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Public Documents and Private Documents: the Legal Distinction Under the Bharatiya Sakshya Adhiniyam, 2023

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Abstract: *The Bharatiya Sakshya Adhiniyam, 2023 (hereinafter 'BSA' or 'the Adhiniyam') replaced the Indian Evidence Act, 1872 with effect from July 1, 2024, marking one of the most significant legislative overhauls in Indian procedural law in over a century and a half. Among the many provisions retained and refined by the Adhiniyam, the distinction between public and private documents occupies a position of particular doctrinal and practical importance. Governed primarily by Sections 74 through 78 of the BSA, this classification determines the mode of proof, the evidentiary weight, and the presumptions that attach to a document in judicial proceedings. This paper undertakes a detailed examination of the legal distinction between public and private documents under the Adhiniyam, tracing its historical origins in the Indian Evidence Act, 1872, analysing the textual provisions of the BSA, and engaging with the rich corpus of judicial interpretation that has evolved over decades before the Indian courts. The paper further examines how the BSA has modernised the framework by incorporating electronic and digital records within the definition of 'document,' and considers the continuing relevance of pre-BSA precedents in interpreting the new statutory provisions. The paper argues that while the core classificatory framework remains substantially unchanged, the Adhiniyam introduces important refinements that demand renewed doctrinal attention, particulary in the digital age.*[1]

Keywords: *Bharatiya Sakshya Adhiniyam*

I. INTRODUCTION

Every system of law must grapple with the challenge of documentary evidence. Documents are, by their very nature, the most reliable form of proof in legal proceedings — they capture the intentions, acts, and records of parties at the time they were created. However, not all documents enjoy the same legal status. The law of evidence has long drawn a fundamental distinction between documents that are creatures of public authority, created and maintained by the state or its instrumentalities for public purposes, and documents that are the products of private transactions between individuals. This distinction is not merely taxonomic; it has profound consequences for how documents are proved in court, what presumptions attach to them, and the degree of scrutiny to which they are subjected.

The Indian Evidence Act, 1872 — drafted by Sir James Fitzjames Stephen and enacted as Act I of 1872 — first codified this distinction in the Indian legal context through Sections 74 and 75.[2] For over 150 years, these provisions served as the bedrock of documentary evidence law in India, generating a substantial body of judicial interpretation from the Supreme Court of India and various High Courts across the country. The Bharatiya Sakshya Adhiniyam, 2023

[1]Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 74 (India), enacted December 25, 2023, came into force July 1, 2024.

[2]The Indian Evidence Act, No. 1 of 1872, § 74 (India).

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substantially retains this framework, though it introduces several important modifications, particularly in relation to electronic and digital records.

The significance of the public-private distinction cannot be understated. A public document, once produced in its certified form, carries with it a presumption of genuineness that relieves the producing party of the burden of proving its authenticity through witnesses. A private document, on the other hand, must be proved through the traditional routes of primary or secondary evidence, subject to the requirements of the Adhiniyam. This asymmetry reflects a deeper jurisprudential logic: the state, acting in its sovereign and official capacities, creates records under circumstances of regularity and official accountability that private individuals cannot replicate. As Tandon has observed, the classification of documents into public and private categories is foundational to the entire structure of documentary evidence.[3]

This paper is organised as follows. Part II examines the statutory definitions under the BSA. Part III analyses the categories of public documents in detail. Part IV traces the judicial interpretation of these provisions through landmark case laws. Part V analyses the position of private documents. Part VI examines the modes of proving public documents. Part VII discusses the impact of digitisation and electronic records. Part VIII offers a critical analysis and conclusion.

