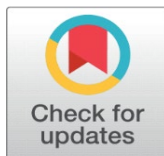
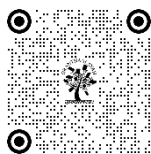


ADMISSIBILITY OF CONFESSION UNDER INDIAN EVIDENCE ACT, 1872

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ABSTRACT

In Indian criminal law, confessions are defined by the 1872 Indian Evidence Act. Confessions of guilt have legal implications. The Act classifies admissions as judgemental, out-of-court, and retracted. Judgemental confessions are admissible, whereas extrajudicial confessions are examined for pressure. Retracted confessions are carefully reviewed and may need third-party verification. Coerced, forced, or promised confessions and law enforcement confessions are illegal. Voluntary confessions protect the accused's identity. Mind, confession, and accused rights awareness determine voluntariness in court. Legal balance between law enforcement and private liberty ensures confession voluntariness in India. Other states prohibit forced confessions less strongly than the Indian Evidence Act. Unique to India, the Act forbids police confessions. Torture is defined, investigated, compensated, and punished under the 2017 Prevention of Torture Bill. It must be narrowed to balance law enforcement and freedoms enjoyed by individuals. Law enforcement and personal liberty deal effectively with detainee admissions. The Indian police and judge approach confessions differently to avoid prisoner torture and coercion. Section 25 of the Indian Evidence Act forbids police admissions for wrongdoing and power imbalance. According to Section 164 of the Code of Criminal Procedure, magistrate confessions are voluntary and honest. Courts consider the confession's conditions, medical records, and the accused's education, social status, and mental health. Criminal confession retraction affects trial evidence and poses admissibility and evidentiary value questions. Retracted confessions are less trustworthy than uncontested ones, thus courts must closely check them before convicting. If followed, procedural and technological flaws do not invalidate confessions, but Section 164 noncompliance does.

Keywords: Confession, Indian Evidence Act, Section 25, Voluntariness, Admissibility, Retraction, Corroboration, Custodial confession, Magistrate, Non-compliance

1. INTRODUCTION

The 1872 Indian Evidence Act makes confessions admissible, which is crucial to criminal justice. Admissions of guilt, or confessions, can greatly affect criminal cases. India strictly evaluates confessions for court admissibility due to pressure, threats, and inducements. Confessions are balanced between justice and accused rights under Indian Evidence Act sections 24–30.¹ These rules prevent police from exploiting forced confessions. The law requires admissions to be voluntary and safeguards against them in police custody or under law enforcement supervision. These laws are necessary because Indian law enforcement officials can abuse their power. Thus, the judiciary has interpreted and revised confession criteria to provide reliable and impartial criminal trial evidence. Numerous court opinions have defined confession admissibility, protecting the accused and the criminal justice process.

¹ HeinOnline, 'About | HeinOnline' (HeinOnline8 March 2021) <<https://heinonline.org/HOL/LandingPage?handle=hein.journals/injnlw5&div=26&id=&page=>>> accessed 8 October 2024

2. LEGAL DEFINITION AND TYPES OF CONFESSION UNDER THE INDIAN EVIDENCE ACT, 1872

The Indian Evidence Act, 1872 defines several confessions and their legal significance in Indian criminal law. Sections 24–30 of the Act clarify and interpret court confessions.

A confession is an accused person's admission of guilt. A criminal defendant might plead guilty in writing or orally. The Indian Evidence Act does not define confession, thus courts must interpret it.² Most courts view confessions as admissions to the crime. Although similar, confessions and admissions have different legal consequences, so bear that in mind. Admissions are statements that indicate a reality or important information. It might be used against the manufacturer, but it does not prove guilt. However, confessions admit guilt. The distinction is crucial since confessions are subject to stricter admission requirements and carry more weight in court. Each type of confession has its own legal weight and repercussions under the Indian Evidence Act.³ Judgemental, out-of-court, and retracted confessions are the primary categories.

A judicial confession is one made in front of a magistrate or court during a case. Formal and controlled confessions are very evidentiary. The Act requires certain recording processes to ensure court confessions' veracity and voluntariness. Extra-judicial confessions are made to private persons or police. Extrajudicial confessions, albeit acceptable, are scrutinized due to the risk of manipulation or pressure. Courts often want proof to support confessions.

