

"DEFICIENCY IN EVIDENCE LAW OF EVIDENCE LAW CONCERNING TECHNOLOGICAL SUPPORT AND EXPERT SUPPORT"

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ABSTRACT:

This Research article analyzes inadequacy in the evidence law of Bangladesh concerning mechanical and master support. There is no such field where innovation hasn't come to. It will be a fantasy to think something without innovation. In this day and age, each field requires tech information. The court and law workplaces have changed with the advancement of innovation. Most courts don't acknowledge paper records any longer. Law workplaces utilize virtual records to store customer data. In any case, because of mature age or other explanation, a critical number of lawyers and judges are not skilled in innovation. This paper will look at the utilization of innovation in our overall set of laws and what issue emerges because of the absence of legitimate tech information. Expanding utilization of PC and web in the court and law office, preliminary show, keeping customer's classified information secure, legitimate investigating, e-recording report with the court require tech information. This paper will examine the need for tech information, moral commitment, well-qualifier's feelings, and case laws to exhibit that to rehearse laws these days requires tech information. In the wake of analyzing every single significant material, this paper has uncovered that to consent to the computerized world all legitimate experts ought to have sufficient

tech information for better prosecution and stay away from blunders in the case

Keywords: Evidence, Evidence Law, Technological help, Expert help, Admissibility of advanced evidence

INTRODUCTION:

Innovative and Expert backing can be of incredible help to Magistrates and juries in supporting them to decide the issues for a situation Law (S. H., Lee, et. al. 2018), including the blame or guiltlessness of a denounced. Examiners will require the fitting information and comprehension of the evidence being referred to present and challenge expert evidence. The motivation behind this Guidance is to help examiners in recognizing, understanding, and testing, where fitting, this kind of evidence (Jalles, J. T. 2010). It ought to consistently be remembered that expert evidence is simply one device to be utilized in demonstrating a case. The threat of putting an excessive amount of dependence on the discoveries of specialists is shown in a progression of cases corresponding to DNA examination, where there could have been no other proof against the blamed save the present for his DNA found at the location of a crime. The Court of Appeal has stressed that expert evidence must be decided in the light of the other evidence for the situation (Galasso, A., & Schankerman, M. 2015). In these cases, the shortfall of some other evidence, anyway

restricted, ought to have been deadly to the case being charged.

With the coming of digitalization, the world has seen mechanical unrest as well as complex, basic, advanced, and more coordinated methods for carrying out wrongdoings. Lamentably, our universal procedural laws affect the equity removal framework in these changed conditions (Capriello, A., & Riboldazzi, S. 2020). The risks of an over-dependence on expert evidence without considering the meaning of the other proof for the situation is a factor that examiners need to consider in evaluating any document introduced by the police for exhortation and audit (Strom, K. J., & Hickman, M. J. 2010).

OBJECTIVES OF THE RESEARCH:

There are numerous targets of this exploration paper however most significant are:-

1. To recognize the idea of innovative and technological support
2. To characterize the absence of innovative and expert support in evidence law
3. To endorse the acceptability of advanced and technological evidence
4. To depict the rise and normal methodologies of technological and expert support.

The idea of evidence:

"Evidence" means in its unique sense, the condition of being obvious, i.e., plain, evident, or infamous. In any case, it is applied to that which will in general deliver prove or create evidence (Costinot, A., & Donaldson, D. 2012). The reality tried to be demonstrated is known as the central certainty; the reality which will in the general build-up to it, the evidentiary actuality (Best). In English Law, "evidence" once in a while implies the words expressed and things displayed by observers under the watchful eye of a Court of Justice (Rachlinski, J. J. 2010).

On different occasions, it implies the realities demonstrated to exist by those words

or things and viewed as the basis of surmising as to other fittest, not all that demonstrated. Once more, it is here and there utilized as important to state that a specific reality applies to the matter under request. In the Act, notwithstanding, the word has been allowed a more unmistakable significance and is utilized distinctly in the first of these faculties (Ariens, M. S. 1991). As hence utilized, it connotes just the instrument through which significant realities are brought under the steady gaze of the Court (viz., witnesses and records) and through which the Court is indicted for these realities. Thusly matters other than the explanations of witnesses and records created for the assessment of the Court, e.g., an admission or articulation of a blamed individual in the course for a preliminary.

