



When Seeing Is No Longer Believing: Rethinking the Admissibility of AI-Generated Evidence in Indian Courts

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ABSTRACT :

The increasing use of artificial intelligence (AI) to generate, manipulate and reproduce audio, video, images and documents has created significant challenges for the law of evidence. In India, the growing availability of deepfakes and other AI-generated content raises important questions concerning the authenticity, reliability and admissibility of digital evidence before courts. The legal framework governing electronic and digital records must now respond to evidence that may appear genuine while having been artificially created or substantially altered. This paper examines the admissibility of AI-generated and AI-manipulated evidence in Indian courts, with particular focus on the Bharatiya Sakshya Adhiniyam, 2023 and the principles governing electronic evidence. It analyses the evidentiary concerns arising from authenticity, integrity, attribution, chain of custody and the possibility of manipulation through generative AI. The paper further examines the role of expert evidence and technological methods of verification in assisting courts in determining whether AI-generated material can be relied upon. It argues that the existing framework provides a foundation for dealing with digital evidence but may face practical difficulties where sophisticated AI manipulation makes conventional methods of authentication inadequate. The paper concludes by proposing a technology-neutral and reliability-based approach that balances the evidentiary value of emerging digital technologies with the requirements of a fair trial and procedural justice.

INTRODUCTION

The rapid development of artificial intelligence has transformed the manner in which digital content can be created, reproduced and manipulated. Audio recordings, photographs, videos and documents can now be generated or substantially altered through artificial intelligence systems with increasing levels of realism. While these technologies have legitimate applications, their use also creates significant challenges for the administration of justice, particularly where digitally generated or manipulated material is presented as evidence before a court.

The problem becomes particularly significant in the context of deepfakes and other forms of synthetic media. A digitally manipulated video may portray a person as making a statement that was never made, while an AI-generated audio recording may imitate an individual's voice without that person having made the alleged communication. The evidentiary difficulty therefore extends beyond the traditional question of whether a digital record exists. It also concerns whether the record accurately represents the event, person or communication that it purports to depict.

Indian evidence law has increasingly recognised the legal significance of electronic and digital material. The Bharatiya Sakshya Adhiniyam, 2023 ('BSA'), which came into force on 1 July 2024, expressly recognises electronic and digital records and provides a statutory framework for their evidentiary treatment.¹ Section 61 provides that an electronic or digital record cannot be denied admissibility merely because it is electronic or digital, subject to the requirements of section 63. Section 62 provides that the contents of electronic records are to be proved in accordance with section 63.² This framework is important because AI-generated or AI-manipulated material may fall within the broader category of electronic or digital records, but its mere digital character cannot by itself establish its authenticity or reliability.

The issue is further complicated by the fact that artificial intelligence can alter digital material without necessarily leaving obvious visible or audible indicators of manipulation. Consequently, courts may be required to distinguish between an original digital record, an altered digital record and content that has been generated substantially or entirely through artificial intelligence. Questions of authenticity, integrity, attribution, chain of custody and the reliability of methods used to verify digital material therefore become central to the judicial assessment of such evidence.

Indian jurisprudence on electronic evidence has already established that electronic material is subject to specific requirements governing its proof. In *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal*, the Supreme Court reaffirmed the importance of the statutory requirements governing the admissibility of electronic evidence under section 65B of the Indian Evidence Act, 1872.³ The transition to the BSA has altered the statutory framework, but the underlying evidentiary concern remains significant: a court must have a reliable basis for determining what a digital record represents and whether it can properly be relied upon.

AI-generated evidence therefore presents a distinct evidentiary challenge. The question is not simply whether artificial intelligence was used in producing or modifying a record, but whether the resulting material satisfies the requirements of relevance, authenticity, reliability and admissibility applicable to

¹ Bharatiya Sakshya Adhiniyam 2023, s 61; the Act came into force on 1 July 2024.

² Bharatiya Sakshya Adhiniyam 2023, ss 61–63.

³ *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal* (2020) 7 SCC 1. The Supreme Court reaffirmed the statutory requirements for proving electronic evidence under the earlier section 65B framework.

evidence before a court. The use of expert examination, metadata, forensic analysis, technological verification and other methods may become increasingly important where the authenticity of digital material is disputed.

Against this background, this paper examines the legal treatment of AI-generated and AI-manipulated evidence in Indian courts. It focuses particularly on the interaction between artificial intelligence, electronic evidence and the evidentiary framework under the Bharatiya Sakshya Adhiniyam, 2023. The paper seeks to determine whether the existing legal framework is capable of addressing sophisticated AI-generated evidence and whether additional doctrinal or procedural safeguards may be required to protect the integrity of judicial proceedings.

