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EFFECT OF ELECTRONIC EVIDENCES IN INDIA: **AN ANALYTICAL STUDY**

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ABSTRACT

Rapid advancements in digital technologies have led to the transformation of the type of evidence that is introduced in a judicial process in India. Electronic evidence such as emails, CCTV camera recordings, phone logs, chat messages from social networks, and electronic documents have grown to be indispensable in both civil and criminal litigations. In response, the Indian legal structure has acknowledged the validity of electronic record through the introduction of Sections 62 and 63 of the Information Technology Act, 2000 in Bharatiya Sakshya Adhiniyam (BSA), 2023.

Nevertheless, the admissibility of electronic evidences have posed challenges in terms of legal and procedural aspects. For instance, the need for the Section 63 certificate in the admissibility of electronic evidence has generated much jurisprudence, resulting in conflicting decisions initially before the Indian Supreme Court provided some clarity on the matter. The Indian Judiciary has taken an active part in mandating certification of electronic record subject to certain exceptions.

This research paper aims to analyze the effects of electronic evidence in the Indian judicial system in light of its benefits, drawbacks, and jurisprudence. Though the use of electronic evidence has increased effectiveness due to its reliability and accessibility, it has also posed issues related to manipulation, validation, and technological intricacy. In conclusion, it can be stated that though the use of electronic evidence has helped improve the efficiency of justice delivery in many ways, a better legal system for its proper implementation is needed.

INTRODUCTION

This research paper examines the role played by electronic evidence in shaping the Indian judicial process, analyzing its strengths, weaknesses, and legal development. Although the use of electronic evidences has increased efficiency in investigations and prosecutions through the availability of credible and accessible evidence, issues such as manipulation,

authentication, and technical difficulty remain significant challenges. Civil cases have several instances where digital evidence may help to determine the outcome of contract cases, intellectual property cases, defamation cases, and many others. Nevertheless, the use of digital evidence is governed by the law, and its improper handling may lead to abuse or violation of personal rights. Some of these include data manipulation, illegal access, or encryption.¹ The laws that govern digital evidence in India include the Information Technology Act (2000) and Bharatiya Sakshya Adhiniyam (BSA), 2023.

The judiciary was faced with challenges arising from cases of electronic data, thus giving rise to a need for the creation of legal rules regarding the admissibility and authenticity of electronic evidence. Court rulings became instrumental in providing guidelines on the use of electronic records in both criminal and civil cases. Also, on the case of Abdul Rahaman Kunji v. State of West Bengal², the high court of Calcutta stated that an email downloaded and printed from the email id of a person can be proved by Section 63. Testimony of witness to carry out such procedure to download and print the same and is sufficient to prove communication.

In the case of Bhim Rathke v. R.K. Sharma³, the court dismissed the application of a complainant who sought for serving of summons through email and WhatsApp. The reason court rejected the application was because the court system does not have the facility to affect the service through electronic mode. However, there are some exceptional cases in which the court can use the certain electronic medium for service of summons.

The research paper asserts that while the use of electronic evidence has considerably enhanced the effectiveness of justice delivery, it is imperative that a better technological legal system be adopted. The increasing role played by electronic evidence has made a great difference in the dispensation of justice in India. It has helped improve the process of investigations as well as provided easy access to authentic evidence for prosecuting crimes committed using technological resources. However, along with the advantages, it has also added complexities related to issues like authenticity, security of data, and digital manipulations. This is why knowing about the effect of electronic evidence will be important.

¹ Naishadha Mekala, "Revisiting the Admissibility of Electronic Evidence in India: A Study", 2(3) IJLAE (2024)

² Abdul Rahaman Kunji v. State of West Bengal [2016 CLRJ 1159]

³ Bhim Rathke v. Mr. R.K. Sharma on 22 February, 2018

STATEMENT OF THE PROBLEM

The fast pace development in terms of technological advancement and use of internet for communication has resulted in increased use of electronic evidence in court procedures in India. Emails, WhatsApp messages, social media communications, CCTV recordings, call detail records, and other digital transactions have become commonly used evidence to prove facts related to the case in hand. Despite their increasing relevance, the legal basis of using such types of records in the court of law remains based on the relevant provisions of the Information Technology Act, 2000 and Bharatiya Sakshya Adhiniyam, 2023, including provisions outlined in Section 63 of BSA. Problems may arise when dealing with electronic evidence due to various reasons, including data manipulation and alterations, loss, and hacking. The problem is related to the question of the proper and reliable presentation of electronic evidence in court and assessment of its authenticity. Hence, the major challenge is to analyze critically the issue of the effect of electronic evidence in India to define whether it has sufficient regulation for proper use in legal cases.

