



Witness Protection In India: Challenges And Legal Safeguards In The Criminal Justice System

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Abstract: The criminal justice system relies on witness protection as a fundamental element to ensure individuals can testify securely without the risk of harassment. The democratic justice system depends on unobstructed truthful testimony from witnesses for evidence provision. Witnesses in India face intimidation, compulsion, and physical violence, leading many to become hostile and others to refrain from testifying. The Witness Protection Scheme, 2018 obtained approval from both the Indian Parliament and judiciary to protect witnesses. Under this program, authorities evaluate the threat levels faced by witnesses prior to providing protective measures, which include police protection, financial support, and identity-concealment initiatives. Several barriers continue to exist including inadequate financial support, administrative challenges, and resistance from prominent implicated parties. In India, witness protection measures require effective enforcement, supplemented by increased finance and technology-driven security systems to achieve optimal efficiency. Strategies to protect witnesses serve a crucial dual function in legal protocols by upholding justice inside judicial systems and fostering public confidence in these legal processes. This study discusses the importance of witness protection, the evolution of Indian legal regulations, and the challenges in its implementation.

Keywords: Witness Protection, Fair Trial, Criminal Justice System, Witness Intimidation, Legal Framework, India, Supreme Court, Witness Protection Scheme 2018.

I. INTRODUCTION

India has witnesses of several cases where witness intimidation has derailed the course of justice. High-profile instances like the Jessica Lal murder case, the Best Bakery case, and the Vyapam scam highlight the grim reality faced by witnesses. Many retract their statements due to fear, while others refuse to testify altogether. In the absence of a structured witness protection program for years left witnesses vulnerable, making them easy targets for those seeking to obstruct justice. Factors such as inadequate security, bureaucratic delays, and lack of awareness further exacerbate the issue, leading to compromised judicial outcomes.¹

Any well-functioning democracy stands upon justice which both creates secure rule of law and safeguards personal freedoms of its citizens. A non-biased judicial system builds public trust Along with crime prevention and sustained social stability. Witnesses play an important role in the legal proceedings because their evidence stands as the deciding factor for whether the accused stands guilty or innocent. When witnesses fail to cooperate the pursuit of justice becomes remarkably difficult. Inadequate witness protection

¹ Rahangdale, Prashant and Rahangdale, Prashant, Witness Protection A Fundamental Need in Criminal Justice System (May 20, 2020). Purakala Journal, Vol. 31, Issue 28, May 2020, Available at SSRN: <https://ssrn.com/abstract=3606181> (last Visited on 24 February 2025)

permits accused criminals to go free and operate without restriction because of wrongful release decisions which degrade public confidence in the entire judicial system.²

Legal systems depend on their witnesses who function as the essential components of justice observation. The important evidence presented in their statements enables courts to identify genuine facts. High-profile cases particularly regarding organised crime as well as corruption and political influence usually present extreme pressure for witnesses. Many victims encounter threats and coercion as well as murder in order to stop them from testifying. Such compromising practises damage the trial's integrity and boost criminal abilities to control the judicial system. Testimony of witnesses depends on protective measures because fair trials demand their safety³.

Witness intimidation has resulted in numerous cases that interfered with justice proceedings throughout India. The grim situation of witnesses in India became evident through prominent events including the Jessica Lal murder investigation and the Best Bakery trial and the Vyapam scandal. A number of witnesses stay silent because of their fears and multiple witnesses refuse to give testimony at all. A structured witness protection programme did not exist for years which made witnesses defenceless against those who tried to interfere with the justice system. The combination of weak security systems and bureaucratic slow-down along with insufficient awareness about legal matters results in compromised judicial results.

A legal framework for witness protection stands essential for any justice-oriented system because of its life-saving potential. The Supreme Court of India created the Witness Protection Scheme, 2018 as a response to immediate need for organization in witness protection protocols. The scheme has categorised the witnesses on the basis of level of threat they faced and provide protection solutions which included guard services from law enforcement agencies and monetary benefits. The new landmark legislation made progress although a range of states shows inconsistent delivery. Comprehensive witness protection legislation serves to guarantee evidence testimony without intimidation so it upholds fair trials and upholds the fundamental principles of law⁴.

This paper examines the development of witness protection within India which includes both legal frameworks and implementation obstacles facing the system. This research examines current policies along with proposed modifications because it demonstrates how vital a complete protective system for witnesses truly is. The research aims to provide guidance about protecting witnesses in India with the objective of achieving both judicial success and democratic institution maintenance.

2- CONCEPT OF WITNESS PROTECTION

2.1- Definition of Witness Protection

Witness protection refers to the range of measures designed to safeguard individuals who provide testimony in legal proceedings from threats, intimidation, or harm. In criminal justice, witnesses play a crucial role in ensuring that the truth is established, and justice is served. However, due to the influence of powerful accused parties, witnesses often face coercion, harassment, or even fatal consequences for testifying. Witness protection programs aim to shield them from such dangers, enabling them to participate in trials without fear.