Retraction occurs when an accused denies or withdraws a confession. Retracted confessions are carefully considered. Courts normally seek third-party corroboration before adopting a retracted confession, considering its context and grounds for retractions. Sections 24–30 of the Indian Evidence Act concern confession admissibility and evidential value.⁴ Section 24 prohibits admitting coerced, threatened, or promised confessions. This regulation specifies that only voluntary confessions shall be considered in court to prevent pressured confessions. Section 25 prohibits law enforcement confessions in court, and Section 26 extends this restriction to confessions made in police custody until made before a judge. These laws reflect concerns about police misconduct and the need to protect the accused. Section 27 exempts statements to law enforcement from admissibility. Confessions to law enforcement officials that reveal facts are admissible. This provision balances the need to protect the accused with the practicality of a criminal investigation. Sections 29 and 28 discuss the validity of deceitful confessions and confessions for concealment. These clauses enhance confession voluntariness. A co-defendant confession is discussed in Section 30's conclusion. These confessions can be used against the confessor, but the court has great discretion over other co-defendants. Confessions vary in evidence. Confessions made by judges in a controlled situation are usually the most probative. Even while confessions made outside of court can be used as evidence, they are typically suspicious and need to be verified. Courts must consider both the initial confession and the retraction when evaluating whether a retracted confession is admissible.⁵ Finally, how the Indian Evidence Act handles confessions illustrates how robust law enforcement and individual liberties are balanced. The Act's strict confession admissibility and evaluation requirements support justice while preventing judicial abuses.

3. VOLUNTARINESS AS A PRECONDITION FOR ADMISSIBILITY

In order to prevent criminal justice system abuses, Indian law requires confessions to be voluntary. Section 24 of the Indian Evidence Act, 1872 requires confessions to be voluntary as proof of the judicial system's commitment to fair trials and accused rights. Section 24 of the Indian Evidence Act makes a confession that seems to have been induced by any reward, threat, or promise irrelevant in a criminal proceeding.⁶ This clause shields the accused from coercion and allows only voluntary confessions. This section covers physical threats, leniency, and psychological coercion that violate the accused's autonomy. Indian courts consider numerous variables while assessing voluntariness. Courts assess the

² Olha Kovalchuk, Serhiy Banakh, Mariia Masonkova, Nadiia Moskaliuk, Nina Rohatynska, Oleksandr Pustovyi, Survival Analysis Models for Estimating and Predicting the Risks of Confession of Criminal Defendants, 2023 13th International Conference on Advanced Computer Information Technologies (ACIT), 10.1109/ACIT58437.2023.10275450, (46-51), (2023).

³ lawvidhi, 'Confessions under Indian Evidence Act, 1872 -' (Lawvidhi.com14 October 2023) <<https://www.lawvidhi.com/confessions-under-indian-evidence-act-1872/>>

⁴ 4 Issue 2 Indian J.L. & Legal Rsch. 1 (2022)

⁵ Schneider T and Sauerland M, 'Guilt Assessment after Retracted Voluntary and Coerced-Compliant Confessions in Combination with Exculpatory or Ambiguous Evidence' (2023) 37 Applied Cognitive Psychology

⁶ Omolaja N, 'Legal Framework of Confessional Statements under Administration of Criminal Justice Act 2015' (papers.ssrn.com3 April 2022) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4074098>

accused's mental state, confession specifics, and other criteria before upholding a confession. The prosecution typically needs voluntary confession. Courts examine detention confessions for police power abuse. Past court rulings affect confession voluntariness. In *State of U.P. v. Deoman Upadhyaya*, the Indian Supreme Court emphasised confessions without compulsion, threats, or promises. The court concluded that any compulsion, however little, might invalidate a confession if it makes the accused confess. In another major case, *Navjot Sandhu v. State (NCT of Delhi)*, the Supreme Court required the prosecution to prove the confession was voluntary and not pushed, threatened, or guaranteed.⁷ The court noted that each case must be carefully assessed for voluntary confession.

Indian courts allow voluntariness according to international standards. ICCPR and other human rights conventions ban coerced confessions. Forced confessions and torture-derived evidence are prohibited under the UN Convention against Torture. India applies these ideas differently. Different jurisdictions have less specific and comprehensive confession rules than the Indian Evidence Act. Section 25 of the Act prohibits confessions to police, a unique feature that reflects India's history and concerns about police misbehavior. Mandatory medical tests, judicial recording, and the accused's right to a counsel preclude coerced confessions in India. Due to the power imbalance between law enforcement and accused, confessions are still difficult to verify. Critics say subtle coercion is hard to detect and prove in court. Section 24 of the Indian Evidence Act and judicial precedents on voluntariness in confessions balance law enforcement demands with individual rights protection in India's criminal justice system.⁸ The legislative framework and judicial interpretation continue to reinforce forced confession protections and maintain fair trial and due process norms despite persistent problems.

