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LEGAL CHALLENGES OF AI-GENERATED EVIDENCE IN INDIAN COURTS: AN ANALYSIS

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ABSTRACT

Artificial Intelligence (AI) has emerged as a transformative technology that is reshaping various sectors, including the legal system. The increasing use of AI-generated content such as images, videos, audio recordings, and text has introduced new challenges regarding the admissibility, authenticity, and reliability of evidence in judicial proceedings. While AI enhances efficiency in legal research, digital investigations, and forensic analysis, it also facilitates the creation of sophisticated deepfakes and manipulated electronic records capable of misleading courts and undermining the administration of justice. The Bharatiya Sakshya Adhiniyam, 2023, recognises electronic records as documentary evidence; however, it does not specifically address the legal status or evidentiary standards applicable to AI-generated evidence. This legislative gap raises significant concerns relating to authentication, burden of proof, algorithmic transparency, privacy, and procedural fairness.

This paper critically examines the legal challenges associated with AI-generated evidence in Indian courts through an analysis of constitutional provisions, statutory enactments, landmark judicial decisions, and comparative international developments. It evaluates the adequacy of the existing legal framework in addressing emerging technological risks and highlights the necessity of specialised forensic mechanisms, judicial training, and legislative reforms. The study argues that a comprehensive regulatory framework is essential to ensure that AI-generated evidence is

used responsibly without compromising the principles of natural justice, due process, and the rule of law. Strengthening legal safeguards will enable the Indian judiciary to effectively respond to technological advancements while maintaining public confidence in the justice delivery system.

Keywords: *Artificial Intelligence, AI-generated Evidence, Bharatiya Sakshya Adhiniyam, Electronic Evidence, Deepfakes, Digital Forensics, Indian Judiciary.*

1. INTRODUCTION

Artificial Intelligence has become an integral part of modern society, influencing sectors such as healthcare, finance, education, and law. Within the legal system, AI assists in legal research, document review, digital investigations, and evidence analysis. However, the emergence of generative AI has enabled the creation of realistic text, images, audio recordings, and videos that are often difficult to distinguish from genuine evidence.¹

The increasing use of AI-generated evidence presents serious legal concerns regarding authenticity, reliability, and admissibility. Technologies such as deepfakes can fabricate convincing digital content, creating challenges for courts in determining whether electronic evidence is genuine or manipulated. These developments threaten the fairness of judicial proceedings and may affect public confidence in the justice delivery system.

The **Bharatiya Sakshya Adhiniyam, 2023**, which replaced the Indian Evidence Act, 1872, recognises electronic records as documentary evidence but does not provide specific provisions governing AI-generated content. Consequently, courts must rely on existing principles relating to electronic evidence while addressing novel issues created by artificial intelligence.²

This paper analyses the legal challenges surrounding AI-generated evidence in India, examines the adequacy of existing laws, and suggests reforms necessary to ensure the integrity of judicial proceedings in the digital age.

¹ Stuart Russell and Peter Norvig, *Artificial Intelligence: A Modern Approach* (4th edn, Pearson 2021).

² Bharatiya Sakshya Adhiniyam 2023; Information Technology Act 2000.

2. LITERATURE REVIEW

Legal scholars acknowledge that AI has the potential to improve judicial efficiency while simultaneously creating new evidentiary challenges. Existing research primarily focuses on the admissibility of electronic evidence and the procedural safeguards required to ensure its authenticity. Landmark judgments such as *Anvar P.V. v. P.K. Basheer* and *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal* have strengthened the legal framework governing electronic evidence in India.³

Recent studies have shifted attention towards generative AI and deepfakes technology. Researchers argue that AI-generated content may facilitate fraud, misinformation, and fabricated evidence, making traditional methods of authentication insufficient. International organisations have therefore emphasised transparency, accountability, and human oversight in the use of AI within legal systems.

3. RESEARCH METHODOLOGY

This research adopts a **qualitative doctrinal methodology** to analyse the legal challenges of AI-generated evidence in Indian courts. The study is based on primary sources such as the **Constitution of India**, the **Bharatiya Sakshya Adhiniyam, 2023 (BSA)**, the **Information Technology Act, 2000**, and relevant Supreme Court judgments. Secondary sources include books, journal articles, government reports, and international publications on Artificial Intelligence and digital evidence. A comparative approach has also been adopted to briefly examine developments in jurisdictions such as the United States, the United Kingdom, and the European Union.⁴

4. LEGAL FRAMEWORK GOVERNING AI-GENERATED EVIDENCE IN INDIA

³ *Anvar PV v PK Basheer* (2014) 10 SCC 473; *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal* (2020) 7 SCC 1.

⁴ William Twining and David Miers, *How to Do Things with Rules* (6th edn, Cambridge University Press 2019).

A. Constitutional Framework

The Constitution of India provides the foundation for a fair criminal justice system. **Article 14** guarantees equality before the law, while **Article 21** protects the right to life and personal liberty, which includes the right to a fair trial. Any reliance on manipulated or unauthenticated AI-generated evidence may violate these constitutional guarantees by affecting the fairness of judicial proceedings.⁵

B. Bharatiya Sakshya Adhiniyam, 2023

The **Bharatiya Sakshya Adhiniyam, 2023**, recognises electronic and digital records as documentary evidence. Although it modernises evidentiary law, it does not specifically regulate AI-generated content, deepfakes, or synthetic media. As a result, courts currently apply general rules relating to electronic evidence when dealing with AI-generated material.

