

Witness Testimony and Credibility: Legal Standards and Judicial Approach

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Abstract: *This research paper will look at the law and judicial practice in determining the value of witness evidence and credibility in contemporary courts. It explores the characteristics of human perception, memory, and biases in the review of evidence. The research takes doctrinal analysis as approach and focuses on such principles as consistency, corroboration and cross examination. The study shows that the courts appear to be more and more adopting a holistic approach, combining testimonies, documents and scientific evidences so that accurate and fair adjudication is possible. Witness testimony is one of the most basic of all types of evidence in common law and civil law systems. Oral evidence will continue to be central to courts in reconstructing evidence, even if forensic science and digital evidence has advanced. However, the reliability of witnesses is often doubted and it is complex and sensitive for the judge to evaluate the information he has received. The law of witness testimony, the evaluation of credibility in court, and some emerging problems that courts face in assessing credibility in today's litigation will be explored.*

Keywords: Witness Testimony, Witness Credibility, Eyewitness Evidence, Witness Reliability
Judicial Assessment

1. Introduction

The accurate reconstruction of facts is the cornerstone of the administration of justice and oral evidence remains a pivotal role in this process. In the face of advances in forensic science and the use of digital technologies, the ability of a witness to establish truth is still a major consideration for courts. But the validity of such evidence is always subject to doubt because of the limitations of memory, perception and possible bias. This research aims to understand and critically evaluate how judges arrived at their decisions about the credibility of witnesses and how judges' judicial systems developed in response to concerns about the credibility of witness evidence. This study is relevant for civil and criminal jurisprudence and connotes particular focus on common law jurisdictions, such as Pakistan, the United Kingdom and others. It places the discussion in the context of the larger evidentiary framework, as testimonial evidence relates to documentary and scientific evidence. This is a topic that is significant because it is directly connected to the right to a fair trial, wrongful convictions and the validity

of judicial decisions. Witness evidence has always been considered as one of the primary forms of evidence and can be the most important type of evidence when there is no physical evidence. In recent years, however, legal scholarship and psychological studies have challenged the accuracy of witnesses' testimony, noting such memory lapses as distortion, suggestibility and outside influences. In response to this evolving knowledge, courts have evolved means of more effectively assessing believability, as opposed to demeanor and consistency, based on more of a fact-based approach. (Line, et al.,2022).

The main issue this article addresses is how do courts determine the credibility of witnesses and what are there legal standards which are already in place that are sufficient to achieve good results? It also adopts the proposition that there is a need for more comprehensive assessment of evidence than a purely subjective one that would lead to greater accuracy in judicial processes. It integrates legal concepts and the findings of the interdisciplinary fields, especially psychology, in order to create a holistic framework of the evaluation of testaments. The study is not empirical, but rather analytical of the current legal frameworks and practices. The results indicate that the concepts of consistency, corroboration and cross-examination have continued to play a crucial role in the court's judgment, but that there has been a growing trend to consider scientific and contextual evidence along with the more traditional principles. This shift is a bigger paradigm shift in evidentiary reasoning to minimize error and increase fairness. The article is organized as follows: the second section describes the legal context of the testimonial evidence; in the third section, judicial criteria for credibility are analysed. Later, the problems in the evaluation of testimony and the changing judicial attitude in the modern legal system are discussed. The article concludes by summarizing some of the important lessons learned and directions for future evidentiary law development. Historically, witness testimony has been considered the “eyes and ears of the court.” Witnesses are a critical component to litigations, particularly in the adversarial system, such as in civil and criminal cases (Paulson, et al.,2023).

2. Research Methodology

In this study, the methodology used is qualitative research as it is concerned with the legal standards and judicial approaches to witness and credibility. Its main source of information is based on the analysis of the statutory provisions such as Qanun-e-Shahadat Order, 1984, procedural laws and case law of common law countries. Existing legal principles are contextually and critically analysed by referring to secondary sources, including academic articles, legal commentaries and interdisciplinary literature, especially literature from the field of psychology. The research is systematic identification, selection, and analytical interpretation of authoritative materials to evaluate the criteria for determining the credibility in practice. The approach used is comparative and analytical, which is used to synthesize results and draw up patterns of development that will give the writer a complete understanding of the research problem.