4. CUSTODIAL CONFESSIONS AND THE ROLE OF THE POLICE

In India, custodial confessions are not admissible due to police brutality and pressure. The Indian Evidence Act of 1872 explicitly prohibits self-incrimination under duress in sections 25 and 26.⁹ Section 25 prohibits using police confessions as evidence. Section 26 prohibits confessions in police detention unless made before a magistrate. In order to be considered for consideration, confessions must be made under court supervision, which adds scrutiny. An impartial magistrate can verify a confession's voluntariness while protecting the accused's rights, so they attend.¹⁰ Section 27 presents a remarkable exception to the general rule of inadmissibility. This allows police to admit evidence found during arrest. This rule holds that a confession is credible if it yields concrete proof. To balance the need for evidence and the accused's rights, the section carefully limits admissible material to that closely related to the proven fact. Judicial interpretation has greatly impacted these rules. In the landmark decision of *Pakala Narayana Swami v. Emperor* (1939), the Privy Council defined a "confession" as an admission of guilt. This term considerably aids in identifying Sections 25 and 26 statements. *Kathi Kalu Oghad v. The State of Bombay* (1961) expanded self-incrimination protection.¹¹ When requesting an accused to produce fingerprints or handwriting samples, the Supreme Court declared it is not "being a witness against oneself" under Article 20(3) of the Constitution. This verdict helped define acceptable and unacceptable evidence collection practices in custody.

Custodial torture is a concern in Indian law. In order to address this issue, MPs introduced the Prevention of Torture Bill in 2017.¹² The bill seeks to define torture, investigate and compensate victims, and punish offenders, albeit it is still in the legislative process. The proposed legislation reflects a growing awareness of police abuse and detainee rights. Indian law rejects confessions made in police custody because the prisoner is vulnerable. The law recognises manipulation, intimidation, and compulsion-induced false confessions. Forced confessions are excluded from the judicial system to prevent convictions. This guarantees convictions are based on reliable evidence from competent investigation. Section 27 exclusions aid criminal investigations. They allow critical evidence to be included to solve crimes. This exception must be narrowed to reconcile law enforcement and individual rights. Only the factual element of the statement may be utilised in court to prevent forced admissions. The Indian legal system balances law enforcement and personal liberty while processing detained confessions.¹³ Judicial interpretations and statutory standards promote fair and accurate

⁷ *State (N.C.T of Delhi) v. Navjot Sandhu @ Afsan Guru*, 2005 11 SCC 600

⁸ 13 Indian J.L. & Just. 280 (2022)

⁹ 6 Issue 4 Int'l J.L. Mgmt. & Human. 1472 (2023)

¹⁰ Porter J, 'Admissibility of Confession Evidence: Principles of Hearsay and the Rule of Voluntariness' (2021) 25 The International Journal of Evidence & Proof 93

¹¹ 11 NLIU L. Rev. 134 (2021-2022)

¹² 4 Issue 4 Indian J.L. & Legal Rsch. 1 (2022)

¹³ Buddhist S and Vinjamuri LP, 'Abuse of Power by Law Enforcement Authorities in India with Reference to Human Rights Violation - a Legal Analysis' (2023) 10 International Journal of Human Rights and Constitutional Studies 228

evidence collecting. Discussions about custodial torture and the Prevention of Torture Bill show the need to confront police power and individual liberty.

5. CONFESSIONS TO POLICE OFFICERS AND MAGISTRATES

Confessions to police and judges are treated differently in India to avoid prisoner mistreatment and pressure. This distinction is stated under Section 25 of the Indian Evidence Act and Section 164 of the Code of Criminal Procedure.¹⁴ Section 25 of the Indian Evidence Act bars police confessions. This worldwide ban is based on police misbehaviour and the power imbalance between police and accused. This prevents self-incrimination under pressure and inhibits authorities from forcing confessions. Section 164 of the CrPC arranges magistrate confessions. This rule allows an accused to give a voluntary statement without police involvement. The Section 164 technique provides several safeguards for confession integrity and voluntariness.¹⁵

The magistrate must notify the confessor that recording a confession is optional and may be used against them. This explanation helps the accused understand their rights and the consequences of their statement. Magistrates must also verify confessions' voluntariness. This involves questioning the accused about coercion and observing their demeanour for duress. Before recording a confession, the magistrate must believe it is voluntary. No police officer or other authority person may attend the confession recording, under the Code. This provision lets the accused speak without police intimidation. At the foot of the record, the magistrate must indicate that they advised the accused that confession was optional and not required. This memorandum evidences the confession's voluntariness. These methods need judicial review. Courts routinely review Section 164 processes to prevent misuse and maintain justice. Courts examine every element of confessions, from the magistrate's rights explanation to police neutrality. The 1977 case of *Dagdu v. State of Maharashtra* illustrates the probative value of judicial confessions. The Supreme Court of India said in this judgement that Section 164 confessions are acceptable evidence, but their probative value depends on different conditions.¹⁶ The court must determine if all protections were followed, if the recorded statement was ambiguous or omitted, and if additional evidence supports the confession.

