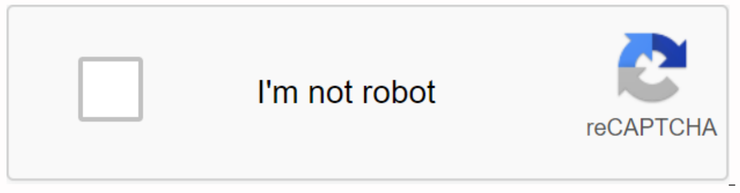
What is a hostile witness



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The role of a witness is in the criminal justice system of each country. According to Bentham, witnesses are eyes and ears of justice. According to Wadwa,J. The criminal case is built on the distance of evidence, evidence that is admissible in law. This requires witnesses, whether it is direct evidence or direct evidence. Given the importance of witnesses in the trial process, any law designed to fix the problem of a hostile witness should be comprehensive in order to eradicate the threat. In evidence systems based on the English customary tradition of common law, almost all evidence must be supported by a witness who has sworn or sworn to tell the truth. The vast amount of evidenti law governs the types of evidence that can be requested from witneseses and the way witnesses are questioned during direct examination and cross-examination of witnesses. It is now assumed that all persons are qualified to be a witness in the trial and other legal proceedings, and all persons should also have a legal obligation to serve as witnesses if their testimony is required. The rules on the competence of witnesses are legal rules which determine circumstances which persons do not fulfil as witnesses. For example, neither the judge nor the juror has the power to testify at the trial in which they serve in that capacity; and in jurisdictions with a dead man's statutes, a person who is not competent to testify on statements or transactions with a deceased counterparty does not appear competent to testify. If a witness is ineauthed as the eyes and ears of justice, the trial is set and paralyzed and can no longer constitute a fair trial. The inability may be due to several factors, such as a witness/victim, who is unable to speak the truth in court for reasons other than the supervision of a witness or because of negligence or ignorance or some corrupt dogadja. This submission first analyses the purpose of the coin of the term hostility and then looks at the recommendations made by the report of the Committee on the Reform of the Criminal Justice System and similar legal provisions such as the Criminal Procedure Act (Amendment) 2005. The views of scientists have expressed their views on this issue. With these opinions, I have tried to take my personal position. It can destroy the most painfully constructed cases, it can waste time in the courts, and allow criminals to walk freely, which is a pain in the ass. That's the problem of a witness who gets hostile. Hostility is one form of guilt. A hostile witness is a witness who has provided a witness about a criminal event or other information that will help the prosecution build the case, but she later went to court to give a different version of events or Information. The witness is called hostile when he makes a certain statement about his knowledge of the crime before the police, but it makes it more serious when she is called as a witness in court during the trial. The term hateful witness has genesis in a common marriage. The function of the term was to provide adequate protection against the compressing of an artificial witness who, with hateful evidence, destroyed the cause of the party that called such a witness. Such actions were considered to be only destructive, not only for the interests of the civil rights parties, but also in the paths of the courts to satisfy the end of justice. Under English law, the offence of hostility is recognised as a 1911 offence. It states that a person is guilty of an offence of culpability if he or she is legally sworn as a witness or interpreter in court proceedings; in this process, he lawfully makes a statement which he knows is incorrect or does not believe to be true. It should be noted that the safeguard, as provided for in the Joint Act, was contrary to witnesses to their previous statements or to the weaning of their credit (which was not normally allowed as a rule) by the party calling such witnesses. In the start of the safeguard measure, it was necessary to declare such a witness to be hostile. To that end, the common law laid down certain specificities of a hostile witness, for example, who does not wish to tell the truth, for example, when a party calls him or the existence of a hostile animus to a party calling such a witness. Thus, there are three specific preconditions for assessing the level of hostility of witnesses to sec.191 IPC, which are under: [1] Is there a legal obligation to state the truth or not; [2] Is there any false statement; and [3] Is there any belief in his forgery. Today, the main reason for the high degree of acquittal in our criminal justice system is the witness, who becomes hostile. In order to get rid of this cross-examination as soon as possible, the witness will make false statements or make the case worse, she will turn to hostility, so he will be removed from his previous statement. And in the case of the latter, Mr. Soli Sorabjee, the former attorney general rightly said, Nothing shakes the public's confidence in the criminal justice