

## **BURDEN OF PROOF: BOON OR BANE**

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### **Introduction**

#### **What is Burden of Proof?**

Burden of Proof is one of the most important legal concepts there ever is. Burden of Proof is about who has a burden to prove the Case either Civil or Criminal. In India Generally, Burden of Proof irrespective of the case is on the side of the accuser who is called as the prosecution side in the Criminal cases and Plaintiff in the Civil cases. This Burden of Proof basically means that the person accusing must prove beyond the reasonable doubt that the accused has committed the legal mistake that has been imposed upon him. This is to make sure that there is no false cases fostered against the Innocent people and make them liable for the mistakes committed by others.

#### **Importance of Burden of Proof**

The burden of proof is a critical concept in the legal system, serving as a cornerstone of many legal proceedings. It is the responsibility of the party making a claim or accusation to provide evidence to prove their case, which is crucial for ensuring fairness, justice, and the proper functioning of the legal system. One of the primary reasons the burden of proof is so important is that it helps prevent false accusations. If there were no burden of proof, anyone could make a claim against someone else without having to provide any evidence to support their argument. This could lead to numerous false accusations, which would be detrimental to individuals and society as a whole. By requiring the party making the accusation to provide evidence, the burden of proof ensures that claims are based on sound evidence rather than mere speculation or hearsay. "The burden of proof also helps promote fairness and justice in legal proceedings. Without it, a judge or jury would have no way of determining which party has the stronger case. By placing the burden of proof on the party making the claim, the legal system ensures that each side has an equal opportunity to present their case and that the decision is based on a preponderance of evidence rather than bias or prejudice."<sup>2</sup> Moreover, the burden of proof helps

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<sup>2</sup>"Shifting the Burden of Proof in Witness Testimony" [2014] Burden of Proof, Presumption and Argumentation 122

encourage thorough investigation and evidence gathering. When a party knows that they have to provide evidence to support their case, they are incentivized to collect as much relevant evidence as possible. This can lead to a more complete and accurate presentation of the facts, which is crucial for ensuring that the decision reached is fair and just. In conclusion, the burden of proof is an essential component of the legal system. It helps prevent false accusations, promotes fairness and justice in legal proceedings, and encourages thorough investigation and evidence gathering. By requiring the party making the claim to provide evidence, the burden of proof ensures that the decision is based on a preponderance of evidence rather than bias or prejudice. Overall, the burden of proof is crucial for ensuring that the legal system functions properly and serves the interests of justice and fairness.

### **Why is Burden of Proof unnecessary?**

While the burden of proof is a fundamental principle of the legal system, there are some arguments for why it should be banned altogether. These arguments focus on the potential negative effects of the burden of proof, particularly in situations where it may lead to unfair outcomes. “One argument against the burden of proof is that it can be used as a tool of oppression, particularly against marginalized groups who may have limited access to evidence or who may face systemic biases within the legal system.”<sup>3</sup> In some cases, the burden of proof can create unfair requirements that place an unreasonable burden on certain parties, particularly those who lack resources or power. This can lead to unjust outcomes that perpetuate systemic inequalities. Another argument against the burden of proof is that it can create a presumption of guilt for the accused, which goes against the principle of innocent until proven guilty. In some cases, the burden of proof can be so high that it is virtually impossible for the accused to meet it, even if they are innocent. This can lead to wrongful convictions and the imprisonment of innocent individuals. Furthermore, the burden of proof can be used to stifle legitimate claims and prevent individuals from seeking justice. In some cases, the burden of proof can be so high that it discourages individuals from coming forward with legitimate claims, particularly if they lack the resources to gather evidence or if they fear retaliation.

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<sup>3</sup>“Shifting the Burden of Proof in Witness Testimony” [2014] Burden of Proof, Presumption and Argumentation 122

## **Burden of Proof as a boon**

### **Arguments in Favor**

The burden of proof is a fundamental principle of the legal system that serves as a cornerstone of many legal proceedings. It refers to the responsibility of the party making a claim or accusation to provide evidence to prove their case. While there are some arguments against the burden of proof, there are also many compelling arguments in favor of it, highlighting its importance and benefits.

### **Preventing False accusations:**

One of the primary arguments in favor of the burden of proof is that it helps prevent false accusations. “Without the burden of proof, anyone could make a claim against someone else without having to provide any evidence to support their argument.”<sup>4</sup> This could lead to numerous false accusations, which would be detrimental to individuals and society as a whole. By requiring the party making the accusation to provide evidence, the burden of proof ensures that claims are based on sound evidence rather than mere speculation or hearsay.

### **Fairness in Judicial Proceedings:**

Moreover, the burden of proof promotes fairness and justice in legal proceedings. Without it, a judge or jury would have no way of determining which party has the stronger case. By placing the burden of proof on the party making the claim, the legal system ensures that each side has an equal opportunity to present their case and that the decision is based on a preponderance of evidence rather than bias or prejudice. This helps ensure that legal decisions are made based on the merits of the case, rather than other factors that could unfairly sway the decision.

