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Expert Evidence under Bharatiya Sakshya Adhiniyam, 2023: Scope, Reliability and Judicial Evaluation

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Abstract:

The law of evidence plays a crucial role in the administration of justice, as it sets the rules for proving facts in court. One important type of evidence is expert evidence, which is especially useful in cases that involve specialized knowledge, like science, medicine, or technology. Recently, India introduced a new law called the Bharatiya Sakshya Adhiniyam, 2023, which updates the old Indian Evidence Act of 1872. This paper looks at how the new law handles expert evidence, focusing on its scope, reliability, and its judicial evaluation. Using a framework that considers the role of institutions in shaping public policy, this study argues that expert evidence is only effective if the institutions that support it, such as courts, forensic labs, police, and regulatory bodies, are functioning well. The paper also examines how courts use expert opinions, showing that they are often seen as advisory rather than definitive. It highlights current challenges, including inadequate forensic infrastructure, delays in getting expert reports, questionable scientific methods, and judges relying too heavily on specialized evidence. In conclusion, while the new law strengthens the framework for using scientific and digital evidence, its success depends on significant reforms to institutions, professional training, and judges' ability to critically evaluate expert evidence. This is essential to ensure that justice is served and that expert evidence is used effectively in court. The new law is a step in the right direction, but it requires a broader effort to build a durable well-designed system that supports the use of expert evidence in India's justice system.

Keywords: Expert Evidence, Bharatiya Sakshya Adhiniyam, 2023, Judicial Evaluation, Reliability of Evidence, Forensic Science, Opinion Evidence, Indian Evidence Law, Institutional Model, Digital Evidence, Criminal Justice Reform.

I. Introduction:

The justice system relies heavily on the court's ability to uncover the truth, and this is done by looking at evidence that is allowed in court. Every case, whether it's a civil or criminal one, needs to figure out what really happened when people disagree on the facts. But a lot of modern cases involve things that judges and regular people might not fully get. For example, things like figuring out what's wrong with someone

medically, what caused someone's death, testing bullets, investigating cybercrimes, analysing DNA, matching fingerprints, checking handwriting, looking at finances, evaluating mental health, and getting electronic data all require special knowledge. In these situations, the legal system needs experts to give evidence to help the court make informed decisions. This expert evidence is crucial in helping the court understand complex issues and make the right call. By having specialists share their knowledge, the court can get a better grasp of the facts and make a fair decision.

In the legal system, expert evidence plays a special part. It's different from what regular witnesses say, because they're just talking about what they've seen or heard. Experts, on the other hand, give their opinions based on their special skills, training, and experience in their field. They don't get to decide how a case turns out, but they do provide important scientific or technical information that helps figure out tricky issues. So, expert evidence is meant to support the judges' decisions, not make them on its own.

The Indian Evidence Act, a legislation from 1872, served as the foundation for India's previous regulations regarding the testimony of experts in court. This rule was a fine place to start when determining what constitutes proof, but since society, technology, commerce, and crime rapidly evolved over time, it became evident that the law needed to be revised. It became evident that the previous legislation was insufficient when new forms of crime, such as cybercrime, and new technologies, such as artificial intelligence and biometric identification, emerged. Additionally, the law did not take into consideration cross-border digital communications and transactions. In order to address these issues, the government enacted the Bharatiya Sakshya Adhinyam in 2023. This rule was a fine place to start when determining what constitutes proof, but since society, technology, commerce, and crime rapidly evolved over time, it became evident that the law needed to be revised. It became evident that the previous legislation was insufficient when new forms of crime, such as cybercrime, and new technologies, such as artificial intelligence and biometric identification, emerged. Additionally, the law did not take into consideration cross-border digital communications and transactions.

The enactment of BSA 2023 represents a noteworthy change in India's legal framework. It aims to align traditional evidence principles with technological advancements, especially regarding electronic records and scientific proofs. In this broader reform, expert evidence becomes increasingly vital since modern legal proceedings often hinge on technical reports and professional opinions. Courts today deal with significantly more scientific material than earlier in legal history.