² Aradhya singh , STRENGTHENING CRIMINAL JUSTICE SYSTEM: NEED FOR WITNESS PROTECTION IN INDIA IJALR (2021), <https://ijalr.in/strengthening-criminal-justice-system-need-for-witness-protection-in-india/> (last visited Feb 24, 2025).

³ Urvashi, Adv, Witness Protection in India (MAY 25, 2021). Available at SSRN: <https://ssrn.com/abstract=3860773> or <http://dx.doi.org/10.2139/ssrn.3860773> (last Vistited Feb25,2025)

⁴ Faizan Mustafa, FROM JESSICA LAL'S CASE TO SOHRABUDDIN SHEIKH'S, WHY WITNESS PROTECTION IN INDIA REMAINS VEXED THE INDIAN EXPRESS (2018), <https://indianexpress.com/article/explained/from-jessica-lals-case-to-sohrabuddin-sheikhs-why-witness-protection-in-india-remains-vexed-5069143/> (last visited Feb 25, 2025).

In India, the importance of witness protection has been emphasized by various judicial rulings and legal frameworks. Although there was no dedicated law for witness protection for many years, the Witness Protection Scheme, 2018, introduced by the Supreme Court, was a landmark step in addressing this issue. It categorized witnesses based on the severity of threats and provided protective measures, including identity concealment, police security, and financial assistance.

In the criminal justice system witnesses perform an essential role that identifies real truths and upholds justice. However due to some Strong influence of powerful accused parties create substantial pressure that forces witnesses to experience threats and violence or receive death threats because of their testimony. Protection programs for witnesses seek to provide safety because their purpose is to let witnesses testify in court securely⁵.

Witness protection has received recognition in India by various legal frameworks and judicial decisions. The Supreme Court established the Witness Protection Scheme 2018 as a revolutionary approach to tackle witness protection problems since there had not been specific legislation in place. The protection system grouped witnesses into different safety levels and offered protection methods that included both hiding their identity as well as police security services and financial support.

2.2- Importance of Witness Testimony in Criminal Trials

A fair trial is the cornerstone of any justice system, and witnesses act as the "eyes and ears of justice." Their testimony can determine the course of a trial—either leading to the conviction of the guilty or the acquittal of the innocent. The Supreme Court of India has consistently stressed that "a criminal case is built on the edifice of evidence, and for that, witnesses are indispensable." However, due to fear of retribution, many witnesses either refuse to testify or turn hostile, severely affecting the outcome of cases.⁶

India has witnessed several high-profile cases where the intimidation or elimination of witnesses derailed the justice process. The Jessica Lal murder case, Best Bakery case, and Vyapam scam are just a few examples where witnesses either turned hostile or were silenced. This problem not only weakens the judicial system but also emboldens criminals, creating a cycle of fear and lawlessness.⁷

A Fair trial stands as a vital foundation for every judicial system because witnesses acts as a Eyes and ears of the justice. The testimonies provided by witnesses dictate which way trials will proceed since they lead to guilty convictions or free innocent acquittal. According to the Supreme Court of India "criminal cases depend entirely on evidence and their foundation requires essential witnesses" for their existence. Fears of vengeance cause numerous witnesses to avoid testifying or to become uncooperative thus damaging case results.⁸

The intimidation or death of witnesses in high-profile cases strongly disrupted the justice process in India. The Jessica Lal murder case along with Best Bakery case and Vyapam scandal represent some instances where witnesses chose to become uncooperative or disappeared. The judicial system faces serious deformation through this problem while criminal activity intensifies leading to a dangerous cyclic pattern of lawless activity.⁹

2.3- Global Perspective on Witness Protection

Witness protection is not a new concept—it has been successfully implemented in many countries. The United States' Witness Security Program (WITSEC) is one of the most well-known, offering complete relocation, new identities, and financial support to key witnesses. The United Kingdom, Canada, and

⁵ Mohanty, Arryan and Kakkad, Annubhuti, Witness Protection Scheme: A Way To Protect Witnesses From Retaliation In Criminal Cases (April 19, 2024). Available at SSRN: <https://ssrn.com/abstract=4981255> (Last visited feb 26 ,2025)

⁶ Ibid

⁷ Supra Note 4

⁸ Saharshrachi Uma Pandey, NEED FOR WITNESS PROTECTION MEASURE IN INDIA: A CRITICAL ANALYSIS, ZENODO.ORG 2020.

⁹ Supra Note 4

Australia also have well-structured programs that ensure witnesses and their families are safeguarded from threats.

International treaties and conventions also emphasize the need for witness protection. The United Nations Convention Against Transnational Organized Crime (UNTOC) and the Rome Statute of the International Criminal Court urge nations to adopt measures to ensure that witnesses can testify without fear. India, being a signatory to these treaties, has a moral and legal obligation to establish a robust witness protection system.

