



Witness Testimony Between Traditional Procedures and the Impact of the electronic Environment

شهادة الشهود بين الإجراءات التقليدية ومعالم التأثير بالبيئة الإلكترونية

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Abstract:

The judicial apparatus has been affected by technological development, transferring some judicial procedures from within court walls to electronic platforms, especially in criminal matters unlike civil matters. This is exemplified in hearing witnesses; after testimony was given before the judge, the witness can now provide testimony remotely in criminal cases. As for civil cases, the matter differs as there is no proof by witness testimony via electronic means. However, necessity calls for allowing it through secure platforms to save time and effort, increase court efficiency, ensure testimony credibility, and enhance witness protection in sensitive civil cases such as real estate disputes. □

It is necessary for the Algerian legislator to adopt electronic testimony as an exceptional means in civil matters in cases where witnesses are unable to testify through traditional methods, ensuring the continuity of litigation and its non-interruption. This should be coupled with requiring the witness testimony at the level of the court within the jurisdiction of which the witness's place of residence falls, to verify the authenticity of their identity and prevent any pressure that could be exerted on the witness."

Keywords : Technological development , Electronic witness testimony, electronic proof methods, remote testimony.

ملخص :

تأثر الجهاز القضائي بالتطور التكنولوجي، حيث نُقلت بعض الإجراءات القضائية من داخل قاعات المحاكم إلى المنصات الإلكترونية، لاسيما في القضايا الجنائية على عكس القضايا المدنية.

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ويتجلى ذلك في جلسات الاستماع للشهود؛ فبعد الإدلاء بشهادتهم أمام القاضي، حيث يُمكن للشاهد الآن الإدلاء بشهادته عن بُعد في القضايا الجنائية ، أما في القضايا المدنية فالوضع مختلف، إذ لا يُمكن الاستناد إلى شهادة الشهود إلكترونياً.

ومع ذلك، تقتضي الضرورة السماح بذلك عبر منصات آمنة لتوفير الوقت والجهد، ورفع كفاءة المحاكم، وضمان مصداقية الشهادة، وتعزيز حماية الشهود في القضايا المدنية الحساسة، مثل النزاعات العقارية.

لذا من الضروري أن يعتمد المشرع الجزائري الشهادة الإلكترونية كوسيلة استثنائية في القضايا المدنية، في الحالات التي يتعذر فيها على الشهود الإدلاء بشهادتهم بالطرق التقليدية، بما يضمن استمرارية التقاضي وعدم انقطاعه. وينبغي أن يقتصر ذلك باشتراط الإدلاء بشهادة الشاهد أمام المحكمة التي يقع ضمن نطاق اختصاصها محل إقامته، للتحقق من صحة هويته ومنع أي ضغط قد يتعرض له.

الكلمات المفتاحية: التطور التكنولوجي ، شهادة الشهود الإلكترونية، أساليب الإثبات الإلكتروني، الشهادة عن بعد.

Introduction:

The legislator has placed at the disposal of anyone claiming a right before the court a set of proof methods that he must use to prove his claim, as the burden of proof is on the claimant. No right, however legitimate, has value unless its owner is able to prove it before the court by the methods recognized by law.

Proof methods in civil law are the pillar upon which every judicial dispute relies, and witness testimony occupies a prominent position among these methods, not because it is the strongest in probative force, but because it is the widest in practical application, especially in proving material facts and daily transactions that are not usually documented in writing.

Court hearings and procedures before the judiciary are witnessing digital development, especially after the COVID pandemic, through the introduction of the idea of electronic judicial disputes, following electronic litigation procedures, and proving them by electronic methods.

However, this development is still ongoing, particularly in civil matters, and has only affected electronic writing as a proof method, despite the legislator adopting electronic witness hearing in criminal matters.



The situation remains with the witness's physical presence and direct hearing in civil matters traditionally, which calls for the necessity of adopting electronic witness testimony in civil matters as an exception to ensure justice efficiency.

The following sub-questions arise:

- To what extent do the recent legislative measures allow the hearing of witness testimony in civil matters through modern electronic means ?

- Do these laws adequately provide for the use of electronic hearing procedures in order to preserve witness testimony and ensure procedural justice, or do they remain subject to the same traditional rules governing testimony?