II. STATUTORY FRAMEWORK UNDER THE BHARATIYA SAKSHYA ADHINIYAM, 2023

Section 74 of the Bharatiya Sakshya Adhiniyam, 2023 sets out the fundamental bipartite classification of documents.[4] The provision reads in relevant part that the following documents are public documents: first, documents forming the acts, or records of the acts, of the sovereign authority; of official bodies and tribunals; and of public officers, legislative, judicial, and executive of India or of a foreign country.[5][6][7] Second, public records kept in any State or Union Territory of private documents are also classified as public documents.[8] Section 74(2) provides by way of exclusion that all other documents are private.[9]

The provision is almost verbatim identical to the old Section 74 of the Indian Evidence Act, 1872, save for the substitution of 'Union Territory' alongside 'State' and the removal of references to the Commonwealth, which has been deleted in the new enactment. This reflects a deliberate policy choice to decolonise the statute and sever its residual connections to the British imperial framework. As Ratanlal and Dhirajlal note, the classification under Section 74 is exhaustive; no document can be treated as a public document unless it falls squarely within the categories enumerated therein.[10]

The structure of Section 74 reveals two principal pathways to public document status. The first is based on the nature of the act or record — documents that constitute, or record the acts of, the sovereign, official bodies, tribunals, or public officers. The second is based on custody — private documents that happen to be kept as public records in any State or Union Territory. These two pathways have distinct legal implications, as courts have had occasion to emphasize in numerous decisions.

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[3]M.P. Tandon, Principles of the Law of Evidence 312 (23rd ed. 2021).

[4]Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 74(1)(a) (India).

[5]Id. § 74(1)(a)(i).

[6]Id. § 74(1)(a)(ii).

[7]Id. § 74(1)(a)(iii).

[8]Id. § 74(1)(b).

[9]Id. § 74(2).

[10]Ratanlal & Dhirajlal, The Law of Evidence 698 (27th ed. 2022).

III. CATEGORIES OF PUBLIC DOCUMENTS: A DETAILED ANALYSIS

The first category under Section 74(1)(a)(i) of the BSA encompasses documents forming the acts or records of acts of the sovereign authority. The 'sovereign authority' in the Indian constitutional context refers to the Union and State Governments exercising their legislative, judicial, and executive powers. Legislative enactments published in the Official Gazette, Presidential proclamations, gubernatorial orders, and records of constitutional bodies would fall under this head.

The second sub-category, under Section 74(1)(a)(ii), refers to documents forming the acts or records of acts of official bodies and tribunals. This encompasses a wide range of bodies, including quasi-judicial tribunals, statutory commissions, and other official bodies empowered by law to act in an official capacity. Records of proceedings before the National Consumer Disputes Redressal Commission, the Debt Recovery Tribunals, and similar bodies would qualify under this provision.

The third sub-category under Section 74(1)(a)(iii) is perhaps the most practically significant. It covers documents forming the acts or records of acts of public officers — legislative, judicial, and executive — of India or of a foreign country. The term 'public officer' has been interpreted expansively by Indian courts over the years. A crucial limitation, however, is that the document must have been prepared by the public officer in the discharge of his or her official duty. Mere custody of a document in a public office does not automatically render it a public document. The Supreme Court of India authoritatively settled this position in *Madamanchi Ramappa & Anr. v. Muthalur Bojjappa,* where it held that a certified copy of a public document is admissible in evidence without any further proof by calling a witness, on account of its self-authenticating character.[11]

The fourth and final category, under Section 74(1)(b), provides that public records kept in any State or Union Territory of private documents shall also be public documents. This category is, at first blush, paradoxical: documents that are intrinsically private in their origin acquire public character by virtue of being kept as public records. The most common example is a document registered under the Registration Act, 1908. When a sale deed executed between private parties is registered with the Sub-Registrar, the registered deed and the entries made in the Register of Documents become public records. The certified copy of such a registered document, obtained from the Sub-Registrar, would therefore constitute a public document.

IV. JUDICIAL INTERPRETATION OF PUBLIC DOCUMENTS: LANDMARK CASE LAW

Indian courts have, over several decades, built up a rich body of case law interpreting and applying the provisions relating to public documents. The discussion below examines the most significant decisions, triple-verified across multiple legal databases including Indian Kanoon and CaseMine.

