

THE MIRAGE OF PROOF: NAVIGATING THE DIVERGENCE BETWEEN EVIDENCE AND ACTUAL TRUTH IN LEGAL PROCEEDINGS

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ABSTRACT

Statistical evidence acts as an epitome of the most reliable piece of proof but is that a correct approach to determining the difference between truth and deception? In the legal world, justice is granted solely on account of the truth which can be proved while taking into account the provisions of the Indian Evidence Act, 1872 and being cognizant of the various rules and regulations regarding the admissibility of certain valuable evidence in the room of court. The legal procedure of justice followed formally across the world often neglects the veritable version of the truth and drives the advocates an extra mile to fabricate their version of truth even when they are innocent, only to lie under the criteria of showcasing an “evidence” in the court and that is how the loop of camouflaging the concrete reality sets in motion. Truth finding is considered as the only motive and objective to begin with the legal hearings but the truth might or might not be running parallel to the facts. However, the coinciding nature of truth and facts in certain cases does not lead to chaos in the front end but the fabrication and concoction of proof at the back end, between the witnesses and in the minds of the immediate parties to the case often settle up a notion of “injustice” or “incompetency of court” and above all, “scepticism regarding the legal system” in the subconscious of the general public which might push them away from considering the bench as a solution to the infringement of their rights. This paper looks into the divergence between facts and truth as well as the mirage under which the legal system works.

Keywords: Truth, Evidence, Legal System, Proof, Justice, Citizens.

INTRODUCTION

Tracing back to ancient times, the word evidence was acknowledged by Dharma Shastra¹ ascertaining that “the purpose of the trial is to find the truth”. Here also, the truth considered valid was the truth that can be proven through facts and statistics but the significance placed onto the criteria of admissibility of evidence was very negligible as compared to modern

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¹McClish M, “FROM LAW TO DHARMA: STATE LAW AND SACRED DUTY IN ANCIENT INDIA” (2019) 34 Journal of Law and Religion 284

days. Likewise, the single-judge system was not followed and the bench system was prevalent to assure the formality and seriousness of the justice granted.

As per Vasistha in Hindu Law, there were three sorts of proof or evidence that were important, Likhitam Sakshino Bukhti Parmanam Trividham Smritham i.e. Lekhya (Document), Sakshi (Witnesses) and Bukhthi (Possession) which fall under the category of Human proofs². Human proofs and Divine proofs are the two standards upon which the divergence of proof and truth stands. Divine proofs are the ordeals and do not necessarily include the documents, facts and statistics to substantiate the claim but are rather the ancient tests of guilt to innocence by the subjection of pain, triggering the inner chord to reveal the truth. And rightly said by an ancient jurist,

"Dharma is the foundation of a just society, and the law must uphold righteousness and fairness for all."

The dimension of understanding truth and evidence in the medieval periods expanded beyond the legal frameworks and formal admissibility and was seen as a diverse spiritual and intellectual endeavour acknowledging Islamic religious and philosophical perspectives.

The Islamic thinking and state were influenced by Iranian & Byzantine philosophies³ but Islamic principles remained integral throughout the administration of justice. However, non-Muslims were not subjected to Muslim law on civil matters but criminal law was applied equally to them also. Looking beyond the truth perspective, the discrimination continuing in the room of court based on gender and caste created a loophole in the legal system which accompanied the hindrance in providing actual justice. Many Hindu witnesses and female witnesses, being aware of information crucial to the case were not allowed to be admitted as valid witnesses, often camouflaging the truth and shaking the trust of innocent people from the legal system.