II. Literature Review:

The admissibility and importance of expert evidence have long been significant topics in legal research. John Henry Wigmore viewed expert evidence as a practical necessity when judges lack the technical expertise to assess complex matters. He argued that expert evidence helps courts connect law and science. Jeremy Bentham noted that evidentiary rules should help uncover the truth rather than hinder it through technical formalities. This view supports the role of expert evidence in current legal cases.

Some legal theorists are worried about the way things are going. They think that people who are supposed to be experts might not be telling the whole truth, or they might be getting paid to say certain things. Sometimes, the way they do their research is not good enough. And the worst part is, this has led to people being wrongly accused and convicted in different parts of the world, all because of forensic evidence that wasn't reliable.

There are some big problems with how evidence is handled in India. For one, there's a huge backlog in the labs where they analyse evidence, which can slow down investigations. Also, many of these labs aren't properly accredited, which means they might not be doing their jobs correctly. Investigators often don't get the training they need to properly collect and analyse evidence. Sometimes, they rely too heavily on experts in handwriting or medicine without getting a second opinion. And with cybercrime on the rise, there's a growing need for experts who can analyse digital evidence, but right now, the institutions just aren't equipped to handle it.

Thus, the literature presents two opposing views. On one hand, expert evidence is essential in complex, technology driven societies. On the other hand, it can pose risks if courts do not scrutinize its reliability. This paper places the Bharatiya Sakshya Adhinyam, 2023 within this tension.

III. Theoretical Framework: Institutional Model of Public Policy:

This research uses a specific framework, called the Institutional Model of Public Policy, to examine how expert evidence works under a new law called the Bharatiya Sakshya Adhiniyam, 2023. The Institutional Model looks at how government decisions are made and how they become official policies. It says that policies are considered legitimate because they are created and enforced by established government institutions, like courts and regulatory bodies. These institutions give policies their legal authority, making them official and binding. By using this framework, the study aims to understand how expert evidence fits into this process and how it is used to inform policy decisions. The Institutional Model is helpful in understanding how policies are made and implemented, and how they gain legitimacy and authority. It highlights the importance of government institutions in shaping public policy and ensuring that it is effective and fair.

The Institutional Model is different from other models that look at pressure groups, elite influence, or small policy changes over time. Instead, it focuses on the structure, powers, and functions of public institutions. This model says that institutions don't just enforce laws, but they also influence what the laws say and how well they work. So, to really understand any changes to policies, we need to look at how institutions create, apply, and support those changes. This means we have to examine the role of institutions in shaping policy reforms, and how they affect the outcome of those reforms. By doing this, we can get a better understanding of how policies are made and implemented, and what impact institutions have on the process.

When it comes to expert evidence, this framework is really important. The laws about expert evidence don't just work on their own; they need a whole system of institutions to make them effective. It all starts with Parliament, which sets out the rules for evidence with things like the BSA 2023. Then, the courts come in and decide how to interpret these rules, what evidence is allowed, and how much weight to give to expert opinions. The police play a crucial role too, collecting physical and digital evidence, storing samples, and starting the forensic examination process.

Forensic labs take it from there, conducting scientific tests and putting together technical reports and of course, you have all sorts of specialists, medical boards, psychiatrists, accountants, cyber experts, and more who provide their expert opinions when needed. Over time, higher courts help refine the standards for expert evidence through their decisions. It's a complex system, but it's what helps ensure that expert evidence is used effectively and fairly. This network of institutions works together to make sure that the laws regarding expert evidence are applied in a way that makes sense and is just.

When it comes to legal reforms, they might look good on paper, but in reality, they often don't work out as planned. This is because even if a law says it will use scientific evidence, there are a lot of other things that need to be in place for it to actually work. For example, labs need to have enough money to do their job, investigators need to be well-trained, and judges need to understand the technical stuff. If any of these things are missing, the reform is unlikely to succeed. So, it's not just about what the law says, but also about whether the institutions that are supposed to make it work are actually capable of doing so. This means having clear rules, skilled people, enough resources, and being accountable for what you do. All of these things are crucial for expert evidence to be credible.

