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INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**THE MECHANISM OF CONFESSION IN THE INDIAN EVIDENCE ACT, 1872**

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ABSTRACT

In a criminal justice trial, witness and accused confessions are essential variables in determining who is to blame. Sections 24, 25, 27 of the Indian Evidence Act of 1872 and Sections 161, 164, 167 of the Code of Criminal Procedure Code of 1973, respectively, have increased the scope and boundaries of 'Admission' and confession booth proclamations. With the emergence of new logical systems, such as Brain Fingerprinting, Brain Mapping, Narco-Analysis, lie locators, and so on, to trace the correct data for data verification and tolerability as a bit of confirmation in cases, a requirement for changing both the arrangements of Procedural Codes previously mentioned is becoming a rising idea. Advance 'Confession' is a term intimately tied to the concerns of Part III rights valued in the Indian Constitution, such as Articles 20(3) and 21. The gross misapplication of examining office forces (police) in the country, such as the (cancelled) POTA and TADA, which are currently stuck for gross infringement of Fundamental Rights under Article 14 and 21 due to their natural ideas from the privileges of charged under the Indian Evidence Act, 1872. The Hon'ble Supreme Court of India has stated unequivocally that 'Confession booth Statements' are likely to have an impact on the overall findings and outcomes in criminal trials. As a result, the Indian courts have emphasized the importance of voluntary confessions, the prevention of retraction from confessions, the avoidance of coercion, and the use of third-degree restraint by the police while the accused is in custody in a variety of case laws. The importance of confession booth explanations by witnesses is reflected in the Supreme Court's desire to include a Witness Protection Mechanism for reasons underlying the criminal equity framework.

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INTRODUCTION

The confession of witnesses and the accused in a criminal justice trial is a crucial determinant in the declaration of guilt. The traditional Sections 24, 25, 27 and 161, 164, 167 of the Indian Evidence Act, 1872 and the Code of Criminal Procedure Code, 1973 have been lengthened, and the parameters of 'Admission' and confession booth proclamations have gone further than the traditional Sections 24, 25, 27 and 161, 164, 167 of the Indian Evidence Act, 1872 and the Code of Criminal Procedure Code, 1973 independently. "With the introduction of modern logical systems such as Brain Fingerprinting, Brain Mapping, Narco-analysis, lie locators, and so on to track the correct data for data verification and tolerability as a bit of clarification in cases, a need for changing both the arrangement of the data and the data itself has arisen."² As previously stated, the notion of procedural coding is gaining traction. Advance 'Confession' is a notion that is strongly related to the issues of Part III rights entrenched in the Indian Constitution, such as Articles 20(3), 21, and so forth. Mishandling of counter-psychological oppression legislation in the country, such as the (cancelled) POTA and TADA, which are presently struck for severe violation of Fundamental Rights under Article 14 and 21 due to their inherent concepts from the privileges charged by the Indian Evidence Act, 1872. The Hon'ble Supreme Court of India has acknowledged that 'Confession Booth Statements' are likely to have an impact on all criminal trial discoveries and conclusions. As a result, Indian courts have acknowledged the significance of voluntary confessions, the prohibition of retraction from confessions, the avoidance of torture, and the use of third-degree restraint by police in various case legislation. Cops' cross-examination is a crucial component of the contemporary criminal justice system. Even though legislation is being confirmed. Section 25(1) of the Indian Evidence Act of 1872 and the Criminal Procedure Code of 1973 give little weight to any announcement made by an accused person while being cross-examined by police, which is not regarded as a suitable piece of confirmation in legal terms.³

² Critical analysis of confession, Arupan Gupta, 2014

³ JANAVI. H.S1 AND DIVYA DESHPANDE, Confession: Critical Analysis under Indian Evidence Act, International Journal of Law Management & Humanities, Vol. 4 Issue 3; 1917 pg-1919

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"A confession is any statement made by a person charged with a crime at any moment saying or implying that he committed that act." — Stephen, Chief Justice (Digest of the Law of Evidence).⁴