-Can the same legal guarantees be achieved through electronic means without compromising the integrity of the testimony or the rights of the defense?

To answer these questions, and in order to cover the most important aspects of our study of the subject, we have chosen a two-part division for our research, which is represented by the following .

THE FIRST TOPIC :

Concept of Proof by Witness Testimony via Electronic Means

Witness testimony is considered one of the proof methods in civil law and the civil and administrative procedures law, distinguished by characteristics that differentiate it from other proof methods. The legislator must keep pace with digital development and allow testimony via electronic means ,we will define electronic testimony in civil matters and its characteristics in two demands.

FIRST REQUIREMENT : Evidence by electronic witness testimony in civil matters and its characteristics

In this section we will address the definition of proof by witness testimony via electronic means in civil matters.

Firstly : Definition of Proof by Electronic Witness Testimony

Jurists call testimony "bayyna"¹ in the narrow sense, while" bayyna" in its broad sense refers to every proof evidence whatever its nature and strength, whether



writing, acknowledgment, oath, presumptions, testimony, or other means recognized by law, this distinction between the two concepts is necessary for correctly understanding legal texts².

Testimony in its precise conventional sense is the information provided by a person called "the witness" about a right for someone else against another; that is, informing about a right that proves for a person where the witness is not a party in his legal relationship.

This makes it an independent proof method based on the witness's direct perception of the fact through his senses: sight or hearing or others, without requiring the witness to have an interest in the dispute.

The witness must appear truthful and reliable; he is presumed to be a just witness, making his testimony strong evidence of the truth of what he testifies to. Witness testimony always focuses on the disputed fact before the court; the witness recounts remotely via the court's electronic media what he perceived through his senses from facts occurring under his hearing or sight or direct knowledge, and these facts are likely to establish a right for a person against another or affect his legal status³.

Testimony based on inference, suspicion, or hearsay (testimony by hearsay) is not accepted, except in cases permitted by law or court exceptionally in specific matters.

Secondly : Characteristics of Electronic Witness Testimony in Civil Matters

Electronic testimony is among the "persuasive" evidence, not "binding" on the judge; meaning the judge has broad discretionary power to accept or reject the testimony, partially or totally, without being bound to take it if it does not convince him sufficiently of its truth.

The judge may set aside all witnesses' statements if he finds contradiction or doubt in their objectivity or sees they do not align with the case circumstances.

At the same time, he may accept one witness's statement and reject multiple others, or prefer one testimony over another as he sees consistent with the facts, without being required to give detailed reasons for this preference within his legitimate discretionary limits in extracting facts.

This characteristic reflects the human nature of testimony; humans are prone to forgetting and influence by circumstances.

One characteristic of electronic testimony is that it is non-conclusive proof; what is proven by testimony is not conclusive evidence immune to challenge or rebuttal; the truth it establishes remains always subject to refutation and



discussion, whether by counter-testimony from other witnesses or any other proof method like writing or presumptions.

Electronic testimony is also restricted in certain fields; despite testimony's flexibility as proof, its use is not absolute but restricted by explicit legal texts defining its scope and cases where it is unacceptable.

Testimony cannot be resorted to for what the legislator requires written proof, whether due to transaction value or nature requiring special form. Testimony, though permissible for material facts, does not suffice in ordinary cases for legal transactions exceeding the limit where the legislator requires writing.⁴

SECOND REQUIREMENT: Scope of Proof by Witness Testimony between Traditional and Electronic Means

Electronic witness testimony is like traditional testimony, restricted; proof by witnesses is only permitted in specific cases limited by law, branching into principal and exceptional cases.

Firstly : Principal Cases for Accepting Testimony

Proof by witnesses is principally accepted only in the following cases proving material facts, legal transactions not exceeding 100,000 dinars, and commercial transactions.

1- Material Facts

Material facts are the natural and principal field for proof by witnesses; these facts usually occur suddenly or spontaneously without prior planning allowing written documentation at the time. Material facts divide into two types :

A- Natural facts, which have no human will involvement, like floods, earthquakes, natural fires, etc.

