



OBJECTION, YOUR HONOUR: A PRACTICAL GUIDE TO TRIAL OBJECTIONS UNDER INDIAN LAW

Abdul Hannaan Siddiqui*

INTRODUCTION

"Objection, Your Honour!" Whether in the field of Law or not, we've all heard it at least once, perhaps in a film, a courthouse drama, or on a TV show. It's the theatre of a lawyer leaping up, halting the courtroom, and objecting to a question, a testimony of a witness, or to some evidence. There is, though, a crucial reality behind the theatre. In a real courtroom, Objections are the heartbeat of an unbiased trial.

In actual Indian courtrooms, an objection is not a performance; it is a fine legal instrument. It safeguards the record, screens out irrelevant or inadmissible evidence, and keeps the trial on the rails of The Bharatiya Sakshya Adhiniyam, 2023. For law students and young lawyers, the art of objections is not merely a matter of memorising sections; it is a matter of appreciating the living practice of evidence law. A well-timed and well-reasoned objection can alter the direction of a trial, at times with mere three words: Objection, Your Honour.

Indian courts, being predominantly judge-driven, centre objections on issues of legality, admissibility, and fairness. On the other side of the ocean in the United States, the same objections find their way before juries under the Federal Rules of Evidence, where a single misdirected question can influence twelve laypeople. Although this article is based on Indian law, occasional comparisons with the U.S. system will bring out the way the principle of a fair trial transcends geographical boundaries.

In this article, we will aim to examine objections that can be made in Indian courts, which provisions of the BSA authorise them, and practical advice on when and how to make them

*BBA LLB (HONS.), FIFTH YEAR, PRESIDENCY UNIVERSITY, BENGALURU.

most effectively. By the end of this, every reader will understand that objections are not just theatrical acts in the courtroom; they serve a purpose. These objections are the law in action.

WHAT IS AN OBJECTION?

An objection is a tool by which Advocates express their dissent regarding any question, testimony, or piece of evidence. Simply put, it is an attorney's way of telling the Court, "Stop. This evidence or this question does not belong here under the law."

An objection is an impromptu opposition to any question, document, or testimony in the court of law that is contrary to the rules of evidence and procedure. In other words, an objection is the quality check of the courtroom; it maintains the trial as fair, the record untainted, and the law unbroken.

- Objections in a courtroom are often raised during
- Examination in chief
- Cross Examination

INTRODUCTION OF A DOCUMENT OR AN ELECTRONIC RECORD AS EVIDENCE

When the Advocate believes that any question, evidence or testimony calls for an objection, he/she must stand up and state the basis of the objection clearly. For example: "Objection, leading question!", or "Objection!" "Irrelevant!" After the objection is made, the judge determines whether to sustain it (to agree with the objection and exclude the evidence/testimony) or to overrule it (to reject the objection and admit the evidence). In Indian courts, objections are frequently noted but not decided right away. Judges have the option to temporarily admit the contested evidence while noting the objection and postponing making a final determination regarding admissibility until later.¹ In some cases, even in the final ruling. The judge-led nature of Indian trials, where there is no jury to protect, is reflected in this practice. In *Bipin Shantilal Panchal v. State of Gujarat*,² the Supreme Court held that trial courts may tentatively admit challenged evidence and decide its relevancy later, safeguarding the judgment from contamination by immaterial facts. In contrast, objections are usually resolved immediately in the United States, especially during jury trials. According to the Federal Rules

¹ The Bharatiya Sakshya Adhiniyam 2023, s 165

² *Bipin Shantilal Panchal v. State of Gujarat*, AIR 2001 SC1158

of Evidence,³ the judge must either uphold or reject the objection right away to prevent the jury from hearing inadmissible or biased evidence. In contrast to the U.S. demand for immediacy, this discrepancy highlights the procedural flexibility of the Indian court system.

For a student of the Law, it is imperative to understand that an objection isn't merely a flamboyant outburst, as commonly portrayed, but a quick legal argument to prevent inadmissible evidence from being admitted into the court of law. It is a way of safeguarding not only the rights of one's client but also of upholding the integrity of the judicial system.

OBJECTIONS AND THEIR TYPES

Under this chapter, the various types of objections most commonly used in the court of law are detailed. For better understanding, these objections have been classified into the following:

1. Relevancy-Based Objections
2. Admissibility-Based Objections
3. Form / Procedure-Based Objections
4. Substance / Effect-Based Objections
5. Objections to Documents / Exhibits
6. Objections to Conduct / Procedure
7. Rare & Less Common Objections

RELEVANCY-BASED OBJECTIONS

Irrelevant Evidence: During a proceeding before any court, only the relevant facts and evidence can be admitted. An objection to irrelevant evidence ensures that only facts in issue or legally relevant facts are presented, preventing the trial from being derailed by collateral matters. The Bharatiya Sakshya Adhiniyam, 2023 (BSA), permits evidence only on facts in issue or those declared relevant.⁴ The Supreme Court in *State of Maharashtra v. Kamal Ahmed Mohd. Vakil Ansari*⁵ reaffirmed that only those facts which are relevant and in accordance with the provisions of the Evidence Act are admissible in the court of law. As per the Act 2023, the judge has the Authority to demand proof of relevance before admission.⁶ The U.S. Federal