2.4- Legal and Ethical Aspects of Witness Protection

Legally, witness protection aligns with fundamental rights guaranteed under the Indian Constitution, particularly Article 21, which ensures the right to life and personal liberty. If a witness's life is threatened due to testifying, it is the state's responsibility to provide protection. Several Indian laws, including the Unlawful Activities (Prevention) Act, Maharashtra Control of Organized Crime Act (MCOCA), and National Investigation Agency Act, contain provisions for protecting witnesses, especially in cases involving terrorism and organized crime.

Ethically, ensuring witness safety is essential for upholding the integrity of the judicial system. If witnesses cannot testify freely, the entire justice process becomes compromised. Moreover, protecting witnesses is not just about shielding them from threats—it also involves ensuring their dignity and psychological well-being. Courts must adopt measures such as in-camera trials, video testimonies, and identity protection to make the process less daunting for witnesses.

Witness protection is not just a legal necessity but a moral duty of the state. Without a secure environment, witnesses cannot speak the truth, and without truthful testimony, justice remains a distant dream. While the Witness Protection Scheme, 2018, was a step in the right direction, India still has a long way to go in establishing a comprehensive witness protection framework comparable to global standards. Strengthening existing laws, ensuring strict enforcement, and providing adequate resources are crucial steps toward making justice truly accessible and fearless.

3- EVOLUTION OF WITNESS PROTECTION IN INDIA

3.1- Historical Background and Lack of Formal Protection Mechanisms

Historically, the Indian criminal justice system lacked a formal witness protection program, leaving witnesses vulnerable to intimidation, threats, and physical violence. The absence of witness protection measures resulted in hostile witness conduct, hence adversely impacting the conviction rate for significant crimes.¹⁰

The Jessica Lal murder case, Vyapam a scam, and Best Bakery case revealed that witness intimidation creates detrimental effects in criminal proceedings. Influence of the criminals compelled witnesses to conceal evidence or refrain from providing statements from the outset of these proceedings. Influential offenders escaped justice due to prosecutorial deficiencies that resulted in inadequate defences. A systematic witness protection framework is necessary in India, as its absence has led to the deterioration of judicial processes, allowing innocent offenders to evade justice and eroding public confidence in the legal system. Witness protection programs, such as those in the United States, United Kingdom, and Canada, have been operational for many years; nevertheless, India has not established a specific statute or protected framework for protecting to the witnesses¹¹. Law enforcement organizations offered no significant support to witnesses who were compelled to fend for themselves in this circumstance. The Supreme Court instituted witness protection measures upon the recognition of the urgent necessity for appropriate solutions.

Many regional and special laws provides the protections to the witness, these laws are MCOCA 1999(The Maharashtra Control of organised Act). POTA 2002, NIA Act 2008, Delhi witness protection scheme 2015¹².

¹⁰ The Concept and History of Witness Protection Act in India (2023), www.ijsr.net (Last visited 28 February 2025)

¹¹ Ibid

¹² Ibid

These efforts failed to develop a national policy which would protect witnesses from every criminal category throughout the entire country. The Witness Protection Scheme, 2018 received its final shape through judicial decision establishing data-based measures for witness safety in India¹³.

4- WITNESS PROTECTION SCHEME, 2018: A CRUCIAL STEP TOWARDS ENSURING JUSTICE

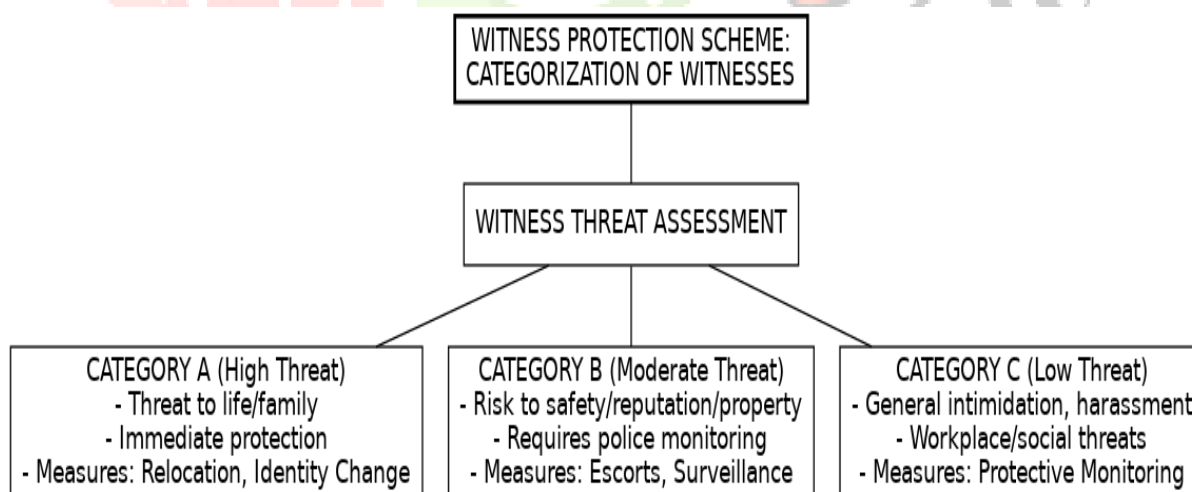
The Witness Protection Scheme, 2018, was a landmark initiative introduced by the Hon'ble Supreme Court of India to address the long-standing issue of witness security in the country. Until its implementation, there was no central legislation to safeguard witnesses who risked their lives to testify in criminal cases. This lack of protection often led to witnesses being threatened, coerced, or even eliminated, ultimately weakening the justice system. The introduction of this scheme was a response to rising concerns over witness intimidation, particularly in high-profile cases involving organized crime, corruption, sexual offenses, and political violence.