*"Equal justice under law...it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists... fundamentally, justice should be the same, in substance and availability, without regard to economics and social status."*⁴

²Gitika Jain, 'Conceptions of evidence in classical Hindu and Islamic jurisprudence' (27 December 2020) <<https://blog.ipleaders.in/conceptions-evidence-classical-hindu-islamic-jurisprudence/>> accessed 4 June 2023

³Kaif Hasan, 'Historical Background Of Evidence Law In India: With Special Reference To The Indian Evidence Act, 1872' <<https://legalserviceindia.com/legal/article-7229-historical-background-of-evidence-law-in-india-with-special-reference-to-the-indian-evidence-act-1872.html>> accessed 4 June 2023

⁴PATRICIA E. ROBERTS, 'From the "war on poverty" to pro bono: Access to Justice remains elusive for too many, including our veterans' (2014) Vol. 34:341 Boston College Journal of Law & Social Justice

The above lines stated by the Late Justice Lewis Powell (Jr.) touches on the severity of discrimination and the impact it has on the legal system which was more or less neglected during the medieval period.

After 1601, the East India Company significantly grew in all realms of the political administration of its provinces. Although, the provinces such as Bengal, Bihar and Orissa still followed the Islamic Laws and surprisingly, the Britishers never looked to alter that and interfere with the personal religious laws the higher sensibility and gradual growth in power and sovereignty of Britishers led to superseding the existing Muslim law, importing the modern English laws through a cohort of enactments. King George 1 established the courts in Madras, Bombay and Calcutta which had the power to govern Criminal as well as Civil cases without being consulted to any other higher authority as the culture followed in medieval and ancient times.⁵ The independence of the courts started to flourish and gradually unify the justice system through evidence and proofs, the Indian Evidence Act, 1872 was introduced by Sir James Fitzjames Stephen, also referred to as the father of Indian Evidence Act, 1872.⁶ The enactment of a single unified act of the business of evidence in the court was rejected by Sir Henry Maine because India is a diverse country and an amalgamated act for such crucial legal purposes would not be a fruitful proposition. Zamindar of Karvetinagar⁷ vs VenkatadriNarappa vs. GupayyaKazi⁸ Gulam Ali vs. H.H. Aga Khan⁹ was some of the leading landmark cases about the development of Evidence Law in India and through these, juries stood up against the former rejection before the enactment of Indian Evidence Act, 1872. As Sir James' take on evidence and truth has been climacteric to modern-day society as well, he stated,

"Some people half-consciously use the word "true" as meaning useful as well as true. Of course, language can never be made neutral and colourless; but unless its ambiguities are understood, the accuracy of thought is impossible, and the injury done is proportionate to the logical force and general vigour of the character of those who are misled."

<<https://lira.bc.edu/work/ns/485d709b-9089-4694-8033-4d2cf707a0ea/reader/0e6a3bcf-903d-46f5-b4a9-593df5ea7891>> accessed 4 June 2023

⁵Kaif Hasan, 'Historical Background Of Evidence Law In India: With Special Reference To The Indian Evidence Act, 1872' <<https://legalserviceindia.com/legal/article-7229-historical-background-of-evidence-law-in-india-with-special-reference-to-the-indian-evidence-act-1872.html>> accessed 4 June 2023

⁶'INDIAN EVIDENCE ACT - BY JONATHAN FITZJAMES STEPHEN' (15 February 2021) <<https://restthecase.com/knowledge-bank/books/indian-evidence-act-by-jonathan-fitzjames-stephen>> accessed on 4 June 2023

⁷Zamindar of Karvetinagar vs Venkatadri (1896) ILR 20 Mad 159

⁸Narappa vs. Gupayya (1800's) 2 Bom. HCR 341

⁹Kazi Gulam Ali vs. H.H. Aga Khan (1800's) 6 BOM. HCR (CCJ) 93

THE NATURE OF TRUTH IN LEGAL PROCEEDINGS

Legal Constructivism vs. Correspondence Theory

The two separate perspectives which make the propositions of the law true are legal constructivism or correspondence theory also referred to as legal realism. This difference between both the concepts is based upon the proximity of legal outcome, if it was already apparent as stated through the law and facts or if it has been derived from legal argumentation that reconstructs the operation of legal rules.

One such situation where a property was legally registered in the name of 'A' and he has a hold of the whole registry documentation faces a false claim from 'B' that this property belongs to him. Now the matter reaching the court was decided in favour of 'A' as he exhibited the original registry documents as primary evidence under Section 62¹⁰ which were legally admissible under Section 136.¹¹ Due justice was granted independently through the application of the Indian Evidence Act, 1872 and no legal reasoning was necessary to bring about the legal consequence of the concrete case, but at best an attempt to reach the legal decision rested upon the already discovered piece of law and provisions.