In India, having a good framework is really important because of some big problems with the criminal justice system. For example, there are too many old cases waiting to be heard, not enough forensic experts, and some states have more resources than others. There are also issues with technology. All these problems can affect the quality of expert evidence that's presented in court and how quickly it's done.

IV. Scope of Expert Evidence under BSA 2023:

The Bharatiya Sakshya Adhiniyam 2023 has a really wide range of what it considers evidence, and this range is constantly expanding as science and technology advance. This is partly because legal cases are becoming increasingly complex. When a court has to make a decision on something that's not straightforward or can't be figured out just by looking at it or using common sense, that's when expert evidence comes in. In these situations, specialists who have a lot of knowledge or experience are crucial in helping the court make a fair decision. They can provide insights that might not be immediately apparent, and their expertise can be vital in ensuring that justice is served. As a result, their role in the legal process is becoming more and more important.

In the past expert evidence was mostly used in areas like handwriting, fingerprints, medical science and foreign law. Now there are many more areas where expert help is needed. The Bharatiya Sakshya Adhiniyam 2023 takes this into account by allowing types of proof like scientific and digital evidence.

The scope of evidence includes the following:

1. Medical Evidence

Medical evidence is a crucial type of expert evidence, often provided by doctors and medical specialists. They are typically called upon to share their opinions on various aspects, such as the cause of someone's death, the nature of their injuries, their age, any pre-existing health issues, and whether they were under the influence of alcohol at the time. Additionally, they may be asked to determine if the person was pregnant, attacked, or hurt, and if someone was negligent in their actions. In the context of trials, reports from post-mortem examinations and injury certificates hold significant importance. Moreover, medical experts can play a vital role in supporting claims for compensation, resolving insurance disputes, or lawsuits related to negligence. Their expertise can help establish the facts of a case and provide valuable insights into the circumstances surrounding an incident. By analysing medical evidence, experts can help identify patterns, inconsistencies, and potential causes of injuries or deaths, ultimately contributing to a more informed decision-making process.

2. Forensic Science Evidence

Criminal law now relies a lot on science. Experts in labs can give reports on things like fingerprints, DNA, blood tests, toxicology, examining bullets, drugs, voice identification and other types of evidence. This is especially important in cases of murder sexual crimes organized crime, terrorism and when someone's body is not identified.

The increasing use of forensic evidence in investigations marks a significant shift away from relying solely on confessions, and towards a more scientific approach to uncovering the truth. By using science to guide the process, the outcome becomes fairer and more unbiased, which is a major step forward in ensuring justice is served. This change is making the whole system more reliable and trustworthy, and that's a good thing for everyone involved.

3. Handwriting and Signature Analysis

When there are disputes about signatures, fake wills, changed contracts, fake checks, anonymous writing and who wrote something experts in handwriting and documents are needed. These specialists look at signatures, ink, paper quality writing patterns and any changes that were made. This type of evidence is very important in disputes matters related to inheriting money, banking issues and cases of forgery.

4. Digital and Electronic Evidence

Because digital technology is used more and more the scope of evidence has grown a lot. Courts often need expert help with things like records recovering data, cyber fraud, hacking, tracing emails, analysing metadata looking at call records checking if CCTV footage is real getting data from mobile devices, transactions using blockchain and evidence from social media.

5. Financial and Valuation Experts

Commercial disputes often involve financial questions that judges may not fully understand. Experts like chartered accountants, auditors, valuers, economists and financial analysts can give their opinions on things like how much a company's worth tax issues, insolvency, fake accounting, how markets work, damage assessments and competition law. As commercial lawsuits get more specialized expert financial evidence becomes more important.

6. Foreign Law and Specialized Practices

In cases where a dispute involves contracts that are governed by law or international commercial agreements, courts often require experts who are well-versed in foreign legal systems. This is particularly crucial in cross-border business disputes, family matters, extradition proceedings, and international arbitration, as the nuances of different legal systems can have a significant impact on the outcome of the case. Having experts who understand these complexities can help ensure that the legal process is fair and effective.

7. Psychological and Behavioral Expertise

Psychiatrists, psychologists and behavior specialists can give their opinions on things like illness if someone is fit to stand trial if they are responsible for a crime assessing trauma, child custody, how juveniles behave and if a witness is vulnerable. This kind of expertise is more and more important in family law, criminal law and cases involving child protection.

