY

Public Documents are made by a public servant in discharge of his/her public duties.

AVAILABILITY

Public Document is available for inspection to the public in public office during the appointed time after payment of fixed fees.

PROVEN BY

Public Documents are proved by Secondary Evidence.

SECONDARY EVIDENCE

The certified copy of a public document is to be admitted in judicial proceedings.

GENUINENESS

The court is bound to presume the genuineness of a public document from the duly certified secondary copy.

ISSUANCE OF CERTIFIED COPY

Certified copies of public documents may be issued to a person requiring them.

CERTIFIED COPIES OF PUBLIC DOCUMENTS

Section 75 of the BSA 2023 gives us the method of getting certified copies of public documents from the public officer. It states that if a public document is open to inspection, its copy may be issued to any person who is demanding it. The copy of the public document is issued on payment of legal fees and a certificate shall be attached thereof, containing the following particulars:

That it is a true copy

The date of the issue of the copy

The name of the officer and his official title

The seal of the office, if there is any

It must be dated

PRIMARY EVIDENCE

Primary evidence is defined in section 57 of the bhartiya sakshya adhinyam which states that the primary evidence is the best available proof of the existence of an object or a fact because it is the actual document or the authentic source of evidence. Primary evidence is different from secondary evidence, which is a copy or a substitute for it. If primary evidence is available to a party, then that person must offer it as evidence in the court. Subsequently, if primary evidence is not available due to the loss or destruction of the same, then the party may present a reliable substitute of it.



SECONDARY EVIDENCE

Secondary evidence is the evidence that has been duplicated from a unique report or has been substituted from the first thing. For instance, a photocopy of a record or photo would be viewed as secondary evidence. However, the court prefers original or primary evidence. The courts usually try to avoid using secondary evidence wherever it is possible, and this approach is called the best evidence rule because these are copies of the original one and not the original document.

PROOF OF DOCUMENTS BY THE PRODUCTION OF CERTIFIED COPIES (Section 76)

Section 76 of the Bharatiya Sakshya Adhinyam states that “such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.”

Methods of Proving Public Documents (Section 77 of BSA):

1. Acts, Orders, Notifications:

Acts, orders, or notifications of the Central Government or State Government can be proven by records certified by the head of the respective departments or by documents printed by order of the government.

2. Proceedings of Parliament or State Legislature:

These can be proven by journals, published Acts, abstracts, or copies printed by order of the concerned government.

3. Proclamations, Orders, or Regulations:

Issued by the President of India or Governors can be proven by copies or extracts contained in the Official Gazette.

4. Foreign Documents:

Acts of foreign countries can be proven by journals, copies under the seal of the country or sovereign, or by recognition in any Central Act.

5. Municipal or Local Body Proceedings:

Proceedings of municipal or local bodies can be proven by certified copies or by printed books published by the authority of such bodies.

6. Foreign Public Documents:

Public documents of other classes in foreign countries can be proven by the original or by certified copies with a certificate under the seal of a Notary Public or Indian Consul.

SECTION 76 - EVIDENCE OF DOCUMENTS BY PRODUCTION OF CERTIFIED COPIES

Section 76 of the Bharatiya Sakshya Adhinyam, 2023 deals with the admissibility of certified copies of public documents as evidence of their contents in judicial proceedings.

This provision allows the filing of certified copies of public documents in court to establish the contents of the original documents. The certified copies, when presented, are held to be prima facie evidence of the contents of the original document, eliminating the necessity for further proof of their authenticity. This makes it easier for parties and court to rely on official records in proceedings.

It applies only to public documents. Public documents are defined in section 74 of the Act as those documents that are generally available to the public, including government records, court judgments, official government communications, land records, and similar documents. These are documents whose authenticity is generally not in doubt because of their official character and the statutory frameworks under which they are created.

It explicitly recognises certified copies of public documents as sufficient proof of their contents, introduces great legal certainty into the evidentiary process. The provision reduces the logistical challenges of having to produce original



documents in court, which may sometimes be difficult to obtain, lost or not easily accessible. Certified copies, which are readily available from the concerned custodians of public records, can be introduced in place of originals, thus promoting efficiency and facilitating smoother judicial proceedings.