³ Federal Rules of Evidence 1975, r 103

⁴ The Bharatiya Sakshya Adhiniyam 2023, s 3

⁵ *State of Maharashtra v. Kamal Ahmed Mohd. Vakil Ansari*, (2013) 12 SCC 17

⁶ The Bharatiya Sakshya Adhiniyam 2023, s 141

Rules of Evidence similarly require evidence to make a material fact more or less probable,⁷ while also permitting exclusion of evidence with minimal probative value in order to ensure justice and fairness.⁸ Likewise, any irrelevant question asked of a witness can be objected to by the opposing counsel. Example: In a contract dispute, a lawyer asking “What is your favourite holiday?” or “What did you eat for dinner the day you signed the contract?” invites an immediate objection as irrelevant.

ADMISSIBILITY-BASED OBJECTIONS

Hearsay: Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.⁹ Which means that the given statement or testimony is not of the declarant but another person.

Hearsay objections aim to exclude second-hand statements that cannot be tested through cross-examination, thereby preserving evidentiary reliability. The BSA 2023 mandates direct oral evidence,¹⁰ while also allowing limited exceptions like dying declarations or testimony of unavailable witnesses.¹¹ In *Sukhar v. State of U.P.*,¹² the Supreme Court reaffirmed that a hearsay statement is inadmissible unless it forms part of the same transaction (*res gestae*).¹³ The U.S. framework under Federal Rules of Evidence 801–802 mirrors this approach, with detailed exceptions in FRE 803–804.

Example: If a witness testifies, “My neighbour told me he saw the accused steal,” the statement is hearsay and can be excluded.

Secondary Evidence Without Foundation: When a document is introduced as evidence, it should be introduced in its primary (original) form.¹⁴ A copy of the document is inadmissible unless the requirements for its admissibility are satisfied under the provisions of the 2023 Act.¹⁵

This objection enforces the principle that original documents must be produced to avoid fraud or misrepresentation. establish that secondary evidence, like photocopies or digital scans, can

⁷ Federal Rules of Evidence 1975, r 401-402

⁸ Federal Rules of Evidence 1975, r 403

⁹ Federal Rules of Evidence 1975, r 801

¹⁰ The Bharatiya Sakshya Adhiniyam 2023, s 55

¹¹ The Bharatiya Sakshya Adhiniyam 2023, s 26-27

¹² *Sukhar v. State of U.P.*, 1999 (9) SCC 507

¹³ The Bharatiya Sakshya Adhiniyam, 2023, s 4

¹⁴ The Bharatiya Sakshya Adhiniyam 2023, s 59

¹⁵ The Bharatiya Sakshya Adhiniyam 2023, s 60

only be admitted if a proper foundation justifies the absence of the original. In the case of *H. Siddiqui by LRs Vs. A. Ramalingam*,¹⁶ the Supreme Court reiterated that where original documents are not produced without a plausible reason and factual foundation for laying secondary evidence, it is not permissible for the court to allow a party to present secondary evidence.

The U.S. Best Evidence Rule¹⁷ takes the same stance, prioritising original documents unless adequately excused.¹⁸

Example: Showing a photocopy of a contract when the original exists elsewhere can trigger the objection, “Secondary evidence without foundation.”

Privileged Communication: Certain communications are considered privileged and, therefore, cannot be produced as evidence in court. The most common is the attorney–client privilege, though other privileges, such as spousal privilege, also exist. Privilege not only includes verbal but also any written communication. A question that violates such privileged communication can be challenged.

An objection on the ground of privilege shields confidential relationships, which inter alia include the Attorney-client,¹⁹ marital,²⁰ or professional communications.²¹ The Act 2023 bars the disclosure of marital conversations, attorney advice, or official secrets. U.S. law recognises privileges,²² including attorney-client²³ and marital privileges.²⁴

If counsel asks an accused, “Did your lawyer tell you to deny the charges?” the opposing party may object: “Privileged communication!”

Confession to Police Officer: A confession made to a police officer is Inadmissible in court.²⁵ Since the confession may be forced or coerced, police confessions are only admissible if they are made in the presence of a magistrate.

