



## ORIGINAL RESEARCH PAPER

Law

## Analysis on oral evidence

KEY WORDS: .

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## ABSTRACT

Evidence includes everything that's wont to confirm or demonstrate the reality of Associate in Nursing assertion. Giving or procuring proof is that themethod of mistreatment those things that area unit either (a) probable to be true, or (b) that were well-tried by proof, to demonstrate Associate in Nursing assertion's truth. proof is that the currency by that one fulfills the burden of proof. This paper deals with the thought of oral proof and acceptableness of oral proof.

**Introduction:**

Evidence includes everything that's wont to confirm or demonstrate the reality of Associate in Nursing assertion. Giving or procuring proof is that the method of mistreatment those things that area unit either (a) probable to be true, or (b) that were well-tried by proof, to demonstrate Associate in Nursing assertion's truth. proof is that the currency by that one fulfills the burden of proof.

In law, the assembly and presentation of proof depends 1st on establishing on whom the burden of proof lays. allowable proof is that that a court receives and considers for the needs of deciding a specific case. 2 primary burden-of-proof issues exist in law. the primary is on whom the burden rests. In many, particularly Western, courts, the burden of proof is placed on the prosecution. The second thought is that the degree of cocksureness proof should reach, looking on each the number and quality of proof. These degrees area unit completely different for criminal and civil cases, the previous requiring proof on the far side cheap, the latter considering solely that facet has the preponderance of proof, or whether or not the proposition is a lot of seemingly true or false. the choice maker, usually a jury, however typically a decide, decides whether or not the burden of proof has been consummated. once deciding World Health Organization can carry the burden of proof, proof is 1st gathered and so conferred before the court.

**Definition of evidence:**

The word 'Evidence' has been derived from the Latin word 'evidere' which suggests to indicate clearly, to form clear to look at or sight, to find clearly, to form plainly bound, to certain, to determine, to prove.

According to Sir Blackstone, 'Evidence' signifies that that demonstrates, makes clear or ascertain the reality of the facts or points in issue either on one facet or the opposite. According to Sir Taylor, Law of proof suggests that through argument to prove or contradict any matter of truth. the reality of that is submitted to judicial investigation.

Section three of The Indian proof Act, defines proof within the following words-

Evidence suggests that and includes-

- (1) All the statements that the court permits or needs to be created before it by witnesses, in relevancy matters of truth beneath enquiry; such statements area unit known as Oral evidence;
- (2) All the documents as well as electronic records made for the examination of the court; such documents area unit known as documentary evidence.

**Types of evidence:****Primary evidence:**• **Primary proof:**

Section sixty two of The Indian proof Act says Primary Evidence is that the Top-Most category of evidences. it's that proof that in a veryny potential condition offers the very important hint in a

controversial truth and establishes through documentary proof on the assembly of a clever document for examination by the court. It means that the document itself made for the examination of the court.

• **Secondary proof:**

Section sixty three says Secondary Evidence is that the inferior proof. it's proof that occupies a secondary position. it's such proof that on the presentation of that it's felt that superior proof however remains to be made. it's the proof that is made within the absence of the first proof so it's called secondary proof.

**Oral evidence:**

The facts judicially noticeable and facts admitted area unit needn't be proved . Oral and documentary proof don't seem to be solely media of proof. It enacts 2 broad rules, the primary rule is that every one the facts apart from the contents of a document is also proved by oral proof. The second rule says that oral proof should altogether cases be direct and not hearsay. The term oral proof is outlined beneath Section three of the Indian proof Act, 1872.

**Section- 59: proof of facts by oral**

All facts except the contents of documents or electronic records is also proved by oral proof.

The choice of words of this section appears to be inconsistent, because it makes Associate in Nursing unqualified statement in excluding oral proof for the aim of proving the contents of a document. essentially we are going to realize within the consequent chapter that oral proof is additionally allowed to be LED, to prove the contents of documents beneath Section sixty five of the act.