system more than the failure of the prosecution because of witnesses who turned to hateful and stalling their earlier statements. One of the main reasons for a high percentage of acquittals in criminal cases is that witnesses turn hostile and give false testimony in criminal cases. But why the witnesses are hostile. In general, the reason is an inaudible combination of money and muscle strength, bullying and monetary induction. There are several reasons for a witness to become hostile, the main police protection during and after the trial. The witness fears she will face the sheath of convicts who may be well connected. Another reason is the regular backing in removing matters. This is a test of witnesses. Bullying is also one of the causes of witness hostility. But it's hard to accept that what they perceive as harassment from a long trial and the way they are handled in court can make them hostile. They seem to play an important role in witnesses who become hostile. They spotted him wadhwa, j, here are witnesses who are harassing a lot. In the Court, the witness is not treated with respect. Push him out of an overcrowded courtroom. He waits all day and then finds out the matter's broken. There's no place to sit down or not with a glass of water. And when he appears before the Court, he is subject to lengthy and careless examination and cross-examination and finds himself in an unfortunate situation.

For all these reasons and others, a person is trying to become a witness. It is necessary to state the views of the Delhi High Court that the witness in a large number of cases has turned to hostility for intimidation and threats. In its statement, the Interior Ministry acknowledged that in all major cases witnesses were under constant threat from criminals. Action must be taken to prevent the witness from being harassed so as not to feel disappointed. It is also essential to ensure that witnesses are adequately protected from intimidation by criminals, the statement said. Psychological studies carried out on witnesses show that gruelling cross-examinations are common interruptions; judicial intimidation are some of the main reasons that force the witness to become hostile. The successful work of the criminal justice system depends critically on individuals' willingness to provide information and tender evidence without being intimidated or purchased. As symbolized by zahire Sheikh's flip-flops in the best bakery case, the threat of retaliation , which could include physical violence, is the main reason why witnesses (some of them victims) do not participate. This case has sparked a nationwide debate about the need for witnesses to be protected by the state. But the bullying makes the witnesses hateful. As studies have shown, what witnesses perceive as harassment, they also make up for it. The length of the trial and the way they are handled in court have a connection to the movement of testimony. As the Supreme Court has held, the witness is not being treated with due respect in the Court of Justice... He waits for the whole day and then finds out the thing's been adjourned... And when he shows up, he's undertighted in scrutiny and cross-examination and finds himself in an unfortunate situation. Incidents of Hostility-Then & Now Classic Witness Case hostile, which has shaken up the fundamental principles of our criminal justice system, was the repeated retribution of Zahire Sheikh's statements and the circumstances that forced her to do so in the case of the best bakery. Examples of witnesses who become hostile are so widespread in our system that in 2000 the Supreme Court found The Way of Life in the Courts of Law became. This is indeed one of the most important factors responsible for so many acquittals in criminal matters. The verdict in Jessica's case and a series of related incidents in the recent past drag on the thoughts of the words of Karl Marx: History first repeats itself as a tragedy, then as a farce. In sensational cases such as the BMW and Jessica Lal murders and, most recently, the Best Bakery case, where the Human Rights Commission intervened when witnesses changed their statements in court because of a lack of protection for them and their families, in previous cases, that is, in the case of BMW and Jessica Lal, most eyewitnesses did not open up to call out a possible reason that forced them to come forward. to change their position. The fact is that he is accused of bullying witnesses because there was and no program available under which, after assessing the need to protect a particular witness, the administration could give him the necessary security cover. Lawyers say the number of cases in India in which witnesses become hostile is high. In India, you have to prove a case to get justice and witnesses are often basic evidence, says Pavan Duggal, a Supreme Court lawyer and expert on cyber law and technology. In such cases, when witnesses become hostile, there is little chance of getting a conviction. A report by the Parliamentary Standing Committee on home affairs, tabled in Parliament earlier this year, pointed out that the conviction rate in criminal