### **Encourages thorough Investigation:**

Furthermore, the burden of proof encourages thorough investigation and evidence gathering. When a party knows that they have to provide evidence to support their case, they are incentivized to collect as much relevant evidence as possible. This can lead to a more complete and accurate presentation of the facts, which is crucial for ensuring that the decision reached is fair and just.

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<sup>4</sup>“Burden of Proof” (Legal Information Institute) &lt;[https://www.law.cornell.edu/wex/burden\\_of\\_proof&gt;](https://www.law.cornell.edu/wex/burden_of_proof&gt;)&gt; accessed May 4, 2023

### **Prevents Personal Opinions or Bias in Judicial decisions:**

The burden of proof also helps ensure that legal decisions are made based on evidence rather than personal opinions or biases. By requiring evidence to be presented in support of a claim, the burden of proof helps ensure that legal decisions are based on objective and verifiable information. This helps prevent personal opinions or biases from influencing legal decisions, which could lead to unjust outcomes.

### **Tool to Protect Individual Rights:**

Additionally, the burden of proof can be used as a tool to protect individual rights and liberties. In criminal cases, for example, “the prosecution must meet a high burden of proof to convict someone of a crime.”<sup>5</sup> This helps protect the individual rights of the accused and ensures that they are not wrongly convicted. By requiring the prosecution to provide strong evidence to support their case, the burden of proof helps ensure that legal decisions are made in a way that protects individual rights and liberties.

### **Promoting the Use of Reliable Evidence:**

Furthermore, the burden of proof helps promote the use of reliable evidence in legal proceedings. The legal system places a high value on reliable evidence, and the burden of proof helps ensure that only reliable evidence is used in making legal decisions. This helps prevent the use of unreliable or hearsay evidence that could lead to unjust outcomes.

In conclusion, the burden of proof is a critical principle of the legal system that has numerous benefits. It helps prevent false accusations, promotes fairness and justice in legal proceedings, encourages thorough investigation and evidence gathering, ensures that legal decisions are made based on evidence rather than personal opinions or biases, protects individual rights and liberties, and promotes the use of reliable evidence in legal proceedings. While there are some arguments against the burden of proof, its importance and benefits far outweigh any potential drawbacks.

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<sup>5</sup>Solving the Problems of Burden of Proof” [2014] Burden of Proof, Presumption and Argumentation “176

### **Case Laws Related:**

#### **Hanumanth Rao vs State of MP**

Hanumanth Rao vs State of Madhya Pradesh is a landmark case in India that deals with the concept of burden of proof in criminal cases. In this case, the accused, Hanumanth Rao, was charged with murder and the burden of proof lay on the prosecution to prove his guilt beyond a reasonable doubt.

The Supreme Court of India held that the burden of proof in criminal cases lies on the prosecution and not on the accused. “The court emphasized that the accused is presumed to be innocent until proven guilty, and it is the duty of the prosecution to prove the guilt of the accused beyond a reasonable doubt.”<sup>6</sup>

The court further held that the standard of proof required in criminal cases is very high, and the prosecution must establish its case beyond a shadow of a doubt. The court also stated that the burden of proof never shifts from the prosecution to the accused and that the accused has no obligation to prove his innocence.

In this case, the court also explained the concept of circumstantial evidence and held that the prosecution must establish a chain of events that leads to the guilt of the accused. The court stated that each link in the chain must be proved beyond a reasonable doubt, and if there is any missing link, the prosecution’s case cannot be sustained.

The court also emphasized the importance of a fair trial and held that the prosecution must present all the evidence before the court, and the accused must have the opportunity to cross-examine the prosecution witnesses. The court stated that the trial must be conducted in a fair and impartial manner and that the accused must be given the benefit of the doubt if there is any reasonable doubt in the case.

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<sup>6</sup>“Burden of Proof” (Legal Information Institute) &lt;[https://www.law.cornell.edu/wex/burden\\_of\\_proof&gt;](https://www.law.cornell.edu/wex/burden_of_proof&gt;) accessed May 4, 2023

## **Burden of Proof as a Bane**

### **Arguments against**

#### **Inconsistent Application:**

The burden of proof can vary depending on the jurisdiction and the type of case. For example, in some jurisdictions, the burden of proof in civil cases may be lower than in criminal cases. This inconsistency in the application of the burden of proof can result in confusion and uncertainty for parties involved in legal proceedings.

#### **Prevents Discovery of Truth:**

The burden of proof can be a bane in that it can prevent the discovery of the truth in some cases. For example, if a party has evidence that would help to establish their case but cannot meet the burden of proof, that evidence may be excluded from consideration. This can result in an injustice where the truth is not fully discovered.

#### **Encourages Evasion of Responsibility:**

The burden of proof can also be seen as a bane in that it may encourage parties to evade responsibility. “For example, if a company is accused of causing environmental damage, the burden of proof may be on the plaintiff to prove that the company is responsible.”<sup>7</sup> This can incentivize the company to avoid responsibility by hiding or destroying evidence.