Explanations made by parties when analyzed in any case than as witnesses, the attitude of witnesses, the consequence of neighborhood examination or assessment, and material articles other than reports like weapons, devices, taken property, and so forth, are not "proof" as indicated by the definition given in different Act (Sakakibara, M., & Branstetter, L. 2001). These are, in any case, matters which the Court may authentically mull over. The meaning of "evidence" should be perused along with the meaning of "demonstrated"; and the consolidated consequence of these two definitions around there", "as characterized by the Act, isn't the lone mechanism of evidence and that notwithstanding it, there are various other "matters" which the Court needs to mull over while framing its decisions. An assertion recorded under Section 164, Cr. P.C. isn't evidence of the significance of this definition. So likewise an admission of a denounced isn't evidence in the customary feeling of the term. The whole proof of threatening observer doesn't get barred or delivered contemptible of thought.

In the matter of enthusiasm for the forces of the appealing party, the courts are that wide of the preliminary court. It has the full ability to audit the entire evidence. It is qualified to go into the whole evidence and significant conditions to come to its result about the blame or honesty of the charged" (Lilly, G. C. 1978). According to Section 3 of the Evidence Act, 1872, characterized as, "evidence" signifies and incorporates: All explanations which the court allows or needs to be made before it by witnesses, corresponding to issue of reality under request; such articulations are called oral proof; All archives [including gadgets record] delivered for the assessment of the court; such reports are called narrative proof. It implies this segment manages the expression "Proof" which is gotten from the Latin articulation "Evidens Evidera" which connotes the condition of being obvious, that is, plain, evident, or infamous.

As per Bentham, the proof is characterized as any self-evident certainty, the impact, propensity, or plan of which is to create in the psyche, an influence agreed or affirmative, of the presence of some other obvious actuality. As indicated by Stephen, the word 'proof' as for the most part utilized, is vague: - It now and then methods the words expressed in and things showed by observers under the steady gaze of the official courtroom; On different occasions, it implies the realities demonstrated to exist by those words or things and viewed as the foundation of deduction as to different realities in issue, not all that demonstrated (Lilly, G. C. 1978); It is once in a while utilized as important to state that a specific actuality applies to the matter in the request (Ariens, M. S. 1991). As indicated by Taylor, proof methods and incorporates all realities aside from contentions, which will, in general, demonstrate or discredit any matter, which under request in legal procedures.

Evidence law:

Evidence in law, any of the material things or attestations of certainty that might be submitted to an able council as methods for learning the reality of any supposed obvious actuality being scrutinized before it. To the end that court choices are to be founded on truth established on proof, an essential obligation of courts is to direct appropriate procedures to hear and think about proof (Freckelton, I. R., & Selby, H. 2019).. The alleged law of proof is made up to a great extent of procedural guidelines concerning the confirmation and show of realities, regardless of whether including the declaration of witnesses, the show of reports or actual articles, or the affirmation of an unfamiliar law. The numerous guidelines of evidence that have advanced under various overall sets of laws have, in the primary, been established on experience and molded by changing legitimate prerequisites of what comprises allowable and adequate verification.

Even though evidence, in this sense, has both lawful and specialized attributes, legal evidence has consistently been a human instead of a specialized issue. During various periods and at various social stages, issues concerning proof have been settled by broadly various strategies (Casey, E. 2011). Since the methods for securing evidence is a factor and delimited, they can result just in a level of likelihood and not in essential truth in the philosophical sense. In precedent-based law nations, common cases require just prevalent likelihood, and criminal cases require likelihood past a sensible uncertainty. In common-law nations, such a lot of likelihood is necessitated that sensible questions are barred.

The Early Law of Evidence:

Trademark highlights of the law of evidence in prior societies were that no differentiation was made among common and criminal issues or actuality and law and that

reasonable method for proof was either obscure or minimal utilized. All in all, the charge needed to demonstrate his guiltlessness.

Non-rational sources of evidence:

The appeal to heavenly powers was, obviously, not proof in the cutting edge sense however a difficulty in which God was engaged as the most elevated adjudicator. The adjudicators of the local area figured out what various types of experiences were to be endured, and habitually the trials included undermining the denounced with fire, a hot iron, or suffocating. Preliminary by fight had a lot of a similar starting point. Certainly, the influential man depended on his solidarity, however, it was additionally expected that God would be in favor of the right.

Semi-rational sources of evidence:

The blamed free individual could offer to absolve himself by pledge. Under these conditions, as opposed to the experiences, it was not expected that God would decide quickly yet rather that he would rebuff the liar sometime in the not too distant future. In any case, there was customarily sufficient authenticity with the goal that the simple pledge of the charged individual alone was not permitted. Maybe, he was requested to swear with various compurgators, or witnesses, who affirmed, as it were, the vow of the individual swearing (Korobkin, R. B., & Ulen, T. S. 2000). They remained as certifications for his vow yet never gave any declaration about current realities.