CONFESION: MEANING & STATUTORY PROVISIONS

Sections 24 through 30 of the Indian Evidence Act deal with a confession. Confession is also dealt with under Sections 164, 281, and 463 of the 1973 Code of Criminal Procedure.⁵ A confession is the accused's admission or acceptance of the crime. Section 24 of the Indian Evidence Act discusses the admissibility of a confession, and it is in this section that the term "confession" occurs for the first time in the Act.⁶ As a result, confession means acceptance of statements showing the accused's guilt, and it can take numerous forms, including court confession, extra-judicial confession, formal and retracted confession, and so on. However, it should be noted that confession is a subset of admission, and the two are not synonymous; the former is used in criminal procedures, while the latter is used in civil processes. Furthermore, the presumption about confessional statements is that an accused would not admit incorrect claims because they always go against the individual saying them; hence, confession is considered as the best type of evidence.⁷

FORMS OF CONFESION

Confessions can take many different shapes. It is referred to as judicial confession when it is made to the court; it is referred to as extra-judicial confession when it is made to anybody outside the court. It might even be self-talk, which could be used as evidence if overheard by someone else. For example, in *Sahoo v. State of Uttar Pradesh*, the accused was seen leaving the house on the day of the murder, stating something to the effect of "I have finished her and with

⁴ Arya & Shivshankar, Study on Confession under Indian Evidence Act, 1872, INTERNATIONAL JOURNAL OF PURE AND APPLIED MATHEMATICS ISSN: 1314-3395, Volume 120, No. 5, 2018

⁵ Confession under Indian Evidence Act, (March 27, 2020), <http://www.legalservicesindia.com/article/1547/Confession-under-Indian-Evidence-Act.html>.

⁶ Anushka, Confession, LAW TIMES JOURNAL, 2019

⁷ Shaheen Banoo, CONFESSION UNDER INDIAN EVIDENCE ACT, 1872- A CRITIQUE, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3669253

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her the daily quarrels." The statement was deemed to be a confession relevant in evidence because a confession doesn't have to be transmitted to another person for it to be relevant.⁸

Judicial confession

Are those made in the course of judicial procedures before a magistrate or in court? A judicial confession is described as a "plea of guilty on arrangement (made before a court) if voluntarily given by a person in a fit condition of mind."⁹

Judicial confessions, as the name implies, are confessions that are recorded in the presence of a judge or made in court following the law. "The evidentiary value of judicial confession is governed by Section 80 of the Indian Evidence Act, which states that if the confession is made in the presence of a magistrate or the court recorded by the magistrate in the due course of legal proceedings, such confession is presumed to be true and genuine confession upon which the accused can be duly tried.¹⁰ Section 164 of the CrPC empowers a magistrate to record the accused's confession, establishing that confession recording is the exclusive province of the judiciary and that the government lacks jurisdiction to record confessions."¹¹

Extra-judicial confessions

Those made by the accused outside of a courtroom or in front of a magistrate. The statements don't need to be addressed to a specific person. It could have been in the form of a prayer. It could be a private confession made to a private person. Extra-judicial confession is defined as a free and voluntary confession of guilt by a person accused of a crime during a talk with someone other than the judge or magistrate seized of the accusation against oneself. After committing a crime, a guy may send a letter to a relative or acquaintance expressing his regret. This may be considered a confession. If extrajudicial confessions pass the credibility requirement, they can be accepted and used as the foundation for a conviction. Extra-judicial confessions are usually made

⁸ "Confession and Kinds of Confession - SRD Law Notes." <https://www.srdlawnnotes.com/2017/02/confessionand-kinds-of-confession.html>. Accessed 2 September, 2019

⁹ "International journal law of evidence"28th edition. Accessed 2 September, 2019

¹⁰ Diva Rai, Confessions under the Indian Evidence Act, IPLEADERS BLOG, (March 27, 2020) https://blog.ipleaders.in/confessions-under-the-indian-evidence-act/#Judicial_confession.