RESEARCH OBJECTIVES

- To examine and analyze the legal system governing electronic evidence in India
- To analyze the judicial interpretation and evolving role of Section 63 certification in the admissibility of electronic evidence.
- To evaluate the benefits, impact and practical importance of electronic evidence in strengthening the Indian criminal justice.
- To analyze the key challenges related to authenticity, admissibility, and reliability of digital evidences in Indian judicial system.

RESEARCH QUESTIONS

1. How has the admissibility of electronic evidence evolved through judicial interpretations in India?
2. To what extent does Section 63 of Bharatiya Sakshya Adhiniyam (BSA), 2023 ensure the reliability and authenticity of electronic records in court proceedings?
3. What effect does the increasing dependance on digital evidences have on the efficiency and fairness of the Indian criminal justice system?

HYPOTHESIS

The increasing utilization of electronic evidences in India has positively transformed the judicial processes by improving the availability, accessibility, and dependability of proof in legal proceedings. Though, its effectiveness is often restricted by strict procedural needs under Section 63, which may influence the admissibility of key digital evidences.

LITERATURE REVIEW

Singh and Dhiman (2025)⁴ discusses the developing intersection of cybercrime, AI, and digital evidence in relation to Indian law. According to the researchers, the growing application of AI technology in today's environment has created serious complications in relation to the concept of digital evidence, especially in relation to its reliability, attribution, and authenticity. They believe that the advanced level of manipulation of data with the help of AI systems has made it quite difficult for the existing provisions of Bharatiya Sakshya Adhiniyam (BSA), 2023 to effectively cope with the challenges that exist in the contemporary world. The difficulty faced by investigative agencies and even the courts in authenticating the AI-based digital information is also pointed out. It has been argued that section 63 can only provide a basic guideline to this end.

Venkatasubramanian (2024)⁵: The author delves into the changing judicial standards regarding the admission of electronic evidence in India. In particular, she discusses the changing standards due to technological developments and the way courts have adopted to keep up with the new technology. She identifies some of the trends among the decisions rendered in the Supreme Court of India and notes that there is a transition from informal to a more formal approach regarding the interpretation of Section 63 of BSA. The research identifies the role played by the Supreme Court in standardizing the standards for electronic evidence, especially in terms of the necessity of certification for authentication purposes. She also highlights how lower courts have adopted a formal procedure-oriented approach to electronic evidence, which at times compromises substantive justice.

Reddy and Mehta (2025)⁶ critique Section 63, especially with respect to procedural hurdles

⁴ Singh, Sahibpreet & Dhiman, Shikha, Cybercrime and Digital Evidence in India, IJLDP (2025).

⁵ Venkatasubramanian, K. S., Electronic Evidence and the Indian Judiciary: Emerging Standards of Admissibility in the Digital Era, IJLT (2024)

⁶ Reddy, Ananya & Mehta, Revisiting Section 63 of the Indian Evidence Act, NALSAR Law Review (2025)

faced in the authentication process. The authors contend that while the purpose behind the section was to provide reliability to electronic records, the need for a certificate in the process may pose procedural problems for litigants. In particular, obtaining such certificates becomes difficult when the records are held outside the control of the party to litigation by virtue of being stored in third-party servers or other cloud-based storage facilities. The problem has been compounded further by the fact that there have been instances in which the courts have adopted a stringent view in such cases. However, it should be noted that even in light of the guidelines provided by the Supreme Court, problems remain with regard to the practical application of the provisions of Section 63.

Sharma (2025)⁷ reviews the evolution of the evidence laws in the context of increasing digitization and the usage of digital records for proving cases in India. The research centers on judicial interpretation of digital evidence under BSA, especially the amendments that have been introduced through Sections 62 and 63. In particular, the researcher emphasizes the pivotal role of judicial interpretation in the development of criteria for admissibility of digital evidence in a number of important Supreme Court judgments involving Section 63. While the authors note that the courts have tightened security measures in order to protect electronic records from any manipulations, they have simultaneously imposed more rigorous conditions regarding their admissibility. It is concluded that the digital revolution in the evidence law in India involves a delicate balance among the issues of evidence authentication and availability; however, additional doctrinal clarity is still necessary.

