INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 6 AND ISSUE 12 OF 2026

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

ARTIFICIAL INTELLIGENCE AND THE LAW OF EVIDENCE: RECONCEPTUALISING AUTHENTICITY, PROOF AND JUDICIAL RELIABILITY IN INDIA

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BEST CITATION – PRABHNOOR KAUR MAKKAR & DR. NAVJOT KAUR, ARTIFICIAL INTELLIGENCE AND THE LAW OF EVIDENCE: RECONCEPTUALISING AUTHENTICITY, PROOF AND JUDICIAL RELIABILITY IN INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR),* 6 (12) OF 2026, PG. 13-29, APIS – 3920 – 0001 & ISSN - 2583-2344.

Abstract

Generative artificial intelligence has influenced drastically the evidentiary value of electronic data. AI systems can generate images, videos, conversations and texts that can seem real events. This phenomenon creates new challenges in defining the connection between electronic communication and reality. This paper analyzes if Indian rules of evidence can cope with the challenges of AI-generated and AI-modified materials based on Bharatiya Sakshya Adhiniyam, 2023 and IT Act, 2000. The research clarifies the difference between electronic record integrity, authenticity and admissibility, as well as the role of verification, provenance, forensic examination and AI identification. The paper provides examples of the most significant cases, such as *Anvar P.V. v. P.K. Basheer*, *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal* and *Pune Bar Association v. Union of India*, and shows what the approach of US law and European legislation regarding to AI.[32]This paper points out that merely adhering to the formal requirements associated with electronic records is not sufficient proof of the veracity of any synthetic representation.

Keywords: Artificial Intelligence; AI-Generated Evidence; Deepfakes; Bharatiya Sakshya Adhiniyam, 2023; Electronic Evidence; Digital Authentication; Evidentiary Reliability; Fair Trial.

1. INTRODUCTION

The functioning of judicial authorities is based on their ability to process information provided in order to prove disputable facts. Documents, photos, video/audio recordings, electronic messages as well as expert opinions are the means of judicial practice reconstruction of events. Though these kinds of proof were never safe from dealings, the usual procedures of their obtaining have provided identified points

[32] *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473; *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1; *Pune Bar Association v. Union of India*, W.P. (C) No. 599 of 2026, order dated 22 May 2026; Federal Rules of Evidence, Rules 702 and 901; Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024.

of reference to determine authorship, authenticity of evidence. The development of generative artificial intelligence has complicated this process considerably.[33]

Generative artificial intelligence can create digital content that imitates human behavior expression, physical appearance, voice, surroundings, events that took place. A photo can show a person at a place they never visited and an audiovisual recording can reproduce a person's appearance and voice without their participation. An AI-generated dialogue can witness the conversation that has never taken place.[34] The problem does not lie in defining if a digital document has been modified after its creation anymore. It involves proving whether the document was created without any analog of events in reality.

This occurrence brings to the fore a key assumption related to evidentiary use of photos and audio recordings that assumes realistic digital content is usually based on direct observation of the represented events. The tendency of digital content to be convincing may as a result create an impression of evidentiary value that is largely disproportionate to its real reliability.[35]

The difference between electronic and AI-generated evidence should be underlined. Electronic evidences typically deal with the information that has been stored, transmitted, or produced through electronic mediums. AI-generated evidence may include electronic information whose meaning or context has been created or significantly modified in the process of AI operation. The two categories are not exclusive and often overlap as AI-generated material can be an electronic record and vice versa, like an authentic electronic recording which would undergo AI-assisted transformation.[36]

Currently, the law in India deals with electronic evidence according to rules regarding admissibility, certification, expert opinion, and proof of documentary content. The Bharatiya Sakshya Adhiniyam, 2023 ("BSA") which became effective on July 1, 2024 has acknowledged the presence of electronic and digital records in terms of documentary evidence.[37] Sections 61-63 are particularly related to the admissibility of electronic records and Section 39 provides for expert opinion on issues that require expert knowledge, e.g., electronic and digital information.[1]

The main point of this paper is that the problem of evidence raised by generative artificial intelligence arises from the difference between the authenticity of the digital creation and the factual validity of the event presented in it. Indian evidence law serves as a solid basis for the admissibility of electronic records, but the implementation of this law in AI-generated evidence should entail the distinction between the authentication of the record, verification of the event, reliability of method, and significance of evidence.