B- Facts arising from human intervention, like harmful acts entailing tort liability, and actual possession fact of the thing with all its elements and circumstances.⁵

2-Legal Transactions

Legal transactions not Exceeding 100,000 Algerian Dinars in Value to facilitate daily transactions without burdening contractors in small and medium transactions, the Algerian legislator decided not to apply the written proof rule except to legal transactions exceeding 100,000 Algerian dinars (100,000 DZD).

If the transaction value is below or equal to this limit, either party may prove its existence or extinction by all available proof methods, including witness testimony and presumptions⁶



These small transactions are usually done quickly and simply without written documentation, and requiring writing would create proof issues in cases not justifying the written form burden.

3- Commercial Transactions

Commerce is based on speed and trust, hence the legislator's position on proof of commercial transactions, making it unrestricted; commercial transactions can be proven by all proof methods, principally permitting witnesses and others⁷, unless law specifies a method like some commercial transactions where the legislator sees necessity for writing to ensure legal stability and protect parties' and third parties' rights company contract cannot be proven by witnesses due to complexity and entanglement of rights and obligations among partners, and serious legal effects affecting creditors and those dealing with the company.

Transactions on commercial premises cannot be proven by testimony due to economic importance and involvement of multiple parties' rights requiring protection.

Thirdly : Exceptional Cases for Accepting Proof by Witnesses

There are exceptional cases allowing use of witness testimony as proof, mainly availability of written proof principle, existence of material or moral obstacle, and loss of written document

1- Existence of Written Proof Principle

Article 335 of the Civil Code states proof by witnesses is permitted for what required written proof if "written proof principle" exists. This means any writing from the opponent against whom it is used, making the claimed transaction likely, even if not fulfilling full written evidence conditions regarding signature, form, or essential data.

This text clarifies three necessary conditions for written proof principle

A- Existence of writing: even draft, letter, or correspondence, paper or electronic, reasonably attributable to opponent and not full written evidence.

B- Issued by the opponent or his legal representative, not other party.

C- Makes claimed transaction likely, weighing its occurrence without conclusively proving, probability must be preponderant, like debtor sending letter to creditor indicating debt.

When these three conditions are met, court may accept completing this incomplete evidence by witnesses, presumptions, etc., regardless of claimed amount⁹.

2-Existence of Obstacle to Obtaining Written Evidence



Article 336 of Civil Code permits proof by testimony for written-required if material or moral obstacle prevented obtaining written evidence at contracting time. The obstacle means impossibility of obtaining writing at transaction time, but relative temporary limited to specific person in specific circumstances, not absolute

A-Material Obstacle

Material obstacle occurs when external objective circumstances surround contracting making written evidence difficult or impossible for contractor at that moment prominent forms .

- Natural disasters or sudden accidents like fire, flood, earthquake, revolutions, disturbances preventing document preparation in difficult times

- Emergency deposit, where owner forced to deliver thing quickly to another to avert imminent danger, without time for written document proving deposit. Necessity here drops writing condition, allowing proof by evidence

B- Moral Obstacle

Moral obstacle differs from material in that impossibility cause is not external objective but social and ethical factors making demanding written document embarrassing for relationship values. Prominent cases :

- Kinship relations like parent-child or siblings, where one usually hesitates demanding written document to avoid implying lack of mutual trust.

- Spouses' relationship; difficult morally for one to request official document for money lent or deposits, conflicting with marital trust.

- Other professional trust relations like teacher-student in some cases, employee-employer, where high trust prevents formal documentation.

Notably, moral obstacle not presumed merely from kinship or relation, court must examine each case circumstance to verify if contracting conditions made requesting writing impossible or difficult morally.

3- Loss of Written Document Due to Third Party

This exception allows claimant proof by witnesses if he fulfilled writing requirements at transaction, but lost held written document due to causes beyond his will.

A- Prior Existence of Written Document

Claimant must first prove document actually existed, detail content and essential data like parties, amount, date, obligations, and it fulfilled legal conditions. Claimant may use all proof methods to prove prior existence and content, including witnesses, judicial presumptions, ..etc

B- Loss Due to Third Party

Rule for relying on third-party loss: mere claim insufficient, must prove loss result of external cause no hand of claimant or negligence; like theft, fire, flood,



force majeure, act of third party—material facts provable by all methods⁹. Article 331 Civil Code confirms loss for "external cause no hand in it"; if loss due to right holder's negligence or intentional disposal, does not permit witness proof

THE SECOND TOPIC :

Essential conditions and limits of Proof by Witness Testimony

For hearing witness testimony and accepting as proof, several conditions in witness and specific procedures in hearing must be met.

