
TRUTH OR COERCION? A CRITICAL EXAMINATION OF CONFESSIONAL EVIDENCE IN INDIAN LAW

Nikita, Amity Institute of Advanced Legal Studies, Amity University, Noida

ABSTRACT

Confessional evidence occupies a controversial yet pivotal position in the Indian criminal justice system, raising a fundamental question: is a confession truly an expression of truth, or a product of coercion? This article critically examines the legal framework governing confessions in India, primarily under the Indian Evidence Act, 1872 and the Code of Criminal Procedure, 1973, with particular focus on the admissibility, reliability, and voluntariness of such statements.

The study explores key statutory provisions, including Sections 24 to 30 of the Evidence Act, which lay down safeguards against involuntary confessions, and evaluates their effectiveness in practice. It further analyzes judicial interpretations by the Supreme Court of India, highlighting landmark cases that have shaped the doctrine of voluntariness and the exclusion of coerced confessions. Despite strong legal safeguards, instances of custodial violence, police pressure, and misuse of authority continue to challenge the integrity of confessional evidence.

This article adopts a doctrinal and analytical approach to assess whether existing legal protections adequately prevent coercion or merely provide a theoretical safeguard. It also engages with constitutional principles, particularly Article 20(3) of the Constitution of India, which guarantees protection against self-incrimination, and examines its interplay with investigative practices.

Ultimately, the article argues that while Indian law formally prioritizes voluntariness and fairness, systemic deficiencies and enforcement gaps often undermine these principles. It calls for stricter procedural safeguards, greater judicial scrutiny, and the incorporation of modern investigative techniques to reduce reliance on confessions. By addressing the tension between truth-seeking and rights protection, this study contributes to the broader discourse on ensuring justice, accountability, and human dignity within the criminal process.

Meaning and Nature of Confessional Evidence

Confessional evidence refers to a statement made by an accused person in which they admit to the commission of an offence or acknowledge substantially all the facts that constitute the offence. Although the term “confession” is not expressly defined in the Indian Evidence Act, 1872, it has been judicially interpreted as a specific type of admission that directly points to the guilt of the accused. In legal terms, every confession is an admission, but not every admission amounts to a confession. For a statement to qualify as a confession, it must be clear, unambiguous, and must either expressly admit guilt or contain facts that inevitably lead to the inference of guilt. Statements that are vague, partially exculpatory, or do not directly relate to the offence are not considered confessions.¹

The nature of confessional evidence is both significant and complex within criminal jurisprudence. It is regarded as a substantive piece of evidence, meaning that, if found to be voluntary and true, it can form the sole basis of conviction without the need for corroboration. This is because a confession comes directly from the accused, making it one of the most powerful forms of evidence. However, this strength is balanced by the inherent risks associated with such statements. Confessions are highly susceptible to coercion, inducement, threat, or promise, especially in custodial settings, which raises serious concerns about their reliability. Recognizing this, the law places paramount importance on the principle of voluntariness, and any confession obtained through improper means is rendered inadmissible under Sections 24 to 30 of the Evidence Act.²

Confessional evidence also has a close connection with constitutional safeguards, particularly the right against self-incrimination under Article 20(3) of the Constitution of India, which ensures that no individual can be compelled to testify against themselves. This highlights the dual nature of confessions as both an evidentiary and a rights-based issue. Furthermore, confessions can be classified into judicial and extra-judicial confessions, depending on whether they are made before a magistrate or any other person. Judicial confessions generally carry greater evidentiary value due to the procedural safeguards involved in their recording, whereas extra-judicial confessions are treated with caution and usually require corroboration.

Another important aspect of confessional evidence is its retractable nature. An accused person

¹ *Pakala Narayana Swami v. Emperor*, AIR 1939 PC 47.

² Sections 24–30, *Indian Evidence Act, 1872*.

may later withdraw or deny a confession, claiming that it was made under pressure or coercion. In such cases, courts exercise greater scrutiny and often seek independent corroboration before relying on such statements. Over time, judicial attitudes have evolved from treating confessions as the “best evidence” to approaching them with caution, recognizing the possibility of false confessions and abuse of power during investigation.

In essence, the nature of confessional evidence reflects a delicate balance between the pursuit of truth and the protection of individual rights. While it remains a valuable tool in the administration of justice, its reliability depends heavily on the circumstances in which it is made and the safeguards employed to ensure its voluntariness. Thus, confessional evidence is not merely a statement of guilt but a legally sensitive form of evidence that must be carefully evaluated to prevent miscarriage of justice.