Courts have consistently required confessions to be verbatim, in the accused's language, and complete. Any break from these norms might raise suspicion on the confession. If the confession was coerced, threatened, or promised, it is inadmissible. Courts use many methods to achieve voluntary confessions under Section 164 CrPC.¹⁷ The confession's circumstances, especially the interval between arrest and recording, are examined. A long wait may imply police involvement. Courts check medical records for physical or mental coercion. Courts also evaluate the accused's education, social rank, and mental state during confession. This comprehensive method determines if the accused might confess voluntarily and knowingly.

6. RETRACTION OF CONFESSION AND ITS EVIDENTIARY VALUE

Criminal retraction of confession complicates trial evidence. An accused individual withdraws or contradicts a confession, usually alleging it was coerced, induced, or misrepresented. This is typical in criminal cases and raises problems about confession admissibility and evidential value. The reasons for retracting differ. Accused parties may claim they confessed under pressure or threats. They may have misunderstood the consequences of their comments or been misled. After talking with lawyers or relatives, the accused may alter their mind about admitting guilt. Courts do not automatically reject retracted confessions. However, the retraction dramatically affects how the trial treats the confession. Recanted confessions are scrutinised by courts because they can lead to miscarriage of justice.¹⁸ The main goal is to use only voluntary and genuine confessions against the guilty. Retracted confessions are less trustworthy than uncontested ones. Using confessions as evidence requires greater procedures and validation before convicting. The Supreme Court of India has frequently ruled that a retracted confession may only convict with supplementary evidence.

¹⁴ 14 NALSAR Stud. L. Rev. 1 (2020)

¹⁵ 96 Notre Dame L. Rev. 799 (2020-2021)

¹⁶ 4 Issue 3 Int'l J.L. Mgmt. & Human. 2160 (2021)

¹⁷ 4 Issue 2 Indian J.L. & Legal Rsch. 1 (2022)

¹⁸ Scherr KC, Redlich AD and Kassin SM, 'Cumulative Disadvantage: A Psychological Framework for Understanding How Innocence Can Lead to Confession, Wrongful Conviction, and Beyond' (2020) 15 Perspectives on Psychological Science 353

Retracted confessions must be verified under Indian criminal law. Retracted confessions seldom show guilt beyond reasonable doubt. Corroboration avoids miscarriages of justice from compelled confessions. The Supreme Court recommended considering retracted admissions in *Haroom Haji Abdulla v. State of Maharashtra* (1968).¹⁹ The court ruled a retracted confession may convict if accompanied by other evidence. This ruling advised judges on retracted confessions, urging caution and proof. Retracted confessions were clarified by the Supreme Court in *Kashmira Singh v. State of Madhya Pradesh* (1952). If truthful and voluntary, a retracted confession can lead to a conviction, the court said. As a precaution, the court should verify the retracted confession in significant detail before convicting. Corroboration in retracted confessions is complex. In order to validate the confession, it provides independent proof that supports its claims.²⁰ This might be tangible evidence, witness testimony, or other circumstantial evidence that matches the confession. Second, confirmation suggests the confession was voluntary and not coerced. It supports the confession's voluntariness if it reveals evidence only the culprit could have known. Retraction of a confession greatly impacts the trial and prosecution burden of proof.²¹ After retraction, the prosecution must establish the confession was voluntary and true. The recording officer and witnesses to the confession typically testify about the circumstances of the confession. The retraction also highlights other case evidence. A stronger case must be made utilising independent evidence to support the retracted confession. Since the confession cannot be relied on, the investigation and evidence presentation can be more comprehensive.

7. CONCLUSION

Finally, the Indian Evidence Act, 1872, balances law enforcement and individual liberties by evaluating confession admissibility. Confession as substantive evidence is most persuasive in court. Confession alone can convict if it is voluntary and reliable. Because confession is powerful and can steer the process, its seriousness must not be underestimated. It must be studied carefully to eliminate even minor errors. Confession must always result from guilt and contrite conscience. The confession must be based on repentance and regret, not oppression or influence. Thus, confession must be sincere and voluntary. Threat and fear negatively impact police confessions, whereas magistrate confessions are fully mitigated. The main criterion is that courts must verify this evidence. Unless compelled by conscience, a person should never make a self-incriminating remark. The dynamic character of Indian confessional law is shown by continual judicial examination and legislative amendments. The Indian Evidence Act fundamentally protects the accused's rights and prevents faulty or forced evidence from compromising justice.

CONFLICT OF INTERESTS

None.

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