The study adopts a doctrinal approach and analyses statutory provisions, judicial decisions and relevant legal principles governing electronic evidence. It ultimately examines whether Indian courts can develop a technology-neutral and reliability-oriented approach that permits legitimate technological evidence to be considered while preventing manipulated or deceptively generated material from undermining the fairness and accuracy of judicial proceedings.

RESEARCH PROBLEM

The increasing use of artificial intelligence in the creation and manipulation of digital content presents a developing challenge for the Indian law of evidence. Digital photographs, audio recordings, videos and other electronic material may now be generated or altered in ways that make it difficult to determine whether the material accurately represents the underlying event. This creates a particular concern when such material is produced before a court as evidence.

The central research problem is whether the existing evidentiary framework under the Bharatiya Sakshya Adhiniyam, 2023 is sufficiently equipped to address AI-generated and AI-manipulated evidence. Although the BSA recognises electronic and digital records and provides requirements for their proof, the legislation does not specifically establish a separate evidentiary framework for material created or manipulated through artificial intelligence.⁴The resulting uncertainty is particularly significant in cases where the authenticity of a digital record is disputed.

The problem also involves determining how courts should assess the reliability of such material. Traditional approaches to electronic evidence may not always provide an adequate basis for identifying sophisticated AI manipulation. Questions concerning the source of the material, its integrity, the manner in which it was created or obtained, the possibility of alteration, and the availability of reliable technological or expert methods of verification may directly affect its evidentiary value.

Accordingly, this study examines whether the existing principles governing electronic evidence can be effectively applied to AI-generated and AI-manipulated material, and whether additional judicial or procedural safeguards are necessary to ensure that technologically sophisticated forms of evidence do not compromise the reliability and fairness of judicial proceedings.

RESEARCH QUESTIONS

The present study seeks to answer the following questions:

1. **What is the legal framework governing the admissibility of electronic and digital evidence under the Bharatiya Sakshya Adhiniyam, 2023?**
2. **To what extent can the existing provisions governing electronic evidence be applied to AI-generated and AI-manipulated evidence?**
3. **What evidentiary standards should courts apply to determine the authenticity, integrity and reliability of AI-generated or AI-manipulated evidence?**
4. **How can expert evidence, digital forensic examination, metadata and other technological methods assist courts in determining whether digital evidence has been generated or manipulated through artificial intelligence?**
5. **Whether the existing evidentiary framework under the Bharatiya Sakshya Adhiniyam, 2023 is adequate to address sophisticated AI-generated and AI-manipulated evidence, or whether additional procedural safeguards are necessary?**
6. **What approach should Indian courts adopt to balance the evidentiary value of emerging AI technologies with the requirements of fairness, reliability and the integrity of judicial proceedings?**

RESEARCH METHODOLOGY

This study adopts a **doctrinal legal research methodology** to examine the admissibility and evidentiary treatment of AI-generated and AI-manipulated evidence in Indian courts. The research primarily relies upon **primary legal sources**, including legislation, judicial decisions and other authoritative legal materials. Particular emphasis is placed on the Bharatiya Sakshya Adhiniyam 2023, especially sections 61–63 governing electronic and digital records.

The study also analyses relevant judicial precedents concerning the admissibility, proof and authentication of electronic evidence. The jurisprudence developed under the Indian Evidence Act 1872, including *Anvar PV v PK Basheer*⁵ and *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal*, is examined to identify principles that may remain relevant to the interpretation and application of the BSA. In *Arjun Panditrao Khotkar*, the Supreme Court reaffirmed the mandatory nature of the statutory certification requirement under the earlier section 65B framework for secondary electronic evidence.

Secondary sources, including **books, journal articles, research papers, law-reform materials and scholarly literature concerning artificial intelligence, deepfakes and digital evidence**, are used to examine the technological and evidentiary challenges created by AI-generated content. The study adopts a **technology-neutral and comparative analytical approach**, assessing whether existing principles of authenticity, integrity, reliability,

⁴ 1. Bharatiya Sakshya Adhiniyam 2023, ss 61–63. [India Code – Bharatiya Sakshya Adhiniyam, 2023](#)

⁵ *Anvar PV v PK Basheer* (2014) 10 SCC 473.

expert evidence and chain of custody can adequately address emerging forms of synthetic digital evidence.