cases could be as high as 10 per cent because of the guilt of witnesses who do so of their own volition or under threats, complaints or inducing others. Legal experts say that in cases where witnesses become hostile, the media very often happens in other cases. In recent years, the BMW case and the case of Jessica Lal's murder in New Delhi and the Best Bakery case have given examples of witnesses who told police officers something but changed their stories in court. Experts say the absence of a witness protection program in India allows the accused to threaten or intimidate witnesses in the case. It was properly observed by Pasayat J. All of this unfortunately reflects the quality of determination shown by the state and the nature of the seriousness that is manifested in accordance with the complaint. Criminal trials must not be reduced to be a trial or boxing in the shadow of a fixed trial. The system of judicial criminal administration must be kept clean and out of reach of available or agendas and adequately insulated from discriminatory standards or backyard bars of type prohibited by the mandate of the Constitution. Those responsible for protecting life and traits and ensuring fair and proper investigation have clearly not shown real anxiety. Examples of witnesses becoming hostile are so widespread in our system that in 2000 the Supreme Court found: It has become a way of life in the courts of law. This is indeed one of the most important factors responsible for so many acquittals in criminal matters. In the rape-cum-murder of Delhi University law student Priyadarshina Mattoo in 1996, a judge recorded his rude work by an investigative agency and said: Although I know that the man who committed the crime, I have forgiven him, gives him the benefit of the doubt. At a recent press conference, India's chief justice, Honorary Justice Judge YK Sabharwal, who questioned the issue of recent incidents of cover-up, judged that a hostile witness was not a new phenomenon that had existed for quite a long time, a problem of society. He felt that the courts had their limitations in the justice system. That's why there are so many debates. However, he accepted that the hostile witness and regular delay in the trial had come in the way of legal proceedings. He added that the court could not create its own evidence. The basic principles cannot be changed and the courts will only have to rule on the basis of the evidence available. The appeal was in a better investigation, which could be done by separating the duties of the police and the order and order from investigating cases. The lack of rights of victims and witnesses has caused a lot of shock. It has been established that during criminal offences different rights (constitutional and legal), victims and, in particular, witnesses, have a limited range of rights (expressed and indicated) certain privileges and protections available to them by judicial review by judges. The asymmetric distribution of rights was reflected in various cases where the accused intimidated witnesses (e.g. using subtle means such as cross-examination), thus rendering witnesses helpless (who do not have sufficient rights to protect themselves in such circumstances) and forcing them to become hostile. It poses a serious threat to the prosecution's case, which is already under heavy pressure to plead guilty, beyond reasonable doubt. In different countries in Europe, Scotland, America, etc. An important step in this regard has been taken by the UN Declaration on the Fundamental Principle for Victims of Crime and Abuse of Power of 198519, which provided, inter alia, for explicit rights to be granted to victims of crime and their witnesses. European Court of Justice in Doorson v. Netherlands to recognise that witnesses should be granted rights. The malaise that our criminal justice system has is much more deeply rooted. Cosmetic changes won't do much for justice. The system requires a full recovery. In 2003, the S Malimath Committee on Reform the Criminal Justice System prepared an outline for such comprehensive corrections. In a case such as the Jessica Lal case, where witnesses refused to support the prosecution's case, the committee proposed the following measures: - 1 January 2009, the Committee proposed the following measures: - 1 January 2009, the Committee proposed the following measures: Camera procedure, 2. Adoption of measures to keep the identity of witnesses secret, 3. Providing anonymity and 4th Article of the Year Arrangements to ensure their protection. 5. Witnesses in court should be treated as guests of honour; 6. They should be replaced accordingly for the use of money for travel and accommodation; 7. The comfort, convenience and dignity of witnesses during impeachment should be ensured; and 8. A law on witness protection should be adopted, as there is no such law in India. 