



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 4 AND ISSUE 2 OF 2024

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 2 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-2-of-2024/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



ILE Publication House is the
India's Largest
Scholarly Publisher

© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

TEST IDENTIFICATION PARADE- A COMPARATIVE ANALYSIS BETWEEN INDIA AND USA

AUTHORS – JIA MALHOTRA & NAVYA ARORA, STUDENT AT BENNETT UNIVERSITY

BEST CITATION – JIA MALHOTRA & NAVYA ARORA, TEST IDENTIFICATION PARADE- A COMPARATIVE ANALYSIS BETWEEN INDIA AND USA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 4 (2) OF 2024, PG. 1253-1260, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

This study offers a comprehensive comparative examination of Test Identification Parade (TIP) norms in the United States and India, two separate legal systems with by differing cultural and legislative backgrounds. The process of TIP, which is crucial in criminal investigations, entails the identification of suspects by means of interrogating witnesses. The essay delves into the complexities of implementing and regulating TIP in different countries, taking into account various elements such as legislative regulations, judicial precedents, and law enforcement methods. The essay explores the historical and legal development of TIP by analysing landmark cases like Ramanathan

v. State of Tamil Nadu¹³¹⁶ in India and United States v. Wade in the USA¹³¹⁷. In addition, by conducting a thorough comparison analysis, this study examines variations in procedural safeguards, and also draws focus on the criticisms and challenges faced by each process of the respective countries. Its objective is to identify both similarities and distinctions between the two systems.

In essence, this comparative analysis aims to enhance our understanding of TIP practices in different countries and provide insights for prospective reforms that prioritizes fairness, justice, and procedural integrity in criminal identification processes.

GRASP - EDUCATE - EVOLVE

¹³¹⁶ 1985 AIR SC 660

¹³¹⁷ 230 F. Supp.2d 1298 Docket No. 6:95CR140ORL22JGG

DEFINITION AND IMPORTANCE OF TEST IDENTIFICATION PARADE

Law enforcement agencies use Test Identification Parades (TIP), at times called lineups or identity parades, to ask a victim or witness to identify a suspect among a group of people. A test identification parade's significance stems from its function in the criminal justice system, specifically in identifying the offender. Important elements consist of:

- The purpose of test identification parades is to guarantee the precision of witness identifications, as this might play a significant role in establishing guilt or innocence.
- The process aims to avoid erroneous identifications and preserve the ideals of justice and fairness by presenting the suspect with others who resemble them.
- Test identification parade identifications can be used as significant evidence in criminal prosecutions, giving prosecutors vital details with which to support their case.
- Performing a test identification parade may be necessary by law in a number of jurisdictions to guarantee that the correct processes are followed throughout the investigation and prosecution of criminal activity.
- Making sure test identification parades are carried out correctly contributes to the protection of both suspect and witness rights, preventing injustices from occurring.

Test identification parades, in general, are very important to the criminal justice system because they help identify suspects and make sure that criminal cases are settled fairly and successfully.

BRIEF OVERVIEW AND COMPARATIVE ANALYSIS OF INDIA AND USA'S TEST IDENTIFICATION PARADE

Law enforcement uses test identification parades, or lineups as they are known in the USA, as a technique to identify suspects. To get a witness to pick out a suspect from a group of people is the goal in both India and the USA. Test identification parades are carried out in India in accordance with Section 54 of the Code of Criminal Procedure (CrPC) and is read with Section 9 of the Indian Evidence Act. The procedure entails presenting the witness with the suspect along with other people who bear physical, age, and attire similarities. Next, if the suspect is there, the witness names them.

Although the processes may differ by state and jurisdiction, lineups are generally handled throughout the USA in a similar manner. Guidelines such as using people with comparable physical traits to the suspect and making sure that the administrator of the lineup is neutral are in place to ensure fairness. The lineup can be conducted in person or through images. It's interesting to see that the USA handles TIPs in a more structured manner, with regulations and policing laying out the guidelines. In the USA, arrangement systems usually adhere to detailed guidelines aimed at minimising intriguing effects and ensuring observer reliability. Methods such as sequential show, doubly visually impaired organisation, and filler consideration have been used to increase the accuracy of identifiable bits of evidence.

