

A CRITICAL ANALYSIS ON FABRICATION OF EVIDENCE

M. ABINAYA¹ S.P AADHARSH SREEVATHSAN²

ABSTRACT

Falsifying evidence is a serious offence that undermines the foundation of all legal systems around the world. This article offers a thorough critical examination of the phenomena, including its moral ramifications, effects on court decisions, and the decline in public confidence in legal systems. The study examines the causes of fabricating evidence, the techniques used, and the effects on individuals and society at large using a multidisciplinary approach. This article sheds light on the complex web of variables contributing to the fabrication of evidence, ranging from systemic weaknesses in legal systems to individual misbehavior by law enforcement and prosecution, through an assessment of important case studies and scholarly research. Additionally, it emphasizes the difficulties that defense lawyers and the judiciary confront in identifying and rebuking such unethical practices. This analysis highlights the urgent need for strong protections and changes to prevent and resolve evidence fabrication by looking at the potential effects of falsified evidence, such as incorrect convictions, weakened due process, and the deterioration of public confidence. The article's main argument is that the legal system needs more openness, responsibility, and education if it is to respect the concepts of justice and safeguard individual rights.

Index Terms - Fabrication Evidence, Legal System, Public Confidence, Justice System.

¹ M. Abinaya, Assistant Professor, School of Law, Dhanalakshmi Srinivasan University, Samayapuram, Trichy.

² S.P Aadharsh Sreevathsan, Student, School of Law, Dhanalakshmi Srinivasan University, Samayapuram, Trichy.

1.1 Introduction:

There is no act or article that explicitly defines the term "fabrication of evidence". Indirectly, however, the issue of fabricating evidence is addressed by a number of sections in Chapter XI of the Indian Penal Code 1860 that deal with the admissibility, relevance, and credibility of evidence. In the context of fabricating or giving false evidence, sections such as Section 191 (Giving False Evidence), Section 192 (Fabricating False Evidence), Section 193 (Punishment for False Evidence), Section 194 (Giving or Fabricating Evidence with the Intent to Procure Conviction of a Capital Offence), Section 195 (Giving or Fabricating Evidence with the Intent to Procure Conviction of a Capital Offence), and more are relevant.

In, simple terms, the act of generating, or modifying shreds of evidence with the aim to swindle or mislead a legal proceeding is referred to as the fabrication of evidence. It entails the purposeful fabrication or modification of data to offer a false account of events or support specific narratives. In most cases, fabricating evidence is done to support one's position in a case, undermine the opponent, or influence the result of judicial action.

Examples of evidence falsification could be: Falsifying or fabricating papers, such as contracts, receipts, or records, in order to present them as genuine evidence. Giving purposefully false remarks or lies under oath at deposition, trial, other legal action are referred false or as giving testimony. Physical evidence tampering refers to the process of changing or manipulating physical evidence, such as by deleting or adding items, editing papers, or altering crime scenes, in order to produce a false narrative. Producing false audio or video records: manipulating or doctoring audio or video recordings to falsely represent comments or events. Evidence-planting is the deliberate placement of incriminating materials at a crime scene or on a person's property to falsely link that person to the crime.

1.1.2 The purpose and motives behind fabricating evidence.

Making Evidence Up: Making up evidence can be done with the goal of supporting one's case in a court of law. By presenting fake or deceptive evidence that supports a particular narrative or result, it is frequently utilized to make a stronger case.

Influencing the Results: Making up evidence is one way to try and influence the results of a court case. People may attempt to persuade the court, jury, or other decision-makers to find in their favour or against their opponents by offering false evidence. Fabricating evidence may be done to cast doubt on the reliability or reputation of the opposing party or witnesses. People may attempt to undermine the credibility of the opposing party's arguments or damage their position in the case by presenting misleading evidence.

Covering-up Wrongdoings: Making up evidence is a tactic that can be used to hide or defend one's own wrongdoings or participation in criminal actions. False evidence fabrication attempts may be made by individuals in an effort to deflect attention, fool investigators, or place the responsibility elsewhere. Producing false evidence might be motivated by either financial gain or personal gain. Such measures may be taken by someone to obtain a financial benefit, take possession of the property, or safeguard their own interests.