¹⁶ *H. Siddiqui by LRs Vs. A. Ramalingam*, AIR 2011 Supreme Court 1492

¹⁷ Federal Rules of Evidence 1975, r 1002

¹⁸ Federal Rules of Evidence 1975, r 1004

¹⁹ The Bharatiya Sakshya Adhiniyam 2023, s 134

²⁰ The Bharatiya Sakshya Adhiniyam 2023, s 128

²¹ The Bharatiya Sakshya Adhiniyam 2023, s 132

²² Federal Rules of Evidence 1975, r 501

²³ Federal Rules of Evidence 1975, r 502

²⁴ Federal Rules of Evidence 1975, r 501

²⁵ The Bharatiya Sakshya Adhiniyam 2023, s 23

This objection excludes confessions made to police due to the inherent risk of coercion. Section 23 BSA renders any confession to a police officer inadmissible, protecting the accused's rights. In the case of *Aghnoo Nagesia vs State of Bihar* 1966 AIR 119,²⁶ it was categorically pointed out that the Evidence Act does not allow a confession before a police officer as Evidence. The Supreme Court in *Randeep Singh & Anr. v. State of Haryana & Ors.*²⁷ Reiterated that only the part of the accused's confession that leads to discovery is admissible

In contrast, U.S. law admits statements to police if voluntary and compliant with the Fifth Amendment, following the Miranda doctrine.

Example: A witness stating, "The accused confessed to the police at the station," invites an immediate objection as an inadmissible confession.

FORM / PROCEDURE-BASED OBJECTIONS

Leading Questions: Leading questions suggest their own answers and are restricted during examination-in-chief to preserve witness neutrality. In simple terms, leading questions are yes or no questions. The law²⁸ prohibits them except with court permission or regarding facts which have already been established or are undisputed, while flexibility is allowed when a witness turns hostile.²⁹ Leading questions are allowed in a cross-examination of a witness,³⁰ therefore, a yes or no question can be asked during a cross-examination.

In *Umesh Kumar vs State NCT of Delhi*,³¹ the Delhi High Court stressed that leading questions may not be put in examination-in-chief except with permission of the Court. The above position was reiterated in *Gura Singh v. State of Rajasthan*.³² Leading questions undermine the fairness of a trial under Article 21.³³

Likewise, in the U.S., Leading questions are generally prohibited during direct examination, except when necessary to develop the witness's testimony. They are typically permitted during

²⁶ *Aghnoo Nagesia vs State of Bihar*, 1966 AIR 119

²⁷ *Randeep Singh & Anr. v. State of Haryana & Ors* Criminal Appeal No. 297 OF 2024

²⁸ The Bharatiya Sakshya Adhiniyam 2023, s 146

²⁹ The Bharatiya Sakshya Adhiniyam 2023, s 157

³⁰ The Bharatiya Sakshya Adhiniyam 2023, s 146(4)

³¹ *Umesh Kumar vs State NCT of Delhi*, CRL.A. 194/2023

³² *Gura Singh v. State of Rajasthan*, (2001) 2 SCC 205

³³ *Varkey Joseph vs State of Kerala*, 1993 AIR 1892

cross-examination and when questioning a hostile witness, an adverse party, or a witness aligned with the opposing side.³⁴

Example: If the witness is asked, “You saw the accused holding the gun at 9 p.m., didn’t you?” in an examination-in-chief, such a question is objectionable as leading.

Compound or Complex Questions: Compound questions bundle multiple issues into one, confusing witnesses and obscuring the record. Although not codified into law, Indian courts routinely sustain objections to such questioning,

“Under U.S. practice, misleading questions are equally impermissible, as courts disallow any question that is ambiguous, confusing, or likely to mislead the witness.”³⁵

” Example: “Where were you at the meeting on Monday, and did you tell Mr. Sharma that the contract was already signed?” improperly joins attendance at the meeting and making a statement into one question. And can therefore be objected to by the opposing counsel.

Argumentative Questions: An argumentative question turns cross-examination into a debate, rather than seeking facts. Indian courts disallow this tactic to prevent witness harassment. If the court allows argumentative or otherwise inadmissible material under the Evidence Act, the cross-examination can drag on unnecessarily. The judge then has to sift through irrelevant content, either during questioning or, worse, at the final hearing, wasting valuable court time.³⁶ Similarly, in the U.S., Argumentative Questions are inadmissible if objected to by the opposing counsel.³⁷

Example: “*How long did you plan to deceive the court with your false testimony?*” is not a question seeking information but an argument, justifying the objection.

Vague, Ambiguous, or Speculative Questions: Questions must be direct and rooted in the witness’s knowledge.³⁸ Questions that are irrelevant or asked without reasonable grounds are not to be asked of a witness.³⁹ The aim is to eliminate conjectural or unclear inquiries. Any question that the witness answers with “I think...”, “maybe...”, “I guess...”, “probably...”,

³⁴ Federal Rules of Evidence 1975, r 611(c)

³⁵ Federal Rules of Evidence 1975, r 611(b)

³⁶ *Harish Loyalka and Another vs Dileep Nevatia and Others*, SUIT NO.3598 OF 1996

³⁷ Federal Rules of Evidence 1975, r 611(b)

³⁸ The Bharatiya Sakshya Adhiniyam 2023, s 55

³⁹ The Bharatiya Sakshya Adhiniyam 2023, s 152

etc., calls for opinions and not evidence, and therefore opposing counsel can object to such questions and/or answers.