¹¹ Shaheen Banoo, Analyzing Section 164 of CrPC vis-a-vis Smut Seema Devi vs. State of U.P. 2016, (March 27, 2020), <https://www.juscholars.com/post/analysing-section-164-of-crpc-vis-a-vis-smt-seema-devi-vs-state-of-up-2016>.

in front of a private individual, which might include a court officer acting in his capacity. It also covers any magistrate who is not permitted to record confessions under section 164 of the CrPC or who is authorized to record confessions but gets the confession at a stage where section 164 is not applicable.¹²

Admissibility of Judicial and Extra Judicial Confession

Sections 24 to 27 of the IEA deals with the relevance and admissibility of judicial and extra-judicial confessions.¹³ According to Section 24, if the court believes that the confession was obtained through an inducement, threat, or promise related to the charge that the accused person faces in exchange for some advantage in avoiding temporal evil at the request of a person in authority or sufficient, the confession would be irrelevant in a court of law.¹⁴ As a result, Section 24 requires that the following conditions be met:-

- The confession must not be made in response to an enticement, threat, or promise, for example.¹⁵
- Confessions should be linked to an accusation leveled against the defendant.¹⁶
- It must be carried out at the request of a high-ranking official or a large group of individuals.¹⁷
- Should give a substantial motivation to flee from worldly ills.¹⁸

It is generally accepted that judicial confessions can be used to support a conviction, but extra-judicial confessions should not be used to support a conviction, as stated in *Balwinder Singh vs. the State of Punjab*.¹⁹ The basis for this doctrine is that extra-judicial confessions require additional supporting evidence, as stated in *Pakkirisamy vs. the State of TN*.²⁰ However, the

¹² 6 "Evidentiary Value of Extra-Judicial Confession - AUJ LAWYERS." 25 Jan. 2016, <http://aujlawyers.com/evidentiary-value-extra-judicial-confession/>. Accessed 2 September, 2019

¹³ Indian Evidence Act, 1872, Sections 24to 27

¹⁴ Dr. M. Sarda, Extra Judicial Confession – Relevancy and Admissibility: A Study, (March 27, 2020), <http://ssrn.com/abstract=2758057>.

¹⁵ **State of Rajasthan vs. Raja Ram**, AIR 2003 SC 360.

¹⁶ **Alok Nath Dutta vs. State of WB**, (2007) 12 SCC 230.

¹⁷ **S.K. Yusuf vs. State of WB**, AIR 2011 SC 2283.

¹⁸ AIR 1996 SC 607.

¹⁹ **Sahadevan vs. State of TN**, AIR 2012 SC 2435.

²⁰ AIR 1998 SC 107.

Supreme Court decided in *Narayan Singh & Others vs. State of M.P*²¹ that judicial confessions can be relied on as proof of guilt if they are made freely and look truthful to the court.

EVIDENTIARY VALUE OF CONFESSION

It is critical to remember that a confessional testimony made by the accused in front of a magistrate is regarded as good evidence, and conviction might proceed based on such a confessional statement. It should be emphasized, however, that the same might be used against the accused, which would be sufficient to sustain the conviction. As a result, an accused person's confession is recognized as substantive evidence upon which conviction might be based.²² According to the jurisprudence on the evidential value of conviction, a conviction can only continue on confession if such a confession can be proven to be given willingly and is completely accurate, together with general corroboration to corroborate the evidence. Furthermore, as stated in *State of Karnataka v. A.B.Nag Raj*²³ extra-judicial confession is not recognized as a solid piece of evidence and hence demands considerable prudence from the courts. It necessitates corroboration that links the accused to the alleged crime. Additionally, it is not safe to base the conviction on a retracted confession if the same isn't corroborated by trustworthy evidence. Practice and prudence dictate that retracted confession shouldn't be made the basis of the conviction unless sufficiently corroborated.²⁴

CONFESION TO POLICE

Section 25 – “A confession to a police officer is not required to be proven.

No confession given to a police officer may be utilized against a person accused of any crime. Reasons for exclusion of confession to police- Another type of confession that is recognized as involuntary under the Evidence Act is that made to staff.”²⁵

²¹ 1985 AIR 1678.

