



Research Article

From Colonial Legacy to Digital Age: Privileged Communication in the Bharatiya Sakshya Adhiniyam, 2023

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DOI: <https://doi.org/10.5281/zenodo.15024854>

Abstract

The privileged communication concept has been an anchor of evidentiary law for a long time, protecting confidential communications from compelled disclosure during legal proceedings. With the passing of the Bharatiya Sakshya Adhiniyam, 2023, India has taken a great leap forward towards updating its evidence law to fit into modern-day socio-legal realities. This article discusses the evolution of privileged communication from its colonial past to its modern-day structure under the Bharatiya Sakshya Adhiniyam, 2023. It discusses the statutory provisions regulating privileged communication, such as communications between spouses, legal practitioners and clients, state matters, and professional confidentiality. The paper discusses how the new Act weighs the importance of confidentiality within privileged relationships against the need for openness and justice in the court process. The paper also dissects the drawbacks of the cyber age, such as the ability of confidentiality to be broken via cyber weakness and the admissibility of computer records in evidence. By analysing case laws and comparative legal regimes, this paper contends that the Bharatiya Sakshya Adhiniyam, 2023, represents an important step in the direction of harmonizing India's law of evidence with international standards while tackling the country's specific socio-legal environment. The research paper emphasizes the requirement of a vibrant approach to privileged communication that combines confidentiality, openness, and justice. As India transitions away from its colonial legal legacy, the Bharatiya Sakshya Adhiniyam, 2023 is an important effort to redefine evidentiary privileges in a world of digital interactions and changing legal doctrines. The research concludes with suggestions for strengthening legal protections to make privileged communication effective and relevant in the 21st century.

Manuscript Information

- ISSN No: 2583-7397
- Received: 28-01-2025
- Accepted: 29-02-2025
- Published: 13-03-2025
- IJCRM:4(2); 2025: 28-34
- ©2025, All Rights Reserved
- Plagiarism Checked: Yes
- Peer Review Process: Yes

How to Cite this Article

Sharma A, Rizvi NA. From colonial legacy to digital age: privileged communication in the Bhartiya Sakshya Adhiniyam, 2023. Int J Contemp Res Multidiscip. 2025;4(2):28-34.

Access this Article Online



www.multiarticlesjournal.com

KEYWORDS: Privileged communication, Digital age, Evidence, Legal protection, Law, Cyber.

1. INTRODUCTION

Privileged communication has existed as a pillar of legal frameworks across the globe for a long time, acting as a shield for confidential communications between entities in relationships grounded on trust. In India, the rules regarding privileged communication have developed dramatically since the colonial beginnings under the Indian Evidence Act, 1872, to the

modern framework as seen under the Bharatiya Sakshya Adhiniyam, 2023. This has not only accounted for the emerging trends of society and technology but also for accommodating the balance of confidentiality of communications and the demands of justice within an increasingly digital world. Based on English common law, the Act established certain relationships—like those between lawyers and clients, spouses, and doctors and

patients—as privileged, so that communications within such relationships would be confidential and inadmissible in court without permission. This 19th century colonial law was meant to maintain the sanctity of such relationships, which were considered crucial for the proper administration of society and justice. But as India moved toward independence and beyond, the inadequacies of this 19th-century framework increasingly became evident, especially with the advent of technological developments and the intricacies of contemporary legal disputes [1]. The Bharatiya Sakshya Adhiniyam, 2023, is a major step towards overcoming these challenges. Enacted to replace the archaic Indian Evidence Act, the new act aims to update India's evidence laws to be more in line with the digital era. Among the areas of reform is the notion of privileged communication, which has been defined and extended to reflect the nature of society today. With digital communication now a pervasive aspect of modern life, the Bharatiya Sakshya Adhiniyam, 2023 [2], recognizes the necessity to safeguard confidential communication made via electronic devices, including emails, instant messaging, and video conferencing, while at the same time controlling the scope of abuse and violations of privacy. The new act maintains the fundamental principles of privileged communication, keeping in view the significance of ensuring trust in professional and personal relations. For example, the confidentiality of lawyer-client communications continues to be inviolate so that individuals are free to consult lawyers without the risk of disclosure. Likewise, the spousal privilege remains secure in protecting communications between spouses, an indication of the continued emphasis on the institution of marriage in Indian society. But the Bharatiya Sakshya Adhiniyam, 2023, also brings in refined provisions to counter new challenges, like the admissibility of electronic evidence and safeguarding of communications in emerging relationships, like those facilitated through technology. [3] For instance, should the law accord a doctor-patient confidential email or a lawyer-client text message any special status? The Bharatiya Sakshya Adhiniyam, 2023, brings clarity to these matters and sets forth rules for the admissibility of and protection to digital communications so as not to compromise the principles of privilege in the face of technological change. This evolution from colonial inheritance to contemporary innovation speaks to the dynamic nature of the law and its capacity to evolve in response to the requirements of society.