The research is therefore qualitative and analytical in nature. It does not involve empirical collection of data from courts or litigants. Instead, it evaluates the existing legal framework and jurisprudence to identify doctrinal gaps and develop recommendations for the judicial assessment of AI-generated and AI-manipulated evidence.

LEGAL FRAMEWORK GOVERNING ELECTRONIC AND DIGITAL EVIDENCE IN INDIA

The starting point for examining the admissibility of AI-generated and AI-manipulated evidence in India is the statutory framework governing electronic and digital records under the **Bharatiya Sakshya Adhiniyam, 2023 ('BSA')**. The BSA came into force on 1 July 2024 and expressly incorporates electronic and digital material within the concept of documentary evidence. Section 2(1)(d) defines a 'document' broadly to include electronic and digital records, including emails, server logs, computer and smartphone records, messages, websites and voice-mail messages stored on digital devices.⁶

- **Recognition of Electronic and Digital Records**

Section 61 of the BSA establishes the basic principle that an electronic or digital record cannot be denied admissibility merely because it exists in electronic or digital form. It further provides that such a record, subject to section 63, has the same legal effect, validity and enforceability as other documents.⁷

This provision is particularly significant in the context of AI-generated evidence because AI-generated photographs, synthetic audio recordings, manipulated videos and digitally generated documents can potentially fall within the broad statutory concept of electronic or digital records. However, section 61 does not establish that every electronic record is automatically reliable or admissible. Rather, admissibility remains subject to the requirements prescribed by section 63.⁸

- **Proof of Contents of Electronic Records**

Section 62 provides that the contents of electronic records may be proved in accordance with section 63 of the BSA.⁹ Section 63 lays down the statutory conditions governing the admissibility of information contained in an electronic record when it is produced as computer output. Where the prescribed conditions are satisfied, the electronic information may be admitted without requiring further proof or production of the original.¹⁰

The importance of section 63 becomes greater when the authenticity of AI-generated or AI-manipulated material is disputed. Compliance with the statutory requirements governing the production of an electronic record establishes the evidentiary route through which the material may be placed before the court; however, questions concerning whether the content has been manipulated, fabricated or generated through artificial intelligence may still require judicial examination.

- **Judicial Principles Governing Electronic Evidence**

The development of Indian jurisprudence on electronic evidence under the earlier Indian Evidence Act, 1872 provides an important background for understanding the present framework. In *Anvar PV v PK Basheer*, the Supreme Court held that secondary electronic evidence was governed by the special statutory requirements of section 65B of the Indian Evidence Act and could not be admitted without compliance with those requirements.

The position was subsequently clarified by the Constitution Bench in *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal*. The Court reaffirmed *Anvar PV* and held that the statutory certificate contemplated by section 65B was a condition precedent for admissibility of secondary electronic evidence, subject to the distinction where the original electronic record itself was produced.

Although these decisions concerned the previous statutory framework, they remain relevant to the present study because they demonstrate the Supreme Court's emphasis on **authentication, statutory compliance and reliability in the admission of electronic evidence**. The BSA has replaced the earlier section 65B framework with sections 61–63, but the underlying evidentiary problem—determining whether electronic material can reliably be placed before a court—continues to be important.

- **Application to AI-Generated and AI-Manipulated Evidence**

The BSA does not create a separate category of evidence specifically addressing artificial intelligence, deepfakes or synthetic media. Consequently, AI-generated material must presently be examined within the broader framework governing electronic and digital records.

This creates an important distinction between **admissibility and evidentiary weight**. An AI-generated video may satisfy the formal requirements for being produced as an electronic record, yet the court may still have to determine whether the video accurately represents the event it purports to depict. Similarly, an AI-generated audio recording may be technically admissible as digital material while its attribution to a particular person remains disputed. The principal difficulty therefore lies in determining **authenticity and reliability after the electronic record has been produced before the court**. In cases involving sophisticated AI manipulation, courts may need to consider factors such as the source of the material, metadata, integrity of the underlying file, chain of custody, forensic examination, expert opinion and other technological indicators of manipulation.

Accordingly, the statutory framework under the BSA provides the **legal gateway for electronic evidence**, but the increasing sophistication of generative AI creates a further question: whether the existing mechanisms are sufficiently capable of enabling courts to distinguish genuine digital evidence from convincingly fabricated or manipulated material.

The next section should move from the general statutory framework to the *specific nature of AI-generated evidence and the problems it creates for evidentiary law*. This is the foundation for your later analysis of authenticity, expert evidence and admissibility.

