

# Judicial Notice under the Indian Evidence Act, 1872

## Introduction

Facts need to be proved by way of adducing evidence in the Court of law. Evidence must be produced in accordance with the procedures mentioned in The [Indian Evidence Act, 1872](#) for being admissible. The doctrine of judicial notice is an exception to this rule.

The doctrine of judicial notice is that certain facts do not need to be proved as the Court is deemed to have knowledge of those facts. These facts are very general and well known by everyone and proving them would be dishonour of the Court. It is stated in [Section 56](#) of the Act that facts that are judicially noticeable need not be proved.

## Rationale

The doctrine of judicial notice flows from the English common law and has been incorporated in the Indian Evidence Act during the colonial era by the British. Judicial notice is taken regarding issues of both fact and law.

Regarding the domestic laws, the judge is presumed to have knowledge of the law or is capable of acquiring it, which is a part of duties and responsibilities. This theory is an essential part of the administration of our system of justice.

Other than the question of law, the matters of fact that must be judicially noticeable are so general that anyone would have knowledge of such matters. For example:

- Ron was in Japan this weekend.

It is essential to prove whether or not Ron was actually in Japan this weekend, but the Court knows that Japan is a real country that really exists, thus, there is no need to prove the existence of Japan.

Such simple facts are to be judicially noticed in order to save time and effort of both the Court and the parties.

Therefore, judicial notice occurs when the Court accepts certain facts to be true without either party requiring to produce evidence for their support. The Court must take judicial notice of the facts given under [Section 57](#) of the Act

## Judicially Noticeable Facts

Section 57 of the Indian Evidence Act says that the Court shall take judicial notice of these following facts:

1. All laws that are effective within the territory of India.  
The Court is expected to know the law of the land. Any law that is in force in the territory of the country must be known by the Court, and either of the parties is not required to prove the existence of any such law.

2. Any public Act that is either passed or yet to be passed by the Parliament of the United Kingdom (UK), and all local and personal Acts directed by the Parliament of the UK.

Even though India has become an independent country, we are still bound to take judicial notice of all Acts of the British Parliament.

3. Articles of war for the Indian Army, Indian Navy or the Indian Air Force.

Articles of war as provided under The [Army Act, \(46 of 1950\)](#).

4. The proceedings of the Parliament of the UK and India, along with all other legislatures established in India.

5. The accession and the signed document of the Sovereign (King, Prime Minister, President or any other head of the state) of the UK, Great Britain, and Ireland.

The signed manual or document of the Sovereign of the aforementioned countries need not be proved. These countries have been incorporated, for the time being, other countries may be added later.

6. All seals that English Courts will take judicial notice of, the seals of every Court in India including the court of Admiralty and maritime jurisdiction, seals of notaries, and seals of any person who is authorized to use by the Constitution or an Act of Parliament of both UK and India.

7. the accession to office, names, titles, functions, and the signatures of people acquiring a post in any public office on an ad hoc basis.

8. The existence of any country and its flag that is recognized by the Government of India.

9. The division of time, geographical locations of the world, and cultural festivals, fasts and holidays notified in the Official Gazette.

With 'division of time', the Section refers not to longitudinal divisions but means divisions of eras like Bengali, Hijri etc.

10. The entirety of territories that come under the dominion of the Government of India.

11. Any act of war or hostilities between the Government of India and any other state or organization, or persons.

12. The names of the officers and members of the Court including their deputies and subordinate officers and assistants, along with all advocates that appear before the court.

13. The law of the road at land and sea.

The law of the road at land means traffic rules. Vehicles should keep on the left side of the road while driving is the rule of the road in India.

The law of the road at sea are the navigation rules, i.e:

- a. That ships and steamboats on meeting should pass on the left side of each other to avoid the risk of collision.
- b. Small boats must stay away from big ships.
- c. Every ship overtaking another must keep a safe distance.

The section further prescribes that the judge is also expected to have knowledge regarding matters of public history, literature, art or science. The judge may refer to books and documents. If a person asks the Court to take judicial notice of any fact, the Court can refuse to do so unless such person produces any book or document regarding that fact.

It is clear upon reading Section 57 that the Court has no other option but is obligated to take judicial notice of such facts mentioned in the Section as it uses the word “shall” and not “may”, apart from the facts mentioned in the provision.

Apart from the list of facts mentioned in the provision, the Court may take judicial notice of the passing away of eminent personalities, date, and result of election polls or an event so famous that the whole nation is aware of it.

These facts are widely known by every person and everyone knows them to be true, hence, proving these facts is a waste of time and effort. The same was held by the Supreme Court in [\*Onkar Nath & ors v. The Delhi Administration\*](#).

Judicial notice allows a well-known or authoritatively attested fact to be produced as evidence without having to prove them, as they cannot reasonably be doubted. Judicial notice is taken upon the request of a party that submits the fact.

