THE LEGAL CONCEPT OF EVIDENCE: AN EVALUATIVE ANALYSIS

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Abstract

Concepts depict mental image, general idea or foundational principle that represents a class of objects, events or abstract thoughts. Concept acts basic unit of human cognition used to categorize and understand the word. "Evidence" as a concept is susceptible to varying meanings as it can be viewed from legal and non-legal perspectives. Any research that refers to the concept of "evidence" must be correctly situated to relate the concept to either legal or non-legal concept. This has been the problem with some legal researches thus warranting this discourse which is based on doctrinal methodology. This work has properly situated the legal concept of evidence thus; distinguishing it from non-legal thematic.

Keywords: Evidence, Evidentialism. Rationalism, Bayesianism, Skepticism, Foundationalism

Introduction

The word "evidence" is a generic word; not in the sense of being peculiar to a particular class of persons, occupation or profession rather; a universal word that implies different thoughts that are however related. It is a word that holds significant meanings both to members of the legal profession and those outside the profession, and thus; can be viewed from different perspectives. This brief work considers the various meanings ascribed to the word "evidence" as well as associated theories with special emphasis to the meaning of the word from the legal perspective and posits that there is hardly a particular definition that can totally contain the whole elements of what constitutes legal evidence. However, all the definitions of the concept guarantee similar insights.

What is a concept

A concept has been defined as a fundamental, abstract, or general idea representing something conceived in the mind, often combining with particular characteristics or instances.[1] Further; Merriam Webster dictionary, states that a concept acts as a cognitive tool for classifying information, making generalizations, and forming thoughts that are often considered "building blocks" of knowledge, distinct from more detailed theories or concrete objects.[2]

From the above it can be garnered that concepts are jurisprudential in nature in that they are the products of mental representation or idea inferred from specific instance; hence, different ideas may be presented in respect of an issue or fact. The different ideas however, assist in shaping knowledge and aiding cognitive processes.

Evidence as a concept

According to lawctopus, "Evidence as a concept refers to the body of facts, information, indicators, or testimony that tends to prove or disprove a proposition belief or hypothesis. It is that which renders something "evident," plain, clear or apparent; and serves as the basis for knowledge or belief."[3]

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[1] https//www.merriam-webster.com> accessed on 16/2/2026

[2] Ibid

[3] https//www.lawdopus.com> accessed on 18/2/2026

It has also been posited that as a foundational concept, evidence bridges the gap between claims and truth, often functioning as a "sign", "symptom" or "mark" of an underlying reality.[4]

Thus, epistemologically, evidence can be seen as the basis of belief or disbelief in a fact which makes a proposition more or less problem. It is a word that has both ordinary legal and scientific meaning. There are philosophers who hold the view that "evidence" is propositional as against experimental; among who is Timothy Williamson who is regarded as the most prominent contemporary defender of the view. He holds the view that one's evidence is exactly one's knowledge[5]; equated with E=K. Others are Earl Conee and Richard Feldman who are seen as the proponents of Evidentialism.[6] They believe that a person's justification for a belief is determined by their evidence; as evidence consists of facts or propositions.[7] Lewis;[8] in his own account holds the view that a foundational role of empirical propositional evidence is justifying. This view is quite persuasive as it is difficult or unimaginable to separate once belief from the things that result in that belief especially, when they are things he sees and he has no cause to hold a different belief.

The philosophers who belong to the schools of empiricism/naturalism hold the view that knowledge of the natural world must be derived from observation, measurement and active experimentation rather than speculation or pure reason. The father of experimental philosophy; Francis Bacon argued against mere speculation and for the systematic collection of observations and experiments to build knowledge.[9] To what extent this applies to gathering of evidence or legal evidence is better answered when one considers the various definition of the word "evidence." However, he was spot on in his argument against speculation as it is even trite law that the courts have no business with speculation or mere academic questions.[10]

The core belief of the Empiricism school of thought is that all human knowledge is derived primarily or entirely from sensory experience and therefore, emphasizes observation, evidence and perception while reflecting the existence of innate ideas or knowledge present at birth.[11] "Tabula Rasa"[12] as a principle which was popularized by John Locke posits that the human mind is born as a "blank slate", or white paper, completely free of any inborn knowledge or preconceived ideas.[13]

It is understandable from the postulations of the Empiricism school of thought that evidence is more of what exists than a product of knowledge or intellectual results. To this effect therefore, legal evidence can be distanced from empirical exercises except, we are faced with scientific evidence.[14]

Applying some other philosophical views such as the qualitative method to define "evidence" as a concept will equally enhance the exposition of legal evidence.