⁶ Bharatiya Sakshya Adhiniyam 2023, s 2(1)(d).

⁷ Bharatiya Sakshya Adhiniyam 2023, s 61.

⁸ *ibid*.

⁹ Bharatiya Sakshya Adhiniyam 2023, s 62.

¹⁰ Bharatiya Sakshya Adhiniyam 2023, s 63(1).

AI-GENERATED AND AI-MANIPULATED EVIDENCE: NATURE AND EVIDENTIARY CHALLENGES

Artificial intelligence has fundamentally altered the nature of digital content by enabling the creation of material that may not correspond to any underlying real-world event. Generative AI systems can produce synthetic images, audio, video and text, while other AI-based tools can modify existing digital material to alter a person's appearance, voice, statements or actions. This development creates a significant evidentiary difficulty because the conventional assumption that a digital recording represents an actual event can no longer be treated as self-evident. Recent scholarship has therefore identified a distinction between the existence of a digital file and the authenticity of the event or communication that the file purports to represent.¹¹

1. *AI-Generated and AI-Manipulated Evidence*

AI-generated evidence may be understood as digital material that has been created, wholly or substantially, through an artificial intelligence system. Examples include synthetic photographs, artificially generated voices, fabricated videos and AI-produced documents. AI-manipulated evidence, by contrast, involves the alteration of an existing record through AI techniques. Deepfakes represent a particularly significant form of such manipulation because they can realistically modify facial expressions, speech, voice or other characteristics of individuals.¹²

The distinction is legally significant. An entirely AI-generated video may not depict any genuine underlying event at all, whereas an AI-manipulated recording may contain an authentic underlying event but present it in an altered form. The evidentiary inquiry must therefore extend beyond determining whether a particular file is digitally stored or technically intact. It must also consider whether the content accurately represents the event, person or communication that it purports to represent.

This problem is particularly relevant under the BSA because sections 61–63 establish the legal framework for electronic and digital records but do not create a separate statutory category for AI-generated or AI-manipulated evidence.¹³ The statutory framework therefore provides the mechanism through which electronic material may be introduced into evidence, while questions concerning the authenticity and reliability of AI-generated content may require further judicial assessment.

Authenticity and Integrity

Authenticity is one of the central challenges presented by AI-generated evidence. A court must determine whether the evidence is what the party producing it claims it to be. In conventional digital evidence, this may involve examining the source of the recording, the device from which it originated, its metadata and the circumstances in which it was obtained. AI manipulation complicates this inquiry because sophisticated synthetic content may appear visually or audibly consistent with genuine material.

Authenticity must also be distinguished from *integrity*. A file may remain unchanged from the moment it was submitted to the court and therefore possess file integrity, while the content itself may nevertheless have been artificially generated or manipulated before the file entered the evidentiary chain. Recent scholarship on deepfake evidence accordingly distinguishes the integrity of a digital file from the authenticity of the event represented by that file.¹⁴

This distinction is particularly important for the application of section 63 of the BSA. Compliance with the statutory requirements for producing an electronic record may establish the procedural basis for its admission, but it does not necessarily resolve the substantive question of whether the content itself is genuine. The certificate and related requirements therefore cannot, by themselves, answer every question raised by sophisticated AI manipulation.¹⁵

Attribution and Identity

AI-generated audio and video also create difficulties concerning *attribution*. A synthetic recording may reproduce a person's voice or appearance without that person having created or communicated the content. Consequently, establishing that a recording contains a particular person's likeness or voice may not necessarily establish that the person actually made the statement or participated in the event depicted.

This distinction is especially significant in criminal proceedings. Where a prosecution relies upon an audio or video recording to establish the conduct or statement of an accused, the court must be able to distinguish between the identity of the person depicted and the authenticity of the person's alleged participation in the underlying event. AI-generated impersonation can therefore undermine conventional assumptions linking a person's identifiable voice or appearance to authorship or participation.

The problem demonstrates why *identity, attribution and authenticity should be treated as separate evidentiary inquiries* rather than as a single question of whether a digital recording appears genuine.

¹¹ Setty Hrudai Tej, 'Regulating AI-Generated Deepfake Evidence Under the Bharatiya Sakshya Adhiniyam, 2023' (2026) 16(3) *IUP Law Review* 5, 5–21.

¹² Anushka Singh, 'Deepfake Evidence in Indian Courts: Can Truth Be Authenticated?' (2026) *Indian Journal for Research in Law and Management*.