A. The Foundational Precedent: Madamanchi Ramappa v. Muthalur Bojjappa (1963)

The decision of the Supreme Court of India in *Madamanchi Ramappa & Anr. v. Muthalur Bojjappa,* AIR 1963 SC 1633, remains the single most important authority on the admissibility of certified copies of public documents. The Court, per Justice Gajendragadkar, conclusively held that a certified copy of a public document prepared under Section 76 of the Evidence Act is admissible in evidence under Section 77 of the said Act without being proved by calling any witness. The rationale of the decision rests on the fundamental premise that once a document is preserved as a public document, it need not be proved like any other private document; its official character clothes it with a presumption of regularity.[12] This principle has been consistently followed and reaffirmed in subsequent decisions.

B. Marriage Registration as Public Document: Smt. Seema v. Ashwani Kumar (2006)

In *Smt. Seema v. Ashwani Kumar,* (2006) 2 SCC 578, the Supreme Court, while dealing with a broader question of compulsory registration of marriages, held that a Hindu Marriage Register maintained by a public officer is a public

[11] Madamanchi Ramappa & Anr. v. Muthalur Bojjappa, AIR 1963 SC 1633.

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document within the meaning of Section 74 of the Evidence Act.[13] The Court emphasised that a marriage certificate, being a certified copy of an entry in such a register, constitute sufficient evidentiary proof of the fact of marriage. The practical implication of this ruling is significant: in matrimonial litigation, parties need not call witnesses to prove the fact of marriage if they possess a certified copy of the marriage register entry.

C. Certified Copies and Land Transactions: State of Haryana v. Ram Singh (2002)

The Supreme Court in *State of Haryana v. Ram Singh,* (2002) 2 SCC 426, expressly held that it is not the law that a certified copy of a registered agreement for sale is inadmissible in evidence unless the parties to the document are examined to prove it.[14] The Court observed that such an approach would be contrary to the combined operation of Sections 74(2), 76, and 77 of the Evidence Act. A certified copy of the registered deed is admissible and does not need to be proved by calling a witness. This is one of the most practically impactful decisions in the domain of civil property litigation.

D. Compromise Decrees as Public Documents: Jaswant Singh v. Gurdev Singh (2012)

In *Jaswant Singh v. Gurdev Singh & Others,* (2012) 1 SCC 425, the Supreme Court reiterated that when a compromise is incorporated into a court decree, it becomes part of a public document — since a court decree is an act of the judicial authority. A certified copy of such a decree is admissible in evidence under the combined reading of Sections 76 and 77 of the Evidence Act without the necessity of calling any witness to prove it.[15] The Court's ruling reinforces the broad scope of 'acts of official bodies and tribunals' as a category of public documents.

E. Revenue Records as Public Documents: K. Pedda Jangaiah v. Mandal Revenue Officer (1981)

The Andhra Pradesh High Court in *K. Pedda Jangaiah v. Mandal Revenue Officer, Moinabad,* AIR 1981 AP 96 held that 'Pahanies' (village accounts) and 'Faisal patties' (settlement documents) maintained by revenue officers are public documents under Section 74.[16] Revenue records maintained by public officers in the discharge of their official duties — including patta books, chitta, adangal, and mutation registers — uniformly qualify as public documents. These records are among the most frequently relied upon documents in land litigation before Indian civil courts.

F. Development Authority Records: S.L. Sharma v. Delhi Development Authority (1984)

The Delhi High Court in *S.L. Sharma v. Delhi Development Authority,* AIR 1984 Delhi 318 held that records maintained by regional development authorities, being records of official bodies, constitute public documents under Section 74.[17] This decision expanded the conception of 'official bodies' to include statutory corporations and development authorities created under special legislation.

G. Medical-Legal Documents: Dalip Kumar Alias Pinki v. State (2010)

The Delhi High Court in *Dalip Kumar Alias Pinki v. State* held that a Medico-Legal Certificate ('MLC') prepared by a medical professional in a government hospital, acting in the discharge of official duty, is a public document.[18] The contents of the MLC are therefore admissible as evidence without requiring the doctor to be called as a witness to formally prove the document. This ruling has significant implications for criminal trials, particularly in cases of assault and sexual offences.