9. The Constitution of the Commission on National Security at national level and national security commissions at national level. The witness is an important party in the case other than the complainant and the accused. With evidence relating to a criminal offence, he performs a sacred duty to assist the court in uncovering the truth. It is for this reason that she witnesses either the vah in god's name or the vouth that she will tell the truth, the whole truth and nothing but the truth. It performs an important public duty to assist the court in deciding guilt or otherwise being charged in the case. Cross-examination is submitted and cannot refuse to answer questions on the ground because the answer will accuse him? All information must be correctly stated, otherwise it will have to face trial in accordance with Section 191 of the Indian Penal Code (hereinafter referred to as the IPC) and then the offence may be penalised for that offence in accordance with Articles 193-195. to make a statement on any matter. In other words, that means that he is under a legal obligation to speak the truth in the light of the oath he has given him or because of an express provision of the law which obliges him to speak the truth. The Indian Oath Act of 1873 empowers all courts and all persons who, by law or consent of the parties, have the power to receive evidence and command of officers of military stations to manage oaths and affirmations. The vah or affirmation is that the witness will tell the truth, the whole truth, and nothing but the truth. The oath must be operated by the person of the competent authority. However, it is important that the before which the declaration is made for the same management. If the competent authority either intentionally or not advertises an affidavit to the person concerned, it shall not make the person who made the declaration less obliged to speak the truth. Supreme Court in Rameswar Kalyan Singh v. Rajasthan State has found that the purpose of the prism is to bring home the festive occasion and to impress him on the duty to speak the truth. Any omission or maladminist misconduct shall not invalide a procedure or any evidence may be admissible. Thus, even if the competent authority does not take an oath in the oath or commits an irregularity in the management of the oath, this does not affect the person's responsibility to speak the truth. If a person wrongly weanes before such a competent authority, he shall be responsible for prosecution for giving false evidence under this Section. However, if the court concerned did not have the power to testify in the first place, that section has no role. In addition, the procedure must be sanctioned by law. If the procedure itself is without jurisdiction and is not permitted or sanctioned by law, then no false statement in this proceeding is a criminal offence. There are certain differences in The English Crime Act by Indian law, which are as follows: 1. In order to maintain prosecution under Section 191 I.P.C. it is sufficient for the accused to make a false statement contrary to an oath or an explicit provision of the law in order to be tired of the truth or to be bound by law to make a statement, where, under English law, the rape prosecutor is permitted only if there is an explicit violation of the oath. In India, it is just one of the forms by which a party can be bound to speak the truth. 2. In English law, a false statement must be made in judicial proceedings, that is to say, before the courts. Chapter 191 I.P.C. is not so strictly limited. Under Article 191, if a person is legally bound by an oath or by an express provision of law in order to state the truth and to act in breach of it, he will be liable for prosecution. In the I.P.C., differentiation is only relevant in determining the level of penalty to be indicated. 3. As has been stated before, it is for two witnesses or one witness to prove fault in English law by other evidence. Under the I.P.C., no specific number of witnesses is required to keep the blame. In this respect, domestic legislation differs significantly. First, the provision (S.154 of the Indian Evidence Act, 1872) speaks only of the possibility of asking such questions as a cross-examination. Secondly, the law makes no mention of the need to declare a witness hostile before applying that provision. Thirdly, judicial review (in accordance with S.154) may if the court considers that the relationship disclosed by the witness is destructive, his duty to speak the truth is destructive. Under Section 155 of the evidence, the party calling him may wean the witness off by the following means or with the consent of the party calling him. Although the Indian Code of Criminal Procedure, 1973 does not give a particular problem of perjustment, or certainly in accordance with the 340th ode to the 340. procedure of the case referred to in S. 195 Cr.P.C. i u odeku 344. Today, it has also become a way of life in the courts. In some cases, the judge knows that whatever the witness says is not true and returns to his earlier statement. The judge shall not take that fact into account and shall not even appeal against him. Because of the amount of outstanding cases of judges, the problem is nonsense. Sometimes they feel that if one or two of the men become hostile, then it would simply ease their burden, as they have a large number of cases they can try. If the judge acts