The dilemma: truth vs coercion

The dilemma of truth versus coercion lies at the very heart of confessional evidence in criminal law. On one hand, a confession appears to be the most direct route to truth because it comes from the accused person’s own mouth and seems to disclose facts that no outside witness can provide with equal clarity. Courts, investigators, and society often view a confession as powerful because it may appear to end uncertainty, simplify proof, and expose the hidden reality of a crime. In this sense, confession is associated with truth-telling, accountability, and the efficient administration of justice. However, the deeper legal and moral problem is that a confession is not always a genuine product of free will. It may be shaped by fear, exhaustion, psychological pressure, manipulation, inducement, or physical torture. When that happens, the confession may still appear truthful on the surface, but in reality it becomes a distorted statement extracted under compulsion rather than an authentic admission of guilt. Thus, the law must constantly ask not only whether a confession is true, but how that truth was obtained.³

This tension becomes especially serious in the context of police interrogation and custodial detention, where the imbalance of power between the accused and the State is at its highest. A person in custody may confess not because they are truly guilty, but because they wish to escape harassment, prolonged questioning, threats, violence, or the hope of immediate relief. In such situations, the confession may reflect submission rather than truth. The danger here is

³ Section 24, *Indian Evidence Act, 1872*; *Nandini Satpathy v. P.L. Dani*, (1978) 2 SCC 424.

not merely theoretical. History shows that false confessions can result in wrongful convictions, and that an overreliance on confessional evidence can weaken the fairness of the criminal justice system. A coerced confession is particularly dangerous because it carries the appearance of certainty. Unlike some other forms of evidence, it seems to come from the accused themselves, which can mislead courts into giving it excessive weight even when the circumstances raise serious doubts. The law therefore treats confession as both valuable and suspicious: valuable because it may reveal the facts of the offence, and suspicious because it may conceal the methods by which it was produced.⁴

The problem is also philosophical and constitutional. A just legal system cannot pursue truth at any cost. Truth obtained through coercion is not genuine truth in the legal sense, because the process of extraction itself destroys reliability and fairness. If the State is allowed to force confessions, then the criminal process risks becoming an instrument of domination rather than justice. This is why the law places such emphasis on voluntariness. A confession must be the product of a conscious, informed, and free choice. The moment force enters the picture, the moral value of the statement collapses, even if the content happens to match reality. In other words, the law does not protect the accused merely because coercion is cruel; it protects against coercion because coerced statements are untrustworthy, unsafe, and incompatible with the dignity of the individual. The legal system is therefore not simply choosing between “truth” and “freedom.” It is recognizing that truth extracted by unlawful means is often unreliable, and that justice requires both accurate facts and fair procedures.

This dilemma also reveals a broader institutional weakness: when investigative agencies depend too heavily on confessions, they may neglect more reliable forms of proof such as forensic evidence, witness testimony, digital records, and scientific investigation. Such dependence can create pressure to obtain a confession at any cost, especially in cases where evidence is weak or where there is public demand for quick results. Once that culture develops, coercion becomes more likely, and the confession becomes less a search for truth and more a tool for closing a case. The real danger is that the system may begin to value speed over fairness and convenience over accuracy. In that sense, coercion does not merely affect one accused person; it can distort the entire criminal justice process. A law that permits or tolerates coerced confessions eventually harms public confidence, because citizens begin to doubt whether

⁴ *State of Punjab v. Barkat Ram*, AIR 1962 SC 276; *Selvi v. State of Karnataka*, (2010) 7 SCC 263.

convictions are based on real proof or on forced admissions.⁵

At the same time, it would be too simplistic to reject confessions altogether. A genuinely voluntary confession can be an important source of truth, especially where the accused chooses to speak freely and honestly. The challenge, therefore, is not to eliminate confessional evidence, but to place it within strict legal safeguards so that truth can be separated from coercion. The criminal justice system must ensure that confessions are recorded properly, without pressure, with judicial oversight, and with adequate protection against abuse. Only then can a confession serve its legitimate purpose as evidence rather than as an instrument of oppression. The true legal dilemma is not whether confession is useful, but whether the system can reliably distinguish a confession born of conscience from one born of fear. That is why confessional evidence remains one of the most sensitive areas of criminal law: it stands exactly at the point where truth and coercion meet, and where justice is either secured or seriously.⁶

Confession

A confession is a statement made by an accused person in a criminal proceeding in which they admit to the commission of an offence or acknowledge substantially all the facts that constitute the offence. Although the term is not expressly defined in the Indian Evidence Act, 1872, courts have consistently interpreted it as a direct and clear acknowledgment of guilt. In legal understanding, a confession must be unambiguous and must either expressly admit the offence or contain facts that inevitably lead to the conclusion of guilt.