Comparatively, the goals of both systems are to reduce the possibility of false identifications while ensuring accurate suspect identification. There might be variations in the legal frameworks and specific protocols that oversee queues in the USA and test identification parades in India, though. In addition, differences in culture and procedure could arise from the ways that each nation's legal system and law enforcement operate.

LEGAL FRAMEWORK IN INDIA

SECTION 9 OF INDIAN EVIDENCE ACT, 1872:

Section 9 of the Indian Evidence Act, 1872 deals with the relevancy of facts necessary to explain or introduce relevant facts. In simpler terms, it outlines the conditions under which certain facts, though not directly relevant to the case at hand, can be admitted as evidence to provide context or background information that helps in understanding the main issue being tried.

The section consists of three parts:

1. Facts necessary to explain or introduce relevant facts

This part states that facts which are necessary to understand the main issue or to introduce relevant facts are themselves considered relevant. This means that evidence which provides context or background information, even if not directly related to the main issue, can be admitted if it helps in understanding the case better. For example, in a case involving a disputed property, the history of ownership or any previous transactions related to the property might be considered relevant under this section.

2. Facts forming part of same transaction

According to this part, facts which form part of the same transaction as the main issue are considered relevant, even if they would not be relevant on their own. This means that events or circumstances closely connected to the main issue can be admitted as evidence, even if they would not be admissible in isolation. For instance, in a case of assault, the events leading up to the assault, such as a verbal altercation or previous interactions between the parties, may be considered relevant under this provision.

3. Motives, preparation, and previous or subsequent conduct

It states that any fact which shows the existence of a motive, preparation, or subsequent conduct relevant to the case is admissible as evidence. For example, in a case of murder, evidence showing that the accused had a

motive to commit the crime, such as a financial dispute or personal animosity, would be considered relevant under this provision.

Section 9 is crucial in ensuring that all relevant facts are considered during the trial process. It allows the court to take into account not only the direct evidence related to the main issue but also any surrounding circumstances that help in understanding the case comprehensively.

This helps in delivering a fair and just decision by providing a complete picture of the events in question.

OVERVIEW OF TEST IDENTIFICATION PARADE IN INDIA:

Indian evidence law section 9 permits the identification of the charged as well as the verifications acceptable in the court however there is the shortfall of necessary course of sending the thought for identification parade, to work with such cycle, area 54[A] of Code of Criminal procedure allowed the interaction to send the thought for test Identification parade. Section 54[A] permits the individual thought to be sent for test recognisable proof procession when the suitable court has the option to send the individual to be a subject of test identification parade by coordinating the actual individual or the cop to take the strategy required.

Article 20(3) of the Indian Constitution which is about no individual ought to be constrained to be an observer against himself isn't disregarded with test identification parade, it doesn't mean showing up for test distinguishing proof motorcade is giving declaration.

CHALLENGES AND CRITICISM FACED DURING TIP:

Test identification is typically required when the debate emerges regarding that of the personality of the denounced, which is expected in circumstances where the casualty never saw the charged motel life before the occurrence. At the point when the demonstration of wrongdoing was finished to the person in question, generally, once in a while, casualties

can see the crook, recognise him at a later stage with different components as body structure, level, and so on, so in the event that they sensibly saw the individual who perpetrated the wrongdoing and tells the exploring official they can distinguish the individual, then in such cases test Identification is led. Furthermore, the test ought to be held nearest as conceivable at whatever point conceivable that excessively before an of magistrate.

PROCEDURE AND PRECAUTION:

PROCEDURE - It is the proper thing to do to hold the procession quickly, so the casualty doesn't fail to remember the subtleties, when the suspect is captured, the parade must be directed. The justice ought to be the one alongside police when a test recognisable proof procession is being directed. The identifier ought to have the option to distinguish both in test Identification parade as well as the court, as march recognising isn't viewed as significant proof according to regulation. Likewise, the significant viewpoints to recollect are that the denounced ought to not be knowing the observer or casualty prior to perpetrating a wrongdoing, FIR must be given with all perspectives recalled, casualty or identifier probably considered the individual for quite a while to be to distinguish him later on and in additionally well-lit region.

