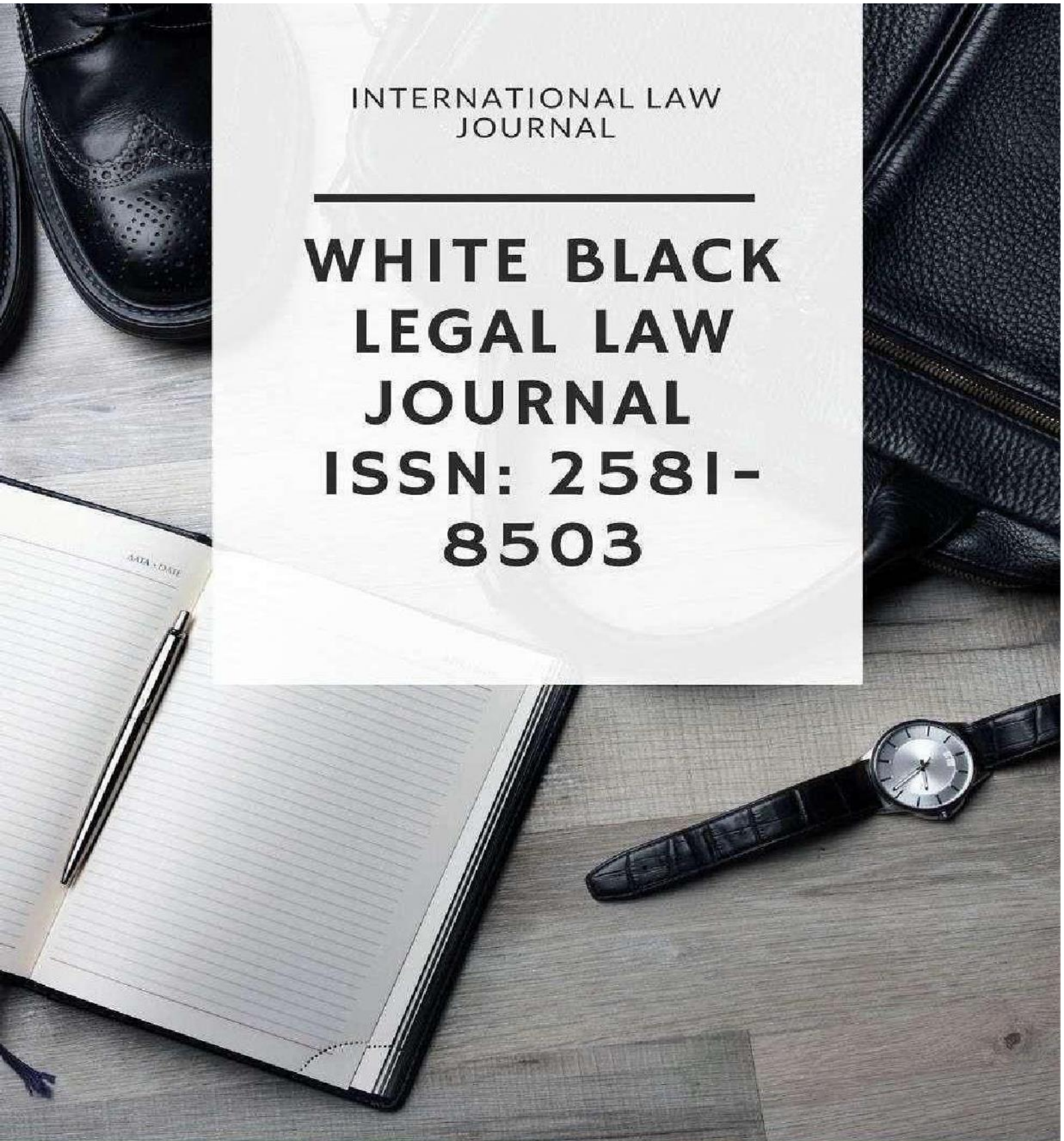




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SELECTIVE MEMORY, SELECTIVE JUSTICE: LESSONS FROM THE REMAINS OF THE DAY FOR COURTROOM TESTIMONY

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"But now that I think about it, perhaps I was mistaken about some of the things I saw that evening."

- Kazuo Ishiguro, The Remains of the Day.