¹³ Bharatiya Sakshya Adhiniyam 2023, ss 61–63.

¹⁴ Gandham Rajini Kumar, 'When Seeing is No Longer Believing: Deepfakes, Artificial Intelligence and the Crisis of Digital Evidence in India' (2026) 9(2) *Journal of Constitutional Law and Jurisprudence*.

¹⁵ Sanevata Devi, 'AI-Generated Evidence in Indian Courts: Authenticity, Reliability and Admissibility under the Bharatiya Sakshya Adhiniyam, 2023' (2026) 13(9) *International Journal of Emerging Technologies and Innovative Research* e181–e191.

Chain of Custody and Provenance

The reliability of digital evidence also depends upon the ability to establish its *provenance and chain of custody*. A court may need to determine where the material originated, who obtained it, how it was stored, whether it was transferred between devices or platforms, and whether any alteration occurred during that process.

AI-generated content makes provenance particularly important because digital files can be copied, edited and redistributed repeatedly, making it difficult to identify the original source. Where evidence has passed through multiple devices, social-media platforms or messaging services, the absence of a reliable record of its origin may make subsequent authentication more difficult.¹⁶ Recent research concerning deepfakes and digital evidence in India has similarly identified gaps in forensic procedures and chain-of-custody documentation as significant challenges to reliable authentication.

Accordingly, provenance should be considered alongside the formal requirements for electronic evidence. Establishing the source and history of a digital record can assist the court in determining whether the material has been altered and whether the version produced before the court corresponds to the original record.

Role of Expert Evidence and Digital Forensics

The increasing sophistication of AI-generated content may also require courts to rely more extensively upon *expert evidence*. Section 39 of the BSA makes expert opinion relevant where the court is required to form an opinion on matters relating to science, technology or information transmitted or stored in a computer resource or other electronic or digital form. The provision specifically recognises the opinion of an Examiner of Electronic Evidence referred to under section 79A of the Information Technology Act 2000.¹⁷

This provision may provide an important evidentiary mechanism for cases involving suspected AI manipulation. Digital forensic experts may examine metadata, file structures, compression patterns, source information, audiovisual inconsistencies and other technical characteristics relevant to determining whether digital material has been manipulated.

However, expert evidence should not be treated as an automatic guarantee of authenticity. AI-detection technologies themselves may have limitations, and different detection systems may produce different results. The judicial task therefore remains one of evaluating the *methodology, reliability and evidentiary basis* of the expert opinion rather than simply accepting a conclusion that particular content is or is not AI-generated.¹⁸

The Risk of Both False Admission and False Exclusion

AI-generated evidence creates a dual evidentiary risk. The first is the *admission of fabricated evidence*: a sophisticated deepfake may be accepted as genuine and consequently influence the court's findings of fact. The second is the *unwarranted rejection of genuine evidence* merely because a party alleges that it may have been generated or manipulated by AI.

The second problem is particularly significant because increasing public awareness of deepfakes may allow a party to challenge authentic digital evidence simply by raising the possibility of AI manipulation. Recent scholarship has described this phenomenon as a form of "liar's dividend", whereby the existence of widespread synthetic media makes it easier to cast doubt on genuine recordings.¹⁹

Indian courts must therefore avoid adopting either an excessively permissive or excessively restrictive approach. A rule that admits apparently genuine digital material without adequate scrutiny risks allowing fabricated evidence to influence judicial findings, while a rule that treats all AI-associated evidence as inherently unreliable could exclude legitimate and probative evidence.

The Evidentiary Problem: Admissibility versus Reliability

The foregoing difficulties demonstrate the need to distinguish between *admissibility, authenticity, reliability and probative value*. Section 63 of the BSA addresses the statutory pathway for proving electronic records, but the existence of a procedural route to admissibility does not necessarily resolve every question concerning the truthfulness or reliability of the content.

The central challenge posed by AI-generated evidence is therefore not simply whether such material should be admitted or excluded. Rather, courts must develop a structured method for determining whether the material is authentic, whether its provenance can be established, whether it has been altered, whether the alleged speaker or subject can be reliably attributed to it, and what weight should ultimately be given to it.

A technology-neutral approach would allow courts to apply these principles without treating AI-generated evidence as automatically admissible or automatically unreliable. Such an approach would preserve the existing statutory framework while recognising that the increasing sophistication of

¹⁶ G Sona and Y Mahalingam, 'Deepfakes and Due Process: Rethinking Authenticity of Social Media Evidence in India's New Digital Evidence Regime' (2026) 13(1) *International Academic Journal of Social Sciences* 8–13.