2. STUDY ISSUE AND IMPORTANCE

The expansion of the use of AI-generated or AI-processed digital content raises the problem of which criteria should be used by the judiciary when assessing the authenticity and validity of electronic records. Although the BSA defines the terms "electronic and digital records and indicates the criteria for

[33] Robert M. Chesney and Danielle Keats Citron, 'Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security' (2019) 107 *California Law Review* 1753.
[34] Ibid.
[35] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[36] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, ss. 2(1)(d), 2(1)(e), 61–63.
[37] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, ss. 2(1)(d), 2(1)(e), 61–63; Ministry of Home Affairs, Notification S.O. 849(E), dated 23 February 2024.

admissibility", the application of the specified standards to data created by artificial intelligence is the issue that is still developing in law.[38]

The problem is particularly important in cases where a party relies on photographs, videos, voice recordings, and electronic communications as concrete evidence of an event in question. As a result, a court inquiry should not only examine the way these pieces of evidence were obtained, but also whether the evidence is connected to the actual event, whether the AI used in producing evidence manipulated the content and whether the information available supports the fact in question.[39]

Therefore, the research issue goes beyond the admissibility of AI-generated evidence, to the applicability of the current system of evidence to separate a valid piece of electronic evidence from a trusted documentation. This distinction affects the evidence collection process, authentication, expert evaluation, and challenges caused by the counterparty and proof weight determination.

The article by *Chesney and Citron* highlights the effects of synthetic media on privacy, democracy and national security issues, while demonstrating that such credible fake materials can challenge the entire audiovisual trustworthiness. The importance of their work to the law of evidence stems from the fact that synthetic media can lead to not just the manipulation of information but also the manipulation of the trust that is given to the evidentiary form, by which information has been conveyed.[40]

The academic work of Grimm, Grossmann and Cormack on AI as evidence gives an additional viewpoint through an exploration of the relationship between the AI technologies and the legal processes of evaluation of information. Their research plays a key role in making the dichotomy between the operation of the AI system as such and the conclusions made based on the results of its functioning and this becomes especially important when the courts rely on algorithmic results or AI-produced materials.[41]

Scholars in India have begun looking into the application of BSA to the AI-generated and deepfake evidence.Budget plain: New research on Section 63 touch upon the matters of legislative endorsement, validation, and features of AI-generated content.

3. THE LITERATURE EMPHASIZES THE IMPORTANCE OF DIGITAL PROVENANCE.

The Coalition for Content Provenance and Authenticity (C2PA) provided technical specifications for recording and confirming data related to the origin and history of digital materials.[42] While using such tools can provide information about content production and changes, such information wouldn't prove the validity of the content itself.

The literature is already vast, but some of the issues require additional analysis. The two questions of admissibility of electronic evidence and authenticity of synthetic content are frequently discussed without distinguishing the legal aspects involved. Detection techniques are often viewed as the main

[38] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, ss. 2(1)(d), 2(1)(e), 61–63.
[39] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[40] Robert M. Chesney and Danielle Keats Citron, 'Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security' (2019) 107 *California Law Review* 1753.
[41] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[42] Coalition for Content Provenance and Authenticity, *Content Credentials: C2PA Technical Specification*, available at: https://spec.c2pa.org/ (last visited 14 November 2026).

answer, despite the fact that limitations are known. The relationship of such concepts as provenance, certification and the truth of facts also requires doctrinal clarifications. This paper addresses this issues from the point of view of treating the artificial intelligence-generated evidence as a classification and judicial reasoning problem instead of a separate technology that should either be allowed or banned.

4. RESEARCH QUESTIONS, OBJECTIVES AND METHODOLOGY

4.1 Research Questions

The study aims at answering the following questions:

1. Does Indian law on electronic evidence properly distinguish the authenticity of documents from the truth of the event in question?
2. Do the provisions of the BSA (Sections 39 and 61–63) provide the legal and procedural guarantees for the analysis of AI-produced and modified evidence?
3. Can the concepts of certification, hashing and digital provenance guarantee the reliability of synthetic evidence, or shall their importance for law be limited to narrow sphere of integrity and creations of e-records only?
4. Can AI-detection methods and digital forensic process provide information on the authenticity of a digital document, in spite of their methodological limitations?
5. Does comparative law provide any useful rules to improve the Indian court practice in evaluating AI-generated evidence without establishing a presumption of exclusion?

4.2 Aim of the Research

The aims of the study include evaluation of the existing legislative framework regulating electronic evidence, study of relevant case law, differentiation between technical integrity and factual authenticity, assessment of shortcomings of detection and provenance mechanisms, and recommendations for assuring the judicial evaluation of AI-generated materials.

4.3 Research Methodology

The research applies doctrinal methodology, analytical methodology as well as comparative law methodology. It is based on the study of legal provisions, relevant court decisions, literature on legislation and technical norms related to AI-generated evidence. The comparative analysis process is done by the means of studying the relevant rules of the US law of evidence and the European Union legislation regulating AI.[43]

5. THE INTERPRETATION OF AI-BASED EVIDENCE: TYPES AND RELEVANCE

The phrase "evidence derived from AI" does not necessarily refer to a single type of proof. What constitutes reliable evidence based on AI technology depends upon whether such technology produces the information in question directly or modifies the already existing data, supports its

[43] Federal Rules of Evidence, Rules 702 and 901, United States of America; Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024.

processing, or reproduces lost evidence. In order to make a thorough legal analysis, it is important to distinguish various types of AI involvement.