SECTION 77 – EVIDENCE OF OTHER OFFICIAL DOCUMENTS

Section 77 deals with the proof of official documents. This section plays a crucial role in streamlining judicial proceedings and simplifying the introduction of evidence in legal matters.

It provides that certified copies of official documents are admissible as evidence without further proof of their authenticity. This provision is particularly important in cases where original documents may be difficult to obtain, lost, or unavailable, thus offering a practical and efficient alternative for proving the contents of official records.

The certified copies of official documents can be produced as evidence in judicial proceedings. When issued by an authorized person or a competent authority, a certified copy is treated as the very representation of the original document. Thus, it can be produced as evidence in court without further authentication and verification of its authenticity.

The expression official documents under Section 77 would cover all kinds of documents prepared by governmental or statutory authorities.

Official documents are such as:

- Government Reports
- Certificates issued by Public Authorities:
- Public Office Records

SECTION 78 – PRESUMPTION AS TO GENUINENESS OF CERTIFIED COPIES

Section 78 deals with the presumption of genuineness relating to certified copies of documents. This provision is aimed at easy submission of documentary evidence during legal proceedings by raising a legal presumption in favour of the genuineness of certified copies and thus increasing judicial efficiency by reducing procedural burdens on the parties.

It creates a presumption as to the genuineness of the contents of certified copies of documents. The section states that if a certified copy is tendered for proof, the copy is presumed to be genuine, unless the contrary is proved by evidence. This acts as a legal presumption that lightens the burden of the party presenting the certified copy, thereby exempting them from proving the authenticity of the original document unless they are challenged.

A certified copy, as defined in Section 78, refers to a duplicate of an original document that has been verified and attested by an authorized person or competent authority. This certification assures the court of the document's authenticity, allowing it to be treated as reliable evidence in legal proceedings. Such certification guarantees that the copy is a true and accurate representation of the original document.

SECTION 79 – PRESUMPTION AS TO DOCUMENTS PRODUCED AS RECORDS OF EVIDENCE

Section 79 deals with the presumption of genuineness as to documents given in evidence as records of evidence in judicial proceedings. This provision establishes the presumption of authenticity of documents filed as evidence, part of evidence or any statement given before any judicial officer or any officer authorized to take evidence. This provision also gives rise to the presumption in favour of the statement or confession made by any prisoner or accused taken in accordance with law and signed by such officer. Essentially, a document tendered in court is presumed authentic unless proven otherwise at trial by the party that disputes its authenticity. The basic presumption facilitates the process of admitting documentary evidence by transferring the burden of disproving them on the party that challenges their authenticity.

It provides for presumption of genuineness of documents that are produced as records of evidence in court. It means that documents produced as records of evidence or part of evidence given by any witness in a judicial proceedings are



considered authentic unless and until there is a substantial rebuttal by the opposite party. Such presumption was incorporated with the intention of providing authenticity and greater evidentiary value to judicial records.

This section gives rise to the presumption in favour of the document recorded in the course of judicial proceedings and not the veracity of that statement written in that document. The burden of proving that a document is not genuine rests on the party who disputes the genuineness of the document. This provision seeks to curb frivolous objections to valid evidence and ensures that the judicial process does not get derailed by unnecessary delays. The party challenging the genuineness of the document must prove the case against its genuineness clearly and convincingly.

By assuming the genuineness of documents, promotes a smooth process of judicial administration. This section minimizes preliminary issues related to the genuineness of evidence.

It is also instrumental in establishing that electronic records are indeed valid and admissible as evidence. In a modern context of litigation, wherein electronic communication and documentation are becoming a regular phenomenon, the principle of presumption of authenticity attaches to both physical and electronic documents equally. This aligns with the contemporary approach of the legal world wherein electronic records are often the crucial evidentiary material for the resolution of disputes.