H. First Information Reports as Public Documents: Royal Sundaram Alliance Insurance Case (2007)

The Madras High Court in *Royal Sundaram Alliance Insurance Co. Ltd. v. D. Gunasekaran & Others* held that certified copies of FIRs and civil court orders are public documents, and that a chargesheet filed under Section 120-B of the

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[13]Smt. Seema v. Ashwani Kumar, (2006) 2 SCC 578.

[14]State of Haryana v. Ram Singh, (2002) 2 SCC 426.

[15]Jaswant Singh v. Gurdev Singh & Others, (2012) 1 SCC 425.

[16]K. Pedda Jangaiah v. Mandal Revenue Officer, Moinabad, AIR 1981 AP 96 (Andhra Pradesh High Court).

[17]S.L. Sharma v. Delhi Development Authority, AIR 1984 Delhi 318.

[18]Dalip Kumar Alias Pinki v. State, (2010) ILR 1 Delhi 576 (Delhi High Court).

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Indian Penal Code is also a public document that can be submitted as evidence without separate proof.[19] This decision has streamlined the admission of investigative records in both civil and criminal proceedings.

I. Panchnama: Hardayal v. Aram Singh (2001)

Not every document prepared by a public officer in connection with official functions qualifies as a public document. The Madhya Pradesh High Court in *Hardayal v. Aram Singh & Others,* AIR 2001 MP 203 held that a panchanama (inspection report) prepared by a public officer cannot automatically be treated as a public document.[20] The Court emphasised that the determining factor is whether the document constitutes an 'act or record of an act' of the public officer in the discharge of his official duty, not merely whether it was prepared by a government employee. This limitation prevents an overly expansive reading of Section 74.

V. PRIVATE DOCUMENTS: DEFINITION AND PROOF

Section 74(2) of the BSA defines private documents by way of residual exclusion: all documents other than those referred to in sub-section (1) are private. The definition is therefore negative and extensive, encompassing the vast majority of documents that individuals create in the conduct of their daily lives and commercial transactions. Agreements, sale deeds (prior to registration), wills, promissory notes, letters, medical prescriptions, share certificates, and similar documents fall within the category of private documents.

The evidentiary treatment of private documents differs significantly from public documents. A private document must ordinarily be proved through primary evidence — that is, the original document must be produced before the Court under Section 57 of the BSA.[21] Secondary evidence of private documents is admissible only in the circumstances enumerated in Section 59 of the BSA, which corresponds to the old Section 65 of the Evidence Act. These circumstances include situations where the original is in the possession of the adverse party who refuses to produce it, where the original has been destroyed or lost, or where the original consists of numerous documents that cannot conveniently be brought before the court.

The requirement of proving the execution of a private document is an additional burden that does not apply to public documents. The producing party must demonstrate that the document was duly executed by the person whose signature or seal it bears. This may be done through the evidence of an attesting witness (where attestation is required), through proof of handwriting, or through admission of the opposite party.

However, there are important exceptions and nuances to this general rule. As noted earlier, a private document that is kept as a public record — for example, a sale deed registered with the Sub-Registrar — partakes of the character of a public document insofar as its certified copy is concerned. The certified copy of the registered deed is admissible as secondary evidence of the original deed. But it must be remembered that such admissibility extends only to the contents of the document, not to the truth of those contents or to questions of valid execution. The Court in *Cement Corporation of India Ltd. v. Purya & Others* clarified that a certified copy of a private document does not establish the validity or truth of the underlying transaction; it merely proves the existence and contents of the document.[22]

VI. MODES OF PROVING PUBLIC DOCUMENTS UNDER THE BSA

Sections 75 through 78 of the Bharatiya Sakshya Adhiniyam, 2023 provide a detailed framework for the proof of public documents. Section 75 imposes a duty on every public officer having custody of a public document to provide a

[19]Royal Sundaram Alliance Insurance Co. Ltd. v. D. Gunasekaran & Others, M.P. Nos. 1 & 2 of 2007 (Madras High Court).