The term "fully AI-generated content" refers to the content produced by generative systems of AI without the original information being recorded. For example, a synthetic video depicting a person performing an act that never took place belongs to this category. This content can be highly realistic but it does not prove that the event has occurred.[44]

AI-modified evidence denotes existing digital records that have undergone alterations thanks to artificial intelligence technology. The change can happen in different forms, like facial alterations, speech changes, introduction of other objects, etc. The degree of modification matters because in some cases, a modified element can influence the factual meaning of evidence significantly.[45]

AI-assisted evidence implies the introduction of AI technology to process or analyze existing evidence. For instance, AI can serve for transcription or noise reduction, image improvement, translation, or extracting specific information from records. The reliability of the evidence generated by AI will equally depend on the nature of processing and the degree of changes made to the original data.[46]

AI-reconstructed evidence refers to evidence created by reconstructing the missing or damaged parts of the record. Such reconstruction can be valuable in investigations, but the reconstructed parts should not be understood as direct evidence of an event. The distinction between real and reconstructed evidence is critical whenever the evidence is presented to address the issue of some specific factual claims.[47]The significance of the role of AI in evidence depends on its role in that evidence.

5.1 Digital Integrity Versus Factual Authenticity

Tension of ideas must exist if we want to talk about digital integrity and factual authenticity.

Digital integrity refers to whether or not the evidence was changed at any stage of its lifetime or how one can establish its identity and keep track of it. Digital integrity can be proved by utilizing hash values, protective measures, and chain-of-evidence documentation, etc.[48]

Factual authenticity describes whether the content is the honest representation of the matter being depicted. For example, even though the photograph remains unchanged, it can depict some image that was artificially created.[49]

The differentiation works in the reverse direction as well. An authentic recording can be legitimately improved or manipulated which can create a new file but keep the key data about the event. Hence, the judicial practice does not imply excluding such a piece of evidence just because it was generated on the processed file.

[44] Robert M. Chesney and Danielle Keats Citron, 'Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security' (2019) 107 *California Law Review* 1753.
[45] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[46] Ibid.
[47] Ibid.
[48] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, s. 63(4) and the Schedule; Coalition for Content Provenance and Authenticity, *Content Credentials: C2PA Technical Specification*.
[49] Robert M. Chesney and Danielle Keats Citron, 'Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security' (2019) 107 *California Law Review* 1753.

Therefore, when the moment of making a judicial evaluation of AI evidence comes, three separate issues have to be solved at least: whether the electronic record was preserved properly; whether the content of the record was authentic concerning the event; whether the information is authentic enough to draw the conclusions set for from it.[50]

6. THE INDIAN STATUTORY FRAMEWORK

6.1.Electronic Evidence in the Bharatiya Sakshya Adhiniyam 2023

The BSA is the latest legal instrument to regulate evidence in the country, which incorporates some recommendations about electronic and digital records in terms of evidentiary value.[51]

Particularly important in this context are Sections 61-63.[52] Section 61 deals with admissibility of electronic records while Section 62 deals with proof of such records according to Section 63 which contains provisions relating to legal requirements for electronic evidence produced by computer systems.

The significance of this legislation lies in its recognition of the necessity of special procedures for electronic information. It is necessary to note that the electronic records might be reproduced, transferred and presented with the help of different systems and devices. Thus, there is a need for certification and various prescribed technical details determining all the necessary conditions for the production of such records.

Section 63 contains a Schedule providing for particulars necessary for certification. The Schedule presents information about electronic record as well as about the computer or communication device including prescriptive requirements for certification. The structure consists of Parts A and B, and the latter one contains the expertise.[53]The statute and technical parameters define the essence of certification. Certification indicates that the record was produced in accordance with particular systems and that specific technical requirements of establishing the certificate were satisfied. However, certification alone does not determine whether the information was obtained as a result of a true observation of an event rather than through artificial generation.

This is particularly relevant in the case of artificial audio-visual content. The certification may accurately describe the electronic record itself and the process of its production, while the content itself presents a non-existent event. Therefore, the requirements for admissibility of electronic records should not be used as a means of obtaining valid proof of factual authenticity of the information contained in an electronic file.[54]

6.2 Section 39 and Expert Opinion

Section 39 of the BSA provides for the importance of expert opinion on the issues needing specialization. The provision includes the opinion on the data transmitted or stored electronically.[55] Expert examination is crucial when authenticity cannot be established based on observational facts alone. Digital forensics

[50] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[51] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, ss. 2(1)(d), 2(1)(e), 61–63.
[52] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, ss. 61–63.
[53] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, s. 63(4) and the Schedule.
[54] *Pune Bar Association v. Union of India*, W.P. (C) No. 599 of 2026, order dated 22 May 2026 (Supreme Court of India); Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, s. 63.
[55] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, s. 39(1)–(2).

experts examine metadata, encoding peculiarities, discrepancies, or source information.The analysis they conduct will help the court determine whether a document has been changed, whether there is a number of features pointing to synthetic production, or whether the materials in evidence are consistent with the production process.