Similarly, in the U.S., testimony of a witness is confined to first-hand knowledge.⁴⁰

Example: “Do you think the accused knew the police were following him?” is speculative and invites objection. (calls for speculation)

Asked and Answered (Repetition): Generally, when a question is already answered by the witness, the counsel should avoid asking the same question again, as this can be vexatious and a waste of the court's time. An objection to asked and answered questions prevents repetitive questioning that wastes court time or badgers’ witnesses.

Although not codified in the law, Indian courts disallow repeated questions without a new purpose, a practice consistent with the U.S., which bars cumulative evidence.⁴¹

Example: If the same question is posed multiple times, counsel may object, “Already asked and answered.”

Misquoting Witness Testimony: Misquoting occurs when counsel rephrases prior testimony inaccurately, potentially misleading the court. Although not codified under Indian law, courts sustain objections to protect the evidentiary record, while in the U.S., the Federal Rules of Evidence are in place.⁴² Supports corrective measures to prevent partial or distorted quotations.

Example: If a witness earlier said, “I saw someone run,” and counsel asks, “So you said you saw the accused run?” the opposing counsel can object: “Misquoting the testimony!”

SUBSTANCE / EFFECT-BASED OBJECTIONS

Calls for an Opinion Without Expert Qualification: It is essential to ensure that only people with the necessary expertise give opinion evidence. Since opinions are not facts but personal estimations, they are considered weak evidence. However, an Expert may contribute their opinion if allowed by the court on a particular matter.

⁴⁰ Federal Rules of Evidence 1975, r 602

⁴¹ Federal Rules of Evidence 1975, r 403

⁴² Federal Rules of Evidence 1975, Rule 106

The Bharatiya Sakshya Adhiniyam⁴³ confines opinion evidence to recognised experts, such as doctors, scientists, or technical specialists. Correspondingly, U.S. law FRE 701 and 702, along with the Daubert test,⁴⁴ require that expert opinions meet standards of reliability.

Example: In a road accident case, the witness is a shopkeeper who saw the vehicles after the collision. Counsel asks, “What caused the brake failure?” The shopkeeper replies, “The brake fluid must have leaked.” Opposing counsel can raise an Objection, “Opinion evidence without expert qualification”

Calls for a Conclusion Instead of Facts: Witnesses are expected to testify about what they observed, not to deliver conclusions. This objection ensures that they present the underlying facts, leaving the court to draw the ultimate conclusions. It is a well-established practice, both in India and the United States, that witnesses should not offer conclusions as part of their testimony. FRE 702 demands that conclusions come from a proper expert foundation.

Example: Counsel: “Did you decide that Mr. Sharma intended to defraud his clients?”
Objection: “Calls for conclusion.” Whether someone had fraudulent intent is a legal conclusion, not a fact a lay witness should declare.

Prejudicial or Inflammatory Questions: This objection is used to block questions that are loaded with emotion or framed in a way that could unfairly prejudice the judge or jury. In India, courts have consistently disallowed questions that are inflammatory, derogatory, or have no real connection to the facts at issue. Under U.S. law, the same principle is reflected in FRE 403,⁴⁵ which permits the exclusion of evidence when the danger of emotional prejudice outweighs its actual relevance or probative value.

Example: Counsel: “As a member of that particular religious group, you people often disregard the law, don’t you?” Objection: “Inflammatory question, the witness’s religion is irrelevant to the facts in issue.”

Assumes Facts Not in Evidence: This objection arises when a question sneaks unverified facts into the record, presenting them as if they are already established truths. In both India and the U.S., witnesses should only be asked about facts already in evidence. If a question assumes

⁴³ The Bharatiya Sakshya Adhiniyam 2023, s 39

⁴⁴ *Daubert v. Merrell Dow Pharmaceuticals* (92-102), 509 U.S. 579 (1993).

⁴⁵ Federal Rules of Evidence 1975, r 403

something that hasn't been proven, the other side can object. In India, Section 3⁴⁶ and 55⁴⁷ Section 3 of the Indian Evidence Act limits testimony to relevant facts personally perceived by the witness. Courts won't allow questions that smuggle in unproven facts. In the U.S., FRE 602⁴⁸ serve the same purpose, stopping questions that make the witness treat unestablished claims as if they were true.

Example: In a fraud trial, a lawyer asks a witness, "When did you first realise you were part of the scheme to defraud investors?" This question makes two assumptions that have not been proven: that the witness was part of the scheme and that a scheme even existed. In case such a question is posed, the Objection "Assumes facts not in evidence" may be raised.

Misleading or Confusing Questions: This objection prevents questions that are unclear, deceptive, or framed in a way that could misrepresent the facts. In India, courts do not allow lawyers to ask questions meant to mislead or trap a witness. In *State of Rajasthan v Ani @ Hanif* (1997),⁴⁹ the Supreme Court stressed that during cross-examination, courts have a duty to control misleading or suggestive questions to protect the integrity of the evidence. In the United States, FRE give judges the authority to block questions that are ambiguous, confusing, or likely to distort the truth.⁵⁰

Example: During cross-examination, counsel asks, "When did you stop falsifying company records?" This question unfairly presumes wrongdoing and misleads the witness. Objection: "Misleading question."