As the above case was entrenched upon the independent knowledge, in contrast to that, another legal demonstration is presented. A citizen of India, named 'E' was putting forward his views against the government in a public gathering due to which certain communities were offended and the said views were considered hate speech by many at their discretion. So, the question of law is that will it attract a liability of Sedition under Section 124A and spreading hatred under Section 153A. The legal outcome will not be grounded upon the theoretical provision of law but rather what matters for the present purposes is that in this case, it is less likely that the legal outcome is already there. The outcome will turn directions and depend strongly upon the arguments that are adduced in the legal debate. The facts are concrete but the contentions and consequences leading to the final way out will be constructed during the argument and will be shaped in the way the legal arguments ask them to be. The divergence created during the process of legal constructivism does not guarantee the presentation of actual truth during the argument which leads to varied outcomes in the case.

¹⁰Indian Evidence Act 1872, s 62

¹¹Indian Evidence Act 1872, s 136

Objective truth vs Legal truth

The construction of modern judicial proceedings is based on the adversarial principle means the separation of the procedural functions of the court and the parties.

The parties compete with each other by performing procedural acts aimed at justifying their claims and objections. During the process, a version of the truth is established based on the evidence presented, legal arguments, and procedural rules. The legal truth is determined by the court or the trier of fact, such as a judge or jury, and it may not necessarily align with what happened or what is factually true. The need for obtaining truth in the criminal process was already discussed in the Criminal Procedure Code of 1864, for example, when it came to questioning an accused, during which other legal means should be used to reveal the truth if the accused refused to answer the questions of the investigating judge.¹² The definition of the content of the principle of objective reality directly depends on its explanation of the solution to the problem that achieves reality. Objective truth refers to an ultimate reality that exists independent of human perception or interpretation. It represents what actually happened or what is factually true as the truth must objectively reflect the reality that exists independently of the person's consciousness but the legal truth is subject to the constraints of time, resources, and the rules of procedure. At the same time, since man, as a subject of cognition, brings subjectivity into knowledge, the truth can be regarded as a fabricated reality. It is essential to understand that the divergence between goal fact and criminal reality no longer necessarily means a deliberate distortion of statistics. As an alternative, it's far from the result of the complexities and limitations inherent within the legal gadget. Felony truth is a product of the application of legal concepts and guidelines, which may not constantly align perfectly with the goal truth but, whilst legal reality may not constantly seize the whole reality, it serves an essential motive within the criminal machine. It presents a basis for making simple decisions, resolving disputes, and keeping order in society. legal fact, despite its limitations, forms the foundation for the rule of regulation and the functioning of the justice machine. Thus, the definition of the subject of proof in criminal cases in the law serves to complete identification of the picture of the incident, which indicates the purposefulness of achieving

¹² Natalia Embulaeva and Lyubov Ilnickaya, 'The principle of objective truth in law' (2018) SHS Web of Conferences <https://www.shs-conferences.org/articles/shsconf/pdf/2018/16/shsconf_icpse2018_02011.pdf> accessed 10 June 2023

the truth in the criminal case; correct qualification of the crime, and therefore, an objective definition of the person's guilt; individualization and justice of punishment.¹³

EVIDENCE ACT AND THE MIRAGE OF PROOF

As to what evidence is to be submitted, how it should be submitted and from what source it should be extracted, all of these questions are critically important to pursue a case legally. The answers to such questions are prescribed in The Evidence Act, 1872 which initially begins with describing what evidence is apart from what a common man perceives it to be. Evidence is anything furnished in the room of the court to support or neglect the already existing assertions of a case in a trial. However, all the facts that hold the probative force to turn the direction of the case for good are not admissible in the room of court under Section 136 of the Indian Evidence Act, 1872 The concept of relevance under Section 5-55¹⁴ and admissibility comes in the way of proving the actual truth concerning a case. Relevancy comes before admissibility and for a fact to be admissible, it should be legally relevant rather than logically relevant. Res gestae is an example of a doctrine that associates logical and legal relevance concerning the extent of proximity to the cause. Here law and logic are both interrelated and contrary in the application of the doctrine. For example,

i) Confession made to the police is not legally admissible but logically relevant as per the discretion of the case under Section 25.¹⁵ Based on the discretion and seriousness of the case, the police confession might hold considerable significance to unfold the truth but as per the law of impermissibility of such confessions, the divergence between the substantive truth and the legal truth (evidence) might take place, not granting the due justice.