PRECAUTION - The police ought to pass on the spot to allow the identifier to recognise the individual, after they make the vital game plans, aside from the judge and identifier, no police ought to be in the spot. The significant viewpoint is a comparative individual, for example, the blamed should be kept alongside the charged in a test ID march at the conceivable proportion of one is to five and a limit of one is to ten. Witnesses are not permitted to be during a procession and to be kept far away from the spot of occurring of the test distinguishing proof motorcade. Denounced needs to change positions after each witness recognising is finished.

EVIDENTIARY VALUE:

The motorcade led at the examination can't be considered as significant proof and furthermore conviction can be established on the sole explanation of test identification parade, the observer identification in the court is expected to convict. Furthermore, a similar individual distinguishing in the motorcade in the event that recognised in court too, it truly changes no additional worth.

CRITICISM:

A test, for example, Test identification Parade is a lot of essential and it makes a point to guide the examination to the honourable way. Test distinguishing proof motorcade perhaps substantiating proof, which is alongside real proof when submitted in the court. However, the two-judge seat on account of Raju Manjhi v. State of Bihar¹³¹⁸ thought that Test identification parade procession is absolutely not a chance significant proof however it just to be considered for the examination organisation for them to drive in the correct manner to catch the casualties is simply to help the examination organisation and absolutely no chance about subnormal evidence.

One might say that suggestions to cops in regard to the procession that the particular game-plan to the agents should be plainly made sense of and police not involved during the hour of test recognisable proof motorcade happening. The public authority ought to increment more highlights for directing test identification march, it is finished in common places, however it ought to have coloured windows, so those fundamental people can see what's going on rather than just judge, and so on. Over the 100's of years, a test recognisable proof parade was dynamic in India, and it truly helps examination quicker and settling the cases sooner.

¹³¹⁸ Cr.Misc.-33997/2020

LANDMARK CASES:

1. Raju Manjhi v. State of Bihar

The judgment of this milestone case was conveyed by Respectable Mr Equity N. V. Ramana and Noteworthy MR. Equity Mohan M. Shantanagoudar. The lower court from which was pursued was from the High Court of Patna. The realities are that on a night in the long term, very nearly ten to twelve individuals matured somewhere in the range of twenty and 26 years looted into the place of Kamdeo Singh and took things from that point, the grievance was enlisted, and an examination was begun by the police. Harmed were shipped off emergency clinic after spots of injury was noted. Many observers were inspected, it was contended the lower courts followed the cloudy kind of story and proceeded with examination. During test recognisable proof parade, any identification was not finished by the observers, it doesn't mean arraignment body of evidence against blamed is in a misleading manner. The identification test is led simply to assist the examination with officering in a superior manner and no other reason. The recognisable proof procession goes to the phase of the examination. There isn't anything referenced in the CrPC which obliges the exploring office to hold or gives a right to the denounced to request a procession. They are not viewed as meaningful proof and these processions are basically administered by Section 162 of the CrPC. Inability to hold a test parade wouldn't make prohibited the proof of parade in Court. The choice in issues as to such recognisable proof ought to be a matter for the Courts to choose.

2. Kanta Prasad v. Delhi Administration¹³¹⁹

In the case of Kanta Prasad, it was about the subject of examination of proof on Test identification March, that's what the court help, perhaps identification march was not led, however it doesn't mean due to such non directing of an identification march, doesn't

they can't be observer in court distinguishing a similar individual. The people blamed were known to everybody with the exception of individuals distinguishing them, they were referred to police too, it probably been directed for the people who didn't know them to distinguish them through test identification march yet such test identification march was not led, yet the identification was court was permitted despite the fact that no such test identification was finished under the steady gaze of the judge. The Court said except if excellent grounds are there for the situation to be re-surveyed yet on this, it isn't need.