SECTION 80 – PRESUMPTION AS TO GAZETTES, NEWSPAPERS AND OTHER DOCUMENTS

Section 80 of this enactment introduces an important legal presumption about the genuineness of certain documents, such as Gazettes, newspapers, and other documents that are statutorily required to be kept by individuals or bodies. It makes available a presumption of good faith concerning certain kinds of documents to be used as evidence. The section is as under:

The court shall presume the genuineness of any document which appears to be an Official Gazette, a newspaper or any other document which by law is requisite to be kept by any person or by any public officer in his official capacity, if such document is so kept in all material respects and if it is produced from proper custody. This presumption makes the process of presenting such documents as evidence in a court of law reliable, thus reducing the burden on the party to prove the genuineness of the document.

It presumes the genuineness of certain documents, such as Official Gazettes, newspapers, and other documents that are by law required to be issued, provided they are produced from proper custody and are kept in substantial compliance with the legal requirements governing their maintenance. The result of this presumption is that once such documents are brought before the court, the contents of such documents are presumed to be genuine unless disproved by the other party.

An important element of Section 80 is the concept of proper custody. The provision explains that a document shall be considered to be in proper custody if it is deposited in the prescribed place and in the custody of the person who is legally responsible for its safe keeping.

The presumption covers a broad range of documents, including but not limited to:

- Official Gazettes issued by government bodies,
- Newspapers that are regularly issued and satisfy certain legal requirements, and
- Other documents that are legally required to be kept by a person or entity, such as records required by statute or regulation.

Legal Framework Governing Public Documents

The Indian Evidence Act provides the foundation for the treatment of public documents. Sections 74–78 deal specifically with their definition, proof, and admissibility. Other provisions, such as Sections 79–90, create presumptions about their authenticity. Together, these sections form a comprehensive framework that governs how public documents are used in courts.



Judicial Records as Public Documents

Judicial records, including judgments, decrees, and orders, are explicitly recognized as public documents. They are admissible without further proof and carry strong evidentiary value. Courts rely on them to establish the outcome of previous proceedings or to prove the existence of litigation.

Legislative Records and Their Evidentiary Value

Legislative records are documents created during the functioning of legislative bodies such as Parliament, State Assemblies, or other law-making institutions.

They include statutes, bills, debates, committee reports, and proceedings officially recorded and preserved.

Under Section 74 of the Indian Evidence Act, these records qualify as public documents because they are created by sovereign authorities in the discharge of their duties.

Their evidentiary value lies in the fact that they provide authoritative proof of laws, legislative intent, and official acts of the legislature.

Similarly, parliamentary debates may be referred to by courts to understand the background and purpose of a law.

Legislative records are admissible in court without requiring further proof, as they carry a presumption of authenticity. Certified copies of such records can be produced instead of originals, ensuring accessibility without disturbing official custody.

Courts often rely on legislative records when interpreting ambiguous provisions of law.

They also serve as evidence in constitutional cases, where the validity of legislative acts is questioned.

The evidentiary value of legislative records extends to proving the existence of laws, amendments, and repeals.

They are crucial in establishing the legal framework applicable at a given time.

Legislative records also help in tracing the evolution of statutes and understanding legislative history.

Their reliability stems from the fact that they are maintained by official authorities under statutory duty.

However, their evidentiary value is limited to proving what is recorded, not the truth of statements made during debates.

For instance, speeches of legislators are admissible to show what was said, but not to prove the factual accuracy of the content.

Courts treat legislative records with respect but remain cautious about using them beyond their intended scope.

They are particularly important in cases involving interpretation of constitutional provisions.

Comparative jurisprudence shows that many countries give similar weight to legislative records in judicial proceedings.

Thus, legislative records remain a cornerstone of evidence, balancing reliability with careful judicial scrutiny.

Role of Public Documents in Civil Proceedings

Public documents play a crucial role in civil cases because they provide reliable proof of facts that are often central to disputes.

They are used to establish identity, ownership, marital status, succession rights, and other civil matters.

For example, birth and death certificates are vital in inheritance and family law cases.

Land records and revenue documents are frequently relied upon in property disputes to prove ownership or tenancy.

Courts accept certified copies of public documents as evidence without requiring the original, which ensures efficiency.

Their evidentiary value lies in the presumption of authenticity attached to them under the Evidence Act.

They reduce the burden on litigants by eliminating the need for oral testimony to prove official facts.