The meaning of these first observers is found in the utilization of the German word Zeuge, which presently signifies "witness" yet initially signified "attracted." The observers were, indeed, "attracted" to play out a legitimate go about as instrumental observers. In any case, they offered just their thoughts and subsequently didn't affirm about realities with which they were familiar. By the by, along with

local area witnesses, they prepared for the more judicious utilization of proof (Posner, R. A. 1998).

The burden of proof:

The weight of verification is a complex and fairly questionable idea in the law of evidence. The weight of delivering proof implies that overall the gathering that refers to explicit realities for the validation of its case additionally weights creating the proof to demonstrate these realities. This weight relies upon the considerable law administering the case. Allowable assumptions and lawful principles can move the weight in different circumstances (Kaplou, L. 2012).

The weight of conviction, then again, becomes possibly the most important factor toward the finish of the knowledge about proof, if questions remain. This is just to perceive that the proof isn't adequate to persuade the jury or the appointed authority and that, all in all, the gathering weighting arguing and delivering realities ideal for itself and of giving proof likewise worries about the purported concern of conviction (McBaine, J. P. 1944).

While in common procedures it is by and large the offended party who weights evidence for realities supporting a case, except if this weight has been moved to the litigant through rules or assumptions, in criminal procedures the arraignment bears the weight of confirmation for every single significant truth (Thayer, J. B. 1890). This means the litigant can't be seen as liable insofar as evidence has not been provided or insofar as questions remain. In mainland European law, no qualification is made among common and criminal cases concerning the norm of confirmation. In both, such a serious level of likelihood is expected that, to the extent that this is conceivable in the standard experience of life itself, questions are rejected and likelihood approaches certitude. In the customary law nations, the level of

likelihood needed in common cases is lower than that called for in criminal issues.

Sources of Proof:

As per Anglo-American law, the exemplary methods for verification are observers, records, and genuine proof (got from the real assessment of articles). Because of recorded turn of events, the situation with the witness was concurred to specialists and the gatherings in a common claim, and even to the charged in criminal procedures (Heard, B. P. et. al. 2017). The advancement of mainland European law has taken an alternate course. Gatherings can't be observers, and proof by specialists is dependent upon unique procedural guidelines. Therefore, there are five separate sources of proof: witnesses, parties, specialists, records, and genuine evidence.

Expert evidence and Technological support in Evidence Law:

Master observers more likely than not particular information, expertise, or involvement with the space of their declaration. Generally, they don't affirm concerning realities yet draw inductions from them. With a couple of special cases, they are dealt with common observers and are brought under the watchful eye of the court by the gatherings similarly as different observers (Murphy, P. 2003). Albeit normal observers are by and large permitted to affirm just concerning realities and not to communicate feelings, an exemption for this standard is made for the master, who must be permitted to offer his input (Gross, S. R. 1991)

"On the off chance that scientific, technical, or other specific information will help the trier of truth to comprehend the proof or to decide a reality in issue, an observer who is qualified as a specialist by information, expertise, experience, preparing, or instruction, may affirm thereto as an assessment or something else" (Polsby, N. W. 1980). The

tolerability of Expert Testimony relies on whether such declaration would help the appointed authority or jury, and whether the observer is appropriately qualified as a specialist. Master observers may, and typically do affirm as an assessment (Freckelton, I. R., & Selby, H. 2019). The assessment should be upheld by a satisfactory establishment of applicable realities, information, or suppositions, as opposed to by guess. In this manner, a specialist often depends on firsthand or used perceptions of realities, information, or sentiments saw preceding preliminary or introduced at preliminary during declaration or a theoretical inquiry presented by a lawyer. Courts don't expect specialists to have firsthand information on realities, information, or suppositions since specialists in the field don't generally depend on such firsthand information. Doctors regularly make analysis dependent on data from a few sources, for example, medical clinic records, X-Ray reports, and assessments from different doctors (Kerr, O. S. 2007).

At the point when a specialist offers a logical actuality as substantive evidence or as the premise of their assessment, the court should decide the dependability of the logical truth by viewing such things as the legitimacy of the basic logical rule, the legitimacy of the strategy applying that rule, adherence to legitimate methodology, the state of instruments utilized simultaneously (Van Buskirk, E., & Liu, V. T. 2006), and the capabilities of the individuals who play out the test and decipher the outcomes. Issues oftentimes emerge over such logical devices and procedures as falsehood identifiers, DNA testing, and entrancing. Some logical tests, for example, drug tests, radar, and Paternity blood tests, for the most part, are acknowledged as solid, and their admissibility might be accommodated by statute (Freckelton, I. R., & Selby, H. 2019).