²² John Getreu, Evidence: Admissibility of Confession, WILLIAM & MARY REVIEW OF VIRGINIA LAW, Volume 1 Issue 2.

²³ (1994) ILLJ 851 SC

²⁴ Analysis of Various Aspect Of Law Relating To Confessions, INTERNATIONAL JOURNAL OF LEGAL DEVELOPMENTS AND ALLIED ISSUES, 2017.

²⁵ Section 25 of Indian Evidence Act 1872

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Section 25 explicitly states that such admissions are not to be established. If police confessions could be used as proof, the police might torment the accused, forcing them to admit to a crime they may not have done. A confession acquired in this manner would logically be untrustworthy. Such confessions wouldn't be voluntary. Any confession in such form, whether direct, express, implicit or inferred from behaviour, will be irrelevant. The grounds for taking this method when the law was enacted in 1872 are almost certainly still valid now.

In *Dagdu v. the State of Maharashtra*,²⁶ the Supreme Court held that the antiquated endeavor to get confessions by hook or by crook appears to be the be-all and end-all of police investigations. The police should keep in mind that confession is not always a quick fix. Instead of attempting to "begin" with a confession, they should aim to "arrive" at it. Otherwise, while they are focused on their fast track to success, excellent evidence may be lost owing to inattention to actual signs. Once a confession is acquired, there is frequently a fading of desire for a comprehensive and thorough investigation to prove the case dehors the confession, which subsequently becomes inadmissible for one reason or another, and the case fondles in court.

The Evidence Act has a few safeguards for when a guy is interviewed by police. The questioning of a suspect during cross-examination should not be intimidating or scary. Third-degree confirmation or admittance is not prohibited by the police. Aside from the portion of the announcement that leads to the finding of incriminating evidence, the accused's explanation to the officer is not admissible as evidence. The caution regarding the appropriateness of a confession made to a cop is recommended as a means to safeguard the accused against third-degree tactics employed by the police. The proving legislation is simple enough that an admission made to a cop is not permitted, but it may be used as part of the proof of the object recovered as a result of the charged admission to a cop. As a result, if the police find a firearm used in several crimes as a result of an admission made by a blamed person, the recovery is a significant piece of evidence. In this sense, it would be correct to infer that the provisions of the Evidence Act condemn the police and erode public trust in them. When the provisions of the Constitution and the Evidence Act are read together, the meaning is clear.²⁷

²⁶ 1977 AIR 1579, 1977 SCR (3) 636

²⁷ In custody law, impurity and prisoner abuse in south Asian, Nitya

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According to the design of the Constitution and Evidence Act, a man cannot be undermined, tortured, or subjected to any other controlled method to extract any type of answer that has incriminating sway over the arrested or accused person. In either case, the sad and terrible part of the story is that, despite the provisions of the Constitution and the Evidence Act, the police are employing a third-degree tactic that casts doubt on the authentication of a true and bona fide admission by the accused, the observers, and the entire criminal process.

The verisimilitude of Indian jails and police custody agony is so dire that the death of many inmates as a consequence of police torment has become widespread. The third-degree approach is, for the most part, owing to a variety of variables. In this scenario, seasoned criminals have been trained to endure heavy punishment, so authorities would be unable to obtain information from them without resorting to third-degree tactics. As a result of the tremendous pressure imposed inside prison or when under police guardianship, a high percentage of confession booth explanations would be given automatically. In addition, witness admissions are frequently impacted by the power and the weight that suspects or those accused in high-profile cases may wield as a consequence of their privileged social standing. Second, police arrest a few individuals and torture or torment them for money, while many innocent people are detained and dismissed by courts based on meager confessions. This type of statement has been leveled several times against officers. Third, ordinary folks have an average attitude when it comes to how offenders should be dealt with by the police.

Many police personnel feels that if they do not utilize strong punishment against convicted criminals, they would fail. Fourth, the criminal justice system in the Indian subcontinent is founded on the Anglo-Saxon accusatorial paradigm, in which the focus of the law is on proof rather than fact, requiring 'Confessionary Statements' to be acknowledged as facts critical in criminal adjudication.