2. REVIEW OF LITERATURE

The principle of privileged communication has been a part of Indian evidentiary laws for a long time, having developed from the colonial heritage of the Indian Evidence Act, 1872, to its reform under the Bharatiya Sakshya Adhiniyam, 2023. Privileged communication protects confidential communications between certain parties, including attorneys and clients, spouses, and government officials. Scholars and jurists have examined its applicability, constraints, and evolution in the age of the internet. This literature review follows the historical roots of privileged communication, its comparative examination with international legal systems, and its congruence with technological developments. The Indian Evidence Act, 1872, prepared during British colonial times, provided the basis for privileged communication in India. As cited by Field (1895) [4], the Act drew heavily on English common law, focusing on safeguarding communications in legally recognized relationships. Authors such as Sarkar (2015) [5] point out that sections 122 to 129 of the Indian Evidence Act framed protection for privileged communications between spouses, lawyers and clients, and government communications of a formal nature. Nevertheless, the critics believe that such provisions were narrow in scope and did not address the increasing complexities of confidentiality in contemporary law. Some legal scholars have compared the treatment of privileged communication by various jurisdictions [6]. Wigmore (1904) [7], contended that common law countries such as the United States and the United Kingdom have increasingly broadened the ambit of privileged communication, especially in corporate privilege and legal advice. Conversely, Indian legislation was relatively stagnant until the enactment of the Bharatiya Sakshya Adhiniyam, 2023. According to a comparative analysis by Khare (2021) [8], India's earlier legal regime fell behind in acknowledging digital communications in privileged relationships, in contrast to the European Union's General Data Protection Regulation (GDPR) that gives priority to client-lawyer secrecy in digital communications. Following the enactment of the Bharatiya Sakshya Adhiniyam, 2023, Indian evidence laws witnessed radical change. The new law has been welcomed for bringing privileged communication into the modern age to suit today's legal and technological issues. Mishra (2023) [9] reports that the legislation broadens the reach of privilege, especially where there is electronic communication between a client and attorney, to provide stronger protection from electronic eavesdropping and third-party disclosure. Yet, other authors such as Patel (2023) [10] criticize the law for not

¹ Indian Law Institute, "The Law of Evidence in India: An Overview," *ILI Law Review* (2023), pp. 45-67.

² Bharatiya Sakshya Adhiniyam, 2023.

³ B.N. Pandey, "Privileged Communication and Attorney-Client Confidentiality in India," *ILI Journal of Law & Policy* (2022), pp. 112-135.

⁴ Field, C. D. (1895). *The Law of Evidence in British India*. Calcutta: Thacker, Spink & Co.

⁵ Sarkar, M. C. (2015). *Law of Evidence in India*. New Delhi: Eastern Book Company.

⁶ Singh, A. (2018). "Revisiting the Indian Evidence Act: Need for Reform." *Law and Policy Journal*, 6(1), 24-39.

⁷ Wigmore, J. H. (1904). *A Treatise on the Anglo-American System of Evidence*. Boston: Little, Brown & Co.

⁸ Khare, M. (2021). "Comparative Analysis of Privileged Communication in Common Law Jurisdictions." *Global Journal of Legal Research*, 15(3), 112-126.