In *Mahender Chawla & Ors. v. Union of India*¹⁴ the Supreme Court held that in the absence of proper witness protection Mechanism leading to wrongful acquittals because of which innocent people were acquitted while judicial systems lost public trust. The Supreme Court established the Witness Protection Scheme of 2018 as a solution to protect witnesses from threats by providing their security along with financial help and legal protections. The scheme achieved enforceability through Article 142 of the Constitution thus it became a binding format in every state of India and Union Territory until Parliament created a complete witness protection legislation.

4.1-Definition of “Witness” and Categories of Threat Perception

One of the most critical aspects of the scheme was its broad definition of a “witness”, ensuring that all individuals who play a role in bringing the truth to light receive necessary protection. Under Section 2(k)¹⁵ of the scheme, a witness is defined as “any person who possesses information or a document about any offense.” This means that not only direct witnesses but also those providing evidence, testimonies, or investigative leads fall under the scheme’s ambit.

To efficiently allocate protection resources, Section 3¹⁶ of the scheme categorizes witnesses into three distinct levels of threat perception:



This classification system ensures that witness protection is tailored to the specific level of risk rather than a one-size-fits-all approach. It also prioritizes high-risk witnesses who are more vulnerable to life-threatening situations.

¹³ Ibid

¹⁴ 2018 SCC online SC 26789.

¹⁵ Section 2(K), Witness Protection Scheme, 2018

¹⁶ Section 3, Witness Protection Scheme, 2018.

4.2- Protective Measures under the Scheme

To ensure witness safety, the scheme provides for a range of security measures, as outlined in Section 7¹⁷. These measures are designed to minimize risk, prevent coercion, and allow witnesses to testify without fear. Key protective provisions include:

- **Identity Concealment:** Witnesses in high-risk cases may be provided anonymity, with their personal details removed from public records. Courts may also direct the use of code names, voice modulation, or video testimonies to protect their identity.
- **Close Protection and Police Security:** High-risk witnesses may receive armed security, personal bodyguards, and round-the-clock police surveillance. This measure is particularly crucial in cases involving powerful accused persons.
- **Regular Patrolling Around the Witness's Residence:** If the threat is localized, law enforcement authorities are directed to conduct frequent security checks around the witness's home to deter potential threats.
- **Temporary Relocation:** Witnesses under severe threats may be relocated to undisclosed locations within India, ensuring that they remain safe until the trial concludes.
- **In-Camera Proceedings:** Courts can hold trials behind closed doors, preventing public and media access to sensitive testimony. This measure helps in reducing external pressure and media influence.
- **Financial Assistance from the Witness Protection Fund:** Witnesses who are unable to work due to safety concerns are eligible for financial aid, ensuring they can sustain themselves during legal proceedings. This support is particularly beneficial for economically vulnerable witnesses who might otherwise be coerced into silence.

All witness protection orders issued under Section 7 are valid for three months, but they can be extended based on re-evaluation of the threat level. This ensures that protection measures remain dynamic and adaptable to changing circumstances.

4.3-Identity Change and Relocation Provisions

The scheme also includes special provisions for identity change and relocation, offering long-term security solutions to high-risk witnesses.

- Section 9¹⁸ mandates that the identity of witnesses should be protected throughout the investigation and trial based on a Threat Analysis Report prepared by the police. This means that names, addresses, and photographs of witnesses can be sealed from court records if necessary.
- Section 10¹⁹ provides for a complete identity change, allowing witnesses to assume new names, occupations, and personal details. This is an extreme measure, generally reserved for cases involving organized crime or terrorism, where the threat persists even after a trial concludes.
- Section 11²⁰ enables the relocation of witnesses to a safe place within any State or Union Territory of India. This provision ensures that witnesses who cannot continue living in their original environment due to safety concerns are given a fresh start elsewhere.