In *R v. Murugan Ramasay*:²⁸ - The law acknowledges and safeguards against the risk of persons making damning confessions to please authorities, regardless of whether or not what they say is genuine.

²⁸ (1964) 64 C.N.L.R. 265 (P.C.) at 268

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INCREASING VULNERABILITY TO CUSTODIAL TORTURE

India has pledged not to do anything that contradicts its objection and reasons as a signatory to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The denial of suffering is complete and cannot be stopped, no matter how heinous the conduct for which someone has been arrested, even in times of crisis. Torment and other pitiless, harsh, and degrading treatment, on the other hand, remain widespread across India. Incomparable Court demands, NHRC guidelines, and authority fines haven't deterred authorities from exacting agony on persons under their care. The Mali math Committee's recommendations, which are discussed below, may also increase helplessness to suffering.

RECORDING OF STATEMENT

The confession booth explanation, according to the legislation, must be recorded "either in writing or on any mechanical or electronic device such as cassettes, tapes, or soundtracks from which sound or visuals may be duplicated" (Section 32 (1) POTA). Except for the expansion of the phrase "electronic," this is an identical duplicate of the appropriate structure in the TADA Act (Section 15 (1)). Both of these agreements provide that the admission can only be documented by a police officer with a level no lower than that of a Superintendent of Police.

In-State of Maharashtra v. Kamal Ahmed Mohammed Vakil Ansari and Ors ²⁹ It was observed that: - "Admissibility of evidence - Indian Evidence Act, 1872 - Whether confessional confessions made before witnesses in Special Case No. 21 of 2006 by people who were not accused would be acceptable Confessions made by Accused in Special Case No. 4 of 2009 were sought to be adopted for establishing fact that it was not Accused/Respondents who were responsible for seven bomb blasts in seven different first-class compartments of Mumbai Suburban Railways- However, it was Accused in Special Case No. 4 of 2009 who had already confessed their crime."

In-State (N.C.T. Of Delhi) vs Navjot Sandhu and Afsan Guru ³⁰ The case of Afsan Guru stands out in Indian history as one of the rare attacks carried out to weaken the country's sovereignty.

²⁹ AIR 2013 SUPREME COURT 1441

³⁰ AIR Online 2005 SC 265

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Although the case had many nuances relating to the admissibility of electronic records and their impact on the decision, the Supreme Court ultimately found in favour of the appellants, acquitting one of the accused of some charges and dismissing the appeal for S.A.R Gilani and Afsan Guru's conviction. To tackle the difficulties of the twenty-first century, lawmakers opted to create legislation that makes electronic papers acceptable in court after much debate.

FALSE CONFESSION

While a person admits guilt when they are not the culprit of the action, this is referred to as a false confession. Intimidation or force used to get a statement may result in false admissions. They might also be the result of the accused's incompetence. False confessions might appear implausible, yet they occur all the time and may generate a slew of issues during a criminal trial.

A false confession occurs when someone admits to a crime to divert the focus of the court away from the person who indeed committed the crime. For example, a person may confess to a crime so as to spare the life of a friend, family member, or relative who is being investigated. False confessions can be used to avoid heavy consequences, such as pleading guilty to a lesser crime that they did not commit.

If a confession is shown to be false, the judge will almost certainly strike the claim from the papers, and it will no longer be admissible in court. Furthermore, the individual who made the false confession might face extra penalties for lying in court also known as perjury.