FIRST REQUIREMENT: Conditions and Procedures Related to Traditional and Electronic Testimony Hearing

The conditions for hearing a witness are manifold some of which are personal and others likewise the procedures preceding the hearing of the witness are manifold.

Firstly: Conditions for Performing Witness Testimony Between Traditional and Electronic Means

Civil and Administrative Procedures Law¹⁰ specifies essential witness conditions for acceptance Witness must not be party in litigation; parties do not testify for themselves, their testimony considered acknowledgment not testimony Plus eligibility for testimony witness must be adult, discerning, just, aware, free will as Article 153 states and natural person directly perceiving fact not hearsay Some persons cannot testify for legal reasons, like lawyer, legal representative; if witness guardian, tutor, curator of litigant, cannot testify.

Testimony of ascendants and descendants not accepted among/from parents, children in certain cases , husband's testimony not accepted in wife's case even divorced, partners re company in cases, agent's vs principal.

Unless law expressly states otherwise or exceptional cases court assesses plus these conditions for electronic witness proof reliance Witness performs testimony before competent court using electronic means via nearest court to him.

Use effective electronic communication allowing parties connected court hearing remotely or witness with court verifying no influence on witness will, viewing witness location and clear hearing.

Secondly : Witness Hearing Procedures between Traditional and Electronic

Court may on own or party request order proving disputed facts by witnesses where law permits, procedures as follows Procedures start with party request authorizing hearing witnesses for specific fact Witnesses summoned officially,



heard in designated session; if absent without excuse, court may fine or order compulsory bringing.

Witness unable to attend, legislator must remedy by remote hearing via nearest court, not home. Court on party request and other consent may hear any witness using modern communication without appearance via means transmitting sound and image embodying movements and sounds aiding testimony taking, subject to controls.

First, verify witness identity; judge ensure required witness Verify testimony integrity, no external influences; electronic wider opportunity for lying, forgery than traditional.

Oath swearing before testimony, recognizing criminal responsibility if intentional lie.

Oath explicit acknowledgment of truth responsibility, judge may direct necessary questions or request parties submit.

Parties cannot ask directly or interrupt witness for good session conduct and testimony objectivity, witness bears criminal responsibility if intentional lie, perjury punishable under Penal Code; harmed may claim damages from false witness¹¹.

SECOND REQUIREMENT :Limits of Proof by Witnesses and Its Force

Witness proof important but subject strict limits ensuring credibility, preventing evasion of written proof; these apply to electronic witness testimony.

Firstly : Cases Where Proof by Testimony Not Permitted

Algerian legislator restricted witness proof; cannot use for transactions over 100,000 dinars, nor prove contradicting/exceeding written document by witnesses

A- Legal Transactions Exceeding 100,000 Dinars

Generally, high-value legal transactions not provable by witnesses; legislator set limit 100,000 DZD per Article 333 Civil Code. Exceeding transactions require written evidence; not provable or disprovable by witnesses/presumptions except express legislator exceptions Extends to indeterminate value transactions, hard to confirm below limit, Value considered at conclusion not dispute time, even if later changed¹².

B-Proving Contradicting or Exceeding Written

Article 334 Civil Code no proving contradicting/exceeding written document content by witnesses/presumptions, even if value under 100,000 dinars.

If parties conclude written contract with specific clauses, neither claim additional/contrary condition proven by witnesses .



Core justification respect parties' will; writing expresses caution desire for strong permanent evidence; unacceptable override explicit intent with weaker testimony¹³.

Secondly: Force of Testimony as Proof in Civil Matters between Traditional and Electronic

Despite importance of testimony traditional or electronic delivery, remains generally weaker than writing due core reasons: witness forgetting precise details over time, perception error during occurrence.

May be used maliciously by party harming opponent, requiring judge extreme caution assessing. Personal nature relies witness perception, unlike objective fixed writing verifiable anytime Law grants subject-matter judge broad discretion assessing testimony value with other evidence¹⁴.