Fabricating Evidence to Win Sympathy or Support: Making up evidence can be done to win sympathy or support from the general public, the jury, or any parties engaged in a legal case. People may submit fake evidence in an effort to win over the public, sway public opinion, or advance their cause. Fabricating evidence can be done with the intention of shielding or protecting someone else, such as family members, acquaintances, or associates, from legal repercussions. People may make false claims, alter evidence to establish an alibi or manipulate evidence to allay suspicions or protect the real offender.

Manipulating Public Perception: In high-profile cases or topics of general interest, fabricating evidence can be utilized to sway the public's perception viewpoint. To influence public narratives, sway public opinion, or win public support, someone may fabricate evidence.

2.2.1 The impact of fabricated evidence on the justice system.

- a) Unjust judgments: Falsely collected evidence could end up in incorrect convictions or acquittals. False evidence can affect the judgments of judges, juries, or other decision-makers when it is presented and taken into account, resulting in unfair outcomes and compromising the justice system's fairness.
- b) Trust loss: False evidence harms the public's faith in the legal system. People's faith in the justice system is undermined when they believe that evidence may easily get fabricated or twisted. This may result in skepticism, lessening of cooperation with law enforcement, and a loss of trust in the results of court cases. Fabricated evidence affects the justice system's integrity, which leads to a compromised justice system. In order to determine the truth and render just verdicts, the judicial system depends on the presenting of reliable and precise evidence. Fabricated evidence undermines the fundamental tenets of justice and the search for the truth. Fabricated evidence may result in the waste of expensive resources. Investigations, court cases, and legal resources might be used on cases based on false or deceptive evidence, which would distract them from legitimate cases and obstruct the administration of justice effectively.
- c) Incompatible with the rule of law: False evidence contradicts with the core tenets of the rule of law. It contradicts the concepts that judgments have to be backed up with factual evidence and that everyone ought to be treated equally under the law. False evidence skews the search for the truth and undermines the principles of a just and equitable legal system. Justice is delayed when fabricated evidence is used in court cases, which can drag out the legal process. False evidence must be found and refuted, which takes more time and effort. This can lead to drawn-out court proceedings, higher costs, and a delay in resolution for both victims and defendants.

2.2.2 Violation of due process and fair trial rights due to fabrication of evidence

The fundamental rights to life and personal freedom are guaranteed by Article 21 of the Indian Constitution. Although the right to a fair trial is not specifically stated in Article 21, the Supreme Court of India has interpreted this provision to include it as a necessary component of the rights to life and personal liberty.

According to the Supreme Court, the right to life guaranteed by Article 21 incorporates a number of procedural protections and aspects of fair treatment, such as the right to a fair trial. The court recognized the importance of a fair trial in preserving justice and protecting people's rights to their liberties and dignity.

In the famous case from 1978³, it was emphasized that the right to a fair trial is a crucial component of Article 21 and that the legal process must be reasonable and fair.

The court emphasized the need of guaranteeing a fair and impartial trial, including the right to cross-examination, the production of witnesses, and fair procedure, and highlighted that fair trial rights are inherent in Article 21⁴.

The fabrication of evidence can result in a violation of due process and fair trial rights by:

- a) Right to a Fair Trial: A fundamental justice principle, the right to a fair trial is jeopardized by fabricated evidence. The accused is entitled to present their defense and refute the evidence in favor of their charges. The fairness of the trial is distorted when fraudulent evidence is presented since it may mislead the court and unfairly affect the verdict. The presumption of innocence, which states that an accused of person is presumed innocent until and unless proven guilty, is violated through fabricated evidence. False evidence can inflame suspicions of guilt and cast the accused in a negative light, compromising their right to maintain their innocence throughout the legal process.
- **b) Right to question witnesses:** Falsified or manipulated witness testimony or statements might be considered fabricated evidence. This can make it challenging for the accused to argue a case or cross-examine witnesses, depriving them of the chance to contest the veracity and accuracy of the evidence used against them.
- case. False evidence may limit an accused person's capacity to refute the prosecution's case with reliable and precise evidence, weakening their defense, and making it more difficult for them to establish their innocence. Fabricating evidence is against the standards of due process, which ensure that trials are conducted fairly and in compliance with established norms and guidelines. Falsified evidence compromises the integrity of the entire legal system and jeopardizes the accused's right to a fair trial.
- **d) Unreliable convictions:** Using manufactured evidence may result in erroneous convictions and the possible imprisonment of innocent people. In addition to violating individual rights, this damages the public's confidence in the court system and calls into question the legitimacy of its verdicts.
 - 2.2.3 Ethical considerations and professional responsibility of law enforcement, prosecutors, and defense attorneys.