LEGAL FRAMEWORK GOVERNING ELECTRONIC EVIDENCE IN INDIA

The laws related to digital evidences in India can be considered to be based mainly on Bharatiya Sakshya Adhinyam (BSA), 2023, as well as on the provisions of IT Act of 2000. It is necessary to note that both acts make sure that electronic documents receive proper legal status and establish the criteria for their acceptability.

Bharatiya Sakshya Adhinyam (BSA), 2023

The Evidence laws initially only considered conventional types of evidence like oral evidence

⁷ Sharma, Ritu, Digital Transformation of Evidence Law in India: Critical Study of Judicial Interpretation of Electronic Records, JILS 34-39 (2025)

and documentary evidences. But with the development of technology and the use of digital documents, there was an amendment to BSA, and electronic records were included as part of evidence in law. This was mainly achieved by the IT Act, 2000 through Sections 62 and 63.

Section 62 is essentially a gateway section that allows for the admission of electronic records as a unique type of evidences in the context of Indian Law. It also explains that the content of digital records can be admitted as evidence subject to the procedure prescribed in Section 63. In other words, Section 62 does not offer a separate procedure for proving electronic records; rather, it guides the court toward considering Section 63 for the proper procedure.⁸

Section 63 constitutes the primary piece of legislation regulating the admissibility of digital evidences. The section provides for a legal process under which online records may be entered in evidence in court without presenting the original devices from which the information was generated. According to Section 63, any electronic record containing information that appears in print form, as well as information stored or recorded in electronic format, shall be considered the document and may be presented as evidence in court, subject to certain requirements.

It is stated in Section 63 that the computer from which the information is extracted must be used to frequently store or process information and that the data had been fed into the system in the normal course of operation. It should also be demonstrated that there were no problems with the computer that would affect the reliability of the digital records. Apart from this, Section 63 also requires that a certificate be issued in accordance with sub-section (4), confirming the process of generating the electronic record and ensuring that all the requirements of the statute have been complied with. This certificate is regarded as crucial for making electronic evidence credible in courts.⁹

Information Technology Act, 2000

IT Act 2000 is the basis upon which electronic documents and electronic communication will be recognized legally in India. The Act was put in place to facilitate digital governance, to regulate ecommerce and give legality to transactions that occur electronically. The Act plays an important part in facilitating the process of giving evidentiary value to electronic documents. Section 4 of IT Act stipulates that where there is a need by any law for information or documentation to appear in writing or typing or printing, that requirement is to be considered

⁸ Sonone, et al, Admissibility of Electronic Record under Section 63 of the Indian Evidence Act Vis-à-Vis Judicial Interpretation, IJSRS&T (2024)

⁹ Goyal, Himani Raj & Mali, Digital Evidence under the Indian Legal System – Study of Problems and Perspective, JNS (2025)

met if that information appears in electronic format and can be accessed in the future. This provision helps to accord legal equality between paper documents and their electronic equivalents making communication through electronic documents lawful. Section 3 and 5 recognize the importance of electronic signatures as a mechanism for proving electronic authenticity of documents. Electronic signatures help authenticate and prove the origin of the electronic document.

Apart from recognizing electronic record, the Information IT Act has revised the Indian Evidence law by adding Sections 62 and 63. Such provisions ensure that the electronic records are incorporated in the Indian legal framework and follow a systematic process regarding their admission in courts. Moreover, it should be noted that the Act also helps in ensuring the reliability of the electronic evidences through the inclusion of cyber security, data protection, and e-governance.

Conditions for Admissibility under Section 63

There are certain conditions laid out in Section 63, which have to be fulfilled for allowing the electronic record to be treated as evidence in court. Firstly, it is required that the electronic record must have been produced by means of computer or electronic device that has been used continuously during the relevant period for storing and processing of information. The record should consist of information that had been put into the computer or device for storage or processing as usual and not just for purposes of litigation. It should also be established that the computer or electronic device had been operating normally during the time of relevance and if at all there had been any malfunctioning then it would not affect the production of information in any way. These requirements together make sure that the electronic record is indeed reliable.¹⁰

Production of certificate under sub-section (4) is another important requirement in Section 63. Such a certificate will have to contain information about the process by which the digital record was made, mention the characteristics of the device used for making the document, and prove that the requirements stated as per Section 63(2) have been fulfilled. This certificate has to be issued by a person who holds an important official rank relative to the functioning of the device or the conduct of such activity.¹¹ The need for such a certificate is to remove all kinds of doubts regarding tampering with the electronic records.