Self-Incrimination: This objection protects a person's constitutional right not to be forced to give evidence against themselves, reflecting the maxim *nemo tenetur se ipsum accusare* "no one is bound to accuse themselves." In India, the Constitution⁵¹ guarantees that no accused person can be compelled to admit guilt. In *Nandini Satpathy v P.L. Dani*,⁵² the Supreme Court of India held that the right against self-incrimination extends even to the stage of police interrogation, and an accused cannot be compelled to answer questions that could expose them to criminal charges.

⁴⁶ The Bharatiya Sakshya Adhiniyam 2023

⁴⁷ The Bharatiya Sakshya Adhiniyam 2023

⁴⁸ Federal Rules of Evidence 1975

⁴⁹ 1997 (6) SCC 162

⁵⁰ Federal Rules of Evidence 1975, r 403

⁵¹ Indian Constitution 1950, Art 20(3)

⁵² 1978 SCR (3) 608

In the United States, the Fifth Amendment provides the same protection, with FRE 501⁵³ recognising the privilege in evidentiary terms.

The privilege can be waived if the person voluntarily testifies about the matter in question, but once waived, it generally applies to the entire subject, not just selected parts of the testimony.

Example: In a theft trial, counsel asks the accused, “Where did you hide the stolen goods?” The question directly demands an admission of criminal conduct. Objection: “This would compel self-incrimination.”

OBJECTIONS TO DOCUMENTS / EXHIBITS

Courts require strict compliance with rules of admissibility before a document or exhibit can be accepted into evidence. If the basic requirements are not met, the opposing party may object. Below are common objections, explained with case law.

Not Properly Identified or Authenticated: Before a document can be admitted as evidence, the party presenting it must prove it is what they claim it to be. In India, under The Bharatiya Sakshya Adhiniyam 2023⁵⁴ proof of contents and authentication is required. In the U.S., FRE⁵⁵ mandates similar authentication, often through a witness familiar with the document. If the party fails, the objection is sustained. In *State (NCT of Delhi) v. Navjot Sandhu* (2005),⁵⁶ the Supreme Court stressed the importance of proper identification before admitting call records.

Example: if a document introduced as evidence is not authenticated, the opposing counsel may object to the admissibility of such a document.

No Proof of Execution: When a document requires a signature or seal for validity, the party producing it must prove it was duly executed. In India, the BSA⁵⁷ governs proof of handwriting and signatures. In the U.S., this falls under FRE 902⁵⁸ for self-authenticating documents or FRE 901 for others. Without such proof, the document cannot be relied upon. In *Om Prakash*

⁵³ Federal Rules of Evidence 1975, r 501

⁵⁴ The Bharatiya Sakshya Adhiniyam 2023, Chapter V

⁵⁵ The Federal Rules of Evidence 1975, r 901

⁵⁶ *State (NCT of Delhi) v. Navjot Sandhu*, (2005) 11 SCC 797

⁵⁷ The Bharatiya Sakshya Adhiniyam 2023, s 67

⁵⁸ The Federal Rules of Evidence 1975, r 902

Berlia v. Unit Trust of India (1983),⁵⁹ the Bombay High Court refused to act on a document where execution was not proved.

Example: if a document which is not executed as per the requirements of the law is introduced as evidence, then such a document can be objected to by the opposing counsel or be rejected by the court suo moto.

Lacks Chain of Custody (For Forensic Exhibits): For items like blood samples or seized devices, each stage of handling must be documented to ensure no tampering. In India, courts have repeatedly stressed the chain of custody in cases like Ganesh S/O Kashirao Rade vs The State of Maharashtra.⁶⁰ In the U.S., FRE 901⁶¹ require proof of continuous control for such evidence. In the infamous O.J. Simpson trial,⁶² the defence strongly attacked the prosecution's evidence by alleging a break in the chain of custody, arguing that mishandling and gaps in documentation could have compromised the integrity of crucial forensic material. His line of argument, alongside other factors, helped sow reasonable doubt and ultimately contributed to the jury's not guilty verdict.

Unstamped Document: Certain documents in India require proper stamping under the Indian Stamp Act, 1899; if not stamped, they are inadmissible under the Act.⁶³ The U.S. does not have a stamp duty requirement, but a similar objection could arise over missing statutory certifications.

In Bhaskarabhotla Padmanabhaiah and others v. B. Lakshminarayana and others⁶⁴ the Supreme Court held that an unstamped document cannot be admitted in evidence, but would be admissible if duly stamped.⁶⁵

Unregistered Document: If a document that is legally required to be registered (such as certain property transfers) is unregistered, Section 49 of the Registration Act, 1908, bars its use for proving the transaction. In the U.S., unrecorded property deeds may face admissibility challenges under state law.

⁵⁹ [1983]54 COMPCAS 136 (BOM)

⁶⁰ CRIMINAL APPEAL NO. 500 OF 2011

⁶¹ The Federal Rules of Evidence 1975, r 901(b)(1), (b)(9)

⁶² *People of the State of California v. Orenthal James Simpson* (1995), No. BA097211 (Cal. Super).