ABSTRACT

This paper explored the complex relationship between human memory and courtroom testimony, asserting that memory is not a flawless record. By analyzing Kazuo Ishiguro's *The Remains of the Day*, particularly the character of Stevens, we see how individuals unconsciously alter memories to protect their self-image or avoid painful realities. This literary study, combined with psychological understandings of memory and legal cases, reveals that even a sincere witness testimony can be a form of self-defense rather than the truth. The research uses a multidisciplinary approach, blending literary analysis with psychological theories on memory distortion and legal studies of witness reliability. It shows how trauma, stress and suggestive questioning can distort memories, making them unreliable despite the confidence of the witness. The paper supports a more careful judicial approach, urging courts to use evaluative techniques like Reality Monitoring and the Verifiability Approach. This ensures that justice is served by acknowledging memory's selective nature and its potential to unintentionally change legal results, rather than relying only on testimonial evidence.

INTRODUCTION

All past events, whether completely retained or distorted, are preserved in the complicated structure of human memory. However, our brain also has a tendency to either forget a lot of memories that it thinks are damaging to us or try to change those memories by adding new information that distorts them or erases parts of them. Beneath the polite and calm language,

Stevens chooses to narrate the narrative while he is hiding memories of his horrific past that he does not want to face or take responsibility for. Just like that, when someone is trying to testify in court, they use language they think is appropriate, but internally, they may be unconsciously attempting to protect themselves.

In *The Remains of the Day*, Stevens' memory is distorted, and when someone with this type of memory distortion testifies in court, it affects the result of the case. The psychological processes that underlie Stevens' controlled storytelling are studied in this paper. He uses his controlled and formal language as a defensive way to disassociate himself from moral responsibility and remorse. Rather than directly confronting painful memories, Stevens reshapes them in ways that preserve his sense of dignity. This procedure is similar to trial evidence in which witnesses frequently unconsciously recall prior events while filtering their memories through self-defense and personal identification. The story that emerges in both situations is a version of the past that is still psychologically acceptable rather than a flat-out lie.

LITERATURE REVIEW

Kazuo Ishiguro's book *The Remains of the Day* shows how people can choose what they remember, often hiding painful truths or changing their past to fit what they want to believe. This is shown in Stevens' false memory and self-deception. (Patrick & Adetuyi, 2019) This literary study of the limitations of memory is crucial in the context of courtroom testimony. Such selective recall finds a psychological basis in Sigmund Freud's *The Ego and the Id* (Freud, 1923), which highlights how important parts of the Ego function unconsciously, actively resisting the conscious remembering of repressed, uncomfortable truths. While the legal case, like *Vadivelu Thevar v. The State of Madras, 1957*, confirms that a single witness's story can be enough for a conviction, it also states that the quality of that evidence, not just its existence, must be carefully checked. This means that judges need to know that a witness's memory could be just as selective as Stevens's. To make sure that justice is fair, they need to look for consistency and truthfulness in testimony instead of questioning it as it is.

RESEARCH METHODOLOGY

This paper uses a qualitative, multidisciplinary research methodology to investigate the complicated relationship among psychology, law, and literature, particularly focusing on how witness testimony may serve as a means of self-defense for personal dignity. The basis of this

study is a secondary research methodology, including a critical study and evaluation of recognized academic and primary sources.

The research design focuses on a case study of Kazuo Ishiguro's *The Remains of the Day*, employing the novel as a detailed literary work to demonstrate psychological phenomena, including selective memory, repression, and the idea of self-serving narratives. Along with this literary analysis, there is also a systematic review of legal research on the reliability and credibility of witnesses (including important case law like *VEDUVELU THEVAR VS. STATE OF MADRAS*) and psychological theories about memory, self-perception, and defense mechanisms. Data collection involves reading the novel closely and doing a full review of the literature. Then, the insights from all three fields are compared and combined to make the main argument that witness testimony is a form of self-defense that protects dignity.

MEMORY AS LEGAL EVIDENCE

Human memory is a very critical system that is defined differently by different psychologists. In the broad context, memory stores the information and experiences of the past and then encodes or retrieves them for the use of the present. The renowned psychiatrist Sigmund Freud divides the human mind into two parts: the conscious and unconscious. The conscious mind contains all the urges, wishes, and desires that can be made aware of, or that we are already aware of. The unconscious mind contains all those urges, wishes, and desires that we are not aware of. Sigmund Freud thinks that the Ego represents the conscious mind and the Id represents the unconscious mind. Sigmund Freud defines the Id as *"the dark, inaccessible part of our personality; what little we know of it we have learned from our study of the dream work and of the construction of neurotic symptoms, and most of that is of a negative character and can be described only as a contrast to the ego. We approach the id with analogies: we call it a chaos, a cauldron full of seething excitations... It has no organization, produces no collective will, but only a striving to bring about the satisfaction of the instinctual needs subject to the observance of the pleasure principle."*¹ He also defined the concept of Ego as *"that part of the id which has been modified by the direct influence of*