8. Evidentiary Assistance, Not Judicial evidence

When we're talking about evidence, it's really broad and covers a lot of ground. But here's the thing: expert evidence is meant to help the court, not make the final decision. Experts are there to explain things and make issues clearer, but they don't get to say what's legally right or wrong, or whether someone is guilty or not. In India, the Bharatiya Sakshya Adhiniyam, 2023, plays a big role in how expert evidence is used in court, and it's really important for helping judges make informed decisions.

V. Reliability of Expert Evidence:

When it comes to expert evidence, just because it's accepted doesn't mean it's accurate or important. What really matters is how reliable it is - can it be trusted, is it based on good science, and is it free from bias? This reliability is key to helping the court make a fair decision. In India, the Bharatiya Sakshya Adhiniyam, 2023, says that expert opinions are valuable because they bring specialized knowledge to the table. However, their impact in court depends on how trustworthy they are and how rigorously they were obtained. If an expert's opinion is flawed or biased, it can't be relied upon to help the court make a just decision. So, it's crucial to carefully evaluate expert evidence and consider its limitations to ensure that justice is served.

It's really important that we can trust the evidence given by experts in court. This is because judges often have to make decisions about complex technical issues that they can't check for themselves. If the evidence from experts like forensic scientists, doctors, or digital specialists is not reliable, it can lead to serious mistakes. People might be wrongly convicted or acquitted, or the wrong decision might be made in a civil case. That's why courts need to make sure they're getting reliable evidence from experts when they're making their decisions. They have to be careful to check that the evidence is trustworthy and accurate, so they can make fair and just decisions.

VI. Judicial Evaluation of Expert Evidence:

Indian courts have consistently underscored that expert evidence, while relevant and often beneficial, inherently constitutes a form of opinion validation. Expert evidence helps the court understand specialized matters, but it doesn't directly prove data that has been seen or heard. So, courts have always said that expert opinion is more of a warning than a final word. The following opinions show how the courts look at expert evidence.

State of H.P. v. Jai Lal

This particular case is a key reference point when it comes to understanding the value of expert evidence in the Indian legal system. The Supreme Court made some important points about what constitutes an expert; basically, someone who has developed specialized knowledge, skills, or experience in a specific area, and whose opinion can help the court understand complex issues that are beyond the average person's understanding. However, the Court also emphasized that just because someone is considered an expert, it doesn't mean their opinion is automatically accepted by the court. The court still has to carefully consider the evidence and make its own decision. In other words, being an expert is not enough - the court needs to be convinced by the expert's opinion and consider it in the context of the entire case. This approach ensures that the court makes informed decisions based on a thorough evaluation of the evidence, rather than simply relying on an expert's status or opinion.

The Court decided that expert opinions must be carefully checked like any other evidence. This means they should be tested through cross-examination, looking at the surrounding circumstances, and using logical reasoning. Judges need to see if the expert has clearly explained how they came to their conclusion, if the methods they used are reliable, and if their opinion matches the other evidence presented. They have to make sure the expert's opinion is based on solid grounds and is consistent with the rest of the information available.

A key point from this case is that judges should not let experts make all the decisions. What experts say is only final if it makes sense and is backed up by good reasons. If an expert's opinion is not supported by facts, or if it goes against what we already know, then it's not reliable; especially if the report just sounds like theory.

This decision still largely applies under the BSA 2023, as it confirms that even the most modern and advanced scientific evidence must be carefully examined by the court before it can be accepted.

Ram Narain v. State of Uttar Pradesh

This case dealt with the evidentiary value of handwriting expert evidence. The Supreme Court held that handwriting expert may help the court in comparing disputed jottings, autographs, and authorship. Still, the Court also advised that handwriting analysis isn't an exact wisdom and may involve rudiments of query.

The court noted that handwriting evidence isn't very strong on its own. Similarities in writing style can happen by chance, and differences can be due to someone trying to disguise their writing, or because of age, illness, nervousness, or the conditions they were writing in. So, relying only on what a handwriting expert says might not be safe, especially in serious criminal cases where guilt has to be proven beyond a reasonable doubt.