#### **Increases Costs and Delays:**

The burden of proof can be a bane in that it can increase the costs and delays of legal proceedings. Parties may be forced to gather evidence and present it in court, which can be time-consuming and expensive. This can result in a situation where justice is delayed or denied due to the burden of proof.

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<sup>7</sup>Burden of Proof’ (Legal Information Institute) &lt;[https://www.law.cornell.edu/wex/burden\\_of\\_proof&gt;](https://www.law.cornell.edu/wex/burden_of_proof&gt;) accessed May 4, 2023

**Case Laws Related:****Sushil Kumar Sharma v. Union of India**

The case involved the death of Sushil Kumar Sharma's wife, Naina Sahni, who died under suspicious circumstances. Naina's body was found burnt in a tandoor (clay oven) at her husband's residence. Sushil was charged with murder, criminal conspiracy, and destruction of evidence under Sections 302, 120B, and 201 of the Indian Penal Code. The prosecution argued that Sushil had killed his wife for dowry and had burnt her body in the tandoor to destroy the evidence. However, Sushil denied the charges and claimed that his wife had died accidentally while cooking in the kitchen. The trial court found Sushil guilty and sentenced him to death. However, the decision was appealed in the Delhi High Court, which reduced his sentence to life imprisonment. Sushil then appealed to the Supreme Court of India. In its decision, the Supreme Court held that "in cases of dowry death, where the death of a woman is caused by burns or bodily injury or occurs in suspicious circumstances within seven years of marriage, the burden of proof shifts to the accused to prove that the death was not caused by any act or omission on their part."<sup>8</sup> The court held that this shift in burden was necessary to ensure that the guilty do not go unpunished and that the innocent are not wrongly convicted. The court further held that in cases of dowry death, the prosecution does not have to prove the motive for the crime, as the fact that the woman died under suspicious circumstances is sufficient to establish a presumption of guilt. In Sushil's case, the court found that he had failed to discharge the burden of proof and upheld his conviction for murder. The court also noted that the prevalent social evil of dowry had resulted in the death of thousands of women in India and that it was the duty of the courts to take a strict view of such crimes. In this case without the keen mind of the Supreme Court and their legal knowledge the blind application of the Burden of Proof as usual on the Prosecution would have led to grave injustice to the Victims and hence Burden of Proof is a bane.

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<sup>8</sup>Mills DA, Burden of Proof (Center Point Large Print 2019)

## **Why Burden of Proof should be banned?**

The burden of proof is a legal principle that requires a party to prove their case with sufficient evidence to convince a court or jury. While it is an important concept in ensuring fairness and justice, there are several reasons why the burden of proof should be banned altogether.

Firstly, “the burden of proof can discourage victims of crimes from coming forward. In many cases, victims may be unable to provide direct evidence to prove their case, and may be deterred from reporting the crime altogether due to the burden of proof.”<sup>9</sup> This can lead to perpetrators going unpunished, and can perpetuate a culture of silence and impunity.

Again, the burden of proof can be a significant barrier to justice for marginalized communities, who may not have access to the same resources and legal representation as others. This can result in disparities in the justice system, where wealthy and powerful individuals are more likely to be able to meet the burden of proof, while marginalized communities are left without recourse.

In light of these issues, there have been calls to ban the burden of proof altogether, and to adopt alternative approaches to justice. “For example, some have suggested adopting a more inquisitorial system, where judges play a more active role in gathering evidence and determining the truth of a case.”<sup>10</sup> Others have suggested implementing a system of strict liability, where individuals are held responsible for harm caused, regardless of intent or fault.

In conclusion, while the burden of proof is an important concept in ensuring fairness and justice in the legal system, there are several reasons why it should be banned altogether. The burden of proof can place an unfair burden on the accused, can lead to injustice, can discourage victims from coming forward, and can be a significant barrier to justice for marginalized communities. As such, alternative approaches to justice should be explored, in order to ensure that the legal system is fair and just for all.

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<sup>9</sup>Mills DA, Burden of Proof (Center Point Large Print 2019)

<sup>10</sup>“Shifting the Burden of Proof in Witness Testimony” [2014] Burden of Proof, Presumption and Argumentation 122

## **Conclusion**

In conclusion, while the burden of proof has been an important principle in the legal system, it has also been shown to be a bane in many cases. It can lead to unfair treatment of the accused, injustice, and can be a significant barrier to justice for marginalized communities. In some cases, the burden of proof has led to wrongful convictions and even perpetuated systemic inequalities. As such, there have been calls to ban the burden of proof and to explore alternative approaches to justice.

Alternative approaches to justice, such as a more inquisitorial system or strict liability, could help address some of the problems associated with the burden of proof. By adopting a more active role in gathering evidence and determining the truth of a case, judges could help ensure a fairer outcome. Similarly, strict liability could help ensure that individuals are held responsible for harm caused, regardless of intent or fault.

Overall, the burden of proof is a complex issue with both advantages and disadvantages. While it has been an important principle in the legal system for many years, it has also been shown to be a bane in many cases. As such, it is important to explore alternative approaches to justice that can help address some of the problems associated with the burden of proof, and ensure that the legal system is fair and just for all.