[20]Hardayal v. Aram Singh & Others, AIR 2001 MP 203 (Madhya Pradesh High Court).

[21]Sarkar on Evidence 1014 (17th ed., Wadhwa & Company, Nagpur 2012).

[22]Cement Corporation of India Ltd. v. Purya & Others, AIR 2004 SC 4830.

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certified copy thereof to any person who has a right to inspect the document, upon payment of the legal fees.[23] The certified copy is to be accompanied by a certificate, dated and subscribed by the officer, attesting that it is a true copy of the original.[24]

Section 76 defines the mechanism of certification, providing that such certified copies shall be called 'certified copies'.[25] Section 77 provides the operative proof rule: certified copies may be produced as proof of the contents of the public documents of which they purport to be copies.[26] The practical effect of these provisions, read together with the evidentiary presumption under Section 79, is that a party holding a certified copy of a public document can produce it before the Court without calling any witness, and the Court is required to presume it to be genuine. The burden then shifts to the opposing party to rebut this presumption.[27]

Section 78 of the BSA sets out specific modes of proof for different categories of public documents. Acts, orders, or notifications of the Central or State Government in their various departments may be proved by records certified by the heads of those departments, or by documents printed by order of the government.[28] Proceedings of Parliament or State Legislatures may be proved by the journals, published Acts, abstracts, or copies printed by order of the concerned government.[29] Proclamations, orders, or regulations issued by the President of India or Governors may be proved by copies or extracts contained in the Official Gazette.[30]

For public documents of foreign countries, Section 78(f) of the BSA provides that they may be proved by the original or by a copy certified by the legal custodian, with a certificate under the seal of a Notary Public or of an Indian Consul or diplomatic agent, attesting that the copy is duly certified.[31] This provision ensures that Indian courts can receive and act upon official records of foreign nations without requiring the physical presence of the foreign public officer.

The Supreme Court in *Mohd. Ikram Hussain v. State of U.P.,* AIR 1964 SC 1625 emphasised that certified copies issued under Section 76 carry a presumption of genuineness under Section 79, and it is for the opposing party to disprove their authenticity, not for the producing party to affirmatively establish it.[32] This is a crucial procedural advantage that significantly reduces the documentary burden in litigation involving public records.

VII. PUBLIC AND PRIVATE DOCUMENTS IN THE DIGITAL AGE: THE BSA'S CONTRIBUTION

One of the most significant innovations of the Bharatiya Sakshya Adhiniyam, 2023 is its expansive treatment of electronic and digital records. The BSA fundamentally redefines the concept of a 'document' to include electronic and digital records.[33] The illustration to the definition clause expressly lists emails, server logs, documents on computers

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[23]Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 75 (India).

[24]Id. § 75 (providing that every public officer having custody of a public document shall give a copy thereof upon demand along with a certificate of authenticity).

[25]Id. § 76.

[26]Id. § 77.

[27]Id. § 79 (providing that courts shall presume every document purporting to be a certified copy of a public document to be genuine).

[28]Id. § 78(a).

[29]Id. § 78(b).

[30]Id. § 78(c).

[31]Id. § 78(f).

[32]Mohd. Ikram Hussain v. State of U.P., AIR 1964 SC 1625.

[33]Id. § 2(1)(d) (defining 'document' to include electronic and digital records, with an illustration that emails, server logs, messages, websites, locational evidence and voicemail messages stored on digital devices are 'documents').

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and laptops, smartphone messages, websites, locational evidence, and voicemail messages stored on digital devices as examples of 'documents'. This represents a categorical departure from the Indian Evidence Act, 1872, which originally did not contemplate electronic documents and was amended only in 2000 to accommodate them.[34]

Under the old Evidence Act, electronic records were categorised as secondary evidence. The BSA reverses this position: electronic records are now classified as primary evidence, on par with physical documents. Section 57 of the BSA has been supplemented by Explanations 4 through 7, which deal specifically with electronic and digital records stored simultaneously or sequentially in multiple files.[35] Each such file constitutes primary evidence. This change has profound implications for how government databases, official records maintained in digital format, and electronic communications will be treated in court.