Confession is considered a special category of admission, distinguished by its direct connection to criminal liability. While admissions may relate to any relevant fact, a confession specifically relates to the guilt of the accused. For a statement to qualify as a confession, it must be voluntary, free from any inducement, threat, or promise, and must reflect the true intention of the person making it. Statements that are vague, partially exculpatory, or do not clearly indicate guilt are not treated as confessions in law.

The legal importance of confession lies in its evidentiary value, as it can serve as strong proof against the accused if found to be voluntary and truthful. However, due to the risk of coercion and misuse, the law subjects confessions to strict scrutiny and safeguards. This ensures that

⁵ *Dagdu v. State of Maharashtra*, (1977) 3 SCC 68; Section 24, *Indian Evidence Act, 1872*.

⁶ Section 164, *Code of Criminal Procedure, 1973*; *Kartar Singh v. State of Punjab*, (1994) 3 SCC 569.

only genuine and voluntary confessions are admitted, thereby maintaining a balance between the discovery of truth and the protection of individual rights.

Types of Confessions

1. Judicial vs extra-judicial confession:

Judicial and extra-judicial confessions are two important classifications of confessional evidence, distinguished primarily by the authority before whom the confession is made and the legal value attached to it. A judicial confession is a statement made by an accused before a Magistrate or in the course of judicial proceedings, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973. Such confessions are recorded with strict safeguards, including ensuring that the statement is made voluntarily, without any pressure or coercion, and after giving the accused sufficient time for reflection. Because of these procedural protections and the involvement of a neutral judicial authority, judicial confessions carry a high evidentiary value and can even form the sole basis of conviction if the court is satisfied about their truth and voluntariness.⁷

In contrast, an extra-judicial confession is made by the accused to any person other than a Magistrate, such as a friend, relative, village head, or even a private individual. These confessions are not recorded under formal legal procedures and are therefore considered less reliable. Courts treat extra-judicial confessions with caution because they are more susceptible to misunderstanding, misrepresentation, or fabrication. Unlike judicial confessions, they generally require corroboration from other evidence before being relied upon for conviction. However, if the court finds that an extra-judicial confession is made voluntarily, is truthful, and is supported by surrounding circumstances, it can still be accepted as valid evidence.

Thus, the key distinction lies in the degree of reliability and procedural safeguards. While judicial confessions are formally recorded and carry stronger evidentiary weight, extra-judicial confessions are informal in nature and are approached with greater caution by courts. Both forms are recognized under the Indian Evidence Act, 1872, but their admissibility and probative value depend heavily on the circumstances in which they are made and the level of

⁷ Section 164, *Code of Criminal Procedure, 1973*; *Shivappa v. State of Karnataka*, (1995) 2 SCC 76.

assurance they provide regarding voluntariness and truthfulness.⁸

2. Retracted confession:

A retracted confession is a statement in which the accused initially admits guilt but later withdraws or denies that admission, claiming that it was false or obtained under improper circumstances such as coercion, inducement, threat, or misunderstanding. Under the Indian Evidence Act, 1872, such a confession does not become irrelevant merely because it has been retracted; however, its evidentiary value is significantly affected. The act of retraction introduces doubt regarding the voluntariness and truthfulness of the original statement, thereby requiring the court to exercise a high degree of caution before relying upon it.⁹

The law adopts a balanced approach toward retracted confessions. On one hand, it does not completely discard them, recognizing that a confession may still be true despite being withdrawn. On the other hand, it does not treat them as strong or conclusive evidence. Courts have consistently held that a retracted confession can form the basis of conviction only if it is shown to be voluntary and is corroborated by independent evidence on material particulars. This principle is based on the understanding that a person may retract a confession for various reasons, such as fear of punishment, legal advice, or change of strategy, but at the same time, there is a real risk that the original confession may have been obtained through improper means.

An important aspect of retracted confessions is the timing and manner of retraction. If the accused retracts the confession at the earliest possible opportunity, especially during the first appearance before a Magistrate, it strengthens the claim that the confession may not have been voluntary. Conversely, if the retraction occurs at a much later stage, such as during trial, courts may view it with suspicion and consider it an afterthought. The burden lies on the prosecution to establish that the confession was made voluntarily and is reliable, while the court must carefully examine the surrounding circumstances, including the conduct of the accused and the conditions under which the confession was recorded.¹⁰

Another significant factor is the distinction between judicial and extra-judicial retracted confessions. A retracted judicial confession (made before a Magistrate) generally carries more

⁸ Sections 24–30, *Indian Evidence Act, 1872*; *State of Rajasthan v. Raja Ram*, (2003) 8 SCC 180.