The expression oral proof thus includes the statement of witness before the court or that the court permits or needs them to create. The statement is also created by witness by any manner within which is he's capable of creating it. A witness WHO cannot speak might communicate the facts to the court either by gestures or by writings and it'll be thought to be oral proof. In the case of R VS. ABDULLAH , verbal statement was command to incorporate signs and gestures.

**Applicability of the maxim falsus in uno falsus in omnibus to oral testimony:**

This maxim means that "false in one issue is fake in everything.. wherever the oral testimony that's given could be a mixture of each truth and falsehood, the question is whether or not the whole oral proof has got to be discarded by applying this maxim. If we tend to apply this maxim within the true sense, then it's unattainable to get any oral testimony fully free from embroidery or embellishment. This maxim is neither accepted nor thought-about by any stretch of imagination as a rule of law.

**Case law:****Ugar ahir vs. State of bihar:**

The Supreme Court held that the maxim is neither a sound rule of

law nor a rule of practice for the reason that hardly one come across a witness whose evidence does not contain a grain of untruth or exaggeration, embroidery or embellishment. It is the duty of the court to scrutinize the evidence carefully and separate the grain from the chaff.

**Govind vs state of madhya pradesh:**

The principle of “falsus in uno falsus in omnibus” has no importance under Indian law and evidence can be rejected under the circumstances if the separation of grain from the chaff is not possible.

**Prem chand s. Bansode vs state of maharahtra:**

It was held that the maxim “falsus in uno falsus in omnibus” has no application in India and the witness cannot be branded as liar and the court in such cases has to separate the grain from the chaff.

**Section-60:**

**Oral evidence must be direct:**

Oral proof should, altogether cases no matter, be direct; that's to say— If it refers to a truth that may be seen, it should be the proof of a witness World Health Organization says he saw it; If it refers to a truth that may be detected, it should be the proof of a witness World Health Organization says he detected it; If it refers to a truth that may be perceived by the other sense or in the other manner, it should be the proof of a witness World Health Organization says he perceived it by that sense or therein manner;

If it refers to associate degree opinion or to the grounds on that that opinion is control, it should be the proof of the one that holds that opinion on those grounds: on condition that the opinions of specialists expressed in any written material unremarkably offered purchasable, and also the grounds on that such opinions area unit control, is also verified by the assembly of such treatises if the author is dead or can't be found, or has become incapable of giving proof, or can't be referred to as as a witness while not associate degree quantity of delay or expense that the Court regards as unreasonable: Provided additionally that, if oral proof refers to the existence or condition of any material factor apart from a document, the Court could, if it thinks work, need the assembly of such material factor for its scrutiny.

**Illustrations:**

- A is stabbed by B. C is an eye witness to this transaction of stabbing. C informs this to his friend D. at the trial of B for murder, the oral evidence to be given by C is direct and admissible. But the oral evidence to be given by D is indirect and inadmissible.

**Difference between oral and hearsay evidence:**

ORAL OR DIRECT EVIDENCE	HEARSAY EVIDENCE
Direct evidence is that which the witness is giving on the basis of his own perception.	It is derived by other person.
It is the best oral evidence of the fact to be proved.	It is secondary one and admissible in exceptional cases.
The liability of veracity of direct evidence is on person who is giving its evidence.	In this the person giving evidence does not take the responsibility of its veracity.
The person giving direct evidence is available for cross examination for testing its veracity.	The person giving hearsay evidence is not the author of original evidence. It is derived from original author.
The source of direct evidence is the person who is present in court and giving evidence.	In case of hearsay evidence, the person giving hearsay evidence is not original source of evidence given by him.