A tire on the vehicle driven via Carmichael extinguished, and the vehicle upset, executing one traveler and harming others. The survivors and decedent's agent brought a variety suit against Kumho, the tire's producer, and it's merchant. Their case that the tire was flawed depended primarily upon the statements of a tire. Deplorable truth by the show of two at present uncorrected shortcomings in mainstream PC criminological apparatuses, techniques, and suspicions. Some level of these criminological programming mistakes (and ones like them) will essentially effects affect parties, regardless of whether as far as broken criminal feelings or inappropriate common decisions (Kenneally, E. 2005). The creators contend that the aggregate worth of these adverse consequences among parties is far bigger than the expenses of innovative work needed to forestall such adverse consequences. Under a sane financial way to deal with the law, this dynamic establishes a shortcoming to be rectified through the legitimate use of rules. The creators advance two ways to deal with fix current imperfections. One is through the appropriate utilization of logical law to inquiries of computerized proof and the other is through a blend of certain wide market and social remedies (Goodison, S. E. et, al.2015)

Criminal Investigators in Immigration Enforcement (IE) and reasonably prepared and accredited criminal investigators inside the Home Office about utilizing master proof in preliminaries. The decision in *Folkes v Chad* (1782), permitted the utilization of master proof in territories where the jury had no information or experience: • on a specific issue, like those of science or workmanship, whereupon the actual court can't frame an assessment, unique investigation, ability or experience being needed for the reason, 'master' witnesses may offer evidence of their input.' This implies in situations where individuals from the court don't have

information or experience of a subject, at that point a specialist can be utilized to disclose it to them. The decision in *R v Turner* (1975), notwithstanding, has barred some master proof on the grounds it is inside the information and experience of the jury and that well-qualified assessment could be deceiving: • suppositions from learned people about a man's character and mental make-up have an influence in numerous human decisions an expert's assessment is admissible to outfit the court with scientific data which is probably going to be outside the experience of an appointed authority or jury • if on the demonstrated realities an adjudicator or jury can frame their own decisions without assistance, at that point the assessment of a specialist is superfluous: in such a case on the off chance that it is surrendered wearing logical language it might make judgment more troublesome - the way that an expert witness has amazing logical capabilities doesn't by that reality alone make their assessment on issue of human instinct and conduct inside the restrictions of ordinariness any more accommodating than that of the actual hearers; yet there is a peril that they may figure it does' This implies expert evidence can be utilized in light of the fact that it identifies with a subject that isn't inside the information on the normal individual on the appointed authority or jury (Rawls, J. 1999). There is, nonetheless, a peril that master proof can be misdirecting because the normal individual: • may not see any scientific language utilized by the expert • may accept the master just because they are a specialist, without considering on the off chance that they are correct or wrong now and again, the jury might have the option to make their judgment without the assistance of an expert witness, in which case the master observer isn't required (Eskridge, W. N., & Spedale, D. R. 2006). You should remember this when you use or give master proof. Expert evidence can be given by an individual skillful to remark on a

specific subject. This doesn't mean an individual with capabilities.

The significant thing is: • what the master observer knows, not how they got that mastery or information Expert proof currently covers a lot more extensive subject matters. As an examiner working for the Home Office and relying upon your subject matter and experience, it is conceivable you might be viewed as qualified to give master proof, for instance, you: • could be prepared to an undeniable level in imitation identification • may have broad information about the: o movement acts on pace request.

Technological support:

The computerized proof is probative data put away or sent in advanced species like information, photo, sound, video, DVD, memory card, hard circle, email, message, and wire. The laws on the criminal system in Bangladesh, for example, the Evidence Act of 1872 and the Code of Criminal Procedure (CrPC) 1898 recommend no express arrangement perceiving or affirming of its suitability into legal procedures yet contain the extent of legal understanding which may consider something similar. The words "any matter communicated or portrayed upon any substance through letters, figures or stamps" under the clarification of "Narrative Evidence" as classified in section 3 of Evidence Act, area 3(16) of General Clauses Act, and section 29 of Penal Code can be deciphered to incorporate advanced proof since "matter" is a term of the vastest abundance.