The court's decision highlighted the importance of backing up handwriting expert evidence with other types of evidence, like admissions, circumstances, or physical evidence. This approach helps prevent decisions from being based solely on uncertain expert opinions. The case still influences how courts handle matters involving fake signatures, disputed choices, cheques, contracts, and questioned documents. According to the BSA 2023, it reinforces the idea that expert evidence becomes more reliable when supported by additional evidence.

VII. Contemporary Challenges in India:

While the Bharatiya Sakshya Adhiniyam, 2023 provides a renewed statutory frame for expert evidence, several contemporary challenges continue to affect the effective use, trustability, and judicial appreciation of similar evidence in India. The adding dependence on forensic wisdom, digital technology, and technical knowledge has made expert evidence more important than ever ahead. Still, institutional sins, procedural limitations, and arising technological pitfalls frequently hamper its proper functioning. These challenges demonstrate that legislative reform alone is inadequate unless supported by practical capacity and nonsupervisory safeguards.

1. Forensic Backlogs

One of the most serious challenges is the deficit of ultramodern forensic structure across numerous corridors of India. Several forensic wisdom laboratories face inadequate staffing, outdated outfit, lack of advanced testing installations, and shy backing. As a result, scientific examinations may be delayed or limited in quality. Where laboratories are overburdened, the delicacy and speed of reports may suffer. Since felonious trials constantly depend upon DNA, ballistic, point, or toxicology reports, weak forensic structure directly affects the administration of justice

2. Uneven Quality norms

Delayed forensic or medical reports remain a recreating problem. In numerous cases, months or indeed times may pass ahead laboratory findings are submitted to the court. similar detainments protract disquisition, defer trials, weaken evidence memory, and increase case backlog.

In felonious matters, delayed reports may also affect the rights of indicted persons who remain in guardianship while awaiting specialized evidence. therefore, punctuality is an essential dimension of justice.

3. Limited Judicial Scientific knowledge

Not all expert institutions follow the same scientific rules all the time. There can be differences in how they test things, check that things are okay, train their staff, and make sure everything is good quality. Some institutions might have really advanced ways of doing things, while others might just be starting out and need some basic help to get going. This means that even though they're all supposed to be following the same rules, they might not all be doing things exactly the same way.

Without harmonious delegation and independent auditing, the credibility of expert evidence may vary extensively across authorities. Lively public norms are thus necessary to maintain confidence in specialized evidence.

4. Police Dependency

Modern expert evidence frequently involves sensitive particular data similar as DNA samples, internal health records, biometric identifiers, mobile phone contents, and private dispatches. The use of similar material raises enterprises regarding sequestration, concurrence, data security, and abuse. As digital evidence expands, balancing evidentiary necessity with indigenous rights becomes decreasingly important.

5. Growth of Cybercrime

The rapid-fire expansion of cyber offences presents new evidentiary challenges. Hacking, identity theft, ransomware, cryptocurrency fraud, deepfake content, data breaches, and online importunity bear advanced specialized moxie. Digital evidence is unpredictable, fluently altered, and frequently spread across multiple authorities.

Traditional investigative structures may struggle to keep pace with the speed and complication of technological crime. This creates a critical need for technical cyber forensic capacity under BSA 2023.

VIII. Policy Recommendations:

In order to ensure that expert evidence under the Bharatiya Sakshya Adhinyam, 2023 functions effectively, legislative reform must be accompanied by strong institutional measures. Since expert evidence decreasingly influences felonious trials, civil controversies, marketable action, and cyber examinations, the quality and credibility of similar evidence directly affect the administration of justice. The following policy recommendations are thus essential.

1. National Accreditation Framework

An invariant delegation medium should be introduced for all forensic laboratories and expert institutions. Regular check-ups, peer review, formalized protocols, and compliance monitoring would insure trustability and thickness in specialized reports. Accreditation would also enhance public confidence in scientific evidence presented before courts.