Law enforcement:

Integrity: It is an ethical obligation of law enforcement people to uphold the justice system's integrity. This integrity becomes compromised by fabricating evidence, which can result in innocent people being punished or having their rights violated.

Truth and integrity: It is the duty of law enforcement people to precisely present the evidence and seek the truth. Manufacturing up evidence goes against the values of honesty and truthfulness that ought to direct their conduct.

Due process: Law enforcement must adhere to the rights of people to a fair trial, which includes not manipulating evidence. Their job requires them to uphold the ideals of justice and fairness.

Prosecutors:

Prosecutors have the duty to seek justice, not just convictions. This calls for them to act morally and to offer reliable, credible proof. The pursuit of justice is harmed, and the integrity of the legal system is jeopardized, when evidence is fabricated. Prosecutors are required to provide the defense with all pertinent information, including any evidence that may be favorable to the accused. Fabricating evidence is against this disclosure obligation and interferes with the fairness of the trial. Professional norms and codes of behavior that prioritize honesty, justice, and respect for the rights of the accused must be followed by prosecutors. These standards are violated and can result in professional misconduct if the evidence is fabricated.

Defense attorneys:

Zealous advocacy within ethical bounds: Defence lawyers have an obligation to firmly represent the interests of their clients. They must, however, act in an ethical manner and refrain from aiding in or supporting the fabrication of evidence.

Duty of confidentiality: Defence lawyers have a responsibility to protect the privacy of the information about their clients. This includes abstaining from falsifying evidence or using unethical tactics that jeopardize the fairness of the legal system.

Protection of constitutional rights: Defence lawyers are essential in defending their client's rights to the constitution, such as the right to a fair trial. Falsifying evidence jeopardizes these rights and may result in unfair results.

3.3.1 Case Laws and Illustrations

3.3.2 High-profile cases involving fabricated evidence.

In O.J. Simpson Case (1995, United States)⁵: There were suspicions of falsified evidence during the former professional football player O.J. Simpson's trial for the murders of his ex-wife Nicole Brown Simpson and her friend Ronald Goldman. Law enforcement's handling of the evidence, according to the defense, may have been intentional or negligent, casting doubt on the validity of the prosecution's case.

The Amanda Knox Case (2007, Italy)⁶: The case of American student Amanda Knox, who was charged with killing her Italian flatmate, attracted a lot of media interest. On the basis of what ultimately turned out to be flawed DNA evidence, Knox and her then-boyfriend were initially found guilty, which sparked accusations of falsified evidence.

The Duke Lacrosse Case (2006, united states)⁷: Three lacrosse players from Duke University were charged with sexually abusing an African-American woman who had been hired as a stripper for a team party. It was later found that the prosecutor, Mike Nifong fabricated evidence and made false statements, finding which resulted that the charges being dropped and Nifong being disbarred.

The Central Park Five (1989, united states)⁸: Five teenagers from Harlem were falsely convicted of raping a jogger in Central Park in New York City. Although the convictions were based on coerced confessions, DNA testing later proved the defendant's innocence. It came to light that the accusations against them were false, and the confessions were forced.

3.3.3 Historical examples of evidence fabrication and their consequences.

The Moscow Trials (1936-1938, USSR)⁹: It was a series of mock trials that took place between 1936 and 1938 in the Soviet Union during Joseph Stalin's reign. The defendants had been attempted by the Military Collegium of the Supreme Court of the USSR, with Vasili Ulrikh presiding. Prominent Communist Party members were the target of the trials, which accused them of a variety of offenses, including conspiring against the Soviet Union. The majority of the testimony given at the trials was made up, and admissions were frequently forced through torture. These trials were used to silence political competitors and quell dissent and resulted in the execution or incarceration of several people.