These measures align India's witness protection framework with international best practices, as seen in the U.S. Witness Security Program (WITSEC), which also offers identity changes and relocations for high-risk witnesses.

The Witness Protection Scheme, 2018, is a historic step in strengthening India's criminal justice system. By providing identity protection, relocation, financial aid, and police security, it ensures that witnesses can testify without fear or external pressure. However, the scheme's effectiveness depends on robust implementation, awareness, and financial support.

¹⁷ Section 7, Witness Protection Scheme, 2018

¹⁸ Section 9, Witness Protection Scheme 2018

¹⁹ Section 10, witness Protection Scheme 2018

²⁰ Section 11, Witness Protection Scheme 2018

While the Supreme Court's intervention filled a major legal gap, the next step should be converting this scheme into a full-fledged law, making witness protection a statutory right rather than a court-mandated directive. Only then can India truly ensure justice is served without compromise.

5- OTHER LEGAL PROVISIONS FOR WITNESS PROTECTION IN INDIA

In India, the protection of witnesses is pivotal for ensuring justice and maintaining the integrity of the judicial process. Beyond the Witness Protection Scheme, 2018, several legal frameworks and judicial interventions have been established to safeguard witnesses.

5.1- Bhartiya Nyaya Sanhita , 2023

The Bhartiya Nyaya Sanhita, 2023, introduces provisions to protect witnesses from intimidation and harm. Notably, Section 232²¹ addresses offenses related to threatening or inducing any person to give false testimony or withhold true testimony. This section criminalizes acts intended to interfere with the evidence-giving process, thereby deterring potential threats against witnesses.

5.2- Bhartiya Nagrik Suraksha Sanhita , 2023

The Bhartiya Nagrik Suraksha Sanhita, 2023, outlines procedural safeguards for witness protection. According to Section 216²², a witness or any person can file a complaint under section 232 of the Bhartiya Nyaya Sanhita if they face threats. This clause grants a witness the right to inform authorities of coercion, thereby ensuring the disobedient behaviour is dealt with on time. Additionally, by virtue of Section 398²³, it is an obligation of every state government to devise and inform the Witness Protection Scheme so that witnesses' security is vested. The aforementioned legal stipulation thereby institutionalizes the process of witness security at the level of the state government which in turn, is the factor enabling the achievement of a smooth and accountable kind of implementation.

5.3. -The Unlawful Activities (Prevention) Act, 1967 (UAPA)

The Unlawful Activities (Prevention) Act, 1967, was enacted by the legislature to deal with the activities that challenge the very existence of India. On the basis of the cases under the said statute—most cases suspected to be terrorism, that involve extremist groups, or anti-national activities—the witnesses are under greater threat.

Section 22²⁴ of The UAPA goes further to negate this challenge through prescribing the punishment for intimidating a witness. The police are tasked with catching the deviants who commit the offenses and making sure justice is done. Otherwise, the witness will be a jailed person's prisoner.

Section 44²⁵, which protects witnesses by allowing in-camera proceeding. There is consequently the possibility of conducting trials in such a way as to protect the anonymity of the witness's name. By restricting access to their remarks by the public and the media, the courts make it easier for witnesses to testify without feeling anxious about sharing their testimony. In addition, the authorities are obligated to protect the confidentiality of the witness's address in order to prevent any potential intimidation or targeted assaults. As a result of the considerable fines that are imposed for any breach of these rules, the legal necessity of protecting witnesses is further strengthened.

5.4. -The Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA)

The Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) was one of India's first stringent anti-terror laws, aimed at suppressing acts of terrorism. Given the violent nature of terrorist organizations, witnesses in such cases face grave risks.

²¹ Section 232, **Bhartiya Nyaya Sanhita 2023**

²² Section 216, Bhartiya Nagrik Suraksha Sanhita, 2023

²³ Section 398, Bhartiya Nagrik Suraksha Sanhita, 2023

²⁴ Section 22, The Unlawful Activities (Prevention) Act, 1967

²⁵ Section 44, .The Unlawful Activities (Prevention) Act, 1967

Witnesses receive protection under Section 16²⁶ of TADA where courts implement separate private hearing sessions for such Act proceedings. Trials operate under a strict condition of privacy so they exclude both the public and media attendance. While under trial the Designated Court possesses jurisdiction to implement extraordinary procedures that conceal the identities of witnesses from public disclosure throughout the entire judicial process.

Any person who breaks protective measures faces severe consequences through punishment that includes imprisonment. The measures protect essential witnesses of terrorist and organized crime cases from potential retaliation.

5.5-. The Maharashtra Control of Organised Crime Act, 1999 (MCOCA)

The Maharashtra Control of Organised Crime Act, 1999 (MCOCA) was designed for Maharashtra to deal with organized criminal groups because witnesses typically experience intimidation by criminal organizations.