⁶³ The Indian Stamp Act 1899, s 35

⁶⁴ AIR 1962 A.P. 132

⁶⁵ *Bhaskarabhotla Padmanabhaiah and others v. B. Lakshminarayana and others*, AIR 1962 A.P. 132 [10]

In *K.B. Saha & Sons v. Development Consultant Ltd.*,⁶⁶ the Supreme Court excluded an unregistered lease deed for lack of compliance.

An “Objection, stating the document is unregistered.” Can be raised by the opposing counsel if any document which is legally required to be registered is submitted as evidence in the trial.

OBJECTIONS TO CONDUCT / PROCEDURE

These objections focus on how attorneys behave, how witnesses are handled, and how courtroom protocol is followed. They are necessary to uphold justice, stop witness intimidation, and guarantee that evidence is presented legally.

Counsel is Testifying Instead of Asking: The role of an Advocate is to ask questions to witnesses and not testify on their behalf. There is a fine line between questioning and testifying, and this line mustn't be crossed. This objection arises when an advocate, instead of framing a question, begins narrating facts or making statements as though they were a witness. While the BSA does not expressly codify this, the principle is embedded in the adversarial system; only witnesses may give testimony.

Under FRE⁶⁷ the court controls the mode of questioning to ensure the truth is elicited without counsel giving evidence.

Example: During cross-examination in a fraud case, the advocate says to the court while addressing the witness: "On 12th March, I personally saw my client hand over the cheque and explicitly state it was for a loan repayment." Here, the advocate is testifying instead of asking a question, effectively inserting their own evidence into the record rather than eliciting it from the witness.

Harassment or Badgering of Witness: Occurs when counsel's questioning becomes unduly aggressive, sarcastic, or repetitive in a manner that intimidates the witness. The law provides that questions intended to insult or annoy must be disallowed.⁶⁸ Unless directly relevant. *State of Rajasthan v. Sukhpal Singh*⁶⁹ condemned hostile and harassing cross-examinations.

⁶⁶ (2008) 8 SCC 564)

⁶⁷ The Federal Rules of Evidence 1975, r 611(a)

⁶⁸ The Bharatiya Sakshya Adhiniyam 2023, s 154

⁶⁹ 1984 AIR 207

In the US, the FRE⁷⁰ ensures that the judge protects the witnesses from harassment.

Example: In a theft case, counsel repeatedly shouts, "You stole that ring, didn't you? Didn't you? Answer me!", crossing the line from probing to intimidation.

Interrupting Witness Unnecessarily: When a question is posed to witnesses, they must be allowed to answer the question without unnecessary interruptions so that their testimony may be recorded without prejudice; cutting off a witness mid-answer without legal cause may draw an objection for procedural impropriety. Not directly codified, but Section 143 IEA provides for orderly examination and cross-examination. The judge can intervene to maintain the proper conduct of proceedings and prevent unfair interruptions under Section 168 of the BSA, 2023,⁷¹ which empowers the judge to ask questions and require production of evidence as necessary. In *Vinod Kumar v. State of Punjab*,⁷¹ the court criticised trial tactics that prevented witnesses from fully answering.

Under U.S. Law, FRE has no express provision, but trial courts exercise discretion under FRE 611.

Example: During testimony in a robbery case, the witness begins describing the sequence of events leading to the suspect's arrest. Before finishing, the opposing counsel interrupts sharply: "Skip to the point, did you see him or not?", cutting off the witness mid-narrative and preventing the full context of their observation from being recorded.

Cumulative Evidence: Calling different witnesses to state a fact already established is discouraged, as it wastes the court's time; therefore, an objection to repetitive testimony on a fact already clearly established can be raised. This is somewhat similar to Asked and Answered questions. Such questions are generally discouraged; however, under Indian Law, the judge has the power to decide whether further evidence is necessary.⁷² In *State of U.P. v. Anil Singh*,⁷³ the court discouraged calling unnecessary witnesses to repeat the same facts.

Similarly, under U.S. Law, the Federal Rules of Evidence⁷⁴ allows exclusion of evidence that causes undue delay or is needlessly cumulative.

⁷⁰ The Federal Rules of Evidence 1975, r 611(a)(3)

⁷¹ [2015 SCC 3 220]

⁷² The Bharatiya Sakshya Adhiniyam 2023, s 141

⁷³ 1988 SCR SUPL. (2) 611

⁷⁴ Federal Rules of Evidence 1975, r 403

Example: Five different employees are called to testify that the office clock stopped at 3:45 pm, all saying the same thing is unnecessary and wastes the court's time.

Improper Impeachment of Witness: Impeachment is the process of challenging the credibility of a witness to test the reliability of their testimony. Impeachment must follow legal limits; therefore, using irrelevant or unproven material to discredit a witness is objectionable. The Bharatiya Sakshya Adhiniyam 2023⁷⁵ lays down provisions governing lawful impeachment, such as proving prior inconsistent statements or bias. In *Bipin Shantilal Panchal v. State of Gujarat*,⁷⁶ the court emphasised lawful and relevant cross-examination methods.

