
EPISTEMIC INJUSTICE IN EVIDENTIARY JURISPRUDENCE: A CRITICAL ANALYSIS OF CREDIBILITY EVALUATION AND HERMENEUTICAL MARGINALIZATION IN TRIAL COURTS

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ABSTRACT

Evidentiary jurisprudence is structurally predicated on the objective discovery of truth and the rational assessment of proof. However, the legal architecture governing testimony, witness credibility, and fact-finding often operates as a site of profound epistemic injustice. Drawing upon Miranda Fricker's conceptual framework of epistemic injustice specifically testimonial injustice and hermeneutical injustice this research paper critically investigates how systemic identity prejudices subtly skew judicial evaluations of witness credibility and legal narrative construction. Through an analysis of statutory rules of evidence, judicial discretion in evaluating oral testimony, and structural barriers faced by marginalized litigants, this paper demonstrates that credibility is not an purely neutral empirical measure, but a socially constructed commodity vulnerable to systemic bias. The paper proposes an epistemically unjust-aware framework for reform in evidentiary standards and judicial training.

Keywords: Epistemic Injustice, Testimonial Injustice, Hermeneutical Marginalization, Evidentiary Jurisprudence, Credibility Assessment, Fact-Finding, Indian Evidence Act / Bharatiya Sakshya Adhiniyam.

I. INTRODUCTION

The fundamental promise of modern evidentiary jurisprudence is procedural fairness and factual accuracy in legal adjudication. Statutory frameworks ranging from classical common law principles to codified regimes such as the Indian Evidence Act, 1872 (and its modern successor, the Bharatiya Sakshya Adhiniyam, 2023) are ostensibly designed to filter irrelevant or unreliable material, ensuring that judicial verdicts rest solely upon rational, credible proof. Central to this enterprise is the evaluation of oral testimony, where the trier of fact must ascertain the truthfulness and reliability of witnesses.

However, legal realism and critical legal studies have long recognized that fact-finding is rarely an abstract, value-neutral operation. In recent years, philosopher Miranda Fricker's conceptualization of *Epistemic Injustice*¹ has provided a powerful analytical toolkit to interrogate how institutional power dynamics distort knowledge production and credibility assessment. Applied to the law of evidence, epistemic injustice occurs when a witness, victim, or accused is wronged specifically in their capacity as a knower due to identity-based prejudices held consciously or implicitly by judicial officers, prosecutors, or law enforcement agents.

This paper examines how legal systems systematically produce two primary forms of epistemic injustice: **testimonial injustice**, wherein a speaker receives a deflated level of credibility owing to identity prejudice (e.g., gender, caste, class, race, or socio-economic background), and **hermeneutical injustice**, wherein a marginalized individual's lived experience is rendered intelligible or legally invisible due to a lack of shared interpretative resource in mainstream jurisprudence.

II. THEORETICAL FOUNDATIONS: EPISTEMIC INJUSTICE IN LEGAL THOUGHT

In epistemic philosophy, standard theories of knowledge focus on belief, justification, and truth. Fricker introduced a distinctively social and ethical dimension by asserting that knowledge practices are deeply entwined with social power. In her seminal taxonomy, epistemic injustice manifests across two primary vectors:

1. Testimonial Injustice

Testimonial injustice occurs when a prejudice on the part of the hearer results in a *credibility*

deficit for the speaker. In a legal trial, where the ultimate determination of guilt or liability hinges on witness credibility, a credibility deficit directly undermines the administration of justice. For instance, when a judge or jury discounts the testimony of a marginalized victim simply because of entrenched societal stereotypes regarding their social group, a distinct testimonial injustice occurs.

2. Hermeneutical Injustice

Hermeneutical injustice occurs at a structural level prior to or during the trial process. It happens when a gap in collective interpretive resources puts someone at a unfair disadvantage when it comes to making sense of their social experiences. In legal contexts, this arises when legal concepts, statutory definitions, or doctrinal standards fail to capture the reality of marginalized groups' experiences such as historical gaps in defining non-physical coercion, structural discrimination, or nuanced forms of institutional trauma.