⁹ Mishra, S. (2023). "Bharatiya Sakshya Adhiniyam and the Modernization of Indian Evidence Law." *Indian Journal of Law and Policy*, 7(2), 98-113.

¹⁰ Patel, V. (2023). "Corporate Privilege and the Bharatiya Sakshya Adhiniyam: Challenges Ahead." *Business and Law Review*, 12(4), 78-91.

being detailed enough in establishing privilege for business organizations and sources of journalists. The fast pace at which digital technology is developing creates serious challenges for the traditional definition of privileged communication.

By Desai (2020)^[11], growing application of cloud storage, end-to-end encryption messaging, and artificial intelligence in legal processes calls for the revision of principles of confidentiality. Legal professionals such as Reddy (2022)^[12] posit that privileged communication has to go beyond conventional exchanges and encompass online legal consultations, encryption standards for data, and cybersecurity against cyber-attacks. The Bharatiya Sakshya Adhiniyam, 2023, has some digital provisions, yet there is still uncertainty over their enforcement in international legal disputes. Indian courts have been very important in interpreting privileged communication.

Latest judgments have served to reaffirm the need for protection of privileged communications, and especially so, in the age of digital evidence. Agarwal (2023)^[13] explains how the judiciary has begun recognizing the dangers of digital monitoring and data leaks, compelling the legislature to further streamline the provisions in the Bharatiya Sakshya Adhiniyam, 2023. But one wonders about the way courts will strike a balance between privileged communication, on the one hand, and national security and public interest issues, on the other. The shift from the Indian Evidence Act, 1872, to the Bharatiya Sakshya Adhiniyam, 2023, is a big leap towards reforming privileged communications in India. Although the new legislation includes modern challenges and advancements in the digital sphere, there are still loopholes in corporate privilege, protection of journalists, and cross-border digital transactions. Future legal literature must aim to perfect these provisions and make privileged communication strong enough to withstand emerging technological threats.

3. OBJECTIVE OF THE STUDY

The objective of this research is to critically analyse the development of privileged communication in India, from its roots in the colonial Indian Evidence Act, 1872, to its modern-day adaptation in the Bharatiya Sakshya Adhiniyam, 2023. The research seeks to investigate how the legal regime has evolved to meet the challenges of the digital era, such as the emergence of electronic communication, cybersecurity threats, and the demands for increased privacy protection. Through the examination of historical background and contemporary advancements, the research aims to emphasize the importance of privileged communication in ensuring confidentiality and trust in professional relationships, including lawyers and clients, doctors and patients, and mental health professionals and their clients. The research also aims to determine gaps and challenges in the enforcement of the Bharatiya Sakshya Adhiniyam, 2023, especially about digital evidence and cybersecurity. It will also evaluate how much the new law is aligned with international

standards and how it meets the specific socio-cultural situation in India. Finally, the research aims to offer suggestions on how to improve the legal framework and promote awareness regarding the rights and obligations related to privileged communication in the age of digital communication.

4. METHODOLOGY

This study follows a doctrinal legal research approach, with emphasis on the examination of primary and secondary legal sources on privileged communication under the Bharatiya Sakshya Adhiniyam, 2023. It entails a close reading of legal provisions, judicial precedents, legislative intent, and scholarly commentary.

Primary Sources: The study focuses on Legislative provisions, laws, regulations, and rules related to Privileged Communication in India. Besides this, authoritative Supreme Court and High Court judgments interpreting legal provisions arising from Privileged Communication will be explored.

Secondary Sources: The study also encompasses scholarly literature, national and international organizations' reports and policy documents on Privileged Communication. Secondary sources such as legal articles, Newspaper and Magazine Articles, Social sites, and Internet websites will be discussed to examine in detail the law regarding Privileged Communication in India.

Concept of Privileged Communication: A Theoretical Overview

Privileged communication is a basic legal doctrine that protects certain communications from compelled disclosure during legal cases. It is based on the theory that some relationships, because they are confidential by nature, need legal protection to promote complete and open communication. The theory is most pertinent in the practice of law, medicine, journalism, and counselling, where confidentiality is essential to professional duties and trust.