¹ Sigmund Freud, *Sigmund Freud [1933] New Introductory Lectures On Psychoanalysis (James Strachey translation, 1961)*, in INTERNET ARCHIVE 4617–4778 (1961), <https://ia802907.us.archive.org/17/items/SigmundFreud/Sigmund%20Freud%20%5B1933%5D%20New%20Introductory%20Lectures%20On%20Psychoanalysis%20%28James%20Strachey%20translation%2C%201961%29.pdf> (last visited Feb 10, 2026).

*the external world through the medium of the Pcpt.-Cs.*²³ This difference is important for understanding human behavior. Memory is not always recalled in a complete or accurate form; rather, it may become altered each time it is recollected. As a result, even when a witness expresses confidence in their recollection, it may not fully relate to the original event, thereby raising concerns about the reliability of testimony in a courtroom setting.

As a result, giving testimony in a courtroom is basically a demanding process. A witness is subjected to thorough examination and cross-examination, often going through leading questions designed to test credibility and consistency. While such questioning serves an important evidentiary function, it may also influence or reshape a witness's recollection of events. Psychological studies suggest that memory is not immune to suggestion; repeated or suggestive questioning can increase errors or create new details. The consequences of such distortion are critical, as judicial results may depend heavily on testimonial evidence. A wrong recollection, even if sincerely expressed, can therefore have an effect on both the accused and the victim in various ways. The credibility of such testimony is ultimately checked by the court through standards of consistency, coherence, corroboration, and overall probability.

Moreover, victims and witnesses of violent crimes may experience trauma or conditions like post-traumatic stress disorder. In these situations, their recollections may become fragmented, emotionally charged, or incomplete, even when they sincerely intend to provide truthful testimony. This is not because they do it on purpose; rather, it is a result of psychological traumas and distress that cause them to unintentionally provide distorted or incomplete testimony, frequently focusing on some details while hiding others. These psychological limitations are reflected in the manner in which the court checks credibility.

For this reason, the Supreme Court of India in *VADIVELU THEVAR V. THE STATE OF MADRAS*⁴ divided witnesses into three groups: wholly reliable, which means the witness is free from blame; his character and account of events are good; there is no reason to think that the witness is biased in giving testimony; he is not physically or mentally incapable of understanding and accurately reports the events to the court; or the witness has not been bribed

² Pcpt.-Cs refers to the Perpetual-conscious system, that is, that part of the mind which receives information from the outside world and makes us aware of it.

³ Freud, S. (1923). *The Ego and the Id*. The Standard Edition of the Complete Psychological Works of Sigmund Freud, Volume XIX (1923-1925): The Ego and the Id and Other Works, 1-66, p. 25.

⁴ Vadivelu Thevar v. The State of Madras AIR 1957 SC 614

or threatened by anyone to tell a fake story. In the case of the second classification, the judge chooses to completely disregard the witnesses' statements because they are so inconsistent, unreliable, and obviously false. The final classification is neither wholly reliable nor wholly unreliable; the witness is not wholly reliable, which means his testimony is mostly correct but contains inconsistencies, gaps, or signs of bias. That is why, when hearing this type of testimony, the court must exercise caution while relying on corroboration. This means that the court will rely on other important pieces of evidence to support the unreliable parts of the testimony.

Despite these classifications and safeguards, the law ultimately depends on the stability of human recollection.

THE UNRELIABLE NARRATOR AS WITNESS

Stevens serves as Lord Darlington's butler at Darlington Hall, and he believes he maintains a strict professional discipline. Because of this belief, he considers himself a perfectionist who never makes a mistake. Yet despite Stevens' confidence in his professional conduct, the reliability of his narration becomes difficult to sustain. As the narrative unfolds, Stevens' narration is not entirely trustworthy because of his frequent use of words such as "perhaps" and "I may be mistaken." The way he uses hesitant language indicates how his narration can be unreliable and how he unconsciously attempts to reframe his painful past, for which he refuses to take responsibility. Likewise, the witnesses in court try to reconstruct their memories, unconsciously believing it will help them protect their position.