Judge assesses witnesses by seeking stronger evidence: checks presumptions, writings, testimony not priority but complementary and alternative absent stronger verifies testimony link to claimed right whether witnessed facts substantially related to claim, productive in proof, contributing to dispute proof not secondary details.

Thirdly : The Specificity of Witness Testimony in Criminal Proceedings

Witness testimony is one of the most important means of proof in criminal trials, as it significantly influences the outcome of trials, playing a decisive role in convicting or acquitting the accused. Therefore, protecting witnesses is a primary objective of contemporary criminal policy. Consequently, the Algerian legislator has sought to provide the necessary protection for witnesses through substantive protection under the Penal Code and the Anti-Corruption Law, as well as procedural protection.

A- The Substantive Provisions for Witness Protection

The Algerian legislator has granted special protection to witnesses while they are performing their duty of testifying, through the protection provided by the Penal Code by criminalizing acts committed against a witness that affect their testimony. This is stipulated in Article 236 of the Penal Code. Furthermore, Law 06-01¹⁵ of November 20, 2006, concerning the prevention and combating of corruption, specifically Article 45, entitled "Protection of Witnesses, Experts, and Victims," also provides for this protection.



1-Witness Protection in the Penal Code:

Witness protection under the Penal Code is embodied in Article 236, which stipulates that: "Anyone who uses promises, gifts, bribes, pressure, threats, aggression, manipulation, or deception to induce another to make false statements or confessions, or to give false testimony, in any matter and at any stage of the proceedings, for the purpose of claiming or defending before the court, whether or not these actions produce their effect, shall be punished by imprisonment for one to three years and a fine of 500 to 2000 dinars, or by one of these two penalties, unless the act is considered participation in one of the more serious crimes stipulated in Articles 232, 233, and 235." From this text, we conclude that the legislator has criminalized the act of enticing and coercing witnesses, and we will address these below: ¹⁵

1.1- Enticing Witnesses:

According to Article 236, the crime of enticing a witness is established by the presence of its elements, which are:

- The Material Element: The material element of this crime consists of inducing the witness to make statements, confessions, or give false testimony by using promises, gifts, or bribes. These are means that entice the witness and induce them to falsify the truth in favor of the perpetrator.

This includes, Promising a reward, which can be something of material value, or it can be a mere promise; A promise to perform a service or a promise of a job.

It consists of money, property, goods, or anything that can be valued in monetary terms, such as gifts and presents:

For the crime to be established, the purpose of using the aforementioned means must be to induce the witness to give false statements or confessions, or to give false testimony, especially since perjury is no longer necessary for the crime to be established, given that the law punishes the inducement of a witness, whether the inducement produces its effect or not, and even punishes the perpetrator even if the witness does not give their testimony.

1.2- Threatening or assaulting a witness:

In addition to the crime of enticement, which is committed against a witness to induce them to withhold or give false testimony, there are other crimes mentioned in Article 236, namely the crime of threatening and assaulting a witness



2- Witness Protection in the Anti-Corruption Law:

Witness protection under the Anti-Corruption Law is embodied in the criminalization of:

1- The crime of obstructing the proper course of justice:

The act criminalized by Article 44 of Law No. 06/01 : Article 44 of Law 06/01 stipulates that:¹⁶

“The following shall be punished by imprisonment for a period of six months to five years and a fine of 50,000 to 500,000 Algerian dinars:

- Anyone who uses physical force, threats, intimidation, or promises, offers, or grants an undue advantage to incite perjury, prevent the giving of testimony, or withhold evidence in proceedings related to the commission of criminal acts under this law.

- Anyone who uses physical force, threats, or intimidation to obstruct the course of investigations underway concerning criminal acts under this law.

- Anyone who intentionally and without justification refuses to provide the authority with the required documents and information.”

Acts of revenge, intimidation, and threats against witnesses:

Article 45 of the Anti-Corruption Law stipulates that this crime is based on the following elements:

2- The criminal conduct: This crime is committed through revenge, threats, or intimidation by instilling terror and fear in them.