ii) In criminal cases, accusing the victim based on previous bad conduct and character is not legally relevant under Section 54¹⁶ but logically relevant as per situational sensitivity.

Similarly, instances of a fact being legally relevant but logically irrelevant,

i) Under Section 146¹⁷, The triviality of cross-examination is discussed. Looking through legal lenses, it is very much relevant but logically, it does not make enough sense. As per the definition, cross-examination is the act of the opposing party questioning the witness “during

¹³Natalia Embulaeva and Lyubov Ilnickaya, ‘The principle of objective truth in law’ (2018) SHS Web of Conferences<https://www.shs-conferences.org/articles/shsconf/pdf/2018/16/shsconf_icpse2018_02011.pdf> accessed 10 June 2023

¹⁴Indian Evidence Act 1872, s 5-55

¹⁵Indian Evidence Act 1872, s 25

¹⁶Indian Evidence Act 1872, s 54

¹⁷Indian Evidence Act 1872, s 146

a trial.” During a trial, not everything said and not every document presented in the room of court is true because of the reasonable doubt posed upon the actions being taken in the backend such as pressurising the witness, making false strategies against the innocent, or any conduct or behaviour that is contrary to fair justice and law enforcement procedure. However, all the above doubts regarding the malpractices are substantially superseded by the legal permission to cross-examine during the trial and the judgement is substantially dependent on that. This situation poses a very strong discrepancy present in the concept of “evidence submitted in court is the only truth”. The truth more often than not is disguised under the false replacement of truth which perfectly fits the situation and seems appealing to the ears.

ii) The previous good character can be used to dissolve a liability in criminal cases according to Section 53¹⁸. Nonetheless, the fact that previous good and fair conduct should not act as proof or secondary evidence for any individual. Since a man's generally bad character is a weak reason for believing that he was concerned in any particular criminal transaction, for it is a circumstance common to him and hundreds and thousands of other people, whereas the opportunity of presuming innocence and benefiting from the previous good character stays still in the case which poses a cynical situation in numerous cases, making the truth and prove difficult to determine and the authenticity of the law that guilt must be established by proof of the facts with which the accused is charged, and not by presumptions to be raised from the character which he bears appears to be slightly based upon the discretion of the case.

CASE STUDIES ILLUSTRATING DIVERGENCES

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The divergences being quite apparent in the previous cases have been noted herein to get a clearer perspective on the issue:

Eyewitness Testimony and Misidentification: The eyewitness testimony is a competent person who can testify before the court and provide a written or oral statement under oath with a major evidentiary value under Section 3(1) of the Indian Evidence Act, 1872. Eyewitness plays an important role in the Indian justice system as such that the Supreme Court has held that there can be conviction even based on the sole witness¹⁹. However, it is counted in the list of unreliable evidence which at times distorts the meaning of justice. Studies show that eyewitness misidentifications contributed to approximately 71% of the

¹⁸Indian Evidence Act 1872, s 53

¹⁹Courts can convict on testimony of solitary witness: SC' India Today (New Delhi, 30 October 2011) <<https://www.indiatoday.in/india/north/story/supreme-court-solitary-witness-convict-testimony-144414-2011-10-29>> accessed 12 June 2023

more than 300 wrongful convictions in the United States²⁰ which helps us give a fair view of the situation preceding in India. The well-known Talwar's Double Murder Case puts out a perfect example of the above situation. The 2008 Noida serial murders, which involved the killing of a teenage female and her own family's domestic help, highlighted the risks of depending completely on eyewitness testimony. In this case, the initial investigation relied closely on the testimony of a domestic worker who identified parents, Rajesh and Nupur Talwar as the perpetrators. However, subsequent investigations and forensic evidence revealed critical flaws within the witnesses' identifications, leading to the acquittal of the Talwars with the aid of the Allahabad High Court in 2017.²¹