For instance, qualitative evidence" refers to non-numerical information such as experiences, narratives observations and textual documents; used to support, justify or refute a claim, theory or hypothesis. This is unlike quantitative evidence which focuses on numerical measurement and statistical significance. These philosophical thoughts often come to play in respect of expert testimony and as such they are of high significance to understanding the concept of "evidence" in the legal

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[4] https//www.plato.stanford.edu> accessed on 18/2/2026

[5] Timothy Williamson, knowledge and its limit, London, Oxford University, 2000. See also timothy Williamson, the philosophy, London, blackbell publishers, 2007, 201

[6] Conee, Earl and Richard Feldman, "evidence" in Quentin Smith (ed), Epistemology: New Essays, Oxford University, press, 2008, 128

[7] C. I. Lewis, an analysis of knowledge and valuation, la sale, Illinois, the open court publishing,1946, 21

[8] . ibid

[9] Francis Bacon, "Sylva Sylvason or a natural historie," in ten centuries, London J.H publishers 1626> https//www.plato.stanford.edu> accessed on 16/2/2026

[10] See the case of Idoko v Dangote Nig. Ltd (2011) LPWLR-9353 (SC) and Victor Isonguyo v. State (2023) 3 NWLR (Pt. 1872) 519

[11] https//www.ebsco.com> accessed on 19/2/2026

[12] Meaning "blank state"

[13] John Locke, an essay concerning human understanding, 1689> https//www.plielpapers.edu> accessed on 19/2/2026

[14] Scientific evidence can be defined as the factual result of an observation, experimentation and testing. This is due to the fact that it must be tested, observed and result obtained.

sense. Qualitative evidence seeks to know "why" and "how" certain things happen. Quantitative evidence has been associated with ensuring a "mature understanding of complex cases; while quantitative data is concerned with the number of evidence adduced."[15]

Quantitative data or evidence is not usually persuasive to the judge because, the law does not care about the number of witnesses a party calls at the trial rather, the focus is on the quality, relevance and credibility.[16]

Other philosophical schools of thought on evidence as a concept

Rationalism: The rationalists hold the view that for evidence to be justified it must be supported by reasons that are logically consistent and coherent, rather than merely emotional, sensory or traditional input.[17] This school of thought further believes that evidence is not primarily empirical or sensorial but consists of innate ideas, logical truths and rational institutions that allow the intellect to directly grasp universal principles, particularly in logic, mathematics, ethics and metaphysics.[18] This work will show that the belief of the rationalists does not explain what legal evidence is. However, their postulation can be useful to the judge when circumstantial evidence is placed before him with a view to either place weight on the evidence or reject same. There is a plethora of judicial authorities in support of the view that the law has no regard to emotional desire.[19]

***Foundationalism*:** This school of thought holds the view that knowledge is structured like a building with all justified beliefs ultimately resting on a secure foundation of "basic" or "foundational" beliefs.[20] They also believe that these basic beliefs do not require inference from other beliefs.[21] If this is related to "legal evidence" as a concept, it would definitely be faulted on the ground that legal evidence has a lot to do with inferences.[22]

Coherentism: This philosophical belief does not share common ground with foundationalism. It postulates that a belief is justified if it coheres with a larger, mutually supportive system of beliefs, rather than resting on foundational non-inferential evidence and therefore the justification of evidence is about the logical consistency, explanatory, connections and probabilistic consistency among the web of beliefs.[23] Thus, belief is the mirror with which credibility of adduced evidence can be evaluated. When a judge states "I believe the evidence of witness A" or "I do not believe the evidence of witness A", he is simply applying the doctrine of coherentism.