The Dreyfus Affair (1894-1906, France)¹⁰: Alfred Dreyfus, a Jewish soldier in the French army, was wrongfully convicted of treason in the Dreyfus Affair, a political controversy that happened in France. Dreyfus was wrongfully given a life sentence on Devil's Island based on false evidence. Anti-Semitism stained the case,

⁵ The OJ.Simpson case, 1995, Superior Court of California, County of Los Angeles, United States

⁶ The Amanda Knox case, 2007, the supreme court of cassation, italy

⁷The Duke Lacrosse case, 2006, United States

⁸The Central park five case, 2002, New York state supreme court, United States

⁹The Moscow trials, 1936-1938, the small October Hall of the House of the Unions, USSR

¹⁰The Dreyfus Affair case, 1894-1906, the supreme court of France, France

which polarised French society. The scandal had a significant impact on French politics, society, and anti-Semitism beliefs.

3.3.4 Illustrations

1. State v. Anirudh

Facts: Anirudh has been charged with robbing a convenience store with armed robbery. A security tape allegedly showing Anirudh committing the crime is presented by the prosecution. In the footage, a person who matches Anirudh's looks is holding a gun and is seen wearing a mask. The prosecution also calls a witness who says she saw Anirudh leave the crime scene.

Fabricated Evidence: It becomes clear during the trial that the surveillance footage was altered. According to statements from forensic specialists, the video was doctored to include Anirudh's face overlaid on the attacker's body. Later, the witness who first claimed to have seen Anirudh fleeing the scene admits that the police forced them into giving a false statement.

Judgement: The court rules that Anirudh's right to a fair trial and due process was violated by the falsified evidence. Anderson's charges are dropped after the judge declares a mistrial.

2. People v. Sanjai

Facts: Sanjai is charged with arson after it was claimed that he set fire to his neighbor's home. A vital piece of evidence is a petrol can that was found in Sanjai's garage, according to the prosecution. According to forensic analysis, petrol residue found within the can linked it to the fire.

Fabricated Evidence: It became clear during the trial that the forensic analyst who conducted the analysis had a personal grudge against Sanjai. The petrol can was contaminated with petrol residue by the analyst, who tampered with the evidence to support the prosecution's case, based on further research. The prosecution concealed a witness statement from a neighbor who saw another person around the house just before the fire, it is now discovered.

Judgment: The court rules that the forensic analyst's wrongdoing and the prosecution's reluctance to reveal defence witnesses' testimony violated Sanjai's right to a fair trial. Sanjai's accusations are dropped after the judge declares a mistrial.

4. 4.1 Techniques and Methods:

4.4.2 Common techniques used to fabricate evidence.

Bribery or Corruption: Using bribery or corruption to persuade parties who are a part of the inquiry, such as witnesses, law enforcement officers, experts, or other parties, to give false testimony or falsify evidence. Misrepresentation of circumstantial evidence is when circumstantial evidence, such as motivation, an

opportunity, or a behavior, is distorted or misrepresented in order to draw the wrong conclusion or give the impression that someone is guilty or innocent.

Collusion: When several parties work together to create false testimony or fabricated evidence in order to convey a consistent and false story. Cherry-picking or selectively providing only some pieces of information while ignoring others in order to give a biased or incomplete image of the facts is known as a selective presentation of evidence.

4.4.3 Manipulation of physical evidence, documents, or digital data.

False Document Production: This refers to the production of wholly fabricated papers, such as contracts, invoices, or reports, in order to portray them as legitimate proof. These made-up records are intended to support a specific story or mislead the judge or the investigators.

Tampering with Genuine Papers: Changing or altering existing papers by adding or removing information, changing dates, signatures, or any other pertinent facts in order to give the recipients of the evidence a misleading impression or lead them astray. Editing or manipulating audio or video recordings in order to falsely represent conversations, events, or actions. To display a skewed representation of the actual events, this may involve cutting, pasting, or removing segments of the recording. Placing false physical evidence on purpose at a crime scene or on someone's property to falsely implicate them is known as "planting false physical evidence." For the purpose of fabricating a connection or deflecting attention, this may involve planting firearms, narcotics, or other materials.

Fabricated CCTV or Surveillance film: Manipulating or inventing CCTV or surveillance film to produce a false depiction of events. To match a desired narrative, this may entail changing timestamps, editing video, or even creating incidents.