¹⁷ Bharatiya Sakshya Adhiniyam 2023, s 39(1)–(2).

¹⁸ Ashna Ahmad, 'AI-Generated Evidence: Admissibility & Reliability in Indian Courts' (2026) 3(11) *Indian Journal for Research in Law and Management*.

¹⁹ Pournima Inamdar, Arnav Inamdar and Mangesh Bedekar, 'Beyond Authentication: A Three-Pillar Evidentiary Framework for Deepfake Evidence in Court of Law' (2026) 3(7s) *Journal of Intelligent Decision Making and Information Science*.

generative AI requires more rigorous scrutiny of the *source, integrity, authenticity, attribution and reliability* of digital evidence.

ADEQUACY OF THE EXISTING LEGAL FRAMEWORK AND THE NEED FOR SAFEGUARDS

The Bharatiya Sakshya Adhiniyam, 2023 provides a technology-neutral framework for the recognition and proof of electronic and digital records. Sections 61–63 establish that electronic and digital records are capable of having the same legal effect as other documents, subject to the statutory conditions governing their admissibility. The framework is significant because it does not exclude digital material merely because of its technological form. However, the increasing sophistication of artificial intelligence demonstrates that **recognising electronic evidence and authenticating its content are distinct legal questions**.

1. Adequacy of the Bharatiya Sakshya Adhiniyam, 2023

The BSA provides an important statutory foundation for dealing with AI-generated evidence because its provisions are not limited to particular technologies. This technology-neutral character is advantageous because technological systems develop more rapidly than legislation. A framework based upon the nature and reliability of evidence rather than the particular technology used to create it can therefore remain applicable to emerging forms of digital content.[31]

At the same time, the BSA does not expressly address the distinctive problem of synthetic or AI-generated content. Sections 61–63 regulate the evidentiary treatment of electronic records, but they do not specifically prescribe a procedure for determining whether a digital record has been generated or manipulated through artificial intelligence. Consequently, compliance with the statutory requirements for electronic evidence may not, by itself, resolve a dispute concerning whether the content accurately represents reality.

This distinction is particularly important because the reliability of an electronic record may be challenged at different levels. A party may dispute the **source of the record, the integrity of the file, the identity of the person depicted or heard, the circumstances in which the recording was created, or whether the content was subsequently manipulated**. AI-generated evidence therefore requires an assessment that goes beyond the formal production of the electronic record.

2. Application of Existing Electronic Evidence Principles

The earlier jurisprudence under section 65B of the Indian Evidence Act provides useful guidance in understanding the principles governing electronic evidence. In *Anvar PV v PK Basheer*, the Supreme Court held that secondary electronic evidence was governed by the special statutory mechanism under section 65B. In *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal*, the Court reaffirmed the mandatory nature of the statutory certificate for secondary electronic evidence while recognising the distinction between primary electronic evidence and secondary electronic evidence.

The transition from section 65B to section 63 of the BSA does not eliminate the importance of authentication. Rather, it demonstrates that electronic evidence continues to require a legally recognised basis for establishing its provenance and reliability. The crucial issue in AI-related cases is therefore how these principles should operate when the alleged problem is not merely whether a computer produced the record, but whether **artificial intelligence altered or fabricated the substance of that record**.

3. Expert Evidence as a Safeguard

Expert evidence is likely to become increasingly important in disputes involving AI-generated and manipulated material. Section 39 of the BSA makes expert opinion relevant where the court must form an opinion concerning science, technology or information transmitted or stored in a computer resource or other electronic or digital form. It also recognises the opinion of an Examiner of Electronic Evidence referred to under section 79A of the Information Technology Act 2000.

This provision can assist courts where the authenticity of an audio recording, video, image or other digital record is challenged. A qualified expert may examine technical characteristics of the material, including metadata, file structures, compression patterns, inconsistencies and other indicators relevant to possible manipulation.

However, expert evidence should not be treated as conclusive merely because it is technically presented. AI-detection tools themselves may have limitations, particularly as generative systems become capable of producing increasingly sophisticated synthetic material. The court must therefore assess the **methodology, reliability, competence and evidentiary basis** of the expert opinion rather than mechanically accepting the output of a technological detection system.

4. Chain of Custody and Digital Provenance

A significant safeguard against fabricated or manipulated digital evidence is the establishment of a clear **chain of custody**. The party producing digital material should, where relevant, be able to demonstrate its source, the circumstances in which it was obtained, the device or system from which it originated and the manner in which it was preserved and transferred.

