

Recognition of Indian Law of Evidence in Hindu Dharmashastras

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Abstract: *The law of evidence is an inherent part of the justice delivery system. This article is an attempt to highlight the ancient ways of dealing with justice, especially the methods of proof, by following the Hindu Dharmashastras.*

Keywords: *Evidence, Hindu Dharmashastra, Types of Evidence, India*

Introduction:

The law of evidence is an integral part of all areas of justice. However, in the context of India, the passage of the Indian Evidence Act completely changed the judicial system with rules and regulations; when there was no codified evidence law enriching the judicial system. Indian Evidence Law comprises a set of rules and related issues that regulate the admissibility of evidence in Indian courts. However, the origin of the proving concept has developed since ancient Hindu times and can be found in various Hindu Dharmashtras. Treatises on dharma, a genre of Sanskrit literature about law and action, are known as dharmashastras. According to Hindu Dharmashastras, the purpose of any trial is the desire to find the truth (Suman Sumit Kumar, 2015). Vashishtha lays down three kinds of evidence (Team @Law Times Journal, 2017), that are Lekhya documents, Sakshi (witness), and Bhukti (possession) (Batuk Lal, 2015).

In ancient Hindu law, there was a court presided over by the king as the supreme court of the capital's royal palace. The king (raja), the judge (sabya) and the chief judge (pradovivaka) were the officials of the court. In ancient India, 'Dharma' was the basis for judging in court (Veya Surya M.S, 2017).

Dharmashastra: Dharmasāstra is a genre of Sanskrit texts on law and action, referring to treatises (śāstras) on Dharma (Kane, P.V., vol. 1, p. 304). Dharmashastra and Manusmriti were written during 200 BC. and 100 AD (Dharmashastra; about 600 BC – about 200 AD). These are milestones in the history of Hindu law. After Manusmriti, Yajnavalkya, Narada, and Katyayana included a right of evidence to Smritis. According to Manusmriti, once a party submits an answer, he must present evidence in court. To codify Manu's reign, Yajnavalkya and Narada mandated the addition of three proofs that are: documents, witnesses, and possessions. Four stages of the court process were Purva Paksha (plaint), Uttara (Response), Pratyakarita (Review of Burden of Proof) and Krypada (Presentation of Evidence) (Jain Gitika, 2020). After presenting the evidence, the court must make a judgment.

Types of Evidence according to Dharmashastra:

Dharmashastras recognized four types of evidence (Batuk Lal, 2015):

1. Lekhya
 2. Sakshi
 3. Bhukti
 4. Divya
1. Lekhya (Documentary Evidence): At the time of Vashishtha; documentary evidence came. Which was thought to be less important than the testimony of a witness. There are three types of documents

according to Vishnu (Batuk Lal, 2015)-

- a. Rajya Sakshayak- It was a document written by the king's officials at court. It looked like a registered document.
- b. Sakshshyak- It was a document written by an individual and authenticated by a witness.
- c. Asakhshyak- It was a document prepared by the parties themselves .

All other documents outside of these three categories were not considered admissible in court. Documents were considered valid only if they were not written in fear by children, relatives, madmen, women, or other people.

2. Sakshi (oral evidence; witnesses): Sakshi, or oral evidence rules, differ significantly in civil and criminal cases. Like other ancient laws, by the rules made; the competency of witnesses was regulated. Strict Rules for witness competency were relaxed in penal matters probably due to reasons that the crimes could be committed in forests or lonely places where only the persons present could see the incidents whatever their eligibility. Nyayadhish (Judges) put questions to the witnesses and while answering the questions, watched their demeanour and took decisions on their credibility. The Court's behaviour with the witnesses was quite submissive. The respectful behaviour of the witnesses inspired non-partisan persons to come and testify before the Courts (Rao B Guru Rajah, 2018).

According to Gautama, a witness must be a trustworthy person who knows all the facts of the case and must be heard by the king or judge(J. Mark Joshua , 2020).

3. Bhukti or Bhog (Possession or Use): Agriculture was the main economy in early India. The dispute relating to Bhukti i.e., the ownership of the land was well settled through this medium. According to Vasistha, in the event of a land dispute, the right to the property and title must be mentioned along with deeds and witnesses as possession and evidence. Gautama, however, does not support ownership as a witness, preferring titles by prescription.

According to Mitakshara, using properties doesn't damage the ownership but the consequence. If a property owner sees someone else using his property for 20 years and then disputes it, he gets his property, but no profit. (P.V Kane, 1930)

4. Divya (Divine tests or Ordeals): Divya helps make a decision when the evidence conferred by a man does not lead to a decision. Such tests were widely practiced in ancient India, where supernatural forces were invoked to prove guilt or innocence (Nagvanshi Animesh, 2022). The Agni Purana consists of details of persecution methods used only for serious crimes. If a man entered a burning fire or deep water and came out unharmed, he was innocent before the law or his case was proven. Similarly, those who swallowed poison and did not die were innocent. According to Yajnavalkya, Narada, Brihaspati, Katyayan and Pitamah Divya should be used only for Manushya Pramana. i.e. Sakshi, Lekhya, Bhog, or Paristhitijanya Pramana (circumstantial evidence) are not available. For different Varnas; different types of Divya were also prescribed. Brahmina has been free from Vish Divya (ordeal by poison)(Kane P.V., Chapter 14).

According to Yajnavalkya (Swāmī Mādhavānanda, 1950), there were five kinds of examinations: Ordeals from Balance (Tula), Fire, Water, Poison and sacred libation. After Yajnavalkya, Narada increased the five seeds to his seven by adding hot gold nuggets and rice trials..

Conclusion: The Indian evidence law is mostly influenced by the Hindu Dharmasashtras, though it had advanced much in course of time by incorporating modern concepts into them. India's law of evidence took many decades and hundreds of years to develop. It has existed since the dawn of the early Vedic civilization and even under the rule of the Muslims who dominated the Middle Ages of Indian history.

Sir James Flitzjames developed it as a comprehensive code of Law of Evidence during the British era in 1872, who could be called the founding father of this comprehensive piece of legislation. The Indian Evidence Law is mostly a reduction of the English law of evidence, which was required for India's unique conditions. Due to westernization, the importance and knowledge of Hindu Dharma Shastras for young minds is decreasing day by day. Uplifting Young Minds to Ancient Indian Sacred Texts needs more investigation and research with proper implementation

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