It must be stated that the court has to make a distinction between an expert conclusion regarding the technical specifics of the document and the final legal decision on its authenticity and evidential significance. Section 39 provides specific context for expert aid but it does not transfer the function of the judge to the expert.[56]

6.3 Section 79A of Information Technology Act, 2000

According to Section 79A of Information Technology Act, 2000, the Central Government has the right to appoint an electronic evidence expert who will provide the necessary expert analysis of the electronic evidence.[57]

The courtroom and law enforcement would encounter less difficulty when interested in investigating the electronic records and resolving technical concerns thanks to the presence of a certified examiner. However, this legal recognition of the expert does not mean that it is possible to validate any AI-created data solely by means of one technical approach.

The analysis of the artificial material implies that it is necessary to deal with various aspects of generative processes, source data, modifications that took place, and restrictions imposed by detection technologies.

6.4 Use of Hash Technique for Certification

Recently, hash values have become quite common in digital forensic practices used to determine and compare files.[58] A hash function generates a value that corresponds to the given data. At the same time, since the same data with the same approach is processed each time, one usually expects that the value produced will remain the same.

This means that it is possible to determine whether the file remained the same during the processing of an electronic record since the two processes will produce different values.Nonetheless, a hash value does not provide any indication as to if the content was authentic at the time of its creation. It does not show who authored the said file and under what circumstances, and whether the information presented is valid in terms of facts. It could be said that the synthetic recording possessed the same unchanging hash value as the authentic one.[59] Hashing serves to identify digital content and observe changes, rather than serving as an autonomous means for determining the truth of an audiovisual representation.[60]

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[56] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, s. 39(1)–(2).
[57] Information Technology Act, 2000, No. 21 of 2000, s. 79A.
[58] *Pune Bar Association v. Union of India*, W.P. (C) No. 599 of 2026, order dated 22 May 2026 (Supreme Court of India); Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, s. 63(4) and the Schedule.
[59] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[60] Coalition for Content Provenance and Authenticity, *Content Credentials: C2PA Technical Specification*, available at: https://spec.c2pa.org/ (last visited 14 November 2026).

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6.5 The Relationship between Certification and Reliability

One of the recurring problems associated with the issue of AI-generated evidence is linking compliance with electronic-record certification with the general conclusion about evidentiary reliability that may be drawn from it.

As far as certification and reliability are concerned, they are interrelated but different things. Certification may prove that certain technical parameters have been adhered to while creating the electronic record while reliability concerns the ability of the record to be reasonably supportive of the claims it is meant to prove. So satisfying the requirement of Section 63 cannot be regarded as an automatic solution of the problem of synthetic true information.[61]

7. JUDICIAL PROCESSES AND THEIR MEANING FOR AI EVIDENCE

7.1 *Anvar P.V. v. P.K. Basheer*

In *Anvar P.V. v. P.K. Basheer* the Supreme Court looked into the admissibility of electronically produced evidence under Section 65B of the Indian Evidence Act of 1872. The Court clarified the requirements for producing electronic evidence and pointed out the importance of evidence certification.[62]

The judgment laid the first stone for the admissibility of electronic evidence by saying that electronic evidence has to comply with statutory rules on computer data and it is important for the applicability of electronic data. Nevertheless, Anvar has not dealt with synthetic content or the factual accuracy of images produced via artificial intelligence.

7.2 *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal*

The Supreme Court reconsidered the e-evidence framework afterwards in Arjun *Panditrao Khotkar v. Kailash Kushanrao Gorantyal.*[63] The Court affirmed the significance of Section 65B certification concerning secondary electronic evidence and explained the issues concerning the authenticity of electronic records and when a certificate could be obtained.[64]

This ruling is important since it explains the links between electronic record, computer output and the legislative conditions for admissibility. In addition, it demonstrates that the law of electronic evidence cannot be viewed through the lens of merely examining the appearance or credibility of the digital content. For AI evidence the ruling offers a basis but does not provide a full answer. In particular, the question whether a record adheres to the legislative requirements is not the same as whether its content corresponds to the event occurred.[65]

7.3. *Pune Bar Association V. Union of India*

The judgment of the Supreme Court in the case of *Pune Bar Association v. Union of India* dated 22 May 2026 is important in understanding the present-day legal situation under BSA. The case questioned in lawfulness and constitutional validity of requirements regarding certification of evidence introduced by

[61] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, ss. 39 and 63(4).
[62] *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473.
[63] *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1.
[64] Ibid.
[65] *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473; *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1.

the new regulatory law on electronic evidence. The Court sustained these requirements of the law but left the question of people's qualifications for signing Part B of the Schedule unanswered.[66]

The importance of the judgment lies in the fact that it proves the significance of regulation of the rules on technical certification as well as an expert element related to the electronic evidence.