LEGAL FRAMEWORK IN THE USA

The United States legal system has its foundation on the concept of federalism, which divides authority between the federal government and the many state governments. The adversarial nature of the American legal system involves two opposed parties presenting their cases before an impartial judge or jury.

OVERVIEW OF THE AMERICAN LEGAL SYSTEM:

- Federal and State Courts
Federal and state courts are two legal systems in the United States. Cases involving federal law, disagreements between states, and situations where the parties are from other states are handled by federal courts (diversity jurisdiction). Criminal, civil, and family cases pertaining to state law are heard in state courts.
- Hierarchy of courts
The federal and state court systems are set up in a hierarchical fashion, with trial courts situated at the bottom, circuit courts, or appeal courts, in the centre, and supreme courts at the highest level.
- Presumption of Innocence
Until a criminal defendant is proven guilty beyond a reasonable doubt, they are presumed innocent in criminal proceedings. The onus is on prosecutors to establish guilt.

¹³¹⁹ AIR 1958 SC 350

OVERVIEW OF EVIDENCE LAW IN THE USA:

For evidence to be admitted, it must be pertinent to the current legal dispute. A fact usually gains or loses probability based on relevant evidence. Hearsay is a statement made outside of court that is intended to substantiate an allegation. Hearsay is generally not admissible unless one of a few conditions is met. It is usually not admissible to use evidence about a person's character or traits to demonstrate that they behaved in a way consistent with those traits on a specific occasion. Certain conversations are also shielded from disclosure in court by legal protections such as the attorney-client and doctor-patient privileges, among others.

ROLE OF TIP IN USA COURTS

Test identification parades are an essential element of the criminal justice system in the United States, especially when it comes to police investigations and court cases where eyewitness identification is a vital piece of evidence. Overview of TIP's function in US courts:

Test identification parades give victims or witnesses a way to recognize a suspect as the one who committed a crime. This identification may be one of the key pieces of evidence that is shown in court. When a judge or jury is deliberating whether or not to find a prisoner guilty or innocent, the identification provided during a lineup may have a substantial bearing. By offering concrete proof that the defendant was involved in the crime, it might support the prosecution's case.

Defence lawyers frequently examine the validity of identifications provided during lineups. They might dispute the methods employed, cast doubt on the witness's recollection, or draw attention to any elements that might have affected the identification, including time passing or suggestive lineup strategies.

In certain situations, the validity of eyewitness identification may be the subject of expert witness testimony. These experts can inform the court about elements like stress, distance,

illumination, and the presence of firearms that might impact eyewitness recollection and identification accuracy. The Fifth Amendment's prohibition on self-incrimination and the Sixth Amendment's right to counsel are two of the most important constitutional protections that apply to the conduct of test identification parades. It is imperative for law enforcement to guarantee the impartiality of lineups and the protection of defendants' rights during the entire proceedings.

The result of a trial might be greatly influenced by a positive identification obtained during a lineup. However, the prosecution's case could be weakened, and the outcome could be affected if the identification is questioned or if there are doubts about its accuracy.

PROCEDURE AND EVIDENTIARY VALUE OF TIP IN THE USA

In the United States, the practice of performing a Test Identification Parade (TIP), sometimes known as a lineup, generally adheres to a well-defined procedure. Law enforcement personnel choose persons to participate in the lineup, which consists of the suspect and numerous fillers who bear a physical resemblance to the suspect. Next, the witness is shown the lineup and asked to determine if they can identify any of the persons as the person who committed the crime. Prior to observing the lineup, the witness may be given instructions to concentrate on specific characteristics, refrain from making speculative judgments, or signal if none of the individuals resemble the culprit. The lineup technique is frequently documented, either by means of audio or video recording, in order to record the identification process and guarantee its integrity. Lineups can be presented in a sequential manner, where the witness observes each individual separately, or in a simultaneous manner, when all individuals are presented together. Upon successfully identifying someone, the witness may be requested to submit a statement stating their level of certainty in the identification. During the process, many steps are implemented to

defend the rights of the suspect, such as guaranteeing legal counsel, reducing suggestive elements in the lineup, and following procedural safeguards. It is crucial to acknowledge that the processes and criteria for TIP (Traditional Identification Procedure) may differ among jurisdictions and law enforcement organisations in the United States. Furthermore, advancements in technology have resulted in variances in lineup procedures, such as the utilisation of virtual or photo lineups in certain jurisdictions.