Section 19²⁷ of MCOCA grants judicial power to hold private judicial hearings that safeguard both the names and living addresses of prosecution witnesses. This legislation offers two major forms of security protection:

1. The protection system conceals witnesses' entire personal information including names to safeguard their safety from intimidation.
2. Witnesses protect their confidentiality through authorities who must preserve their location information to prevent violent attacks.

Any person who violates the guaranteed protections faces terms of imprisonment as their punishment. The witness protection elements in MCOCA play an essential role because criminal organizations frequently silence witnesses through threats or harassment or by making threats

5.6- The Prevention of Terrorism Act, 2002 (POTA)

The Prevention of Terrorism Act, 2002 (POTA) was another specialized anti-terror law enacted to counter terrorist activities in India. Given that witnesses in terrorism-related cases are at extreme risk, POTA included stringent measures for their protection.

Section 3(7)²⁸ of POTA makes it a punishable offense for any person to threaten a witness by any act of violence, wrongful restraint, or confinement. This provision was introduced to ensure that witnesses are not coerced into silence through intimidation or physical harm.

Additionally, Section 30²⁹ of POTA mandates in-camera proceedings, keeping witness identities confidential. Courts handling cases under this Act are authorized to take further protective measures, such as:

- Prohibiting the disclosure of witness details in court records.
- Restricting public and media access to witness statements.
- Allowing witnesses to testify via video conferencing, reducing the risk of direct confrontation with accused persons.

Any violation of these protective measures results in strict penalties, reinforcing the importance of witness safety in anti-terror investigations.

²⁶ Section 16, The Terrorist and Disruptive Activities (Prevention) Act, 1987

²⁷ Section 19 The Maharashtra Control of Organised Crime Act, 1999

²⁸ Subsection 7 of Section 3, The Prevention of Terrorism Act, 2002

²⁹ Section 30, The Prevention of Terrorism Act, 2002

5.7- The National Investigation Agency Act, 2008 (NIA Act)

The National Investigation Agency Act, 2008 was enacted to empower the National Investigation Agency (NIA) in investigating offenses related to national security, including terrorism, human trafficking, and organized crime. Given the high-stakes nature of such cases, witness protection is a critical concern.

Under Section 17³⁰ of the Act, Special Courts handling NIA cases are mandated to conduct in-camera proceedings, ensuring that witness identities remain confidential and undisclosed. This is particularly crucial in cases where witnesses testify against powerful criminal networks or extremist organizations.

Additionally, the Act provides for severe punishment for anyone who attempts to intimidate or harm a witness, ensuring that those who seek to obstruct justice face serious legal consequences.

5.8- State-Specific Witness Protection Laws

Apart from national-level legislation, some states have enacted their own witness protection measures to ensure the safety of individuals testifying in criminal cases.

a) Delhi Witness Protection Scheme, 2015

The Delhi Witness Protection Scheme, 2015, was the first state-specific witness protection policy in India. It categorized witnesses into three levels of threat perception and provided various protective measures, including³¹:

- Ensuring that witnesses and accused do not meet during the trial.
- Concealing witness identity in legal records.
- Providing close protection and regular security patrols around witnesses' residences.
- Temporary relocation to safe locations.
- Holding in-camera proceedings to prevent public access to testimonies.
- Providing financial assistance from the Witness Protection Fund for relocation or sustenance.

This scheme was widely regarded as a model initiative and served as the foundation for the later Witness Protection Scheme, 2018.

b) Maharashtra Witness Protection and Security Act, 2017

Maharashtra further strengthened its witness protection laws with the Maharashtra Witness Protection and Security Act, 2017.

- Section 6³² deals with witness protection in serious offenses such as organized crime and terrorism.
- Section 7³³ outlines the procedure for providing protection, allowing a District Committee to assess threats and implement necessary security measures.
- Sections 8 and 9³⁴ mandate identity protection and secure trials, ensuring witnesses are shielded from external pressure.
- Section 11³⁵ prohibits investigating officers from disclosing witness names and addresses, and violators face legal penalties under Section 13.

While the Witness Protection Scheme, 2018, is a comprehensive framework for witness security, various other laws and state-specific initiatives play a crucial role in ensuring justice. By enforcing in-camera trials,

³⁰ Section 17, The National Investigation Agency Act, 2008

³¹ Nanda, Gaurav, Delhi Witness Protection Scheme, 2015 - A New Development (June 12, 2016). International Journal for Research in Law, Vol 1, Issue 3, Available at SSRN: <https://ssrn.com/abstract=3170808> (Last visited on 4th march 2025)

³² Section 6, Maharashtra Witness Protection and Security Act, 2017

³³ Section 7, Maharashtra Witness Protection and Security Act, 2017

³⁴ Section 8 and 9, Maharashtra Witness Protection and Security Act, 2017

³⁵ Section 11, Maharashtra Witness Protection and Security Act, 2017

concealing witness identities, and punishing intimidation attempts, these laws create a safer environment for witnesses to testify without fear or coercion.