¹⁰ Kharb, Deepa, Admissibility of Electronic Records as Secondary Evidence under Section 63 of the Indian Evidence Act, DJCL (2018)

¹¹ Vaidialingam, Ashwini, Authenticating Electronic Evidence (2015)

JUDICIAL APPROACH

State (NCT of Delhi) v. Navjot Sandhu¹² In the K.A. Abbas case, the Supreme Court dealt with one of the early cases on electronic evidence in the form of mobile telephone records and electronic communication entries. In its judgment, the Supreme Court took a relatively liberal stand in relation to electronic evidence, accepting the admissibility of electronic records even in the absence of strict compliance with the provisions of Section 63. The Court accepted secondary evidence in accordance with Sections 63, saying that “computer output material” could be proved by oral evidence or documentary evidence.

In this way, the judgment paved the way for the easy admission of electronic evidence without any procedural difficulty. Nevertheless, by taking a liberal stand on this issue, the court left open a doubt as to whether the strict adherence to Section 63 is mandatory in the context of admissibility of electronic evidence. This liberal judgment was ultimately overruled in subsequent cases, notably in the Anvar P.V. case.

Anvar P.V. v. P.K. Basheer¹³ decision was important in Indian law of evidence because of its stringent interpretation of Section 63 of the Act. The Supreme Court overturned the previous case law of Navjot Sandhu, stating that electronic evidence falls into a distinct class of evidence and is required to be proved only as per the provisions of Section 63 and not as per the provisions of Sections 63 BSA.

The Supreme Court also stated in this judgment that a certificate as per the provision of Section 63(4) of the Act was necessary for the proof of electronic evidence unless the original electronic record was itself brought into the courtroom. The rationale of the Supreme Court in this case was that electronic data could easily be tampered with.

Shafhi Mohammad v. State of Himachal Pradesh¹⁴, An attempt has been made by the Court to dilute the strict rule formulated in Anvar PV about the procedural necessity of a certificate under Section 63. According to the judgment, the necessity of a certificate under Section 63 is procedural and could be dispensed with in situations where the person relying on electronic documents did not have the device from which such records emanate. The judgment brings

¹² (2005) 11 SCC 600

¹³ (2014) 10 SCC 473

¹⁴ (2018) 2 SCC 801

about a degree of flexibility into the law, emphasizing the concept of justice rather than adherence to procedural niceties. Despite the above-mentioned defects, the judgment remains a landmark case as far as judicial concerns regarding procedural rigidity impeding justice are concerned.

Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal¹⁵ The decision is the most authoritative ruling on electronic evidence in India. The Supreme Court resolved the conflicting interpretations between Anvar P.V. and Shafhi Mohammad and reaffirmed that compliance with Section 63(4) is mandatory for the admissibility of electronic records. The Court held that electronic evidence cannot be admitted without a certificate unless the original device is produced in court for inspection.

The judgment clarified that Section 63 is a complete code governing admissibility of electronic records and must be strictly followed to ensure authenticity and prevent tampering. It also recognized practical difficulties in obtaining certificates and directed courts to assist parties in securing them when required. By restoring legal certainty, this case has become the cornerstone of Indian law on electronic evidence and continues to guide courts in handling digital records in criminal and civil proceedings.

The latest judgment in relation to electronic evidence, which deserves close attention, is the one delivered in Ravindra @ Ravi Bansi Gohar v. State of Maharashtra¹⁶. This judgment clearly emphasizes the necessity of strict adherence to the provisions contained in Section 63 for admissibility of any electronic record as evidence in a proceeding. The Court highlighted that no electronic evidence like call records, CCTV recordings, and emails can be brought into evidence without accompanying 63 certificate, barring cases where the original device is produced before the court. As can be seen, this judgment continues to follow the well-established precedent laid down in this case in terms of emphasizing the necessity of procedural adherence. Nevertheless, this decision once again brings to light a problem of tension between proceduralism and practice in terms of getting certification of electronic evidence.