Reasons for Giving a False Confession

According to false confession expert Richard Leo, there are three primary motivations for giving a false statement: -

- i. Misclassification error: A heinous error happens when police officers or detectives incorrectly conclude that an innocent person is guilty. They are being hypocritical, as the law reads, "innocent unless proven guilty." A specific individual is targeted, and the police, based on erroneous interrogations, assume the person is guilty. Innocent people being misclassified is a critical component of false confessions and unjust convictions. The explanation for these erroneous choices is due to these cops' and detectives' lack of

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cognitive capacity and proper training. Detectives are told that if a suspect averts his gaze, slouches, seems confused and ignorant, alters his posture, wipes his nose, adjusts his spectacles, chews his fingernails, or scratches the back of his head, he is most likely lying and therefore guilty. Subjects who are cautious, uncooperative, and unresponsive, and who provide broad condemnations and eligible replies, are also believed to be deceptive and therefore guilty. Common crime-related assumptions, such as the probable causes and motives for the crime and the suspects most likely to have such intentions, can lead to a person being presumed guilty. Family members have been coerced into falsely confessing to murdering spouses, children, or parents, mostly because authorities presume that the majority of such crimes are perpetrated by family members before looking for other candidates.³¹

- ii. Coercion error: When a police officer or detective misidentifies an innocent person as a criminal suspect, he is frequently interrogated. “Police use of interrogation tactics considered intrinsically coercive in psychology and law, or police use of interrogation techniques that induce a suspect to believe he has no option but to comply with the interrogators' demands.” The first kind of coercive investigation/interrogation involves tactics such as restriction of food, sleep, water, and access to restrooms, incommunicado interrogation, and the production of severe weariness and fatigue.

Interrogators today employ psychological coercive methods, which generally involve (implicit or explicit) pledges of leniency and warnings of harsher punishment. The second form of psychological manipulation is persuading a prisoner that he has no option but to comply with the interrogator's requests, which is the pinnacle of all interrogation tactics combined. The detention center and physical seclusion are designed to isolate and disable the defendant. Interrogation is designed to be painful and uncomfortable, lasting uncomfortably long periods. Because the suspect is weary, beaten down, or has no other way to get out of such an unbearably stressful situation, he or she may agree with the officers' requests. Others follow because they believe it is the only way to avoid a

³¹ Shoronya Banerjee, Perception of false confessions in India and other countries: An Insight, <https://blog.ipleaders.in/perception-false-confessions-india-countries-insight/>. Accessed on 2 September ,2021

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horrible outcome, such as gay rape or severe physical violence. When a suspect incorrectly feels that he has no option but to cooperate, his subsequent cooperation and confession are the consequence of coercion.³²

- iii. Contamination error: The reasoning underlying how, why, and when a criminal is moved from denial to recognition of a crime are psychologically manipulative police tactics. The officer's/goal detectives are to create a believable tale that leads to the suspect's arrest. In false-confession instances, interrogators have become masters at creating, suggesting, or eliciting an interpretation of the suspect's motivations. Interrogators encourage the suspect to consider his decision to confess as a moral one and to express sorrow for the crime he committed. They give vivid accounts of the murder scene, which appear to corroborate the suspect's guilt by verifying his knowledge of the act. Interrogators might also try to portray the confession as voluntary by portraying the criminal as the creator of his confession and themselves as just passive recipients. Interrogators coerce the victim into making a false statement by pressuring her to admit a certain scenario and criminal proof. If the entire interview is taped or videotaped, it may be possible to monitor how and when the interrogator suggested or indicated the needed replies for the suspect to include in his post-admission narrative. There must be no conclusive evidence to demonstrate that the interrogator contaminated the suspect's post-admission statement if the full interview is not documented.³³

CONCLUSION AND SUGGESTIONS

According to the researcher, sufficient regulations must be in place to guarantee that admission of confession as evidence is only admissible if it is accurate and credible and was not gained by abuse of the accused. Such safeguards are required to protect the accused's right to collect trustworthy statements. Furthermore, the researcher believes that there is a paradox about the assumption of the evidential value of extrajudicial confession, with a multitude of different court rulings, and that an established rule on the issue is required. As a result, the researcher endorses the position where jurisprudence mandates the exclusion of confessions gained by oppression, as correctly discussed above. The argument for preferring this regulation coincides with the acknowledgment of the rights of the accused to ensure zero police

³² Ibid.

³³ Supra 30

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brutality and torture to obtain a confession by using harsh and unjust tactics, which often go undetected under the guise of exercising power.



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