The evidentiary value of Test Identification Parade (TIP) in the United States is dependent upon criteria such as reliability, adherence to established protocols, and the chance for witness observation. So, it may be different depending upon case to case. TIP evidence can be persuasive and compelling in establishing a suspect's identity, but it is subject to careful examination and assessment by the courts on an individual basis. Hence, it is not conclusive.

LANDMARK JUDGMENTS AND CASE LAWS PERTAINING TO TIP IN THE USA:

Regarding test identification parades (TIPs), also called lineups or identity parades, the United States has seen a number of significant cases and legal precedents. These are a few noteworthy examples:

1. Manson v. Brathwaite (1977)¹³²⁰

The criterion for determining whether eyewitness identifications are admissible in criminal cases was established through this case. The Court established the "totality of the circumstances" test, which takes into account a number of variables to assess the identification's dependability, such as the witness's level of focus, the accuracy of their description, and the level of certainty they were able to exhibit.

2. United States v. Wade (1967)

This was a landmark judgement wherein the Supreme Court held that the Sixth Amendment's

right to counsel extends to pre-trial identification processes, such as lineups. According to the Court's ruling, suspects are entitled to legal representation during lineups in order to maintain impartiality and guard against unethical or suggestive identification practices.

3. Simmons v. United States (1968)¹³²¹

The Supreme Court ruled that The Sixth Amendment right to counsel extends beyond formal trial processes to crucial pre-trial phases like lineups. This ruling reaffirmed how crucial it is to protect suspects' rights when conducting identification processes.

4. Neil v. Biggers (1972)¹³²²

The Supreme Court set standards for assessing the accuracy of eyewitness identifications. The Court listed a number of variables to take into account, such as the witness's ability to see the offender, their level of focus, the precision of their earlier description, their degree of certainty, and the amount of time that passed between the crime and the identification.

5. Perry v. New Hampshire (2012)¹³²³

In this Supreme Court decision, the question of whether due process necessitates a pre-trial hearing to decide whether eyewitness identifications are admissible was raised. According to the Court, cross-examination and jury instructions can effectively address reliability concerns, negating the need for such hearings in certain cases.

CONCLUSION

The legal framework: In India, TIP is governed by particular legal requirements, whereas in the United States, the legal framework varies across states, with recommendations often established by law enforcement authorities. The TIP approach places a strong emphasis on the involvement of the judiciary and the employment of procedural safeguards, whereas

¹³²⁰ 97 S.Ct. 2243

¹³²¹ 390 U.S. 377

¹³²² 409 U.S. 188

¹³²³ 132 S.Ct. 716

the United States TIP approach prioritises flexibility and innovation. The implementation of Indian TIP is affected by limitations in available resources, while the implementation of US TIP may encounter difficulties due to a lack of uniformity and control.

To summarise, although Indian and US TIP procedures have similar objectives and difficulties, variations in legal structures, court rulings, and practical execution require nuanced strategies to address strengths and weaknesses and guarantee justice and procedural integrity in criminal identification processes.

REFERENCES-

1. <https://blog.ipleaders.in/understanding-test-identification-parade/>
2. <https://lawbhoomi.com/test-identification-parade/>
3. <https://www.redalyc.org/journal/7039/703973446001/html/>
4. <https://jciil.isyndicate.com/wp-content/uploads/2023/06/06.-DNA-PROFILING-A-COMPARATIVE-STUDY-WITH-REFERENCE-TO-INDIA-U.S.A.-AND-U.K.pdf>
5. <https://www.law.cornell.edu/wex/lineup>
6. <https://nij.ojp.gov/topics/articles/police-lineups-making-eyewitness-identification-more-reliable>
7. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/showups-lineups-and-photo-identifications>

GRASP - EDUCATE - EVOLVE