**Questionnaire:**

My questionnaire contained the following questions to be answered by the respondent:

1. Whether contents of documents or electronic records can be proved by oral evidence as per section 59 of the Indian Evidence

Act, 1872?

a.YES  b.NO

2. Whether verbal statements include signs or gestures?

a. YES  b. NO

3. Whether the maxim falsus in uno falsus in omnibus applies to oral testimony in India?

a.Yes  b.No

4. Whether tape recorded statements are admissible as evidence?

a.Yes  b.No

5. Can the oral evidence be indirect ?

a.Yes  b.No

6. Whether section 60 of Indian Evidence Act, 1872 permits hearsay evidence?

a.Yes  b.No

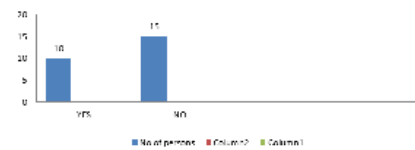
7. Whether oral evidence can be considered as less- satisfactory medium of proof than documentary evidence?

a.Yes  b.No

**Analysis and interpretation:**

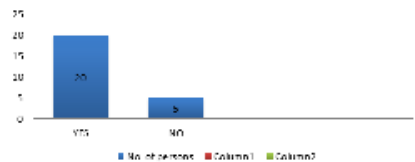
**1.Whether contents of documents or electronic records can be proved by oral evidence as per section 59 of the Indian Evidence Act, 1872?**

	YES	NO
No of persons	10	15



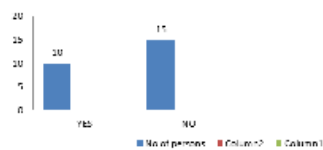
**2.Whether verbal statements include signs or gestures?**

	YES	NO
No of persons	20	05



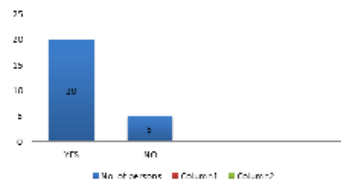
**3.Whether the maxim falsus in uno falsus in omnibus applies to oral testimony in India?**

	YES	NO
No of persons	10	15



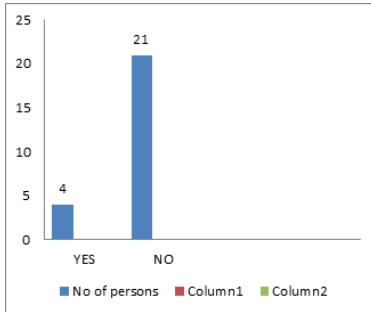
**4.Whether tape recorded statements are admissible as evidence?**

	YES	NO
No of persons	20	05



**5.Can the oral evidence be indirect ?**

	YES	NO
No of persons	04	21



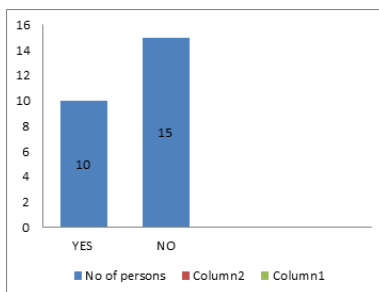
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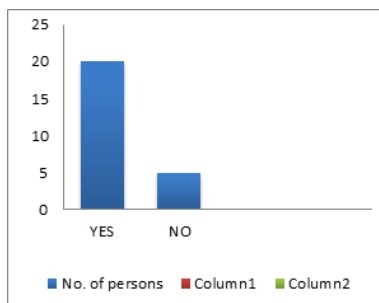
**6.Whether section 60 of Indian Evidence Act, 1872 permits hearsay evidence?**

	YES	NO
No. of persons	10	15



**7.Whether oral evidence can be considered as less-satisfactory medium of proof than documentary evidence?**

	YES	NO
No of persons	20	05



**Conclusion:**

It could be concluded that the oral evidence is a much less-satisfactory medium of proof than documentary proof. But justice can never be administered in the most important cases without restoring it. The correct rule to judge the oral evidence with reference to the conduct of parties and the presumptions and probabilities legitimately arising in the case. Another test is to whether the evidence is consistent with the common experience of mankind, with the usual course of nature and of human conduct, and with well- known principles of human action.

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