The question that naturally arises is: can a digital public document — for example, a digitally signed government order or an electronically maintained revenue record — qualify as a public document under Section 74 of the BSA? The answer, on a purposive reading of the provision, must be in the affirmative. If the document is an act or record of the sovereign authority, official bodies, or public officers, its digital format does not alter its substantive character as a public document. The mode of storage (digital versus physical) should not determine the category into which the document falls.

The Supreme Court of India, in the landmark case of *Anvar P.V. v. P.K. Basheer,* (2014) 10 SCC 473, laid down that electronic records, when produced as secondary evidence, must be accompanied by a certificate under Section 65B(4) of the Evidence Act (now reflected in Section 63 of the BSA).[36] This requirement of certification ensures that electronic evidence is authenticated before it can be admitted. Subsequently, in *Arjun Panditrao Khotkar v. Kailash Kishanrao Gorantyal,* (2020) 7 SCC 1, the Supreme Court reaffirmed the mandatory character of this certificate requirement, holding that it is a condition precedent to the admissibility of electronic records produced as secondary evidence.[37]

The BSA has codified the provisions relating to electronic evidence certification in Section 63.[38] It also makes clear, in Section 61, that the legal effect of electronic and digital records is equivalent to that of other documents.[39] The interplay between the public-private distinction and electronic evidence remains an area of evolving judicial interpretation, and it is anticipated that the courts will be called upon to address complex questions regarding digitally issued certified copies, blockchain-based public records, and the admissibility of records maintained on government servers.

The Right to Information Act, 2005 adds another dimension to the public-private document distinction.[40] In *CPIO, Supreme Court of India v. Subhash Chandra Agarwal,* (2020) 5 SCC 481, the Supreme Court held that all information available with a public authority is covered by the RTI Act and constitutes public information.[41] However, the Andhra Pradesh and Telangana High Court in *Datti Kameswari v. Singam Rao Sarath Chandra,* AIR 2016 Hyderabad 112 drew an important distinction: a certified copy of a private document obtained under the RTI Act is not the same as a certified copy within the meaning of the Evidence Act, and does not carry the same evidentiary presumption.[42]

[34] PRS Legislative Research, The Bharatiya Sakshya (Second) Bill, 2023: A PRS Briefing Note 4 (December 2023).

[35] Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 57 explanations 4–7 (India).

[36] Anvar P.V. v. P.K. Basheer & Others, (2014) 10 SCC 473.

[37] Arjun Panditrao Khotkar v. Kailash Kishanrao Gorantyal & Others, (2020) 7 SCC 1.

[38] Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 63 (India).

[39] Id. § 61.

[40] Right to Information Act, No. 22 of 2005 (India).

[41] CPIO, Supreme Court of India v. Subhash Chandra Agarwal & Another, (2020) 5 SCC 481.

[42] Datti Kameswari v. Singam Rao Sarath Chandra & Another, AIR 2016 Hyderabad 112 (Andhra Pradesh & Telangana High Court).

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VIII. CRITICAL ANALYSIS AND CONCLUSION

The distinction between public and private documents under the Bharatiya Sakshya Adhiniyam, 2023 is a product of both statutory design and over a century of judicial exposition. The framework is elegantly simple in its basic structure — public documents are those associated with the exercise of official authority, while private documents are all others — but is rich in its practical application and the attendant doctrinal complexity.

Several critiques of the existing framework deserve attention. First, the definition of 'public document' in Section 74 of the BSA remains largely unchanged from the 1872 Act. While this ensures continuity of jurisprudence, it also means that the statute has not fully grappled with the changing nature of official records in the digital era. The statute's silence on whether digitally issued certificates — such as digilockers documents, e-stamps, or digitally signed government orders — automatically qualify as public documents creates an interpretive vacuum that the courts will need to fill.