***Skepticism*:** This doctrine is relevant to law in general and evaluation of evidence in particular. It postulates that evidence is often insufficient, uncertain or misinterpreted and thus requires justification.[24] In other words, skepticism requires a high standard of evidence. But then, the standard of proof is set by law and nobody is to be subjected to an abstract higher standard than what the law itself provided for it is good that the doctrine aims at achieving certainty, reliability and credibility. The fact remains that it has to be established to the satisfaction of the court for it to meet the prescribed legal standard.

***Theory of Science in the Concept of Evidence*:** This is a study of the logic of the concept of evidence which requires confirmation of evidence by means of establishing hypothesis and

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[15] https//www.ncbi.nm.nilgwor> accessed on 19/2/2026

[16] See s. 19 of the evidence act, 2011 and the case of Mahmud Buba v The State (1994) NWLR 195 at 203

[17] Legal evidence theory: are we all "rationalists" now? <https//www.journals.openedition.org>accessed on 24?3?2026

[18] ibid

[19] See the cases of Aliucha & ANPP v Elechi (2012) LPELR-SC 30/2012 and State v Orji Uzor Kalu (2016) NGSC33

[20] https//www.stanford encylopeadia.org> accessed on 20/2.2026

[21] ibid

[22] Especially circumstantial evidence

[23] Stanford Encyclopedia of philosophy<https//www.plato.stanford.ed>accessed on 20/3/2026. See also D. Davidson, (1986), "A coherence of Theory of Knowledge and Truth" in E. Lepore (ed.) Truth and Interpretation, Oxford, Blackwell, 1986, 307.

[24] ibid

supporting evidence which does not establish the hypothesis, but merely renders it more tenable.[25] This philosophy is a crucial analytical tool for law as it provides the epistemological framework to evaluate the validity, reliability and admissibility of scientific evidence**.**

***Bayesianism*:** The evolving nature of law in the contemporary era is tilting towards finding legal solutions through science and technology. One of the doctrines of the theory of science in this regard is "Bayesianism". Bayesianism is a framework in philosophy, statistics and artificial intelligence that interprets probability as a subjective degree of belief.[26] The Baye's rule is applied for the purpose of updating beliefs by subjecting new evidence to a prior probability and moving same to "posterior" probability.[27] In simple term, it means critically appraising a new data as against testing its reliability at first observation. This idea is also helpful in appraising evidence.

What then is evidence

This question is best answered if one is exposed to a comprehensive definition of the word 'evidence' but the possibility of having such definition is so much in doubt.

Not even the Evidence Act 2011 defines the word "evidence". It rather categorizes evidence into oral, documentary and electronic evidence.[28] The Act can be said to regulate admissibility of evidence; this then leaves one with the consideration of definitions from scholars and the courts' points of view.

For the layman; the word 'evidence' may simply mean proof or something that shows either that an act has been done or left undone. For instance, it could be inferred from a person's conduct. Someone who has toothpick in his mouth may be taken as someone who just finished eating food or meat; hence the toothpick in his mouth represents proof he has eaten food or meat. This may not necessarily be the true situation of things however; the legal meaning of the word 'evidence' is deeper than what the layman may understand it to mean. It is true that the man with evidence is superior to the man with argument but lacking in evidence.

Aguda suggests that the word 'evidence' is the means by which facts are proved but excluding inference and argument.[29] Inferences are crucial aspect of evidence as can be seen anon. If the layman assumes that the person having toothpick in his mouth has either eaten food or meat, he is simply making an inference based on what he is seeing. To remove inference simply means to remove his thinking capacity or ability to connect facts and make sense out of them; and this is impossible.

According to Michael Hirst;[30] the law of evidence encompasses rather broader functions. It includes rules regulating the means and by which facts may be proved to the satisfaction methods of the court. It alleviates burdens of proof as between the parties, and it prescribes the standard of proof which a court must require before it can make a finding on a given issue. The law of evidence includes within its broader compass rules prescribing the relative functions of judge and jury in respect of the receipt and evaluation of evidence.