- The status of the victim: The legislator defined the status of the victim and limited it to witnesses such as experts, informants, and victims, and added to them their family members and all other persons closely related to them.

The purpose of committing this crime lies in preventing informants from reporting to the competent authorities the commission of the criminal conduct:

a corruption crime, or preventing victims from filing a complaint, or preventing a witness from giving testimony, either because of their reporting, complaint, expertise, or testimony.

- The prescribed penalty for the crime:



According to Article 45 of the Anti-Corruption Law, this crime is punishable by imprisonment from six months to five years and a fine of 50,000 to 500,000 Algerian dinars.

B- Procedural rules for witness protection :

The existence of a serious threat to the life and physical safety of the witness, or the life and safety of their family members or relatives, or their fundamental interests:

If the testimony that the witness will give before the court may lead to a threat to their life and the life, physical safety, or fundamental interests of their family members or relatives, then the Public Prosecutor, the Investigating Judge, or the Trial Judge has the authority to assess the existence of a serious danger threatening the witness and their relatives, and to advise them of one or more procedural or non-procedural measures.

1-The scope of protection includes witnesses and their family members and relatives. The legislator did not specify the degree of kinship at which this protection ends. Does it include members of the immediate family consisting of the father, mother, and children, or does it include relatives, extended family members, and in laws.

2- The testimony must contain necessary information to reveal the truth:

That is, it must be proven that the threat to which the witness or one of his family members or relatives is exposed is due to the witness giving his testimony, and that this testimony is useful in uncovering and revealing the truth.

3- The testimony must pertain to a serious crime:

The legislator specifically granted protection to witnesses in cases of organized crime, terrorism, or corruption. That is, regarding crimes characterized by a degree of seriousness. This condition is met as soon as the subject of the public prosecution is an organized crime (27), a terrorist crime, or a crime of corruption.

The legislator limited protection to the crimes mentioned above, which is an unsound approach, as this measure should have been generalized to all crimes included in the Penal Code, given that the criminal does not differentiate between one crime and another, and the desire for revenge may arise after committing a simple crime such as theft or a serious one such as murder (28).

Witnesses are in dire need of protection, as they are vulnerable to various forms of physical and psychological pressure. Objectively, witnesses are protected by



criminalizing any coercion or inducement they may face, whether through provisions of the Penal Code or the Anti-Corruption Law.

Procedural protection is provided to witnesses through a range of procedural and non-procedural measures aimed at safeguarding witnesses threatened with assault, either personally or through their family members. The Algerian legislature will issue regulations to implement this protection.

The identity of witnesses is concealed through the use of modern technology for giving testimony, in order to preserve their privacy while respecting the rights of the defense.

B- The Role of the Criminal Judge in Evaluating Evidence Derived from Testimony

The situation in Algeria is no different from that in France, as both have adopted the principle of freedom of proof. This is evident from Article 212 of the Algerian Code of Criminal Procedure¹⁷ and Article 427 of the French Code of Criminal Procedure, as well as from a number of Supreme Court decisions that explicitly indicate their adoption of the principle of the judge's authority in accepting and evaluating evidence.

The Supreme Court ruled that "trial judges have absolute authority in evaluating evidence without appeal, as long as what they relied upon has a proven basis in the case file."

In another decision, it stated that "in felony cases, the decisive factor is the conviction of the court, which has absolute freedom in evaluating the facts and evidence without appeal by the Supreme Court."

The Supreme Court further ruled that "presenting convincing evidence in court is optional, not mandatory, unless the defense requests it..." This is what makes the criminal judge not take a negative stance towards the evidence presented by the litigants, but rather play a positive role in investigating the truth. Rather, he has a duty to pursue all methods, whether stipulated by law or not, in order to reach the truth. Therefore, Article 212 of the Code of Criminal Procedure states that crimes may be proven by any means of proof, except in cases where the law stipulates otherwise.

The judge has complete freedom to weigh the witness's statements and assess the circumstances under which he may give his testimony, or to give preference to one testimony over another, or to consider the same witness's statements in one investigation over another, or his statements in one session over his statements in



another session, or his statements before the court over his statements in another session, or his statements in the preliminary investigation over his statements in the session in which he was convicted¹⁸.