Definition and Scope

Privileged communication is statements made in some protected relationships that one cannot reveal without the party holding the privilege. It is a legal principle that provides immunity against testifying or the production of evidence in court about certain conversations. The justification for the protection is to provide freedom to have open and honest exchanges between people in certain relationships, hence encouraging justice and responsibility in ethics^[14].

The most prevalent forms of privileged communication are:

1. Attorney-Client Privilege – Safeguards confidential communications between an attorney and client. This

¹¹ Desai, K. (2020). "Digital Law and the Future of Privileged Communication." *Journal of Legal Studies*, 8(1), 45-63.

¹² Reddy, T. (2022). "Artificial Intelligence and the Future of Legal Confidentiality." *Technology and Law Journal*, 9(3), 50-67.

¹³ Agarwal, R. (2023). "Judicial Interpretations of Privileged Communication under Bhartiya Sakshya Adhiniyam." *Indian Law Review*, 10(2), 214-229.

¹⁴ Sharma, P. (2023). "Cross-Border Legal Issues in Privileged Communication." *International Journal of Digital Law*, 5(2), 133-148.

- privilege provides for clients to openly reveal information without fear of legal action^[15].
2. **Doctor-Patient Privilege** – Hinders medical practitioners from revealing patient data without permission. This doctrine is vital in facilitating protective patient trust and open disclosure^[16].
 3. **Clergy-Penitent Privilege** – Protects religious confessions against use as evidence in court^[17].
 4. **Spousal Privilege** – Permits spouses to decline to testify against one another, upholding marital confidentiality^[18].
 5. **Journalist-Source Privilege** – Offers limited protection to journalists who desire to protect their sources from disclosure, although its validity differs among jurisdictions

Theoretical Justifications

The basis of privileged communication is in several theoretical justifications:

1. **Public Interest Theory** – The doctrine is based on the belief that preserving confidential communications is in the overall public interest as it helps in developing trust-based relationships. For example, an attorney is unable to represent a client adequately without full knowledge of the case, which requires total confidentiality^[19].
2. **Utilitarian Justification** – Utilitarianism posits that privileged communication results in aggregate societal gains, including enhanced legal representation, health outcomes, and freedom of the press^[20].
3. **Rights-Based Approach** – Other scholars claim that privileged communication is an intrinsic right that ensures autonomy and privacy. The attorney-client privilege, for instance, preserves the right to counsel free from self-incrimination^[21].
4. **Social Contract Theory** – Society is thought to implicitly accept certain legal benefits in order to uphold trust and cooperation in significant relationships^[22].

Colonial Legacy and Privileged Communication in the Indian Evidence Act, 1872

The Indian Evidence Act, 1872, prepared by Sir James Fitzjames Stephen, was a result of British colonial rule and attempted to harmonize rules of evidence throughout British India. Although the act established a detailed framework of admissibility of evidence, it was predominantly English common law-based. Among its salient features was the establishment of privileged communication through Sections 122 to 129, which shielded

Confidential relationships like:

- Spousal communications (Section 122)
- Communications between professionals and their clients, lawyers and clients (Section 126-129)
- Government communications (Section 124)
- State privilege for unpublished government records (Section 123).

These were enacted to safeguard the freedom of communication among such protected relationships so that they may not be liable to legal sanction. The times have changed enormously since 1872, and the law needed to be much more sophisticated now in dealing with privileged communication, especially in terms of digital evidence and privacy.

Legal Framework of Privileged Communication under the Bharatiya Sakshya Adhiniyam, 2023.

The Bharatiya Sakshya Adhiniyam, 2023, which is a replacement for the Indian Evidence Act, 1872, aims to overcome the shortcomings of colonial law on evidence while adopting advancements in technology, privacy rights, and international legal standards. The new act mostly maintains the spirit of privileged communication but includes provisions that are more aligned with digital developments and modern legal issues^[23].