⁹ Sections 24–30, *Indian Evidence Act, 1872*; *Subramania Goundan v. State of Madras*, AIR 1958 SC 66.

¹⁰ *Shivappa v. State of Karnataka*, (1995) 2 SCC 76; *State of Tamil Nadu v. Kutty alias Lakshmi Narasimhan*, (2001) 7 SCC 550.

weight than a retracted extra-judicial confession, because it is recorded under procedural safeguards. Nevertheless, even a judicial confession, once retracted, requires corroboration as a rule of prudence. Courts often look for consistency between the confession and other evidence such as medical reports, recovery of material objects, or witness testimony.

Distinction between admission and confession

The distinction between admission and confession is a fundamental concept in the law of evidence, particularly under the Indian Evidence Act, 1872. Although both involve statements made by a person which may be used against them, they differ significantly in scope, nature, and legal consequences. An *admission* is a broader term and refers to any statement, oral or documentary, which suggests an inference as to any fact in issue or relevant fact. In contrast, a *confession* is a narrower concept and refers specifically to a statement made by an accused person admitting guilt or substantially all the facts constituting the offence. Thus, while all confessions are admissions, not all admissions amount to confessions.

One of the key points of distinction lies in their scope and application. Admissions can be made in both civil and criminal proceedings and may be made by any party to the case or their authorized agent. They relate to any relevant fact, not necessarily to guilt. For example, admitting presence at the scene of a crime or acknowledging ownership of a disputed property would be considered admissions. On the other hand, confessions are relevant only in criminal proceedings and must be made by the accused person. They directly relate to the commission of a crime and must indicate guilt either expressly or by necessary implication. Therefore, the scope of confession is much narrower and more specific than that of admission.¹¹

Another important distinction concerns the nature and content of the statement. Admissions may be either inculpatory (supporting guilt) or exculpatory (supporting innocence), and they do not necessarily lead to a conclusion of liability. They are simply pieces of evidence that the court may consider along with other facts. In contrast, a confession is always inculpatory in nature; it must admit guilt or facts that lead directly to the inference of guilt. A statement that contains both inculpatory and exculpatory elements may not qualify as a confession unless the inculpatory part clearly outweighs and establishes guilt. Courts have repeatedly emphasized that a confession must be clear, unambiguous, and unequivocal.

¹¹ Sections 17–23, *Indian Evidence Act, 1872*; *Pakala Narayana Swami v. Emperor*, AIR 1939 PC 47.

The evidentiary value of admissions and confessions also differs. Admissions are not conclusive proof of the matters admitted, though they may operate as estoppel in certain circumstances. They are relevant and can be used against the person making them, but they do not carry the same weight as confessions. Confessions, on the other hand, are considered strong evidence against the accused. If found to be voluntary and true, a confession can form the sole basis of conviction without the need for further corroboration, although courts often seek corroboration as a matter of prudence, especially in cases of retracted confessions.¹²

A crucial distinction lies in the legal safeguards governing them. Confessions are subject to strict rules of admissibility under Sections 24 to 30 of the Evidence Act, which aim to ensure that they are made voluntarily and without coercion, inducement, or threat. Confessions made to police officers or while in police custody are generally inadmissible, except under specific circumstances. Admissions, however, are not subject to such stringent restrictions and are generally admissible unless they fall under specific exclusions. This reflects the law's recognition of the higher risk of misuse and coercion in obtaining confessions.

Further, the persons who can make these statements differ. Admissions can be made by parties to a proceeding, their agents, or even persons whose position is relevant to the case. Confessions, however, can only be made by an accused person in a criminal case. This limitation underscores the serious nature of confessions, as they directly impact the liberty and rights of the individual making them.

In terms of use in legal proceedings, admissions may be used both for and against the person making them, depending on the context and relevance. Confessions, however, are generally used only against the accused and not in their favor, unless they contain exculpatory parts that are inseparable from the inculpatory statement. Courts are cautious in separating parts of a confession and usually consider the statement as a whole to determine its true meaning and effect.