2. Judicial Training

Judges need to stay up-to-date with the latest developments in forensic science, digital evidence, and probability assessment, as well as medical terminology and how to evaluate expert evidence. The thing is, judges are dealing with more and more complex cases, but they don't always have the specialized knowledge to fully understand the scientific aspects of these cases. To address this issue, specialized training programs and ongoing education can help judges develop the skills they need to critically evaluate expert opinions and make informed decisions. By doing so, courts can improve their ability to handle cases that involve complex scientific evidence and ensure that justice is served.

3. Independent Court- Appointed Experts

It's really important for courts to have independent experts who can give unbiased opinions, especially when the experts for each side can't agree. These neutral experts can help the court make fair decisions and stop the misuse of specialized evidence that can be misleading. By having an impartial view, the court can get a clearer picture of the facts and make more informed decisions, which is crucial for justice to be served.

4. Strengthening Forensic structure

The government needs to upgrade and expand forensic labs all over the country. Many labs are struggling with not having enough staff, equipment, and modern testing facilities. Investing in the latest DNA technology, cyber forensic tools, toxicology labs, and local labs would help reduce delays and improve the accuracy of scientific results. It's essential to make forensic services more accessible at the state and local level to ensure justice is served in a timely manner. This would help fix the current problems and make the system more efficient. By doing so, we can trust that the results are reliable and that justice is fair.

5. Formalized Protocols

Expert reports should follow an invariant structure containing qualifications, accoutrements examined, methodology used, findings, limitations, and final opinion. Clear reporting norms would ameliorate translucency and enable meaningful cross-examination.

6. Ethical law and Responsibility Measures

Experts who give evidence should be subject to ethical scores of independences, honesty, confidentiality, and professional integrity. False, careless, or misleading expert substantiation should attract correctional and legal consequences. Responsibility mechanisms are necessary to save trust in expert evidence.

7. Equal Access to Experts

In lawsuits, people with less money might struggle to hire good experts. To make things fairer, some courts offer help through legal aid or expert panels that they support. This can reduce the gap between rich and poor when it comes to getting specialized evidence. By doing so, it promotes equality and fairness in the legal system, making sure everyone has a fair shot, regardless of their financial situation.

8. Expansion of Cyber Forensic Capacity

With the rise of cybercrime, devoted digital forensic units should be established in every state. Technical training in data recovery, blockchain dogging, metadata analysis, online fraud discovery, and electronic record authentication is decreasingly necessary under the ultramodern evidentiary frame.

9. Timelines for Expert Reports

Statutory or executive timelines should be introduced for submission of forensic and specialized reports. inordinate detention in expert findings slows disquisition, prolongs trials, and contributes to judicial backlog. Fast- track reporting mechanisms in serious felonious matters would ameliorate effectiveness.

10. Nonstop Judicial Training

Judges need to get regular training in things like forensic science, digital evidence, and how to figure out probabilities. They should also learn medical terms and how to evaluate expert evidence. As cases get more complicated, judges might not know as much about the science behind them. To fix this, special training programs and ongoing education can help judges get better at critically looking at expert opinions. This way, courts can make more informed decisions. Judges should be able to understand

complex evidence and make sense of it, so they can do their job properly. With the right training, they can get a handle on the latest scientific methods and technologies, and make fairer decisions.

IX. Conclusion:

The Bharatiya Sakshya Adhinyam, 2023 represents a significant step in streamlining India's evidentiary governance for a technologically complex society. Expert evidence under the new frame assumes growing significance in felonious, civil, marketable, and cyber controversies. still, expert evidence remains a tool of backing rather than a cover for judicial determination.

Its true value depends upon trust ability, impartiality, scientific validity, and substantiation. Judicial precedents rightly contend that expert opinions be treated with caution. From the perspective of the Institutional Model, effective use of expert evidence requires coordinated functioning of Parliament, courts, police, forensic institutions, and nonsupervisory bodies.

So, we should see BSA 2023 as just the beginning of a bigger plan to bring law and science together. To really make a difference, we need to strengthen our institutions, and that's how expert opinions can help create a fairer, more delicate, and trustworthy justice system. This way, we can make sure that justice is served with confidence and precision, and that's what we're aiming for.

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