This becomes particularly important where digital material has passed through multiple devices or online platforms. Each stage of copying, conversion, editing or transmission may create an opportunity for alteration. The absence of reliable provenance may therefore reduce the evidentiary weight of the material even where the record satisfies the formal requirements for production.

For AI-generated material, provenance is even more significant. A court should be able to determine, as far as reasonably possible, **who created the material, whether AI was used, what source material was used, whether the content was subsequently modified and whether the version presented to the court corresponds with the material originally obtained.**

5. Distinguishing Admissibility from Evidentiary Weight

The most appropriate approach to AI-generated evidence requires courts to distinguish between **admissibility and probative value**. A digital record may satisfy the statutory requirements necessary for admission and nevertheless have limited evidentiary weight if serious doubts remain concerning its authenticity or attribution.

Conversely, the mere allegation that artificial intelligence may have been used should not automatically result in exclusion. If courts were to treat every AI-associated record as inherently unreliable, genuine digital evidence could be excluded merely because of the possibility of manipulation.

The appropriate approach should therefore involve a sequential inquiry:

6. **Is the material relevant to the proceedings?**
7. **What is the source and provenance of the material?**
8. **Does it satisfy the statutory requirements governing electronic evidence?**
9. **Is there evidence suggesting alteration or AI manipulation?**
10. **Can the authenticity of the material be independently verified?**
11. **Is expert or forensic examination necessary?**
12. **What evidentiary weight should ultimately be assigned to the material?**

Such an approach would allow courts to examine AI-generated evidence according to its reliability rather than its technological label.

Proposed Judicial and Procedural Safeguards

The increasing use of synthetic media indicates the need for procedural safeguards without necessarily requiring an entirely separate evidentiary regime for AI-generated material. First, courts should encourage the **preservation of original digital files**, rather than relying exclusively upon screenshots, forwarded files or converted copies.

Second, parties relying upon disputed digital material should, where appropriate, disclose information concerning its **source, acquisition and preservation**. Where AI manipulation is specifically alleged, courts should have the power to require appropriate forensic examination.

Third, expert examination should preferably be conducted through recognised and technically reliable forensic mechanisms. Section 39 of the BSA, read with section 79A of the Information Technology Act 2000, provides an existing statutory basis for expert assistance in relation to electronic evidence.²⁰

Fourth, courts should avoid relying exclusively upon automated AI-detection software. The determination of authenticity should ordinarily be based upon the **totality of the available evidence**, including technical examination, metadata, provenance, witness testimony and surrounding circumstances.

Finally, courts should adopt a **technology-neutral standard of reliability**. The law should not assume that AI-generated evidence is either inherently trustworthy or inherently unreliable. Instead, the decisive question should be whether the evidence provides a sufficiently reliable basis upon which the court can make a finding of fact.

Balancing Technological Innovation with Fair Trial

The evidentiary treatment of AI-generated material ultimately implicates the broader principles of **fair trial and procedural justice**. The BSA itself states that it is intended to consolidate the law relating to evidence for fair trial.

An effective evidentiary framework must therefore balance two competing risks. The first is the possibility that sophisticated synthetic evidence may be accepted as genuine and lead to erroneous judicial findings. The second is the possibility that genuine evidence may be rejected simply because AI manipulation is technically possible.

A balanced approach requires neither unrestricted admission nor categorical exclusion. Instead, Indian courts should develop a **reliability-centred framework** in which authenticity, provenance, integrity, attribution and expert verification are considered according to the circumstances of each case.

The existing provisions of the BSA are sufficiently broad to provide the basic legal foundation for such an approach. Nevertheless, the absence of express statutory guidance concerning AI-generated and AI-manipulated evidence creates uncertainty regarding the precise procedures that courts should employ when authenticity is seriously disputed. Judicial development of consistent standards, supported by forensic expertise and appropriate procedural safeguards, may therefore be necessary until more specific legislative or institutional guidance emerges.

The conclusion should synthesise your findings rather than introduce new arguments. It should directly answer the research problem and research

²⁰ Information Technology Act 2000, s 79A; Bharatiya Sakshya Adhiniyam 2023, s 39.

questions developed in the earlier sections.