3. Legal Framework Governing Witness Testimony

The law relating to witnesses forms an important part of the rules of evidence, which guarantee the reliability, relevance and legality of oral evidence submitted to courts. This scheme is mostly governed in Pakistan by the Qanun-e-Shahadat Order 1984, regarding the principles of admissibility of evidence and its evaluation, as well as procedural rules including the Code of Criminal Procedure 1898 and the Code of Civil Procedure 1908. These laws have formed the framework under which courts evaluate witness information for civil and criminal cases. One

of the basic principles under this system is that of the competence of witnesses. The law assumes that everyone is capable of testifying, unless there's a contrary proof. Competency is defined in terms of the ability to comprehend questions and give rational and coherent answers. This determination may be influenced by mental incompetence, very young children or communication problems. The related idea of a witness's 'compellability' (whether the witness can be legally compelled to give evidence) is also linked to this. The vast majority are "compellable", but there are certain exceptions, including privileged correspondence or the right against self-incrimination. The obligation of oath or affirmation adds to the integrity of the witness's testimony, as it places a legal and ethical obligation on the witness to tell the truth. This is supported by the provisions of the Pakistan Penal Code 1860 which criminalizes false testimony and perjury. The law seeks to deter dishonesty and uphold the integrity of judicial proceedings by imposing penalties for dishonesty. (Chowdhury, 2023).

Another key principle of the framework is the principle of relevance and admissibility. No testimony is admissible except that from witnesses whose testimony relates directly or indirectly to the facts in issue. Generally, evidence that is irrelevant and immaterial to the case and hearsay evidence is not admissible, although there are some exceptions. This guarantees that judicial rulings are made in accordance with material which is logically probative and not on speculation or prejudice, which improves the accuracy of fact-finding. The way in which the evidence of witnesses is presented and tested is structured in the manner of examination-in-chief, cross-examination and re-examination. The three-part process enables the parties to present their arguments, to give evidence of the opposing party, and to explain any confusion. Cross-examination, particularly, is a crucial aspect for credibility of testimony as it highlights any inconsistencies, bias, or lying by the witness on the stand. The law also regulates leading questions and treatment of hostile witnesses, while providing flexibility to achieve the evidentiary process without sacrificing the integrity of the process. The framework also makes it clear that some communications should not be made public. Confidentiality and trust are protected in privileged relationships, e.g., between legal advisors and clients. Moreover, it is important to understand that modern legal systems have a growing focus on safeguarding witnesses against intimidation or coercion, especially in the event of a sensitive criminal case, and that witness testimony also falls under the umbrella of burden and standard of proof. Parties have to prove their claim by calling witnesses, but have to meet the necessary legal burden – the balance of probabilities in civil actions and beyond reasonable doubt in criminal actions. Oral evidence is usually considered together with documentary evidence and expert evidence and a holistic approach is taken to determine the conclusions drawn upon a full consideration of all the material. (Cheng, 2022).

4. Judicial Standards for Assessing Credibility

The credibility of witnesses is at the very core of the judicial process of determining the facts and is one of the most delicate tasks entrusted to the courts. Credibility determination is not bound by strict rules of admissibility, but serves the general principle and sound judgment of the court. Courts will not accept witness testimony without weighing how reliable it is, and will do so using a carefully structured examination of several factors, and using a logical, consistent and experienced approach to reaching conclusions. One of the main rules courts use is that of consistency of the witness's testimony. This is both internal and external consistency, that is, whether the witness' statements are coherent throughout the trial and whether they have

made statements that are consistent with other evidence on record. Some minor variations are often expected as human memory is fallible and do not compromise the credibility. But if there are material conflicts as to important facts, their testimony may be of little evidentiary value and may be doubted in its reliability. Witness's attitude and behavior during examination is another important factor. Judges are likely to notice how confident, hesitant, and calm a witness is when answering questions. Although demeanor can give helpful clues, judicial thinking today reminds us to not rely too much on it, as the behaviour could be due to cultural background, stress or the intimidating nature of court procedures. Demeanor is thus viewed in a supplementary or less significant fashion than substantive evidence in the process of assessing credibility. (Johannesson, 2023).

In criminal cases, corroboration is an important protection for the evaluation of evidence given by witnesses. When the evidence concerns important charges, courts will frequently request clarifying or corroborating evidence from a witness. While there is no strict requirement under the law for corroboration, it makes convictions more reliable and will minimise the chance for false conclusions. However, there can be uncorroborated evidence that is yet credible and trustworthy. Another crucial element of judicial scrutiny is bias, interest, or motive. Courts investigate if there is any personal, financial or relationship benefit to the evidence of the witness. A witness who is likely to be influenced by a certain outcome or express any hostility towards a party can subconsciously or intentionally skew the facts. But simply because there is a bias does not prove a witness to be discredited; the court must judge the testimony in context, weighing the testimony against the circumstances. Judges also use the "rules of probability" and "substantial conformity to common usage. Testimony is judged based on common sense and general human experience of whether it seems plausible. Statements that contradicts natural behavior or known facts can be ruled out as unlikely. This will enable the court to exclude accounts which, though not contradicted, do not meet the requirement of logical credibility, and the role of cross-examination is still an essential tool in the process of assessing credibility. Opposing party may ask tough questions, revealing inconsistencies, embellishments, or inaccuracies. Cross-examination allows the accuracy of the witness's memory to be checked and also uncovers the honesty of the witness and his/her reliability when questioned. It is generally considered to be one of the best discovery aids that the courts have. (Chlevickaitė, et al., 2020).