Public documents also help prevent fraud, as they are maintained by authorities under statutory duty.

However, their accuracy can be challenged, and courts allow rebuttal evidence to ensure fairness.

Overall, public documents serve as the backbone of civil proceedings, providing trustworthy and accessible proof of essential facts.

Role of Public Documents in Criminal Proceedings



Public documents hold immense importance in criminal trials because they provide reliable proof of official acts and proceedings.

They include FIRs, charge sheets, police diaries, judicial records, and government notifications.

Such documents are admissible under the Indian Evidence Act as public records created in the discharge of official duties.

Their evidentiary value lies in the presumption of authenticity attached to them, reducing the need for oral testimony.

For example, an FIR registered by the police is a public document that establishes the fact of reporting a crime.

Similarly, charge sheets and investigation reports are treated as official records of the investigative process.

Judicial records, such as orders and judgments, are crucial in proving the existence of prior proceedings.

Certified copies of these documents can be produced in court without summoning the original custodians.

This ensures efficiency and prevents disruption of official work.

Public documents also help establish timelines, such as when a complaint was filed or when a trial commenced.

They are often used to corroborate witness testimony and strengthen the prosecution's case.

In criminal appeals, certified copies of trial court judgments are indispensable.

Gazette notifications may also play a role, for instance, in proving the appointment of a public officer or the enforcement of a law.

The presumption of correctness attached to public documents enhances their evidentiary weight.

However, courts remain cautious, allowing rebuttal evidence to challenge inaccuracies or procedural lapses.

Forgery or tampering with public records is treated as a serious offence, given their central role in justice delivery.

Electronic public records, such as digital FIRs or e-court judgments, are now recognized as valid evidence.

This modernization has improved accessibility and transparency in criminal proceedings.

Comparative jurisprudence shows that most legal systems give similar weight to public documents in criminal trials.

Thus, public documents serve as the backbone of criminal justice, ensuring fairness, reliability, and efficiency in the adjudication process.

Electronic Public Records and Digital Evidence

Electronic public records are documents created, stored, or transmitted in digital form by government authorities.

They include e-court judgments, online land records, digital FIRs, and electronic gazette notifications.

With the rise of e-governance, many traditional paper records have been digitized for efficiency and transparency.

The Indian Evidence Act was amended to recognize electronic records as admissible evidence under Section 65B.

This provision ensures that certified electronic copies carry the same evidentiary value as physical public documents.

Digital records are easier to access, reducing delays in litigation and improving public participation.

Courts increasingly rely on electronic records to establish facts, especially in cases involving property or identity.

For example, online birth and death certificates are accepted as proof of vital events.

Electronic gazettes serve as authoritative proof of laws, appointments, and government notifications.

The evidentiary value of digital records lies in their authenticity, ensured through electronic signatures and certification.

They also enhance transparency, as citizens can verify records directly through government portals.

However, challenges remain regarding data security, hacking, and forgery of electronic records.

Courts require strict compliance with Section 65B to prevent misuse of digital evidence.

Electronic records are particularly important in cybercrime cases, where digital trails form the backbone of prosecution.

They also play a role in civil disputes, such as proving ownership through online land records.

Judicial recognition of electronic records has modernized the evidentiary process.

Comparative legal systems worldwide also accept digital records as public documents.

The shift to electronic records reflects the growing reliance on technology in governance and justice.

Despite challenges, they remain reliable and accessible sources of evidence.

Thus, electronic public records and digital evidence have become indispensable in modern legal proceedings.



2. Conclusion

Public documents occupy a central place in the law of evidence because they are created and preserved by authorities in the discharge of official duties. Their authenticity is presumed, and certified copies are admissible without the need for elaborate proof. Whether in civil or criminal proceedings, they provide reliable foundations for establishing identity, ownership, official acts, and judicial records. With the advent of digitization, electronic public records have further enhanced accessibility and transparency, though courts remain cautious about issues of forgery and data security. Ultimately, the evidentiary value of public documents lies in their balance: they are trusted for their reliability, yet open to rebuttal to ensure fairness. This dual character makes them indispensable in the pursuit of justice and in maintaining confidence in the legal system.