Dell International Services v. Adeel Feroze¹⁷ The case primarily dealt with the misapplication

¹⁵ (2020) 7 SCC 1

¹⁶ (2022) 5 SCC 581

¹⁷ LPA 815/2024 & CM APPL. 48118/2024

and use of electronic records, especially emails, in a case concerning employment. The court deliberated on the admissibility and authentication of electronic evidence brought forth by both parties and whether such evidence conformed to the standards stipulated for electronic records under BSA. The ruling underscored the need to authenticate any form of electronic evidence and provide necessary certification to validate such evidence in court cases.

In the years that followed, printed versions of CDRs were admitted in evidence if they were certified by an officer of the telephone company under sections 63 of BSA. The special procedure of section 63 was ignored. This has led to confusion and counter-claims. In *Amar Singh v. Union of India*¹⁸ saw all the parties, including the state and the telephone company, dispute the authenticity of the printed transcripts of the CDRs, as well as the authorisation itself.

In *Avnish Bajaj vs. State*¹⁹, the question as to what kind of distinction do we draw between Internet Service Provider and Content Provider was raised. The burden lies on the accused to prove that he is the service provider and not the content provider. There are many other issues that this crime brings up as regards the approach of the police to cyber crimes, with education being much needed.

CHALLENGES OF ELECTRONIC EVIDENCES

Authenticity and reliability of the digital evidence have been among the foremost problems associated with electronic evidence. As compared to traditional documentary evidences, digital evidence can be altered, tampered, or fabricated utilizing various software tools in an easy manner without creating any tangible indications. The process of copying and transferring electronic data makes it difficult for courts to establish whether the evidence is actually the original information or is in fact fabricated at some point in time. Another key challenge with respect to the digital evidence in India arises from the procedural requirement of Section 63 certificate.²⁰

As per the requirements of this section, every piece of digital evidence should have a certificate in compliance with its conditions attached to it. However, in many cases, such evidence could

¹⁸ (2011) 7 SCC 69

¹⁹ 116 (2005) DLT 427

²⁰ *Soni and Sonika Bhardwaj, Admissibility of Electronic Evidence under the Indian Evidence Act, 1872, IJM* (2020)

not be certified by the person who created the document since it is generally in the possession of third parties like service providers, government authorities, or cloud computing organizations. Therefore, it becomes quite difficult to use such documents as electronic evidence in the court of law.²¹

Apart from the legal and procedural hurdles, technical and security related concerns also stand in the way of using e-evidence. Judges, along with legal practitioners, often do not possess adequate knowledge regarding technical aspects of complicated digital technology, resulting in an absolute dependence on expert witnesses. Also, cyber security problems like hacking, intrusion, and data manipulation remain a significant threat to the integrity of e-evidence. All these factors together indicate the importance of improved technical infrastructure and updated laws to facilitate the use of e-evidences in India.

CONCLUSION AND SUGGESTIONS

The advent of electronic evidences have had a substantial impact on the Indian judicial system in the context of widening the scope and the nature of proof to be admitted as evidence in civil and criminal proceedings. As technology advances rapidly, making way for efficient means of communication and record keeping, electronic records like e-mails, video clips from CCTV, Call Data Records and information shared on social media websites play a significant role in the present day litigation process. The statutory recognition of electronic records as legal evidence is provided under Section 3 of BSA and Section 63.

Interpretation of laws by courts plays a key role in determining the criteria for admitting digital evidences. Though emphasis on authentication and reliability has been stressed by the courts through certification requirement of Section 63, it also creates some difficulty while deciding whether or not the said provision should apply in case of any electronic evidence. In certain cases, the necessary technical criteria have not been met for accepting the evidence produced as electronic evidence.

In spite of all the strengths of the application of electronic evidence, it faces numerous obstacles, including the absence of legal skills in IT professionals, possible cyber security problems, as well as possibilities for tampering and manipulation of information. Such issues

²¹ Vaibhav Chadha, Critical analysis of the law on admissibility of electronic evidence in India, SPRINGER (2024)

demonstrate another aspect of difficulties connected with the utilization of electronic evidence, namely, the gap between legal theory and technological practice, which complicates the evaluation process. The legal system needs to develop along with evolving technologies.

Therefore, it could be proposed to simplify procedural rules described in Section 63 to decrease complications connected with the admissibility of information. In addition, regular training programs should be organized to make judges, attorneys, and investigators acquainted with modern digital technologies and methods for forensic research of information. Development of effective cyber security systems and introduction of common procedures for dealing with digital evidence can also improve the reliability of data. It goes without saying that legislative measures aimed at adapting the law to new technologies need to be implemented.

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