7.4 Pooja Ramesh Singh vs. Jammu and Kashmir Bank

In the case of *Pooja Ramesh Singh vs. Jammu and Kashmir Bank,* the Supreme Court settled the question of whether the information produced by AI was legally valid and contained fake references.[15] The case shows the risks of relying on AI-generated data without verifying whether it is true or not.[67]

The case does not give an answer to the question of admissibility of deepfake pictures, videos, and synthetic audio-visual evidence but demonstrates the problem of AI-generated data being reliable and trustworthy, while containing false information. It is essential to note that the analogy should be scrutinized.[68]

Collectively, these courts' findings illustrate that Indian law acknowledges the importance of electronic record certification, expert knowledge and authenticator verification in a progressive manner. The legal basis for the issues related to AI-based evidence has been established; however, the issue of distinguishing between the integrity of the records and the accuracy of facts has not been fully clarified.

Digital provenance concerns information about the origin, creation, and further fate of digital contents.[69] It can contain information about the gadgets and software used to make a record, processing steps, source materials, and its changes.

8. THE COALITION FOR CONSENT

The Coalition for Content Provenance and Authenticity has established technical standards for recording and verifying content provenance.[70] Essentially, content credentials provide information about how the digital content was created and modified, which is helpful for the users and investigators to know the method of the creation of any document.

Such mechanisms may be useful where digital evidence has been processed multiple ways. A provenance report shows whether digital material is created, altered or subjected to a particular procedure. It may also help find discrepancies between what has been said about the production of such material and the information incorporated in the provenance record.

8.1 Chain of Custody and Preservation

Chain of custody is the process of documenting the handling of evidence from its acquisition through its examination to its presentation.[71]

[66] *Pune Bar Association v. Union of India*, W.P. (C) No. 599 of 2026, order dated 22 May 2026 (Supreme Court of India).
[67] *Pooja Ramesh Singh v. Jammu and Kashmir Bank Ltd.*, Civil Appeal No. 11950 of 2025, 2026 INSC 668, judgment dated 2 July 2026 (Supreme Court of India).
[68] Ibid.
[69] Coalition for Content Provenance and Authenticity, *Content Credentials: C2PA Technical Specification*, available at: https://spec.c2pa.org/ (last visited 14 November 2026).
[70] Ibid.
[71] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, s. 63(4) and the Schedule.

In cases where information has been impacted by AI processing, preservation needs to include the original document, the processed document, as well as the processing information.[72] While chain of custody helps prove that an item under examination is the same as what was collected, it does not prove the authenticity of the original document. It is possible to maintain a synthetic document in an unbroken chain of custody.[73] While the chain of custody can show that the document being analyzed is identical to the document collected, it cannot prove that the document represents reality.

The difference between preservation and verification emphasizes the fact that preservation and verification should be regarded as two different components of the evidence examination. Such technologies are able to identify visible discrepancies, statistical tendencies, acoustic features, artifacts of compression, and other elements that relate to technologies of generation.

However, despite being able to facilitate forensic investigations, these technologies' results cannot be viewed as firm proof. For example, a system trained on a specific data or generation technique may act differently under non-familiar conditions. Compression, scaling, editing, and other operations may affect the detection of the method applied.

According to studies on deepfake detection, there are problems of generalization, stability, and the ability to detect material created by unfamiliar methods.[74] While a detector works well in lab conditions, there is no guarantee that it will behave correctly in real life. The matter of false positives is an important one since all real photographs or videos can appear to be wrongly classified as synthetic ones creating a problem for the investigation.

8.2. The Function of Human Experts

Expert evaluation is vital as automatic detection methods cannot independently answer all evidence-related queries. A qualified expert can see the environment of the specimen reviewed, define the limitations of a certain technique and make a decision about whether a deeper evaluation is needed.[75]

In particular, a technically valid report must separate features observed, analytical conclusions and findings. It has to define the material examined, the methods used, related limitations and confidence level founded on the available data.

If the examiner is not able to determine whether the recording is artificial, it is imperative to state the lack of a decisive result. An uncertain outcome should not lead to the conclusion about either the authenticity or forgery of the material.

The court is responsible for determining the effect of expert findings by references to the available evidence and the legal criteria.[76]

[72] Coalition for Content Provenance and Authenticity, *Content Credentials: C2PA Technical Specification.*
[73] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[74] David Güera and Edward J. Delp, 'Deepfake Video Detection Using Recurrent Neural Networks' (2018) 2018 IEEE International Conference on Advanced Video and Signal Based Surveillance 1.
[75] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[76] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, ss. 39 and 63.

9.EVIDENCE LAW IN THE USA

The Federal Rules of Evidence provide important rules when assessing authentication and expert evidence. According to rule 901, sufficient information to support a conclusion that the evidence submitted is what the party claims it to be should be available.[77] The provision allows for authentication by presenting evidence, among which testimony, unique features, and other evidence contributing to the process of identification.

The expert evidence is governed by rule 702, which obliges the expert to meet the requirements regarding specific skills, assistance of the fact-finder, availability of data, reliability of methods and principles used.[78]

The United States has also considered proposals regarding deepfake evidence and the challenges of authentication of audiovisual evidence because such talks indicate that classical principles of authenticity may require modifications in case of digital evidence, like the one produced using modern technology. However, it is essential to point out that the establishment of additional rules associated with deepfakes is different from the current general principles of authenticity and expert evidence.