5. Challenges in Assessing Witness Credibility

Witness credibility is a difficult issue for court to assess because human testimony is fallible and subject to a number of psychological, social and situational factors. There are laws that give structure, but often human perception and behaviour is unpredictable. This means that judges have to wade through a tricky mix where it can be difficult to separate truth from error or falsification. A significant challenge is the short term memory human beings have. The studies of psychology have shown that memory does not accurately record events but rather is reconstructive and can change over time. The impact of stress, trauma and time can have a great impact on how accurately a witness can recall details. During a traumatic incident (e.g. violent crime) a witness can also give information that has been misinterpreted or simply missing, making the evaluation by the judge more complicated. One other challenge is the bias and external influence. Witnesses can be consciously or unconsciously affected by personal relationships, financial or social pressures, or media exposure. In publicized cases, a lot of

media coverage can influence the public opinion and therefore the way witnesses witness and remember events. This phenomenon is a concern of the independence and objectivity of witness testimony, especially when witnesses might tend to say what they think is expected of them, in the context of a dominant narrative. (Iudici, et al.,2023).

The problem of false testimony adds to the problem of credibility assessment. It is possible for witnesses to give intentional false or invented testimony as a result of pressure, threat or self-interest. During the trial process witnesses at times may turn hostile and refuse to confirm previous testimony and/or contradict themselves. In such scenarios, there is often a lot of evidence to contend with: Is the confusion real or deceitful? Cultural and linguistic differences can also be a challenge in interpreting witness testimony. Different cultures, language and communication styles can result in misunderstandings between the witness and the court. The way the witness expresses themselves, speaks or moves with their body could be misunderstood in different societies or when interpreters are present. These factors can have an indirect impact on what judges believe. These factors can have an indirect impact on beliefs of judges. Demeanor, which is the traditional basis of truthfulness has been doubted in modern jurisprudence. The nervousness, eye contact, or hesitation by an interviewee is not a reliable sign of being honest and should not be misinterpreted as an indicator of dishonesty, since it could simply be due to anxiety, fear and/or unfamiliarity with the courtroom setting. The danger of placing too much emphasis on such subjective perceptions of the witness's reliability is one of the dangers of this kind of observation. (Paulson, et al.,2023).

Moreover, credibility assessment is more challenging in today's cases because of the increasing complexity of the cases. Technical, financial or digital evidence may involve a witness getting either confused or explaining details in a manner that may not be accurate. This can lead to discrepancies or omissions in evidence which may not be due to dishonesty, but rather to a lack of understanding or knowledge. As a reaction to this set of problems, the judiciary has become more conservative and comprehensive, combining testimonial, documentary, forensic and expert evidence. However, the value and worth of human testimony is not without its ambiguities and uncertainties and is therefore far from an exact science. The judge is thus required to carefully weigh the skepticism and fairness in order to not reject a true witness's testimony nor accept an unreliable testimony. (Dahlgren, 2022).

6. Conclusion

This research raises the importance of witness evidence as an integral element of the administration of justice and brings to the fore the complexities of credibility assessment inherent in the system. It shows that while the law sets out consistent and corroborative and cross-examinative guidelines, it is not the law that accounts entirely for the influence of human factors such as memory distortion, bias, external influences, etc., on the assessment of testimony. The study reveals that in the modern times the judicial system is moving toward a holistic approach, that is, using oral evidence in combination with documentary, forensic and expert inputs for accuracy and fairness. The importance of this study is that it is directly connected with the integrity of judicial results. Assessment of credibility is important in order to get a fair trial, as well as to avoid miscarriages of justice and wrongful convictions. The need for sophisticated evidentiary theories and practices is even more important today as courts are burdened with more complicated and technologically-dependent cases. This lends relevance to the study for the legal practitioner, judges, policy makers and scholars who wish to enhance

the evidentiary process. Regarding recommendations, there is a need to minimize and adopt less subjective elements like witness demeanor and more use of corroborative and scientific evidence. Interdisciplinary learning from the fields of psychology and cognitive science should be integrated into judicial training programs to enhance judges' knowledge of the fallibility of human testimony. Further, the safeguards in the procedure to safeguard witnesses against intimidation and undue influence need to be reinforced to ensure the accuracy of the witness's evidence. In future, research could be undertaken in the empirical assessment of credibility within the courts, especially in less developed jurisdictions. The use of artificial intelligence and digital tools in assessing the authenticity of a testimony could also be of interest. Furthermore, comparative evidence should be useful in identifying good practice in the incorporation of new types of evidence into the old style of evidence. To sum up, witness testimony will continue to be an important factor that is essential to successful trials, but it will continue to require refinement of judicial practices and standards for its effective use. A balanced, informed and adaptive approach is necessary to assure that the quest for truth is reliable and just in a changing legal environment

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