Legal Framework Governing Confessions in India

The legal framework governing confessions in India is primarily derived from the Indian Evidence Act, 1872 and the Code of Criminal Procedure, 1973, along with constitutional safeguards that ensure fairness and voluntariness in the criminal justice process. This

¹² Sections 24–30, *Indian Evidence Act, 1872*; *State of UP v. Deoman Upadhyaya*, AIR 1960 SC 1125.

framework reflects a careful balance between the need to uncover truth and the necessity to protect individuals from coercion, misuse of authority, and violation of fundamental rights.¹³

Under the Indian Evidence Act, confessions are specifically addressed in Sections 24 to 30, which lay down the conditions for their admissibility. Section 24 provides that a confession is irrelevant if it appears to have been caused by any inducement, threat, or promise from a person in authority, which is sufficient to give the accused reasonable grounds to believe that they would gain some advantage or avoid some harm. This provision establishes the core principle that confessions must be voluntary. Sections 25 and 26 further strengthen this protection by declaring that confessions made to police officers, or while in police custody, are generally inadmissible. These provisions are based on the recognition of the high risk of coercion and abuse in custodial settings. However, Section 27 creates a limited exception, allowing that portion of a statement which leads to the discovery of a fact to be admissible, even if it was made in police custody. Sections 28 to 30 deal with the removal of inducement, the effect of promises, and the use of confessions affecting co-accused, thereby completing the statutory scheme governing confessional evidence.

In addition to the Evidence Act, the Code of Criminal Procedure plays a crucial role in regulating the manner in which confessions are recorded. Section 164 of the Code provides the procedure for recording confessions before a Magistrate. This provision includes important safeguards, such as ensuring that the accused is not under police influence at the time of making the statement, informing the accused that they are not bound to confess, and giving them time for reflection. The Magistrate must also be satisfied that the confession is voluntary before recording it. These procedural safeguards are designed to enhance the reliability of confessions and to prevent coercion or undue influence.¹⁴

The legal framework is further reinforced by constitutional protections, particularly the right against self-incrimination under Article 20(3) of the Constitution of India and the right to life and personal liberty under Article 21. These provisions ensure that no person can be compelled to be a witness against themselves and that any procedure affecting personal liberty must be fair, just, and reasonable. Together, these constitutional and statutory safeguards create a comprehensive system that seeks to ensure that confessions are obtained lawfully and reflect

¹³ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (expanding the scope of fair procedure under Article 21).

¹⁴ Section 164, *Code of Criminal Procedure, 1973*; *Shivappa v. State of Karnataka*, (1995) 2 SCC 76.

the true and voluntary statement of the accused.

Constitutional Safeguards

The admissibility and reliability of confessional evidence in India are deeply rooted in constitutional protections, particularly under Article 20(3) and Article 21 of the Constitution of India. These provisions ensure that the process of obtaining confessions does not violate the fundamental rights of the accused and that the criminal justice system functions in a fair, just, and humane manner.¹⁵

Article 20(3) embodies the principle of the right against self-incrimination, which provides that no person accused of an offence shall be compelled to be a witness against themselves. This protection is crucial in the context of confessional evidence, as it directly prohibits the use of force, coercion, inducement, or any form of compulsion to extract statements from the accused. The essence of this right lies in preserving the voluntariness of confessions. If a confession is obtained through pressure or coercion, it not only becomes unreliable but also unconstitutional. The protection under Article 20(3) applies specifically to an accused person and ensures that the burden of proving guilt lies on the prosecution, not on the accused. It reflects the broader principle that the State must establish guilt through independent evidence rather than forcing the accused to confess.¹⁶

Closely linked to this is Article 21, which guarantees the right to life and personal liberty and mandates that no person shall be deprived of these rights except according to a procedure established by law. Over time, judicial interpretation has expanded Article 21 to include the right to a fair trial, due process, and protection against arbitrary or abusive state action. In the context of confessions, this means that the methods used by law enforcement agencies must be fair, reasonable, and just. Any confession obtained through custodial torture, inhuman treatment, or procedural violations would be inconsistent with Article 21. The Supreme Court has emphasized that fairness in investigation and trial is an essential component of justice, and any deviation from this standard undermines the legitimacy of the criminal justice system.

Together, Articles 20(3) and 21 form the constitutional backbone of safeguards against coercive confessions. While Article 20(3) directly prohibits compelled self-incrimination,

¹⁵ Constitution of India, Articles 20(3) and 21.

¹⁶ *Nandini Satpathy v. P.L. Dani*, (1978) 2 SCC 424; *Selvi v. State of Karnataka*, (2010) 7 SCC 263.

Article 21 ensures that the entire process of obtaining and using confessions adheres to the principles of fairness and human dignity. These provisions reinforce the idea that the pursuit of truth in criminal law cannot come at the cost of violating fundamental rights. Instead, they mandate that truth must be discovered through lawful, ethical, and just means, thereby maintaining the integrity of both the evidence and the justice system as a whole.