The Egyptian Court of Cassation also ruled that: "The court, by virtue of its authority to assess evidence, may accept whichever it finds most convincing and may rely on the witness's statements at any stage of the proceedings, even if he retracts them at another stage.

Therefore, it is not permissible to challenge a judgment on the grounds that it did not consider the statements of witnesses in the trial stage prior to the judgment's appeal." The court may accept testimony even if it was heard only as evidence, such as the testimony of a witness in the record of collecting evidence, or as a witness who has been sentenced to a criminal penalty, or the testimony of a boy who has not taken the oath, or the statements of one accused against another, provided that it is satisfied with their validity, and that his testimony is only considered as evidence.

In all cases, it may give preference to these statements over other testimonies given after taking an oath and from different evidence, since if the witnesses contradict each other, there is no impediment to drawing a conviction from their statements in a manner that does not contradict each other¹⁹.

It is within the court's authority to selectively accept the statements of a single witness, taking what it deems credible and rejecting what it finds unconvincing. In doing so, it cannot be accused of inconsistency or contradiction, as long as the evidence rests solely with the court and as long as it is logically possible for a witness to be truthful in one aspect of their testimony and false in another.

In this regard, the Egyptian Court of Cassation ruled as follows: "The trial court, by virtue of its authority to assess evidence, may accept what it finds credible and rely on the witness's statements at any stage of the proceedings, even if the witness subsequently retracts them."

Furthermore, the trial court, by virtue of its discretionary authority, may rely on the witness's statements concerning a specific defendant that it finds credible and reject those concerning another defendant that it finds unconvincing. This cannot be considered a contradiction, as long as each statement constitutes independent evidence, and the invalidity of one does not logically necessitate the invalidity of the other. The judge may also base his judgment on the testimony of a witness, considering it true and credible in his opinion regarding a specific incident or charge, but untrue regarding another incident or charge, as long as assessing the strength of



the evidence falls solely within his authority and as long as it is logically possible for evidence based on people's statements to be true²⁰.

The judge must state the reasons that led him to accept some evidence and reject other evidence, so that doubt does not creep into his decisions and they are not flawed by inadequacy. The judge may accept the statements of a dying victim, provided he is satisfied with them and considers the circumstances under which they were made. He may also accept and rely on the testimony of a witness, even if he is deaf and mute, as long as he can understand his signs without needing to appoint an expert to interpret them. Generally, he may give more weight to testimonies for the defense than to testimonies for the prosecution, or vice versa.

Conclusion:

Witness testimony is considered one of the most important means of proof, and its value lies in its paving the way for the traditional method of summoning witnesses to court. However, this method has become somewhat outdated in light of digital advancements.

Therefore, the legislator saw the necessity of introducing electronic witness testimony as an alternative, as is the case in civil matters, in response to the urgent need for witnesses to appear in court without delay or difficulty.

This is crucial for ensuring the speed of procedures and expediting the resolution of cases, especially given the absence of procedural gaps between the two methods of presenting testimony, whether traditional or electronic.

The electronic means used must meet the same legal guarantees and uphold the integrity of the testimony and due process.

Based on our findings, we propose the following recommendations:

- The Algerian legislator should adopt electronic witness testimony in civil cases as an exceptional measure when traditional methods are unavailable, thus ensuring the smooth continuation of proceedings.
- Hearing the witness's testimony before the competent judicial authority, in a designated location, to ensure their personal presence and avoid any obstacles that might affect their testimony.



- Updating legal texts to close gaps in provisions related to evidence obtained electronically.

- A shortcoming of the Algerian legislator is that it limited the enticement and coercion of a witness to induce perjury, without mentioning enticement or coercion aimed at preventing a witness from testifying. This necessitates amending Article 236 of the Penal Code to extend it to inciting a witness not to testify.

- The Algerian legislator's regulation of the protective measures stipulated in the Code of Criminal Procedure lacked precision and specificity, requiring the swift issuance of implementing regulations that define how these measures should be applied.

- The protection stipulated in Article 65 bis 19 must be extended to all cases and not limited to organized crime, terrorism, and corruption.

- The definition of the witness's family, relatives, and close associates must be clearly defined in both the Code of Criminal Procedure and the Anti-Corruption Law.

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