The value of American law is that it focuses on contextual authenticity; it proves that the existence of technological manipulation does not require the establishment of a separate admissibility rule for each group of digital evidence.

European Union Artificial Intelligence Act introduces the obligation of transparency in relation to the specified kinds of AI-generated or manipulated content.[79] Article 50 lays down some transparency requirements, such as the ones concerning synthetic content and deepfake materials. Thus, the EU regulations should be treated primarily in a practical sense of the regulatory mechanism of transparency rather than as a whole evidence model.[80]

9.1 Lessons for India

Therefore, certain lessons can be derived from the case of the European Union. Third, disclosure of material AI involvement may improve the ability of parties and courts to The disclosure of AI involvement in a significant way could be instrumental in enabling the parties as well as courts to better assess information in electronic form.

These principles could help strengthen the application of the BSAwhile avoiding mechanical importation of foreign rules and principles of regulation. The Indian law of evidence needs to function consistently with the statutory framework and the Constitution.

[77] Federal Rules of Evidence, Rule 901(a), United States of America.
[78] Federal Rules of Evidence, Rule 702, United States of America.
[79] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024, art. 50.
[80] Regulation (EU) 2024/1689, art. 50.

10. CRITICAL REMARKS: REDEFINING AUTHENTICITY AND EVIDENCE

10.1 The Insufficiency of Binary Thinking

The problem of AI-generated material is presented through the binary lens of being either admissible or inadmissible due to its alleged manipulability. Both solutions do not shed light on the essence of the issue.

The absolute bar may drive courts away from the use of true electronic evidence that underwent legitimate AI-related processing. Electronic techniques such as image enhancement, transcription, restoration, and so on may help in the analysis of evidence without causing any doubts regarding its authenticity.[81] Denying the admissibility of all such materials will result in the reduction of the evidentiary potential of electronic information.

The appropriate perspective must be able to realize that the intervention of AI is relevant for authentication and reliability but it is not the determinant factor for defining either of them. The evidential importance of a digital record is determined by the method of obtaining it, the factual claim on the base of which it is created, the verifier available and the surrounding situation.

10.2 The Difference between Authenticity and Evidential Weight

Authentication and evidential weight are not synonyms. Authentication is concerned with whether the material is actually the record or representation claimed by its proponent. Evidential weight is the measure of how much this material supports the factual claim to be proved.[82]

The record may be authenticated and still have its content disputed. The record may be authentic and be missing important information, present material in a misleading manner or fail to prove the claim sought. Synthetic representations may be accurately identified as such and still be of little value, but this should not be presented as a proof of an event that never happened.The acknowledgment of the difference is of great importance due to the reason that legal assessment should not be stopped once the piece of evidence is submitted in front of the court.

10.3 Involvement of AI and Claims Related to the Evidence

The severity of AI involvement has to be analyzed in reference to the claim made with respect to the evidence. An original recording of an event will convey quite different meaning when compared with a recording which is produced as illustrative reconstruction. The transcript created via the help of AI would definitely help understand the audio record but it should not replace the examination of the original record where the authenticity is in question.[83]

10.4 The Hazard of Dependence on Technical Systems

Technical systems play an important part in identifying discrepancies in digital materials. However, their importance may be exaggerated when construed as a conclusive factor.[84]

[81] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[82] Ibdi.
[83] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, ss. 39 and 63.
[84] *Pune Bar Association v. Union of India*, W.P. (C) No. 599 of 2026, order dated 22 May 2026 (Supreme Court of India).

A stable hash value shows the consistency of certain forms of an electronic document but not the real authenticity of its contents. The provenance of digital assets may show the creation history without proving its authenticity. The detection tool may show the signs of artificiality of the material without actually confirming that the event really happened.

The threat appears when the technical result is transformed into a general conclusion of a legal nature without sufficient justification. Courts must define the specific question which was answered by means of this particular technique and should avoid treating it as the quintessence of the evidence inquiry.

10.5 Fair Trial and Ambiguous Evidence

The use of AI-based evidence must be in compliance with the principles of fair trial.[85] In case of the criminal cases, fabricated evidence may have a catastrophic impact on the suspect. In case the disputed recording is used as a significant piece of evidence, the chance for testing the recording becomes even more important. It may be said that accusations of artificial intelligence could be used to discredit authentic evidence.[86] A claim that an audio-visual material may have been made artificially should not automatically make it untrustworthy.

The court should differentiate between a particular claim and one that has some grounds falling short of believable evidence. If the challenge indicates specific evidence, a more thorough examination shall be conducted when the challenge does not provide sufficient grounds, the existence of AI-generated materials will, nevertheless, not negate evidence otherwise believed to be reliable.

11. PROPOSALS FOR ADDRESSING THE ISSUE IN COURT

The previous discussion shows that the existing rules of evidence in Indian law do not indicate the necessity to exclude AI-produced evidence automatically or to abandon the system of certification of electronic records.[87] There is a need for the application of a more straightforward approach to interpretation of the relationship of digital evidence, its creation process, and the factual statement on which it is based.