This is not actually a definition of the term 'evidence' but an explanation or description of what the law of evidence is from the perspective of the learned scholar. The description is not exhaustive especially in view of the fact that the author uses the word 'includes'. Hon's[31] is of the view that the statement above is a definition of the law of evidence which cannot be faulted but went ahead to fault it for not covering areas like presumptions and; as necessary aspects of the law of evidence. Michael Hirst's explanation of what constitutes "law of evidence" is concerned with the laws and rules that regulate admissibility as well as weight to be attached to testimony placed before court. It is about

[25] https//www.cambridge.org>cove>journal>philosophy-of-science>article> accessed on 20/2/2026

[26] For 23

[27] ibid

[28] See sections, 84,88,89 and 255 of the Evidence Act,2011

[29] Aguda, TA, The Law of Evidence in Nigeria, London, Sweet & Maxwell, 1974, 24

[30] Hons, S. T., SAN, Law of Evidence in Nigeria 3rd Edition, Pearl Publishers International Ltd, Port Harcourt, (2019) 3

[31] op cit

the rules and not testimony or evidence. This is the distinguishing factor between terms 'evidence' and 'law of evidence.'

Cockle's[32] definition marks a difference in approach from the explanation of Michael Hirst. He stated that "The term 'evidence' as used in law which is also called 'judicial evidence' has the same meaning as is commonly used, to wit: the means by which facts are made evident or established to the satisfaction of persons enquiring into them granted that such facts are credible and sufficient to satisfy or convince prudent minds."

From this definition, Cockle presents evidence as not an exclusive reserve of the court of law but includes facts that are prescribed for non-judicial enquiries. He thus, drew difference between evidence in judicial proceedings and evidence in common parlance. Although Cockle did not state the means by which facts are made evident in judicial proceedings or to the satisfaction of inquiries; the fact remains that the definition applied an omnibus phrase 'means'. He equally generalized the concept thus, creating the impression that what it means to the ordinary mind is the same meaning to the judicial mind. Of course; this cannot be; in that the ordinary meaning differs with the legal meaning which must be interpreted within the ambit of the law.

On the other hand, Phipson[33] defines evidence as having two meanings in the legal parlance and according to him they are the testimony whether oral documentary or real which may be legally received in order to prove or disapprove some fact in dispute and in the second sense, the word evidence means the content of that testimony.

This appears to be the most acceptable definition of the term 'evidence' for its simplicity and the rich information it conveys. It centers on the testimony adduced by oral evidence or documentary evidence or real evidence. Secondly, it shows that for evidence to qualify as such; it must not necessarily be adduced in proof of a fact in issue but can also be adduced in disprove of a stated fact. Thus, each party to a dispute has duty to adduce evidence either in proof or disproof of a fact in issue.

It is impossible to have a single definition that will cover the entire scope of law of evidence, but an acceptable definition of the term "evidence" can always be arrived at. Nigerian courts[34] have at different times relied on the definition proffered by Phipson but with emphasis that it is concerned with facts; oral or documentary[35]. Just like Phipson's definition, every definition of the term 'evidence' must endeavour to cover the means of adducing testimony. In his contribution to the discourse; Chijioke has defined the word "evidence" as "Evidence is the act of adducing or disproving facts by oral testimony or by documentary means or real testimony through eyewitnesses or surrounding circumstances or both which is in the end evaluated by the court and ascribed weight if found admissible, credible and relevant."[36]

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[32] Ernest Cockle, The Law of Evidence: Cockle's Cases and Statutes on Evidence 2nd edition, Lundin, Street & Maxwell (1911) 3

[33] Phipson, The Principle of Law of Evidence, 13th edition, Scotland, Street & Maxwell (1983)2

[34] Lawal V Union Bank Plc (1995) 2 SCNJ 13

[35] Onya v Ogbuji (2011) All FWLR (pt. 556) 493

[36] Chijioke, CO, The Law and Practice of Affidavit and Documentary Evidence in Nigeria, 3rd edition, 2026, 3

Conclusion

Suffice it to say that the major difference between the terms 'evidence' and 'law of evidence' is that whereas the former is concerned with testimony of witnesses; the latter is concerned with the rules guiding the relevance, admissibility and weight to be attached to the testimony by the courts, application of which is predominantly the duty to be discharged by the courts. It must then be understood that evidence as the testimony adduced by a party to a proceeding or his witness which may be oral, documentary or real evidence is presented with the intention of persuading the court to believe in its credibility and with a view to proving the party's case or disproving the case of the opponent.