Similarly, in the United States, Federal Rules of Evidence 607 to 609 outline proper methods for impeaching a witness, including limitations on prior convictions or character evidence, to ensure the fact-finder is not misled.

Example: Asking a witness in a contract dispute, "Isn't it true you once cheated in your school exams?" is an irrelevant and inadmissible character attack.

Surprise Evidence Without Disclosure: In the court system, fairness requires that both parties have a reasonable opportunity to examine and respond to evidence, preventing one side from being ambushed mid-trial. Under Indian law, while there is no general statutory discovery rule like in the U.S., courts may control the introduction of surprise evidence through Section 141 of the BSA, 2023⁷⁷ (formerly IEA Section 136) and procedural fairness principles in CPC Order XIII governing the production of documents.

In *Union of India v. Ibrahim Uddin*,⁷⁸ the Supreme Court held that documents not disclosed earlier should generally not be admitted without good reason, ensuring that parties are not unfairly prejudiced.

Similarly, in the United States, the Federal Rules of Evidence,⁷⁹ together with civil and criminal procedural rules such as FRCP⁸⁰ and the Brady obligations⁸¹ in criminal trials, the court directly regulates disclosure requirements and protects parties from ambush evidence. However, it is

⁷⁵ The Bharatiya Sakshya Adhiniyam 2023, s 158

⁷⁶ 1998 (9) SCC 315

⁷⁷ The Bharatiya Sakshya Adhiniyam 2023, s 141

⁷⁸ (2012) 8 SCC 148

⁷⁹ Federal Rules of Evidence 1975, r 403

⁸⁰ Federal Rules of Civil Procedure 1938, r 26

⁸¹ *Brady v. Maryland*, 373 U.S. 83 (1963)

important to note that the sudden introduction of a surprise witness is allowed when the purpose is to impeach a witness already on the stand, as this falls within the legitimate scope of testing credibility.

For example, if during trial one party suddenly produces a new expert report or calls a surprise witness solely to challenge the credibility of an opposing witness, it is permissible; but introducing entirely new evidence without prior disclosure, such as an unforeseen expert report, would be objectionable and could be excluded.

Speaking Objection: A speaking objection occurs when an advocate, instead of merely stating a legal ground for objecting, adds arguments, explanations, or instructions directed at the witness. Rather than keeping the objection concise and procedural, the counsel effectively inserts their own commentary into the trial, which can improperly influence the witness or the fact-finder.

In Indian courts, while speaking objections are not explicitly prohibited, judges can curtail such conduct under Section 168 of the BSA, 2023⁸² and procedural powers like Order XVIII of the CPC, which allow the court to regulate the examination of witnesses.

The Supreme Court in *R.K. Anand v. Registrar, Delhi High Court*⁸³ emphasised that lawyers must avoid procedural manoeuvres intended to coach or guide a witness, though not using the explicit term speaking objections the rationale was clear.

Similarly, in U.S. jury trials, objections must be timely and specific under the FRE,⁸⁴ and extended arguments before the jury are discouraged to prevent unfair prejudice. Essentially, a speaking objection blurs the line between legal procedure and advocacy, undermining the neutrality of the courtroom process.

RARE & LESS COMMON OBJECTIONS

Rare and less typical objections are the subtle tools of trial practice, appearing only in exceptional or unanticipated situations but frequently exercising disproportionate impacts on proceedings. Unlike routine objections that handle commonplace problems, these are raised when evidence raises uncommon challenges, including technical issues, specialised topics, or

⁸² The Bharatiya Sakshya Adhiniyam 2023, s 168

⁸³ (2009) 8 SCC 106

⁸⁴ Federal Rules of Evidence 1975, r 103(a)(1)

even subtle procedural defects. Their employment demands an intimate knowledge of the law and the trial setting because they frequently depend on whether evidence is introduced in a misleading, incomplete, or procedurally defective manner. Attorneys must be sensitive to the various levels of a case: the character of the witness, the kind of evidence, the phase of questioning, and the larger strategic plans for the trial. For instance, even a minor misstatement, inappropriate question ordering, or introduction of a document without a proper basis may provide an opening for an uncommon objection, needing to be clearly formulated so that it would be noticed by the court. For all intents and purposes, these objections are the subtle checks and balances of the courtroom, safeguarding the integrity of the trial not by frequency, but by precision and discriminating timing, so that evidence is examined from several angles before it is allowed to sway the decision.