One of the most important features of the new law is its focus on digital evidence and the preservation of privileged communication in the digital environment. The Bharatiya Sakshya Adhiniyam, 2023 (BSA) is a major revamp of India's evidence laws, superseding the colonial Indian Evidence Act of 1872. The BSA was passed on December 25, 2023, to update and align the legal system with the needs of the times, ensuring a just and effective judicial process. One of the key issues dealt with in the BSA is the issue of privileged communication, which refers to some confidential communications that are not subject to disclosure in court^[24].

Provisions under the Bharatiya Sakshya Adhiniyam, 2023

The BSA outlines the ambit and limitation of privileged communications in Sections 128 to 134, describing certain situations where confidentiality is maintained:

1. Communications During Marriage (Section 128)

This section protects communications between spouses made during the marriage from being disclosed in court without mutual consent. However, this privilege does not apply in cases where one spouse is prosecuted for an offense against the other. For instance, if one spouse confides in the other about a private matter, that information cannot be

¹⁵ *Upjohn Co. v. United States*, 449 U.S. 383 (1981).

¹⁶ *Jaffee v. Redmond*, 518 U.S. 1 (1996).

¹⁷ McNaughton, J. (1961). Evidentiary Privileges in Common Law and Statutory Law. *Harvard Law Review*, 51(5), 443-478.

¹⁸ *Trammel v. United States*, 445 U.S. 40 (1980).

¹⁹ Fried, C. (1976). The Lawyer as Friend: The Moral Foundations of the Lawyer-Client Relation. *Yale Law Journal*, 85(8), 1060-1084.

²⁰ Bentham, J. (1827). *Rationale of Judicial Evidence*. London: Hunt & Clarke.

²¹ Redish, M. H. (1971). The Adversary System, Democratic Theory, and the Constitutional Protection of Attorney-Client Privilege. *Stanford Law Review*, 19(2), 350-366.

²² Rousseau, J. J. (1762). *The Social Contract Theory*.

²³ Gupta, R. (2023). "Cybersecurity and Privileged Communication in the Digital Age." *Indian Journal of Law and Technology*, 15(2), 45-60.

²⁴ Kumar, P. (2023). "Digital Evidence and Legal Challenges in India." *Cyber Law Review*, 7(1), 112-125.

- compelled for disclosure in legal proceedings unless both consent or it pertains to a crime committed against the other.
2. **Evidence concerning Affairs of State (Section 129)**
Official records not published with regard to affairs of state are safeguarded under this section. These papers cannot be made public except with the authorization of the head of the respective department, so that confidential matter related to national security or public interest is kept secret.
 3. **Official Communications (Section 130)**
Public officers are protected against being compelled to divulge communications received by them in official trust if such revelation would be prejudicial to public interest. For instance, a government functionary receiving confidential information in the line of duty cannot be compelled to disclose it in court if it would be detrimental to public welfare.
 4. **Information as to Commission of Offenses (Section 131)**
This clause shields magistrates, police officers, and revenue officers against being forced to reveal the origin of information concerning the commission of crimes. This promotes the voluntary provision of information to authorities in safety, hence facilitating law enforcement.
 5. **Confidential Communications with Legal Advisers (Section 132)**
Communications with the clients by legal advisers are privileged under this section. Legal practitioners cannot be forced to reveal any communication that has been made during the course of their professional assignment, creating a setting where clients can openly talk about legal issues without fear. This privilege, however, does not cover communications that are made in aid of any illegal object.
 6. **Competency of Husband and Wife as Witnesses in Certain Cases (Section 133)**
This clause makes it clear that spouses are capable of giving evidence for or against one another in civil or criminal cases. But they are not required to reveal any communication exchanged during marriage without the mutual consent of both, maintaining confidentiality of marriage.
 7. **Production of Title-Deeds of Witness Not a Party (Section 134)**
A non-party witness cannot be forced to provide their title deeds to any property or any document that could incriminate them. This is a safeguard against self-incrimination and the unwanted revelation of personal property information.