Further, the limited vocabulary Stevens employs throughout the book allows us to analyze his unconscious attempts to misrepresent or recall his memories. He attempted to narrate using a limited vocabulary, which he unintentionally believes will conceal the unpleasant memories he doesn't want to share. When we attempt to link Stevens' language to the In-Group bias⁵, we see how he uses evaluative and comparative language to elevate his own group while subtly demeaning others. For example, he compared and disintegrated other nations in an attempt to explain how Britain possesses the qualities of "greatness." In the lines, Stevens remarks that *"the English landscape at its finest—such as I saw it this morning—possesses a quality that the landscapes of other nations, however more superficially dramatic, inevitably fail to possess..."*

⁵ In-Group bias refers to the idea of favoring your own group over others.

*and this quality is probably best summed up by the term 'greatness.'"*⁶ He attempts to explain Britain's greatness in these lines by disparaging other countries and claiming that they are insignificant in comparison to Britain.

Stevens is regarded as an untrustworthy narrator because he attempts to conceal his past through language; for example, while describing his father's emotional repression, he also claims that he is an excellent butler. He is untrustworthy because he occasionally speaks from both sides. In this regard, such testimony from a witness in court has the potential to significantly impact the case's outcome, which will have an impact on either the defendant or the victim.

TESTIMONY AS SELF-DEFENSE

In addition, it is difficult to evaluate a witness's credibility when they testify in court. Because there are three different kinds of witnesses. In the first case, witnesses give strong, true, and reliable testimonies that help the court make a decision. They retain all of the information they have seen, heard, or felt because their memory is not fully distorted. In a second scenario, the witness believes they recall every detail accurately and that their memory is unaltered, but in reality, these individuals don't truly recall the details accurately. Numerous factors, such as continuous recollection, distort their memory. These witnesses frequently pose a threat to the court because they may unintentionally give false information, while the court believes it to be true based on their behavior and demeanor. Just as explained in previous sections, Trauma disorders like PTSD can affect the recollection of the events in large terms. Therefore, a witness like this most likely unintentionally defends themselves by providing false testimony. Alternatively, a witness may give the impression in court that he is not confident in his testimony, even if it is 100% true, by saying a lot of low-confidence statements like "I was not in my right mind" or "I was afraid, that's why I didn't help him."

This also applies to Stevens from *The Remains of the Day*. He will always make an effort to tell the entire tale in a polite manner, but he has unintentionally distorted his memory because he believes that doing so will help him maintain his "dignity."

⁶ *The Remains of the Day*, in FABER AND FABER LTD., 28 (Kazuo Ishiguro).

TOWARDS A MORE CAUTIOUS APPROACH TO TESTIMONIAL EVIDENCE

As discussed in earlier sections, human memory is not always flawless. Recollection may become emotionally influenced or slightly distorted over time. Therefore, courts must focus on carefully evaluating the credibility of witnesses. There are various methods through which courts can assess the reliability of testimony. For instance, techniques such as Reality Monitoring (RM)⁷ help distinguish between real and imagined memories, while Criteria-Based Content Analysis (CBCA)⁸ evaluates statements based on factors such as detail, contextual embedding, and consistency. Similarly, the Verifiability Approach (VA)⁹ focuses on whether the information provided by a witness can be verified. For example, a truthful witness is more likely to provide specific and verifiable details, whereas a deceptive account may avoid such information.

Despite the use of these methods, courts may still face difficulties in accurately determining the credibility of a witness. Human beings are not neutral recorders of events, and memory may be influenced by factors such as trauma, stress, and suggestion. As discussed earlier, these factors can lead to unintentional distortion of recollection. Therefore, testimonial evidence cannot always be treated as completely reliable. Nevertheless, it remains an important form of evidence that contributes to the administration of justice.

In light of this, courts should adopt a more cautious and balanced approach, relying on testimonial evidence, making use of appropriate evaluative techniques rather than depending on such evidence in isolation.

CONCLUSION

This paper has shown that human memory is not a perfect record, and this has big implications for how we understand witness testimony in court. Through analyzing Kazuo Ishiguro's *The Remains of the Day*, particularly the character of Stevens, we see how people can unconsciously twist their memories to protect their sense of dignity or avoid painful truths.