The table below (Table 1) organises various types of objections, classifying them according to Examination-in-Chief, Cross-Examination, and Documentary Evidence, to provide a clearer and more accessible understanding.

| Examination-in-Chief (Chief) | Cross-Examination | Documentary/Exhibit |
|---|---|--|
| Leading Question | Misleading Question | Not properly identified or authenticated |
| Hearsay | Harassing / Oppressive Question | No proof of execution (signatures/handwriting) |
| Irrelevant Fact / Beyond Pleadings | Irrelevant Question intended to | Lacks a chain of custody |
| Calls for Conclusion instead of Fact | Argumentative / Speculative Question | Secondary copy offered without reason |
| Speculative / Opinion without Expert Base | Privileged Information / Self-incrimination | Unstamped Document |
| Repetition / Asked & Answered | Misquoting Witness Testimony | Unregistered Document |

| | | |
|---|--|------------------------------------|
| Vague, Ambiguous, or Confusing Question | Collateral Impeachment | Privileged Document |
| Compound / Complex Question | Calls for Opinion without Expert Qualification | Illegible or Altered Document |
| Argumentative Question | Calls for Opinion without Expert Qualification | Improper Foundation |
| Improper Character / Prejudicial Question | Assumes Facts not in Evidence | Mischaracterisation of Evidence |
| | Cumulative / Repetitive Questioning | Assumes Document Speaks for Itself |
| | Witness Coaching Implied in Question | Improper Expert Testimony |
| | Ultimate Issue Question | Compound Hearsay in Documents |
| | Speculation about Law or Future Events | |

Table 1: classification of objections**COMPARATIVE STUDY OF EVIDENCE LAW: INDIA AND THE UNITED STATES**

While they accomplish the same goal, objections in India and the US take quite different forms. The difference lies in who makes the decision: a lay jury in the United States versus a judge with legal training in India.

In India, the law of evidence is regulated principally by the Bharatiya Sakshya Adhiniyam, 2023 (BSA 2023), a new legislation enacted that superseded the colonial law Indian Evidence Act, 1872, but continues to be the cornerstone of the rules of evidence in contemporary trials. The system is nearly entirely judge-centric; it is the judge who balances admissibility, relevance, and probative value, and the judge who finally determines both law and fact.

Objections are made in court but usually marked and reserved for fuller deliberation in the judgment, and not decided on the spot. It is reasonable in the absence of juries; the judge is presumed to be legally educated enough not to be unduly influenced by an inadmissible comment that finds its way into the record. Historically, India had tried a jury system, but it disintegrated spectacularly after the K.M. Nanavati⁸⁵ trial, in which public sentiment, media hype, and jury prejudice collided so furiously that the Supreme Court intervened and scrapped jury trials for good. Ever since, Indian objections are less protective against prejudice in the moment, and more protective as procedural devices, guaranteeing that disputed evidence during trial can be dealt with appropriately at the appeal level.

In contrast, the United States has a courtroom culture where the jury continues to be at the centre of the trial process, and this significantly influences the nature of objections. Evidence is regulated by the Federal Rules of Evidence (FRE, 1975), a contemporary, very detailed codification that not only dictates what is admissible but when, how, and in what manner it can be presented. The rationale for such specificity is simple: jurors are laypersons, non-lawyers, and thus extremely susceptible to persuasion, theatre, or even a stray inadmissible comment. In contrast to Indian judges, American jurors can't just "un-hear" evidence that is prejudicial, so objections are decided forthwith with the old "sustained" or "overruled." Objections become not only legal formalities, but also tactical tools; lawyers employ them in order to craft what the jury observes, hears, and recalls. The trial becomes a real-time battle of advocacy, in which rules of evidence are both sword and buckler. Briefly, Indian complaints are complaints about maintaining the record for appellate purposes, but American complaints are complaints about safeguarding the purity of the jury's contemporaneous perception, and therefore the FRE is written like a fat, exact manual intended to bar every available avenue of unfair pressure.

CONCLUSION

The study of objections reveals that they are not random interruptions, but carefully calibrated responses that ensure only proper evidence finds its way into judicial consideration. Whether it is an objection to hearsay, to a leading or speculative question, to irrelevant or prejudicial material, or to the improper use of documents and electronic data, each serves as a checkpoint in the evidentiary process. In India, under the Bharatiya Sakshya Adhiniyam, 2023, the judge bears the sole burden of filtering admissible from inadmissible evidence, and objections largely

⁸⁵ *K. M. Nanavati vs State of Maharashtra*, 1962 SCR SUPL. (1) 567

serve to preserve the appellate record. In contrast, in the United States, where a jury determines facts, objections become immediate safeguards against the admission of prejudicial or unreliable material that might unduly influence laypersons. Thus, the very same categories of objections, whether relating to oral testimony, documentary proof, or digital records, function in different ways depending on the procedural framework in which they operate.

What this discussion has hopefully achieved is to render the architecture of objections less opaque. The intricacies of admissibility, relevance, and probative value become easier to understand by placing them within the larger framework of evidence law and comparing their practices across jurisdictions. The reader can now understand that objections cover all types of evidence that may be presented in court, including spoken word, written contracts, photographs, and electronic data. They are not just restricted to stifling a witness or dictating how an advocate should question a witness.

This article has sought to demystify objections and demonstrate their place in the living process of trial advocacy. It is hoped that the clarity gained here will assist students in moots, practitioners in training, and even lay observers, in recognizing not only how objections are made, but why they matter in the pursuit of a fair trial.

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