4.4.4 Fabrication in witness testimonies or Confessions.

Fabricated Testimony: Pressuring or coercing witnesses to make up information in order to support a predetermined story To sway witnesses' testimony, this may entail playing with their memories or giving them misleading information.

False Expert Opinions: Presenting falsified expert opinions or misleading analyses by changing the facts, altering the data, or misrepresenting scientific findings in order to support a certain viewpoint. False digital evidence refers to the fabrication or modification of digital evidence, such as emails, texts, posts on social media, or computer files, in order to portray false information or misleading content

False Witnesses: Creating or forcing people to pose as witnesses and give false testimony in order to support a specific story. These fictitious witnesses could give misleading testimony to the court by claiming to have seen things that they didn't actually observe or by giving fake information.

5. 5.1. Detection and Prevention:

5.5.2 Methods Used to detect fabricated evidence.

Expert witness testimony: Regarding the accuracy and reliability of the evidence, experts in a variety of professions, including handwriting analysis, and audio/video analysis, may offer testimony. Their experience and specialized knowledge can aid in spotting signs of fabrication or manipulation and offer opinions on the accuracy of the evidence presented.

Chain of Custody Examination: In order to ensure the reliability of the evidence, the chain of custody must be examined. This involves monitoring how the evidence was handled and kept from the moment it was gathered until it was presented in court. Any gaps or contradictions in the chain of custody might cast doubt on the credibility of the evidence and suggest that it may have been tampered with.

Psychological and behavioral analysis: It was done by Psychologists or behavioral experts can be used to spot red flags of deceit or discrepancies in the behavior, statements, or actions of those involved in the case. In these investigations, the credibility of the evidence put forth may be assessed through observation of body language, speech patterns, or behavioral changes.

Polygraph Exam: Also referred to as lie detector exams, polygraphs are occasionally used to judge whether or not those engaged in a case have been truthful with their statements. While not always admissible as evidence, polygraph examinations can be helpful in acquiring more data or spotting discrepancies that might suggest fabrication.

Examining documents and records: Qualified experts can examine paper documents, digital records, or electronic files for any strange patterns or discrepancies that might point to falsification. This may involve looking at handwriting, variances in ink or paper, information in electronic files, or changes to dates, signatures, or text.

Expert and Witness Cross-Examination: During the course of a trial, cross-examination is a critical tool for spotting any fabrication. By examining discrepancies, contradictions, or a lack of trust in witnesses' testimony, knowledgeable attorneys can discredit witnesses and experts. A successful cross-examination can expose suspect testimony and point out fabrications. Forensic analysis can be used to check for discrepancies, modifications, or other indications of tampering in physical evidence, such as papers, photos, films, or audio recordings. To spot discrepancies or signs of falsification, they may employ techniques like document analysis, image or audio enhancement, and comparison analysis.

5.5.3 Measures to prevent evidence fabrication, including safeguards and oversight.

Ethics and Professional Standards: It's crucial to establish explicit ethics and professional standards for law enforcement, forensic scientists, and prosecutors. The importance of objectivity, honesty, and adherence to

moral and legal standards should be emphasized in these recommendations for gathering, handling, and presenting evidence.

Training and Education: It is essential to give law enforcement officers, forensic scientists, and prosecutors thorough training and education. This involves instruction in proper methods for gathering, collecting, and preserving evidence as well as how to spot potential fabrications. Professionals are to be kept up to date with changes in forensic science and technology for better detection.

Strong Chain of Custody Protocols: To preserve the integrity of the evidence, a strong chain of custody protocols must be implemented and upheld. These processes keep account of how evidence is handled, kept, and transferred from the moment it is gathered until it is presented in court. Evidence tampering, contamination, or substitution can be avoided with proper documentation and verification at each stage. Establishing independent monitoring groups or agencies can improve accountability and transparency by keeping an eye on and reviewing the deeds of the police, forensic examiners, and prosecutors. These organizations ought to have the power to look into complaints, examine procedures, and discipline anyone who fabricates evidence or behave improperly.

6. 6.1 Consequences and Remedies:

6.6.2 Legal ramifications for those involved in fabricating evidence.

Criminal Charges: Criminal accusations, such as perjury, obstructing justice, or tampering with evidence, may result from fabricating evidence. As serious felonies, these offenses may carry fines, probation, jail time, or a combination of these penalties.