For witness protection to be truly effective, proper implementation, awareness, and strict enforcement of existing laws are essential. Strengthening witness security will enhance public confidence in the judicial system, ensuring that truth and justice prevail.

6- MAJOR JUDICIAL PRONOUNCEMENT FOR THE PROTECTION OF WITNESS

Witness protection is a critical component of the justice system, ensuring that individuals can testify without fear of intimidation or harm. Over the years, several landmark judgments in India have underscored the importance of safeguarding witnesses to uphold the integrity of the judicial process.

1. Mahender Chawla v. Union of India³⁶, In this pivotal case, the SC, (Supreme Court) approved the 'Witness Protection Scheme, 2018,' emphasizing the state's duty to provide safeguards to witnesses during trials. The Court mandated that the scheme be enforced across all states until suitable legislation is enacted by Parliament.

2. State of Maharashtra vs. Praful Desai ³⁷The SC, (Supreme Court) affirmed the recording of witness testimonies via video conferencing, recognizing electronic evidence under Section 3 of the “Indian Evidence Act, 1872”. This decision marked a significant step towards integrating technology into the judicial process to protect witnesses.

3. Zahira Habibulla H. Sheikh & Another v. State of Gujarat and Ors³⁸ – **The Best Bakery Case:** The SC, (Supreme Court) highlighted that a fair trial is a fundamental component of Article 21 of the Constitution, extending this right to witnesses. The Court emphasized the state's duty to protect witnesses' rights to ensure a fair trial.

4. Neelam Katara v. Union of India (2003): The Court underscored the necessity for a comprehensive law on witness protection. The Court analyzed various international laws, previous Supreme Court judgments, and Law Commission reports to frame interim guidelines until appropriate legislation was enacted in Delhi.

5. Swaran Singh v. State of Punjab³⁹ (2000) in this case, the SC (Supreme Court of India) analyse in detail challenges faced by the witness during trial these are intimidation and harassment from defendants. The Court highlighted the importance of protecting witness rights because it assures justice administration remains uncorrupted.

6. National Human Rights Commission v. State of Gujarat and Ors.⁴⁰ in this case the SC (Supreme Court) held that the Witness depositions will become impossible without the creation of a supportive environment. The judicial system must provide safe conditions for witnesses to disclose testimony without intimidation because this action supports fair trial principles.

7. The State of Maharashtra vs. Bandu @ Daulat⁴¹ , In this case the SC (supreme court) issue directions to all State governments for the establishment of Special centers for examining Venerable witness. The court further directed that Special facilities within these Centetrs create settings for victims and witnesses to deliver evidence with complete freedom and without fear.

8. The Supreme Court affirmed bail for the rape case defendant in X vs. State of Rajasthan & Anr.⁴², while requiring strict procedures to safeguard witnesses. The Court enforced witness protection conditions together with speediness in legal proceedings while protecting the fundamental rights of the accused.

³⁶ 2018 SCC online SC 26789

³⁷ AIR 2003 SC 2053

³⁸ (2004) 4 SCC 158

³⁹ AIR (2000) 5 SCC 68

⁴⁰ (2009) 6 SCC 767

⁴¹ (2018) 11 SCC 163

⁴² SLP (CrI) No. 13378 of 2024

The Indian judiciary maintains its dedication to enhance witness protection systems to enable free and fearless participation of witnesses throughout the justice system and preserve fairness with integrity.

7-CHALLENGES IN IMPLEMENTING WITNESS PROTECTION IN INDIA

India faces multiple challenges in its pursuit of safeguarding witnesses for a Fair justice system. Even though India has multiple legal frameworks and the Witness Protection Scheme 2018 but there are multiple barriers prevent successful implementation of this legal framework⁴³.

1. Lack of Awareness and Institutional Mechanisms

The primary challenge that is prevents witnesses from knowing both their rights and available protection because they remain unaware. People from disadvantaged communities along with other witnesses frequently remain ignorant about obtaining protection from authorities. Judicial officials together with law enforcement agencies struggle to execute witness protection programs because they lack appropriate training. Without a specific institution responsible for national protection at the national level the system remains exposed and witnesses suffer from risks of intimidation and forced actions.⁴⁴

2. Inadequate Funding and Resource Allocation

The Witness Protection Fund faces inconsistent financial support because of its establishment under the Witness Protection Scheme, 2018. States throughout the nation lack enough financial support to cover costs of witness relocation and protect their witnesses against threats. Payment shortages expose high-risk witnesses to ongoing threats which drives some of them to abandon their testimony because security support is insufficient⁴⁵.

