B (belief of actor responsible for A)

1- Ambiguity
2- Insincerity

3- Erroneous memory
4- Faulty Perception

A (action or utterance)

C (conclusion to which B points)

Figure 1: The Testimonial Triangle

The Direct Route (Point A to Point C). At the lower-left corner of the triangle lies the declarant's action. If the chain of inferences could flow from the act to the conclusion directly, no testimonial infirmities would be implicated.

The Indirect Route (Point A to Point B to Point C). But with all human testimony, before a fact finder can reach the lower-right corner of the triangle, the fact finder must detour through the upper portion of the triangle, which represents the actor's *belief* about her action.

Under the indirect route (through which all trial testimony flows), two questions must be answered, which implicate the testimonial infirmities:

Left Leg (Point A to Point B). First, does the action or utterance reflect the actor's true belief? If she is being insincere or if she is narratively ambiguous, the reliability of the chain of inference is broken.[61]

Right Leg (Point B to Point C). Second, if she is not being insincere or ambiguous, does her sincere, unambiguous belief reflect reality? If she did not correctly perceive the event, or if her memory of that event has failed her, then the chain of inferences is broken.[62]

The testimonial triangle applies to all in-court testimony, but hearsay evidence requires the fact finder to evaluate two testimonial triangles: that of the in-court witness and that of the hearsay declarant. And yet only the testimonial triangle of the in-court witness can be evaluated meaningfully by an attorney's cross-examination.[63] Thus, the risk for allowing hearsay evidence to be used in court is that, absent indicia of reliability or trustworthiness, legal fact finders will be unable to correctly evaluate the probative weight to place on hearsay evidence and may overvalue it, akin to what may have happened in the trial of Sir Walter Raleigh.[64]