11.1 Disclosure of Material AI Involvement

If AI has significantly contributed to or changed content used as evidence of a real-life situation, then the evidence of that involvement should be included in the evidence process. The disclosure should state, as far as it is possible to do, the kind of AI use, the aim of processing, and whether the material was generated from the existing or created independently.[88]

The requirement has to be adequate. Routine processing does not necessarily require the same level of disclosure as the creation or replacement of a person's appearance, voice, and activities. The important thing is whether the realization of AI influences the significance of the evidence.[89]

[85] Constitution of India, art. 21; *Maneka Gandhi v. Union of India*, AIR 1978 SC 597; *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158.
[86] Robert M. Chesney and Danielle Keats Citron, 'Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security' (2019) 107 *California Law Review* 1753.
[87] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, ss. 39, 61–63.
[88] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024, art. 50.
[89] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.

Disclosing information would help the opponent determine the reasons for getting rid of the evidence and the court to decide if the additional expertise will be needed. It may also decrease the probability of synthetically generated information claimed to be an uninterrupted record of the event. A synthetic representation does not have to be true, while a genuine recording can be trusted even if no source verification has taken place.

11.2 Preservation of original material and processing history.

To the extent possible and reasonable, preservation of original material shall be encouraged in case of the effect of AI processing over digital evidence. Original files, produced versions and relevant information about processing can help in understanding whether the final representation is in line with the original or if it brought essential changes.[90] The process of preservation should include sufficient materials that can document the process such as acquisition, transfer, research and storage traces. Hash values can assist in distinguishing different versions, whereas chain of custody records can provide the information about the treatment of evidence.[91]

The non-existence of an original source must not automatically imply that one should be excluded. There may be appropriate cases where the original cannot be located, damaged or inaccessible. In such cases, the court needs to investigate the reasons of the absence, the credibility of information at hand and whether the restrictions can be worked around with the aid of other evidence.

11.3 A Clear and Methodically Correct Expert Evaluation

Expert evaluation must be focused towards resolution of the authenticity or reliability issue brought before the court. The expert evaluation must indicate what kind of materials have been studied, what methodology was used, what conclusions were drawn from the examination and what limitations of the research are relevant.[92]

When using AI detection devices, it should clarify how such devices operate, under what conditions their operation is validated and the characteristics of their errors, to the extent this information is known.[93] The expert's function must always be one of clarification rather than dictation of the actual judicial decision. A technical examiner may provide data about the peculiarities of laboratory material, the chance of manipulations, or the usefulness of the detection technique. The position of the court, however, should be to determine the relevance of the disclosed information proved in the light of the other proofs.

11.4 Proportionate Authentication and Adversarial Testing

The level of authentication necessary is determined by the nature of the evidence at issue and the circumstances of the challenge. In adversarial testing, there can be an investigation of the creator of the evidence, questioning of the expert witness, comparing the evidence with its source, and looking

[90] Coalition for Content Provenance and Authenticity, *Content Credentials: C2PA Technical Specification*, available at: https://spec.c2pa.org/ (last visited 14 November 2026).
[91] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, s. 63(4) and the Schedule.
[92] Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, s. 39(1)–(2); Federal Rules of Evidence, Rule 702, United States of America.
[93] David Güera and Edward J. Delp, 'Deepfake Video Detection Using Recurrent Neural Networks' (2018) 2018 IEEE International Conference on Advanced Video Based Surveillance 1.

into the circumstances surrounding it.[94] The intensity of this investigation should be consistent with its importance.

This approach is not intended to place a new burden of proof for every document generated by electronics. It should only confirm that the questioned digital evidence undergoes an appropriate validation checking. Judiciary findings about authenticity and evidential weight

The court reasoning must keep the two concepts apart - the admissibility of the electronic record and its final evidential weight. In cases where there is a valid dispute concerning the electronic evidence, the court must state the main grounds based on which it received its conclusion about authenticity.[95]

12. FINDINGS AND DISCUSSION

The research carried out in this paper yielded several important findings.

The first finding is that AI-generated proof is not limited to one kind of evidence only. Fully generated product, AI altered documents, restored material and AI supported processing present different matters regarding origin, authenticity and reliability.[96]

The second finding is that the BSA serves as an important legal basis for admissibility of electronic evidence. Clauses 61-63 and the Schedule define the criteria for admissibility of electronic evidence, whereas Clause 39 presents the conditions for expert opinion forming.[97]

The third finding is that digital integrity and factual authenticity are two different concepts concerning evidence. Hash values and running processes help find out the changes made to the digital evidence but do not allow to state the fact of the evidence showing the reality.[98]

The fourth finding is that the judicial practice of the Supreme Court provides guidance for assessing AI-generated evidence. The cases of Anwar P.V. and Arjun Panditrao Khotkar illustrate the importance of legal certification under the previous electronic evidence law.[99] While hash values and preservation techniques may help detect modifications made to digital records, they alone cannot determine whether the record captures reality correctly.[100]