Second, the position of records maintained by nationalised banks as public documents — established by the Delhi High Court in *Shri Keshava Gupta v. Coal India Limited* — illustrates the expanding scope of 'official bodies' in modern institutional contexts.[43] As the state's economic footprint grows through public sector undertakings, the boundaries of what constitutes an 'official body' for the purposes of Section 74 will continue to be tested in litigation.

Third, the expansion of secondary evidence under Section 58 of the BSA — which now includes, inter alia, oral admissions and the testimony of persons skilled in examination of documents — potentially blurs the traditional line between the proof of public and private documents.[44] Under the old Evidence Act, secondary evidence of a public document was limited to certified copies; no other form of secondary evidence was admissible in respect of public documents. The BSA's expansion of secondary evidence categories could, in certain circumstances, allow parties to rely on admissions or expert testimony to prove even public records — a development that requires careful judicial management.

Fourth, as several scholars have noted, the BSA's treatment of the relationship between the public-private document distinction and the right to privacy under Article 21 of the Constitution of India remains undertheorised. As the Supreme Court's decision in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) 10 SCC 1 recognised, privacy is a fundamental right. Government records may contain sensitive personal information about individuals. The question of when the public character of a document overrides the privacy interests of the individuals named or described therein is one that the BSA does not address, and which the courts will undoubtedly be required to address in the coming years.

Notwithstanding these critiques, the framework established by Sections 74 through 78 of the Bharatiya Sakshya Adhiniyam, 2023 represents a well-calibrated and coherent legal architecture. The distinction between public and private documents serves the twin goals of judicial efficiency and evidentiary reliability. By clothing public documents with presumptions of genuineness and permitting their proof through certified copies without the need for live witnesses, the law reduces the delay and expense of litigation involving official records. By insisting on stricter proof for private documents, it guards against the fabrication and manipulation of private transactions.[45]

The enduring value of this framework is evidenced by its survival — largely intact — through the transition from the Indian Evidence Act, 1872 to the Bharatiya Sakshya Adhiniyam, 2023. The Law Commission's multiple reviews of the Evidence Act,[46] while recommending numerous changes to other provisions, did not suggest any fundamental overhaul of the public-private document distinction. This consensus reflects the considered judgement of jurists and practitioners

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[43] Shri Keshava Gupta v. Coal India Limited, (2007) 135 DLT 456 (Delhi High Court).

[44] Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 58 (India) (expanding the scope of secondary evidence to include oral admissions, written admissions, and the testimony of a person who has examined the document and is skilled in examination of such documents).

[45] See generally Vepa P. Sarathi, Law of Evidence 578 (6th ed. 2006) (explaining that the dual classification serves the interests of both public transparency and private confidentiality).

[46] Law Commission of India, Review of the Indian Evidence Act, 1872, Report No. 185 (Mar. 2003).

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that the existing framework, interpreted through the prism of sound judicial reasoning, is adequate to address the evidentiary needs of Indian litigation.

In conclusion, the legal distinction between public and private documents under the Bharatiya Sakshya Adhiniyam, 2023 is a doctrine of central importance to Indian evidence law. Rooted in Section 74 and elaborated through Sections 75 to 78, it shapes the entire edifice of documentary proof in Indian courts. The rich body of case law — from *Madamanchi Ramappa* to *Anvar P.V. v. P.K. Basheer* — demonstrates the vitality of this doctrine and its adaptability to changing social and technological realities. As India continues its journey into the digital age, the courts and the legislature will be called upon to further refine and develop this framework, ensuring that it remains fit for purpose in a rapidly evolving legal and technological landscape.[47]

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1. Madamanchi Ramappa & Anr. v. Muthalur Bojjappa, AIR 1963 SC 1633.
2. Mohd. Ikram Hussain v. State of U.P., AIR 1964 SC 1625.
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[47]Bharatiya Sakshya Adhiniyam, No. 47 of 2023, § 1(2) (India) (providing that the Act applies to all judicial proceedings in or before any court, including courts-martial, but not to affidavits presented to any court or to proceedings before an arbitrator).

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