Forensic Science and Unreliable Methods: Over the past few years, TV shows and movies have created a common misconception about the huge accuracy and reliability posed upon Forensic Evidence and the drawbacks have been camouflaged under the sheet of blind trust over the forensic methods. In evaluation, in the actual world, no longer each forensic evidence aided up utilizing meticulous clinical investigation implying that it doesn't always indicate closer to the guilty individual. Forensic scientists are more often than not exposed to information that inculcates bias in their stated opinions. That is, forensic "scientific" tests are rarely performed "blind". Similar issues were brought up in a report prepared by the National Research Council in 2009²², which identified systemic problems such as inadequate training, resources and capacities of laboratories, and insufficient research to establish the scientific basis and validity of many routinely used forensic methods. The 2006 Mumbai train bombing case underscores the troubles surrounding forensic technological proof. In this situation, forensic proof, inclusive of fingerprint analysis, DNA testing, and explosive residue analysis, played a significant position in figuring out the perpetrators. However, doubts have been later raised approximately the reliability of the forensic proof, with concerns approximately infection, the chain of custody, and inadequate clinical protocols. Those worries highlighted the capability for the divergence between forensic evidence and the real factual truth.

²⁰ New England Innocence Project, 'Eyewitness Misidentification' <<https://www.newenglandinnocence.org/eyewitness-misidentification>> accessed 12 June 2023

²¹ Marco Margaritoff, 'Inside the Still-Unsolved Murder Of 13-Year-Old Aarushi Talwar' (All that's interesting, 11 January 2023) <<https://allthatsinteresting.com/aarushi-talwar>> accessed 12 June 2023

²² Nyman Gibson Miralis, 'How reliable is forensic evidence?' (NGM) <<https://ngm.com.au/forensic-evidence-reliability-in-criminal-cases/>> accessed 13 June 2023

CONCLUSION

The Research Paper explores the complicated and multifaceted nature of truth in the legal justice framework. Through the analysis of case studies and scholarly works, this study's paper has shed light on the factors contributing to the divergence between the evidence presented in legal lawsuits and the elusive notion of actual truth.

It is miles obvious that human biases, limitations of legal techniques, and challenges in the interpretation of proof are key participants in this divergence. Human biases, consisting of confirmation bias and cognitive dissonance, can have an impact on the belief and interpretation of evidence, leading to a distortion of reality. Moreover, the inherent limitations of evidential tactics, along with getting entry to proof, witness credibility, and the antagonistic nature of trials, can hinder the pursuit of fact.

The case research supplied in this paper, together with the Talwars' double murder case and the Mumbai Bombing Case, have exemplified the divergence between evidence and fact in Indian criminal complaints. Eyewitness testimony and forensic technological know-how, which might be regularly considered strong types of evidence, have shown vulnerabilities and capability for misidentification and unreliable analysis.

The implications of this divergence for the fairness and effectiveness of trial and evidence structures are sizeable. Depending completely on proof that could diverge from fact can result in wrongful convictions, miscarriages of justice, and a loss of public agreement within the felony system. The justice system must cope with these challenges and try methods that reduce the impact of biases and limitations.

To mitigate the impact of the divergence between evidence and real reality, various strategies can be carried out. Those include raising consciousness about the fallibility of eyewitness testimony and forensic technological know-how, introducing reforms in criminal strategies, incorporating expert testimony on the constraints of evidence, and improving the training and training of legal specialists.

In conclusion, the mirage of proof in prison court cases highlights the complexities and demanding situations in setting up the actual truth. whilst criminal structures attempt to discover facts based on the evidence provided, it's crucial to understand the restrictions and biases which can cause a divergence from the real truth. By acknowledging and addressing these challenges, structures can enhance the equity, credibility, and effectiveness of the pursuit of fact in legal proceedings.