Fifthly, specialized investigation and AI detection equipment can be of help in assessing synthetic materials but their results should be taken into account in connection with their methodological limitations. Results of detection cannot be seen as indisputable evidence of synthesis or genuineness.[101]

GRASP - EDUCATE - EVOLVE

[94] *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158.
[95] *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473; *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1.
[96] Paul W. Grimm, Maura R. Grossman and Gordon V. Cormack, 'Artificial Intelligence as Evidence' (2021) 19 *Northwestern Journal of Technology and Intellectual Property* 9.
[97] The Bharatiya Sakshya Adhiniyam, 2023 (Act 47 of 2023), ss. 39, 61–63 and the Schedule.
[98] Coalition for Content Provenance and Authenticity (C2PA), *C2PA Technical Specification, Version 2.2*, available at: https://spec.c2pa.org/specifications/specifications/2.2/specs/ContentCredentials.html (last visited 14 November 2026).
[99] *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473; *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1.
[100] *Pune Bar Association v. Union of India*, W.P. (C) No. 599 of 2026, order dated 22 May 2026 (Supreme Court of India); Coalition for Content Provenance and Authenticity (C2PA), *C2PA Technical Specification, Version 2.2*, available at: https://spec.c2pa.org/specifications/specifications/2.2/specs/ContentCredentials.html (last visited 14 November 2026).
[101] National Institute of Standards and Technology, *Reducing Risks Posed by Synthetic Content: An Overview of Technical Approaches to Digital Content Transparency*, NIST AI 100-4 (2024); Marc Gorriz-Blanch et al., *An Evaluation of Generated/Manipulated Image Detection*, BBC Research & Development White Paper WHP 414 (2024)

The implications of the above-mentioned points confirm the key thesis of this piece of writing, namely, the law has to differentiate between the authenticity of an electronic document and the authenticity of a situation it describes besides relying on the inference drawn from that document.[102]

CONCLUSION

Generative artificial intelligence raises an important obstacle to the evidentiary value of digital information. It is now possible to create real photographs, videos, audio records and other representations without the occurrence of real-life events. Thus, the basis for the assumption that the existence of digital content indicates that the event has taken place has been weakened. The situation further requires more thorough consideration of the problem of the admissibility, authenticity and evidential reliability of electronic records.

The legal framework of India is a good starting point for dealing with the problem of electronic records use in court. The BSA acknowledges the existence of electronic and digital records and lays down a legal basis for their admissibility through Sections 61-63 and the relevant Schedule. Section 39 provides the basis for the expert opinion in the area requiring special knowledge, which includes the use of electronic and digital information.

The comparative analysis of the U.S. law of evidence and the EU's AI transparency framework shows that authentication, reliability and disclosure have to be distinguished. These ideas can be taken into account in the Indian framework in relation to contextual authentication, expert analysis and AI disclosures. Nevertheless, this method should be implemented with regard to the existing provisions of the Indian law and proceedings.

BIBLIOGRAPHY

A. Constitutional and Statutory Material

1. The Constitution of India, 1950.
2. The Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023.
3. The Information Technology Act, 2000, No. 21 of 2000.
4. The Indian Evidence Act, 1872, No. 1 of 1872.
5. Regulation (EU) 2024/1689, Artificial Intelligence Act, 2024.

B. Judicial Decisions

Indian Cases

1. *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473.
2. *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1.
3. *Pooja Ramesh Singh v. Jammu & Kashmir Bank Ltd.*, 2026 INSC 668.
4. *Pune Bar Association v. Union of India*, W.P. (C) No. 599 of 2026, order dated 22 May 2026.

[102] *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473; *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1; *Pune Bar Association v. Union of India*, W.P. (C) No. 599 of 2026, order dated 22 May 2026 (Supreme Court of India).

Foreign Cases

1. *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).

C. Books and Research Articles

1. Chesney, Bobby & Danielle Keats Citron. "Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security." 107 *California Law Review* 1753 (2019).

2. Grimm, Paul W., Maura R. Grossman & Gordon V. Cormack. "Artificial Intelligence as Evidence." 19 *Northwestern Journal of Technology and Intellectual Property* 9 (2021).

D. Institutional and Technical Publications

1. Coalition for Content Provenance and Authenticity, *C2PA Technical Specification*, Version 2.4 (2026).
2. National Institute of Standards and Technology, *Digital Evidence Preservation: Considerations for Evidence Handlers*, NISTIR 8387 (2022).
3. Federal Rules of Evidence, Rules 702 and 901 (United States).
4. Advisory Committee on Evidence Rules, *Proposed Amendment to Federal Rule of Evidence 901: Deepfakes*, committee materials (2025–2026).

E. Online Sources

1. India Code, Government of India, https://www.indiacode.nic.in.
2. Supreme Court of India, https://www.sci.gov.in.
3. C2PA Technical Specifications, https://spec.c2pa.org.
4. NIST, https://www.nist.gov.
5. European Union AI Act Service Desk, https://ai-act-service-desk.ec.europa.eu.