

Evolution of Evidence Law in India From Colonial Framework to Digital Justice

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Abstract: Evidence law forms the backbone of the justice system by determining what facts may be proved and how they are proved in court. In India, this area was governed for over 150 years by the Indian Evidence Act, 1872, which has now been replaced by the Bharatiya Sakshya Adhinyam, 2023..

Keywords: Evidence law

I. INTRODUCTION

Evidence law forms the backbone of the justice system by determining what facts may be proved and how they are proved in court. In India, this area was governed for over 150 years by the Indian Evidence Act, 1872, which has now been replaced by the Bharatiya Sakshya Adhinyam, 2023.

The evolution reflects a shift:

- From colonial legal structure
- To modern, technology-oriented justice

The new law came into force on 1 July 2024, replacing the earlier Act. ^[1]

INDIAN EVIDENCE ACT, 1872 – OVERVIEW

The Indian Evidence Act, 1872 was enacted during British rule to standardize evidence rules across India.

Key Features:

- 167 Sections
- 11 Chapters
- Applied to all judicial proceedings

Structure:

1. Relevancy of facts
2. Proof (oral & documentary evidence)
3. Production and effect of evidence

It replaced diverse customary systems and introduced uniformity.

IMPORTANT SECTIONS – IEA 1872

1. Section 3 – Interpretation

Defines:

- Fact
- Evidence
- Document

Example:

A CCTV recording is considered documentary evidence.



2. Section 5 – Relevant Facts

Evidence can only be given for:

- Facts in issue
- Relevant facts

Example:

In a murder case, prior threats are relevant.

3. Section 6 – Res Gestae

Facts forming part of the same transaction are relevant.

Example:

Statements made during a crime are admissible.

MORE SECTIONS – IEA 1872

4. Section 24 – Confession

Confession obtained by threat or inducement is invalid.

Example:

Police coercion makes confession inadmissible.

5. Section 45 – Expert Opinion

Experts like doctors or forensic experts can testify.

Example:

Medical opinion in a poisoning case.

6. Section 65B – Electronic Evidence

Special provision for digital evidence.

Example:

WhatsApp chats require certificate.

LIMITATIONS OF IEA 1872

1. Colonial mindset
2. Limited recognition of digital evidence
3. Complex procedural requirements
4. Delay in justice delivery
5. Over-reliance on oral testimony

Though amended over time, it struggled to keep pace with technological advancements.

NEED FOR REFORM

India's evolving society demanded:

- Digital evidence recognition
- Faster trials
- Simplified procedures



- Modern terminology

This led to the enactment of the Bharatiya Sakshya Adhiniyam, 2023.

BHARATIYA SAKSHYA ADHINIYAM, 2023 – OVERVIEW

The Bharatiya Sakshya Adhiniyam, 2023 is a modern law replacing the colonial Evidence Act.

Key Highlights:

- 170 Sections
- Came into force on 1 July 2024
- Modified 23 sections
- Added digital-focused provisions

STRUCTURE OF BSA 2023

Parts:

1. Preliminary
2. Relevancy of Facts
3. Proof
4. Production and Effect of Evidence

Important Changes:

- Digital records explicitly recognized
- Electronic oral evidence allowed
- Simplified language

KEY PROVISIONS – BSA 2023

1. Section 2 – Definitions

Includes:

- Emails
- Server logs
- SMS
- Digital files

Example:

Google Drive document = valid evidence

2. Section 57 – Primary Evidence

Digital records are primary evidence.

Example:

Original video file admissible without duplication.

3. Section 58 – Secondary Evidence


Expanded scope.

SIGNIFICANCE OF THE CHANGE

1. Digital transformation of justice
2. Faster evidence handling



3. Greater accessibility
4. Uniform application
5. Improved transparency

Experts highlight that reforms aim to make justice more efficient and accessible. 

II. CONCLUSION

The evolution from the Indian Evidence Act, 1872 to the Bharatiya Sakshya Adhinyam, 2023 represents a paradigm shift in Indian legal history.

While the 1872 Act laid the foundation of evidence law, the 2023 Act modernizes it for the digital age. The transformation ensures that the law remains relevant in a rapidly evolving technological society.