as in section 165 of the evidence, there may be a situation where the judge can cross-examine the witness himself so that he cannot be influenced by the adverse party. The Supreme Court clarified the situation in Chandra Pal Singh v. Maharaj Singh, as it was: - ... the adoption or rejection of evidence is not in itself a sufficient criterion to be rejected as incorrect. A fake can be claimed when the truth is dazzlingly stands out and to the realization of a person making a false statement. Day by day, amendments made by one set of witnesses are adopted in the courts and the amendments to the opposing parties are rejected. If complaints are lodged in all such cases under IPC 199, not only will they open the flood gates of litigation, but it would undoubtedly constitute an abuse of court proceedings. The Malimath Committee's report on the Committee on the Reform of the Criminal Justice System, in which the Committee emphasised, inter alia, the duty of the judge to seek the truth, to assign a proactive role to judges, to empower judges to instruct investigating agencies in relation to investigations; However, it should be noted that the Committee expressed its opposition to the wholesale transformation into an inquisitive system, it further suggested that Section 344 of the Code of Criminal Procedure may be amended accordingly by requiring the court to hear the case in summary when it forms the opinion that the witness intentionally or intentionally gave false evidence or fictitious false evidence with the intention to used in such a procedure. The Law amending the Criminal Law Act 2005 came into force. The purpose of the law is to prevent the evil of witnesses from being turned into hostile. Consequently, Sections 161, 162 and 344 were amended by the introduction of new Sections 164A and 344A into the Code of Criminal Procedure of 1973. The amendments to the Criminal Procedure Act 1973 and the Indian Evidence Act 1872 provide that a statement made by the police during an investigation, if made in writing, must be signed and quickly submitted to a judge. In the case of any offence punishable by death or imprisonment of 7 years or more during an investigation, the witness must record his or her statement before a judge. A witness's statement, which was correctly recorded before a judge under oath, would be regarded as evidence at the discretion of the court. There would be a summary of the jury trial with provisions for enhanced sentences. Since the administration's oath of office to confirm witnesses has become an empty formality and does not act as a deterrent to false witness statements, the committee recommends that a provision be included from the judge administering the oath or confirmation that the witness, in order of obligation, must be included in accordance with Section 8 of the Indian Oath Act (1873) to say the truth and if he administers the false statement in violation of oath or confirmation to which he has been given, the court shall have the power to punish him for the offence of a guilty act and shall also inform him of the penalty prescribed for that offence. In addition, it is advisable for the High Court to be able to impress the court's subordinates of their duty to resort to these provisions in order to limit the threat of guilt by training and calling for regular reports. It can be inferred from the above that the common law seeks to categorise witnesses as hostile or harmful in order to cross-examine, indian law seeks not to make such a distinction. That's a little less rigid than English law. All the law wants to do is to make witnesses withheld facts just to determine the truth. Moreover, the recent Criminal Amendment Act of 2005 formally implements a number of important legal provisions that have long been unenforceable in the criminal justice system. Article 611(c) of the Federal Rules of Evidence allows a party to call an unwanted or hostile witness during a case of that party and to examine such a witness as if it were a cross-examination. This rule includes all people who are identified by an unwanted customer. It says that the guiding questions should not be used in the direct examination of the witness, except if necessary for the development of the witness? Testimony. Cross-examination allowed for regular guiding issues. When a customer a hostile witness, an unwanted party or a witness identified with another party, the questioning may lead to questions. Witness 611(c) is most often used to definitively define the applicant's defence, in particular the defence of the allegation of discrimination. Did the D.A. use this method? in areas vulnerable to attack. Witness 611(c) was sometimes called into the case earlier to ensure admission. This may be the case if, before the submission of other witnesses and evidence, witness 611(c) is not aware of the meaning of a particular fact or the point of his testimony on the theory of the GC case. The use of witness 611(c) may be necessary if the information is specifically in accordance with the defendant's knowledge or for the identification of evidence, such as letters or documents, which can only