The Digital Age and Challenges to Privileged Communication under the Bharatiya Sakshya Adhiniyam, 2023

The digital age has transformed how we communicate, and it has presented new challenges to the privileged communication concept in legal systems. In India, the Bharatiya Sakshya Adhiniyam, 2023 (BSA) replacing the Indian Evidence Act of 1872 meets these challenges by redefining and widening the scope of evidence to embrace electronic and digital documents [25]. The explosion of digital communication platforms like emails, instant messaging, and social media has made it more difficult to enforce these privileges:

- **Data Privacy and Security:** Digital communications are prone to unauthorized intercepts, hacking, and data breaches that can expose privileged information. Maintaining confidentiality of such communications necessitates strong cybersecurity controls [26].
- **Cloud Storage and Jurisdiction:** Numerous digital communications are hosted on cloud servers situated in various jurisdictions. This poses the question of which jurisdiction's laws prevail and how privileged information is safeguarded across territories.
- **Metadata and Digital Trails:** Electronic communications frequently carry metadata—such as dates and times, location, and equipment—that can accidentally expose privileged data. The processing and possible release of metadata raise specific challenges.

BSA's Accommodation of Digital Realities

The BSA addresses these challenges by adding provisions that meet electronic and digital documents:

- **Extension of Definition:** The Act extends the definition of evidence to include clearly electronic and digital records, in light of their role in contemporary legal proceedings.
- **Criteria for Admissibility:** The BSA lays down certain criteria for the admissibility of electronic records, stressing the importance of authenticity and integrity. For example, electronic records have to be presented with a certificate under Section 65B, confirming their genuineness.
- **Digital Privileges Protection:** Although the BSA does not specifically outline protections for digital communications under privileged categories, the general rules of privilege hold. Legal professionals need to ensure that digital communications are properly handled to ensure confidentiality [27].

Judicial Interpretations and Case Laws

The judiciary has also played an important role in demarcating the ambit and scope of privileged communication, reconciling

²⁵ Menon, N.R. (2023). "Privileged Communication in the Bharatiya Sakshya Adhiniyam." *Supreme Court Cases Journal*, 45(4), 33-47.

²⁶ Patel, R. (2023). "Awareness and Implementation of the Bharatiya Sakshya Adhiniyam." *Legal Awareness Quarterly*, 18(2), 67-80.

²⁷ Jain, A. (2023). "The Bharatiya Sakshya Adhiniyam, 2023: A New Era for Evidence Law." *Journal of Indian Legal Studies*, 12(3), 78-92.

confidentiality with the cause of justice. Several seminal judicial dicta have established the ambit of such privileges under Indian law.

Lawyer-Client Privilege

The rules enunciated in *R.K. Anand v. Delhi High Court* (2009) apply squarely to the *Bharatiya Sakshya Adhinyam, 2023*, which maintains the safeguards for lawyer-client communications. The courts are likely to remain stressing confidentiality in legal practice, so that clients may be able to consult without fear of disclosure. In *M. Yoveshwaran v. S. Sivasankaran* (2023 SCC Online SC 1345) The petitioner protested against the admissibility of emails exchanged with his counsel as evidence. The Supreme Court held that these communications are privileged and cannot be revealed unless the client agrees. In *Anil Vishnu Anturkar v. Chandrakumar Popatlal Baldota and Ors.* (2024) The Court held that a Lawyer Cannot Be Compelled to Disclose Communication with Client as it is Privileged. In *D Veerasekaran v. State of TN* (1992) the court held that a letter written by an advocate to their client (who was accused of terrorist activities) could not be used as evidence against the advocate for establishing the charge of abetment as the said letter would be protected as a professional communication.

Spousal Privilege

The ruling in *State of Punjab v. Ramdev Singh* (2004) strengthens the safeguards for spousal communications under the new law. The *Bharatiya Sakshya Adhinyam, 2023*, enforces this principle, acknowledging the value of trust and confidentiality in marriage relationships.

Extension to Mental Health Professionals

The guidelines provided in *M. Narsinga Rao v. State of Andhra Pradesh* (2001) justify the extension of mental health professionals to the purview of privileged communication under the *Bharatiya Sakshya Adhinyam, 2023*. The extension is an acknowledgment of the increasing significance of mental health and the necessity of safeguarding sensitive information disclosed in therapy sessions ^[28].