"To be wronged in one's capacity as a knower is to be harmed in a capacity essential to human value. When legal institutions codify or reproduce this harm, credibility assessment ceases to be a search for truth and becomes a mechanism of institutional erasure."

III. CREDIBILITY EVALUATION & TESTIMONIAL INJUSTICE IN TRIAL COURTS

In trial court proceedings, the assessment of witness testimony relies heavily on judicial demeanor reading, consistency checks, and the standard of the "prudent person." Statutory provisions grant trial judges broad discretion to record demeanor and judge credibility. However, psychological research and critical legal scholars demonstrate that unguided judicial intuition frequently serves as a conduit for systemic prejudice.

A. Demeanor and the Archetype of the "Ideal Witness"

Evidentiary rules often privilege an archetype of the calm, articulate, chronological, and emotion-regulated witness. Marginalized individuals such as victims of trauma, impoverished litigants, or persons from nonstandard linguistic backgrounds frequently display demeanor cues that deviate from this normative baseline. Traumatic recall is non-linear and fragmented; yet, courts traditionally misinterpret hesitancy, emotional flatness, or minor chronological

discrepancies as indicators of falsehood, yielding an unjustified credibility deficit.

B. Identity Prejudice and Corroboration Demands

Historically, legal doctrines explicitly institutionalized testimonial injustice through evidentiary rules requiring independent corroboration for specific classes of witnesses most notoriously in sexual offense prosecutions or cases involving socially disenfranchised complainants. Although legislative interventions have formally abolished mandatory corroboration requirements in many jurisdictions, judicial practice frequently retains an implicit requirement of hyper-corroboration for vulnerable witnesses, treating their uncorroborated word as inherently suspect.

Illustration: Intersection of Caste, Gender, and Credibility in Indian Trial Jurisprudence

Empirical studies of trial court judgments reveal that testimonies of women from marginalized caste or economic strata are frequently subjected to rigorous, hyper-technical scrutiny regarding delayed reporting or lack of medical corroboration, whereas testimony from privileged elite witnesses is often granted an implicit presumption of truthfulness. This disparity represents a structural testimonial discount.

IV. HERMENEUTICAL INJUSTICE & LEGAL DOCTRINES

Hermeneutical injustice operates within evidentiary law when legal vocabulary fails to accommodate marginalized realities. Historically, concepts such as "consent," "provocation," or "self-defense" were crafted through a dominant, privileged lens, creating a lacuna in legal understanding.

For example, the classical legal standards for self-defense required an immediate, imminent threat of deadly force. This standard failed to account for the reality of long-term domestic abuse survivors (Battered Woman Syndrome), creating a hermeneutical gap where a survivor's defensive act was viewed through the distorting lens of premeditated murder rather than legitimate self-preservation. Until legal concepts evolved to incorporate psychological understandings of domestic violence, survivor defendants suffered acute hermeneutical injustice in evidentiary evaluation.

V. MECHANISMS FOR EPISTEMIC REFORM IN EVIDENTIARY LAW

To bridge the gap between evidentiary rules and epistemic fairness, systemic reforms must address both institutional structures and judicial training:

1. Epistemic Virtues in Judicial Fact-Finding: Developing judicial education programs focused on epistemic humility and implicit bias awareness. Judges must actively recognize that demeanor signals vary across cultural, class, and psychological backgrounds.

2. Re-evaluating Corroboration and Standard of Proof: Ensuring that evidentiary standards do not impose impossible burdens of proof on victims of invisible or institutional harms, and eliminating informal requirements for hyper-corroboration.

3. Expanding Hermeneutical Horizons: Utilizing expert testimony (such as trauma experts, sociologists, and linguists) to bridge gaps in judicial knowledge and contextualize witness behavior within broad socioeconomic frameworks.

VI. CONCLUSION

Evidentiary jurisprudence cannot achieve genuine fairness so long as its core methodologies credibility evaluation, fact-finding, and narrative interpretation remain blind to epistemic injustice. Testimonial deficits and hermeneutical gaps do not merely represent individual procedural errors; they reflect structural defects that distort the truth-seeking function of the legal system. By integrating the insights of legal epistemology into evidentiary doctrine and judicial practice, the legal system can move closer to a jurisprudence that respects and values all litigants in their capacity as knowers.

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