CONCLUSION

The increasing use of artificial intelligence in the creation and manipulation of digital content has fundamentally altered the evidentiary challenges faced by courts. Audio recordings, videos, images and other digital material can now be generated or modified with a degree of realism that makes traditional methods of visual or auditory assessment increasingly insufficient. The central difficulty is therefore no longer merely whether a digital record exists, but whether the record accurately represents the event, communication or person that it purports to represent.

The analysis undertaken in this paper demonstrates that the *Bharatiya Sakshya Adhiniyam, 2023* ('BSA') provides a significant statutory foundation for dealing with emerging forms of digital evidence. Sections 61–63 recognise electronic and digital records and establish the statutory framework for their proof. The technology-neutral character of these provisions is advantageous because it allows the law to accommodate technological developments without requiring a separate evidentiary regime for every new form of digital technology.[38] However, the absence of provisions specifically addressing AI-generated and AI-manipulated evidence creates important practical and doctrinal uncertainties.

A central finding of this study is that *admissibility and authenticity must be treated as distinct inquiries*. Compliance with the statutory requirements governing electronic evidence does not necessarily establish that the content of an electronic record is genuine. An AI-generated video may satisfy the formal requirements for production as an electronic record while nevertheless falsely depicting an event. Similarly, an AI-generated voice recording may accurately reproduce an individual's voice without establishing that the individual actually made the alleged statement. The evidentiary inquiry must therefore extend beyond the formal admission of the digital record to its provenance, integrity, authenticity and attribution.

The jurisprudence developed under the earlier Indian Evidence Act, particularly *Anvar PV v PK Basheer* and *Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal*, demonstrates the Supreme Court's emphasis on statutory compliance and reliable proof of electronic evidence.[39] Although these decisions arose under section 65B of the Indian Evidence Act, their broader emphasis on authentication and reliability remains relevant when courts confront technologically sophisticated forms of digital evidence under the BSA.

The study further establishes that *expert evidence and digital forensic examination will assume increasing importance* in cases involving suspected AI manipulation. Section 39 of the BSA provides a statutory basis for expert opinion concerning science, technology and information stored or transmitted through electronic or digital systems.[40] Nevertheless, expert evidence should not be treated as conclusive merely because it is based upon technological analysis. Courts must consider the methodology employed, the reliability of the forensic process and the limitations of AI-detection technologies. The determination of authenticity should consequently be based upon the totality of the available evidence rather than upon a single technological indicator.

Another important finding is the significance of *provenance and chain of custody*. Where digital evidence is capable of being repeatedly copied, modified and redistributed, establishing its source and history becomes essential. The preservation of original files, documentation of the manner in which evidence was obtained and stored, and appropriate forensic examination can assist courts in distinguishing genuine evidence from manipulated or fabricated material.

The paper therefore concludes that the BSA is *not fundamentally inadequate* for dealing with AI-generated evidence, but its existing provisions are not, by themselves, sufficient to resolve every authenticity dispute created by sophisticated AI manipulation. The legislation provides the basic evidentiary framework, while courts will need to develop appropriate methods of applying existing principles to new technological circumstances. A separate rule automatically excluding AI-generated evidence would be undesirable because the use of artificial intelligence does not necessarily make evidence false or unreliable. Conversely, treating digitally generated material as reliable merely because it satisfies the formal requirements for electronic evidence would create a serious risk of wrongful findings based upon fabricated material.

The appropriate approach is therefore a *technology-neutral, reliability-based framework*. Courts should examine the source, provenance, integrity, authenticity and attribution of disputed digital material and, where necessary, require expert or forensic verification. The mere possibility of AI manipulation should not be sufficient to exclude otherwise relevant evidence, just as the mere existence of a technically valid electronic record should not prevent the court from investigating credible allegations of manipulation.

Ultimately, the challenge presented by AI-generated evidence is not whether artificial intelligence should be accepted or rejected by the law of evidence. The real question is whether the legal system can develop reliable methods for distinguishing *authentic digital evidence from convincingly fabricated digital evidence*. The BSA provides a foundation upon which such an approach can be developed, but consistent judicial standards, improved forensic capabilities and appropriate procedural safeguards will be necessary to preserve the integrity of digital evidence.

The future of Indian evidence law should therefore not be based upon technological suspicion, but upon *verifiable reliability*. A balanced approach that combines statutory compliance, forensic examination, expert assistance, provenance verification and judicial scrutiny can enable courts to benefit from legitimate technological evidence while protecting accused persons and other litigants from the dangers posed by sophisticated synthetic media. Such an approach would best reconcile technological innovation with the fundamental objectives of *fair trial, accurate fact-finding and procedural justice*.