Relevant facts that are admitted under judicial notice are accepted by the Court even without producing a witness. This rule is often used for the simplest and obvious facts that are considered to be common sense and need not be proved.

Such as the approximate time of sunrise and sunset, or, which day of the week was a certain date etc.

## When customs are to be judicially noticed

Customs are very important in Indian culture and most personal laws have been legislated around them, in the case of [\*Ass Kaur v. Kartar Singh\*](#) the Court observed that when a custom is repeatedly brought to the Court’s notice, it need not be proved for every individual case.

Further, in the case of [\*Jadu Lal Sahu v. Maharani Janki Koer\*](#), the Court held that the existence of a certain custom that is generally known does not have to be proved by adducing evidence. However, sometimes the details of rites and rituals that happen in a certain custom might have to be proved by way of adducing evidence when the Court might need to know what really goes on. The same was held in the case of [\*Bhagwan Singh v. Bhagwan Singh\*](#).

## Facts admitted need not be proved

[Section 58](#) of the Indian Evidence Act says that if the parties or their agents have agreed to admit a fact during the court proceeding, or in writing before the

hearing then such fact need not be proved, unless the court believes that the said fact needs to be proved.

It is obvious that when parties have agreed to admit a fact, it becomes an undisputed one and no proof is required in its support.

Admission of a fact can either be expressed or implied. It is expressed when words are used to convey the admission, and if the statements or conduct of the parties can be used to infer admission then it is said to be implied. Admission can be made anytime from the institution of the suit, till its disposal.

However, the evidentiary value of admissions made in pleadings is not very high. The Supreme Court in the case of [\*Gautam Sarup v. Leela Jetly\*](#) observed that the admissions made during the proceedings must not be treated like an admission made in a document. An admission made by a party to a case is admissible against themselves.

But, later in the case of [\*Ahmedasaheb & ors v. Sayed Ismail\*](#) it was realized that admissions made during the proceedings do not need any corroboration and hence is the best evidence. Once parties make an admission, it cannot be taken back. Admissions once made will act as an estoppel against the party admitting and that party cannot claim the admission to be untrue at a later stage.

Admission may not be conclusive evidence but is the best piece of substantive evidence that a party can rely on unless proved to be wrong. But it is not yet clear as to how much importance should be given to admission, to determine the importance of admission, its clarity and relevance as a piece of evidence must be determined.

A person under cross-examination should give his reasonable explanations and clear any ambiguity of an admission. The same was held in the case of [\*Union of India v. Ibrahim Uddin\*](#).

## Admissions by counsel

A counsel is an agent of the party that represents the party itself in the court. An admission made by a counsel is binding on his client unless he makes a wrongful admission regarding a point of law.

The reason behind this is that an admission of fact by a party or his agent will act as an estoppel against him at the later stage of the trial, but a wrong admission on a point of law will not.

In the case of [\*Rangappa Goundan v. Emperor\*](#), the Court held that counsel can only make admissions in civil cases and is not authorized to do so in criminal cases that might lead to prosecution not having to adduce evidence in order to prove his case.

In a criminal case, the accused is considered to be innocent unless proven guilty and it is upon the prosecution to prove the accused's guilt beyond any reasonable doubts. Admission made by counsel on behalf of the accused might relieve the prosecution of his responsibility of proving its case.

Further, in the case of [\*Nagindas Ramdas v. Dalpatram Ichharam\*](#), it was held by the Apex Court that any admission of a fact made by a counsel is not considered to be conclusive proof and the same may be proved to be wrong.

## Admission in Criminal Cases

Section 58 was not initially applicable in criminal cases but it has been made applicable by the High Court of Bombay in the case of [\*Emperor v. Bansilal Gangaram Vani\*](#).

The burden of proof in criminal cases lies upon the prosecution, he is obligated to prove the guilt of the accused beyond all reasonable doubts and even after the admission of guilt by the accused, the prosecution is still obligated to prove the guilt of the accused beyond reasonable doubts.

## Conclusion

Sections 56 to 58 of the Indian Evidence Act, 1872 give power to the court to exempt the parties from their obligation to prove certain facts. These provisions rely on judicial wisdom and integrity to further the object of speedy justice.

Judicial notice has been divided into three categories. Section 56 prescribes the Court as to when it may judicially notice certain facts. However, under this Section, the Court is not obligated to take judicial notice and it is totally upon its discretion.

Section 57 talks about what facts the court is obligated to take into judicial notice, and through Section 58 the Court has been vested with the power to take judicial admissions into account which need not be proven during the trial.

The intent behind these provisions is to save the time of the Court and not humiliate the wisdom of the Court by having to prove unnecessary facts that are known to everyone.