⁷ In-Mind (2023) 'Are victim or eyewitness statements credible? Several ways to check them', *In-Mind Magazine*, available at:

<https://www.in-mind.org/article/are-victim-or-eyewitness-statements-credible-several-ways-to-check-them>

⁸ In-Mind (2023) 'Are victim or eyewitness statements credible? Several ways to check them', *In-Mind Magazine*, available at:

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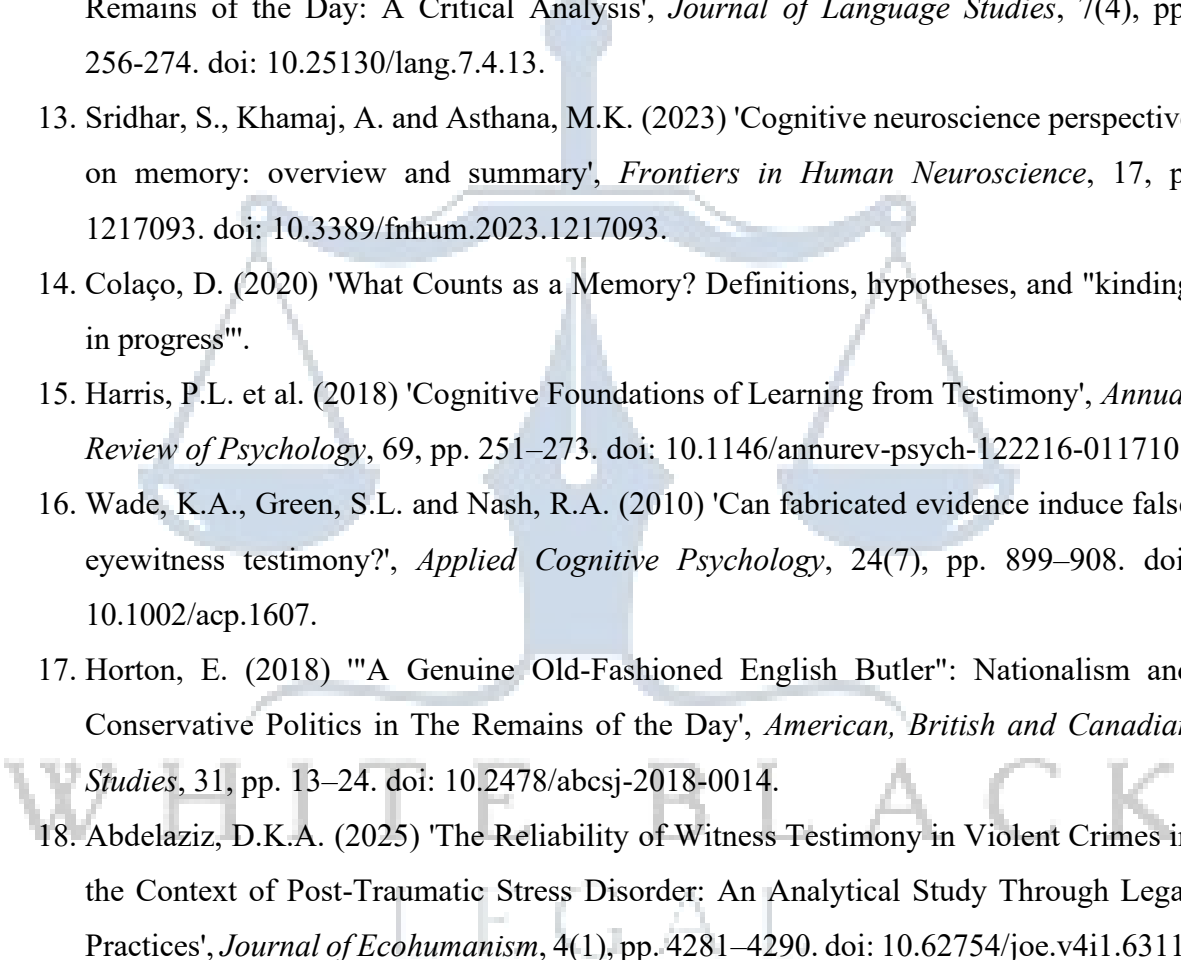
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These literary insights, combined from cases like *VADIVELU THEVAR V. THE STATE OF MADRAS* and psychological understandings of memory, highlight that a witness's story, even if sincerely told, might be a form of self-defense rather than a purely objective account. Therefore, while witness testimony is crucial for justice, courts must adopt a more careful and balanced approach, using various techniques to evaluate credibility and always remembering that memory can be selective, leading to unintended distortions that profoundly affect legal outcomes.

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