Civil Liability: In addition to criminal prosecution, those who fabricate evidence may be subject to civil claims for the harm brought on by their conduct. A legal lawsuit can be filed by those who were harmed by the fabrication in order to recover damages for things like reputational harm, emotional suffering, or monetary losses.

Contempt of Court: Fabricating evidence compromises the fairness of the legal system. Involved parties who disobey court orders or obstruct the administration of justice may be found in contempt of court and subject to fines, jail time, or other penalties.

Professional Consequences: People in the legal, law enforcement, or expert witness professions who fabricate evidence may suffer serious professional consequences. Their certificates or licenses can be suspended or revoked, and they might also lose the right to practice their line of work in the future.

Loss of Credibility: Creating false evidence can permanently harm a person's reputation and credibility. Long-term personal and professional repercussions may result from this, including relationships, relationships with others, and public reputation.

6.2 Remedies for victims of fabricated evidence, including compensation and exoneration.

Civil law suits: Victims who believe that evidence was fabricated against them have been the subject of civil litigation. They are entitled to compensation for a range of damages caused due to the fabrication, including monetary losses, mental suffering, reputational damage, and other losses.

Criminal Complaints: Victims may contact authorities if they believe that evidence falsification includes criminal activity. Law enforcement can look into the situation and, if necessary, file criminal charges against those accountable.

Complaints Against Professionals: Victims may file complaints with the appropriate professional regulatory authorities if they believe that professionals—such as attorneys or law enforcement personnel—have fabricated evidence. These organizations have the authority to look into the behavior of the professionals and, if necessary, take disciplinary action, such as revocation or suspension of their licenses or certificates.

7.7.1 To Analysis of difficulty in uncovering fabricated evidence.

Complexity and Sophistication: It might be difficult to spot fabricated evidence since it can be expertly created to look real. It might involve falsified records, edited audio or video, or false witness testimony. The more complex the fabrication, the more challenging it is to detect.

Lack of Knowledge: At first, it's possible that the victims or their legal counsel are not aware that the evidence has been falsified. They might not become aware of it until thereafter, perhaps during the course of a lawsuit or after learning additional details. Recognizing anomalies, suspicious trends, or discrepancies that cast doubt on the veracity of the evidence may take some time.

Limited Resources: It is necessary to have access to resources, such as money, expert analysis, or specialized forensic methods, in order to uncover fabricated evidence. Access to these materials may be restricted, which may make it more difficult for victims or their legal teams to adequately review and contest the evidence.

Deliberate Deception: People who fabricate evidence may purposefully use deception, such as concealing or erasing evidence that could be used against them, inventing plausible excuses for their actions, or intimidating witnesses. This deliberate attempt to deceive can make it more difficult to find the truth.

Reliance on Authorities: In some instances, disproving false evidence may hinge on how willing and capable the investigating authorities are. Finding the truth may be hampered if law enforcement or other pertinent agencies are either ignorant of the fabrication or unwilling to conduct a comprehensive investigation.

7.7.2 Conclusion

In conclusion, the credibility of justice systems around the world is seriously threatened by the fabrication of evidence. This critical analysis has explored the intricacies and implications of evidence

fabrication, illuminating the hazy distinction between genuine evidence and materials that have been fabricated. Such falsification has far-reaching effects on people's lives, distorts the truth, and undermines public confidence in the legal system. Numerous contentious examples where the veracity of evidence has been contested throughout history have served as a reminder of the necessity for strong protections and coordinated international efforts to address this problem.

However, there are still major obstacles to identifying fabricated evidence. Obstacles include the sophistication and complexity of fabrication techniques, a lack of resources, deliberate deception, and reliance on authorities. But even in the most complicated cases, persistence, careful research, professional analysis, and the pursuit of justice can aid in revealing the truth. The norms of the rule of law must be upheld in order to guarantee fair trials, defend the rights of the accused, and resist evidence falsification. Societies can seek to stop the fabrication of evidence and correct the injustices brought on by its use by bolstering judicial systems, improving investigation techniques, and encouraging international cooperation.

In the end, governments, legal experts, civil society, and international organizations must all work together to combat evidence falsification. We can only defend the core ideals of truth, fairness, and justice for all by working together to protect the integrity of our justice systems.