C. Information Technology Act, 2000

The **Information Technology Act, 2000** provides legal recognition to electronic records and digital signatures. It plays an important role in verifying electronic evidence but does not address issues arising from generative AI, such as algorithmic manipulation or AI-created documents.

D. Judicial Approach

The Supreme Court has laid down important principles regarding electronic evidence. In **Anvar P.V. v. P.K. Basheer**, the Court held that electronic records must satisfy statutory requirements before being admitted as evidence. This principle was reaffirmed in **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal**, where the Court emphasised the mandatory nature of procedural safeguards for electronic evidence. Although these cases concern electronic records, they provide valuable guidance for assessing AI-generated evidence.⁶

⁵ Constitution of India arts 14 and 21; *Maneka Gandhi v Union of India* (1978) 1 SCC 248.

⁶ *Anvar PV v PK Basheer* (2014) 10 SCC 473; *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal* (2020) 7 SCC 1.

5. CHALLENGES OF AI-GENERATED EVIDENCE IN INDIAN COURTS

A. Authenticity and Admissibility

The primary challenge associated with AI-generated evidence is establishing its authenticity. Unlike traditional documentary evidence, AI-generated images, videos, or audio recordings can be manipulated to appear genuine. Therefore, courts must ensure that such evidence is properly authenticated before admitting it in judicial proceedings. The principles laid down by the Supreme Court regarding electronic evidence remain relevant while determining the admissibility of AI-generated content.

B. Deepfakes and Digital Manipulation

Deepfake technology enables the creation of highly realistic but fabricated audio and video recordings. Such manipulated content may be used to falsely implicate individuals, influence judicial proceedings, or spread misinformation. Since deepfakes are often difficult to detect, they pose a serious threat to the integrity of the justice system and require advanced forensic examination before being relied upon as evidence.⁷

C. Burden of Proof and Algorithmic Bias

The use of AI-generated evidence raises questions regarding the burden of proof and accountability. It may be difficult to identify who is responsible for AI-generated content—the developer, the user, or the AI system itself. Moreover, AI systems trained on biased or inaccurate datasets may produce discriminatory outcomes, affecting the fairness of judicial proceedings and violating constitutional principles of equality and due process.

D. Privacy and Data Protection

AI systems often rely on large volumes of personal data for training and operation. The collection and use of such data may infringe the constitutional right to privacy if adequate safeguards are not

⁷ Danielle Keats Citron and Robert Chesney, 'Deep Fakes and the New Disinformation War' (2019) 107 *California Law Review* 1753.

followed. The Supreme Court has recognised privacy as a fundamental right, making it essential that AI-generated evidence is collected and processed in accordance with legal standards.

6. COMPARATIVE ANALYSIS

Several countries have begun developing legal frameworks to regulate the use of Artificial Intelligence in judicial proceedings. In the **United States**, courts rely on the Federal Rules of Evidence to determine the authenticity of electronic evidence and increasingly require expert verification of AI-generated content. The **United Kingdom** has also issued judicial guidance emphasising that AI should assist, but not replace, judicial decision-making. Similarly, the **European Union** has adopted a risk-based approach through the **AI Act**, promoting transparency, accountability, and human oversight in the use of artificial intelligence. These developments provide useful guidance for India in formulating its own regulatory framework.⁸

7. RECOMMENDATIONS

To address the legal challenges associated with AI-generated evidence, the following measures are recommended:

1. **Enact a dedicated law** regulating AI-generated evidence and deepfake technology.
2. **Amend the Bharatiya Sakshya Adhiniyam, 2023** to include provisions relating to AI-generated content and its authentication.
3. **Establish specialised digital forensic laboratories** for detecting manipulated electronic evidence.
4. **Provide regular training** to judges, prosecutors, investigators, and advocates on AI technologies and digital forensics.
5. **Ensure human oversight and algorithmic transparency** whenever AI-generated evidence is used in judicial proceedings.

⁸ European Commission, *Ethics Guidelines for Trustworthy Artificial Intelligence* (2019); NITI Aayog, *National Strategy for Artificial Intelligence #AIForAll* (2018).

8. CONCLUSION

Artificial Intelligence has transformed the manner in which digital evidence is created and presented before courts. While AI offers significant advantages in legal research, investigations, and evidence analysis, it also creates serious challenges relating to authenticity, admissibility, privacy, and fairness. The existing legal framework under the Bharatiya Sakshya Adhiniyam, 2023, and the Information Technology Act, 2000, provides a foundation for regulating electronic evidence but does not specifically address AI-generated evidence.

Therefore, India must adopt a comprehensive legal framework supported by judicial guidelines, technological safeguards, and specialised forensic mechanisms. Such reforms will help preserve the integrity of judicial proceedings while ensuring that technological innovation remains consistent with constitutional principles of justice, fairness, and the rule of law.

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