Admissibility of digital evidence in Bangladesh:

In Bangladesh, no particular additions have been made for the affirmation of advanced proof. However, exceptional laws like the Information and Communication Technology Act of 2006 and the Digital Security Act of 2018 have been sanctioned. The broadly advertised

instances of murders, for example, the killings of Khadija, Biswajit, and Rifat brought up the issue of whether and how video might be permissible in proof inside the present structure of procedural law. On such occasions, legal understanding has assumed a huge part. Legal translation explains that computerized proof is an enhancement of issues communicated or portrayed upon advanced substance through letters, figures, or stamps and comprehensive of material and auxiliary proof. It expresses that different types of digitalization have a similar legitimate substance. On the off chance that question as to verification and altering of computerized proof emerges, the law endorses passage to eliminate such uncertainty. Well-qualified assessment rule under area 45 of the Evidence Act gives the extension to look for well-qualified assessment of science. Search and assessment rules of areas 165 and 161 of the Code of Criminal Procedure enable the Investigating Officer to append anything and look at its producer. This method might be followed to interview the producers of the narrative proof.

In the Biswajit murder case, it was held that the video film was formally given over to Investigating Officer under a seizure list; thus, its chronicle was verified ipso facto. Legal understanding backings that there is no bar to the affirmation of computerized proof. Consequently, the official courtroom ought to follow an essential method to concede advanced proof. If the indictment proposes computerized proof or the preliminary court discovers its reality in oral proof illustrated consequently or on the off chance that it alludes to a reality which could be seen by some other sense or in some other way, it should be essential for the arraignment witnesses. To summarize, albeit advanced proof might be permissible under the current law yet as the expansion of innovation extends and the idea of electronic data develops

to be much more mind-boggling, the law ought to be amended to address the issues of the time.

The common findings and E-Discovery:

E-Discovery required mechanical ability. Without productive tech expertise, the legal counselor may consent to a disclosure plan which is preposterous or excessively expensive during the pretrial gathering (Strutin, K. 2008). Likewise, may neglect to ask the inverse instructor to create important proof in a useable configuration. Inability to Google: Courts have begun to become upset with prosecutors who grumble they didn't know something they could without much of a stretch have discovered on the web. Fundamental hunt abilities are essential tech capability in any event, for judges (Hutchins, R. M., & Slesingert, D. 1928). It is in every case better for a legitimate group to look for data about customers, different gatherings, witnesses, guides, and anything that may support winning a case. The court said, "You might not have an obligation to Google, yet you would be absurd not to."

Missing Important records: According to Huffington Post, 85% of the total populace use email as a contact strategy. Just a few attorneys and garbage mailers utilize the mailing station to convey. An email has been around for more than 20 years, and it is free, dependable, and a lot quicker. Postponed conveyance of archives may make hurt a lawful group. Numerous courts expect legal advisors to have a functioning email address on the document to get case warnings.

Concluding Remark:

A legal advisor owes an obligation of care to a customer. Attorneys should work for the Client's well-being. To agree with the universe of innovation attorneys should have a mechanical expertise. Without Tech ability or need tech expertise may make money related harm customer. Inability to e-record or direct significant e-disclosure may cause a blunder in

the suit which may make treachery customers. Innovative inadequacy may lead legitimate misbehavior and legal advisor may expect to take responsibility for. ABA Model Rules of Professional Conduct Rule Provide that a legal counselor will give equipped portrayal to a customer. Equipped portrayal requires the legitimate information, ability, meticulousness, and arrangement sensibly fundamental for the portrayal. The investigation distinguishes designation of the danger of blunder as requiring guideline by proof law (Gilbert, G. 1791). Pushing a principled designation of the danger of mistake, Stein censures 'free verification' for permitting singular appointed authorities to distribute this danger as they consider fit. He condemns the UK's new shift to an optional system on comparative grounds.

Stein creates three basic standards for assigning the danger of blunder: the expense effectiveness guideline which applies no matter how you look at it; the uniformity rule which applies in the common suit; and the 'equivalent best' rule which applies in criminal preliminaries. The expense effectiveness standard requests that reality locaters limit the complete expense of blunders and mistake evasion. Under the uniformity guideline, certainty discovering methods and choices should not deliver an inconsistent allotment of the danger of mistake between the inquirer and the litigant (Craig, J. P., Pollitt, M., & Swauger, J. 2005). This danger ought to be distributed similarly between the gatherings. The 'equivalent best' guideline presents two conditions for legitimately sentencing and rebuffing a respondent. The state should give a valiant effort to shield the litigant from the danger of mistaken conviction and should not give better assurance to others. Managing both the suitability of proof and its adequacy, these standards clarify and legitimize many existing evidentiary guidelines.

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