be identified by the defendant. Many courts in the United States have applied federal evidence rules to digital evidence in the same way as more traditional documents, and courts have noticed very significant differences. Compared to more traditional evidence, the courts found that digital evidence tends to be more volumey, harder to destroy, easily altered, easily dupliminarily dupliminous, potentially more expressive and more available. As such, most courts have begun to accept digital evidence, as witnesses would feel more secure in making statements and refraining from moving away from their previous statements. In this way, we conclude everything that might be inferred from this study is that we must adopt strict laws on the protection of witnesses that will bear in mind the needs of witnesses in our system. The clear fact is that the level of professionalism required by the witness protection programme is considered beyond the capacity of our police in the existing system, which makes it both susceptible and additional impacts. Today, strict laws against people who give false evidence and against witnesses who become hostile are a much-needed clock. The case for Jessica Lal's murder has provoked public outrage over abortion rights, forcing authorities to reopen the case. The distortion in the case was so brazen that even the worms turned around. The empathy of the middle class with the murdered victim has finally aroused public opinion. However, it would be difficult to conclude that India is on the road to reforming its criminal justice system. It's only the first step in the half. The media is very responsible, too. Instead of sensationalising the questions, they need to set a constructive and analytical account of such situations. In addition, similar situations may occur in the future. And in order to ensure the extradition of justice, the courts and the law should provide for provisions to ensure the safety of witnesses. In addition, the public must gather and press speed up such cases and adjudicate as soon as possible. It is claimed that hostility was, under common law, a legal measure which resorted to assistance to the other party when witnesses were deceived. However, it has been noted that witnesses mostly become hostile, due to the hostile animus shown against them by the criminal justice system. It is considered that, in such circumstances, hostility differs conceptually from the common law envisaged. The need to do much in this regard is apparent from the observations in the Van Mechelen case, which concluded that there was insufficient effort to assess the threat of retribution against witnesses. In this direction, an important step was taken with the recommendations of the Report of the Committee on Malimath in the chapter – Hybrid criminal law system with inter alia is naumio da u system suprotedogog system shuts down certain functions of the inquisition system of the austere system, i to keep the suca from the possibility of giving evidence with the aim of seeking to seek the law and focus on the lawsuit of the victims. It seems that it is only possible to focus on the right to victims if the rights of witnesses, who are treated as a specific category of victims and recognise their insecurity and vulnerability in general, are carefully taken into account, while acknowledging that some witnesses may need protection. There is also a need to accept new forms of evidence, such as digital evidence, as provided for by federal evidence rules, in order to meet the ever-changing needs of the judiciary. This would not only increase the level of reliability of evidence, but would help speed up proceedings in cases pending. In conclusion, we can therefore say that the problem of hostile witnesses in not the new phenomenon of the judiciary, but that does not necessarily mean that we have nothing against it. An ever-changing legal scenario requires effective measures to limit this threat. The relevant planned legislation and their effective implementation would certainly yield useful results. It is therefore not a question of resources, as they could be created in a timely manner in some way or another; but a question that arises in the integrity of a system on which the sustainability of the witness protection programme is maintained, as well as the life of the witness and his family. If India is seeking systemic reform in the criminal justice system, its leaders must start telling the truth, regardless of the being exposed. Society is changing, just like its values. Crimes are increasing mainly with changes in technology. Ad hoc policymaking and furry legislation is not the answer. Pain-free is a rare cure. Bibliography Articles from the Annexes: 1. Rajinder Puri; Face the truth; Posted in Today' s the magazine. 2. Suprio Bose; Hostile witness: critical analysis of key aspects ignored so far in Indian law; legal India.com. 3. Asif Jalal; the renewal of the criminal justice system; published in Article 24.1. Indian Evidence Act, 1872 2. Indian Penal Code (45 Since 1860) 3. Code of Criminal Procedure of 1973. 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