Digital Communications and Privacy:

The ruling in *Selvi v. State of Karnataka* (2010) emphasizes privacy and dignity under the law of evidence. Such principles are highly applicable to the *Bharatiya Sakshya Adhinyam, 2023*, which considers digital communications to be within privileged communication and puts in place precautions against disclosure. In *Union of India v. R. Rajeshwaran* (2023 SCC Online SC 978) the government declined to provide intelligence reports in a criminal case. The Supreme Court stated that documents prejudicial to national security might be withheld on privilege.

²⁸ Singh, A., & Kapoor, M. (2023). "Mental Health and Privileged Communication: A New Frontier." *Indian Journal of Psychiatry and Law*, 10(2), 55-70.

Challenges and Contemporary Issues

Although the *Bharatiya Sakshya Adhinyam, 2023*, is a progressive law, challenges are ongoing in ensuring privileged communication in the era of information technology. Some of the major concerns are:

- 1. Electronic Surveillance and Privacy Issues:** Governments and private companies increasingly indulge in electronic surveillance, usually invading privileged communications under the pretext of national security. Finding a balance between security needs and basic rights continues to be a controversial topic ^[29].
- 2. Judicial Interpretations and Ambiguities:** The judiciary plays an instrumental role in establishing the extent of privileged communication. Although the Supreme Court of India has defended attorney-client privilege as a sacred institution, recent judgments suggest a changing perspective toward digital evidence and metadata.
- 3. International Paradigms and Best Practices:** The United States and the United Kingdom have each amended their evidence laws to include specific protections for electronic communication within legal privilege. India's new law should seek to learn from these complexities while maintaining alignment with international standards ^[30].
- 4. Professional Privileges in New Areas:** With the character of professional relationships broadening to encompass digital forensic specialists, cybersecurity advisors, and telemedicine practitioners, the extent of privilege has to broaden as well. The *BSA, 2023*, has to adapt to these changes to be effective in contemporary legal proceedings.

5. CONCLUSION

The *Bharatiya Sakshya Adhinyam, 2023* represents a major change in India's legislative landscape from the colonial law of the Indian Evidence Act, 1872 to a new, modern legislation suited to the times. The principle of privileged communication, a basis of legal privacy, has been retained and reshaped to fit the context of the modern era of cyberspace. Historically, British legal traditions are where privileged communications laws originated in order to place more emphasis on protecting lawyer-client communications, official secrets, as well as confidentiality between spouses. The Indian Evidence Act, 1872 is strong, yet it did not quite cover adequately the intricacies of electronic communication, digital information, and contemporary professional relationships. The *Bharatiya Sakshya Adhinyam, 2023*, even though it holds on to its traditional protections largely, shall find its progressive interpretations in the courts for incorporating electronic communications, end-to-end-encrypted talks, and cloud-delivered legal consultation. Privileged communication, however, under this new law must be rethought within the umbrella of cybersecurity, AI-delivered legal services, and global cross-border data flows. Courts will be responsible for

²⁹ Sharma, P. (2024). *The Bharatiya Sakshya Adhinyam and Evidentiary Privilege: A Comparative Analysis.* *Indian Journal of Law and Policy*, 9(1), 23-48.

³⁰ Menon, N.R. (2023). "Privileged Communication in the *Bharatiya Sakshya Adhinyam.*" *Supreme Court Cases Journal*, 45(4), 33-47.

maintaining the balance between confidentiality and the public interest to ensure that privileged communication is always a cloak for justice, never an instrument for concealment. In the future, it will be necessary that legal professionals, policymakers, and the judiciary of the land go on interpreting and refining the concept of privileged communication to tackle fresh challenges like data breaches and electronic evidence tampering. While the Bharatiya Sakshya Adhiniyam, 2023 is itself a needed overhauling of India's evidence law, the real potential is yet to come as the courts interpret how the law is applicable in today's digital landscape.

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