3. Bureaucratic Delays and Inefficiency in Enforcement

Witnesses who want protection must endure frequent bureaucratic slowdowns throughout the process. It can take weeks or months for Threat Analysis Reports (TARs) to obtain approval because of which witnesses remain exposed to danger during vital times. The lack of coordination between different states results in execution inconsistencies because enforcement agencies do not share proper protocols⁴⁶.

4. Resistance from Influential Accused Parties

Under specific circumstances where law enforcement targets high-level criminals or public officials or well-known individuals they frequently encounter resistance or receive interference from their work. The protection for witnesses who confront powerful alleged perpetrators suffers due to corruption and intimidation combined with bribery activities that endanger their safety and support systems.

5. New modern safeguards technological solutions along with absolute witness anonymity

Modern witness protection systems must incorporate identity concealment approaches, along with encrypted communication platforms and electronic testimony methods, into their programs. Technological applications for witness protection are scarcely employed in India. The protection of witnesses can be greatly enhanced by employing video testimony collection methods and database systems that guarantee the safety of witness relocation, together with biometric security standards.

.Supporting witness protection in India requires raising awareness about this issue alongside sufficient funding and streamlined bureaucratic operations and independence from politics and advanced

⁴³ Rashmi Rekha, *Witness Protection Scheme In India - Issues And Challenges*, 11 INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHT (2023), <https://ijcrt.org/papers/IJCRT2306881.pdf> (last visited Mar 10, 2025).

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ Rashmi Rekha, *Witness Protection Scheme In India - Issues And Challenges*, 11 INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHT (2023), <https://ijcrt.org/papers/IJCRT2306881.pdf> (last visited Mar 10, 2025).

technological safeguards. The criminal justice system remains weakened because witnesses maintain feelings of insecurity when these important improvements are not implemented.

8- SUGGESTIONS

To address the existing challenges and ensure effective implementation of witness protection measures, the following recommendations should be considered:

1. Establishing a Dedicated National Witness Protection Authority

A centralized agency should be created to oversee witness protection programs across India. This authority should be responsible for:

- Formulating standardized policies for all states and ensuring their uniform implementation.
- Conducting threat assessments and approving protection measures without bureaucratic delays.
- Monitoring and training law enforcement officials on witness protection protocols.

2. Enhancing Financial and Logistical Support

Many states struggle to implement witness protection due to lack of funds. The Witness Protection Fund should be strengthened by:

- Allocating a dedicated budget from both central and state governments.
- Providing financial aid to witnesses who are unable to work due to safety concerns.
- Ensuring timely disbursement of funds for relocation, security, and other protective measures.

3. Strengthening Legal Provisions and Enforcement

Parliament should enact a dedicated Witness Protection Law, making it mandatory for all states to follow a uniform framework. Courts should be empowered to grant protection orders swiftly, minimizing delays that put witnesses at risk. Additionally, strict penalties should be imposed on law enforcement officials or individuals who fail to protect witnesses.

4. Using Technology to Protect Witnesses

With advancements in technology, witness protection can be significantly improved by incorporating:

- Video conferencing for testimony, reducing the need for witnesses to appear in court physically.
- Biometric identification and encrypted communication channels to maintain anonymity.
- A digital database for witness protection, ensuring secure management of confidential witness information.

5. Conducting Awareness Campaigns and Training Programs

Many witnesses are unaware of their rights and protection mechanisms. To bridge this gap, public awareness campaigns should be launched to educate people about:

- Their right to protection under the Witness Protection Scheme, 2018.
- The procedure to apply for protection in case of threats.

Additionally, police, prosecutors, and judicial officers should undergo specialized training on implementing witness protection measures effectively.

6. Ensuring Political and Administrative Neutrality

Witness protection should be insulated from political interference, particularly in cases involving high-profile individuals or organized crime. A special oversight committee should be set up to review cases where witnesses face threats due to political or corporate influence.

A strong witness protection system is the backbone of any fair judicial process. Without secure and confident witnesses, criminals go unpunished, victims are denied justice, and public faith in the legal system erodes. The Witness Protection Scheme, 2018, was a step in the right direction, but it needs substantial improvements to be truly effective.

By establishing a national authority, increasing financial resources, strengthening legal provisions, integrating technology, and ensuring administrative neutrality, India can create a robust, reliable, and efficient witness protection system. Witness protection is not just about ensuring the safety of individuals—it is about safeguarding justice itself.

9- CONCLUSION

Witness protection is a fundamental pillar of justice, ensuring that individuals can testify without fear of intimidation, retaliation, or violence. The implementation of the Witness Protection Scheme, 2018 struggles to meet its objectives due to bureaucratic issues and funding shortages along with strong opposition by accused parties with significant power.

Many instances of intimidated witnesses resulted in wrongful acquittals which resulted in degraded performance of the criminal justice system across India. Justice remains compromised since insufficient witness protection allowed criminals to obstruct trials in major cases like the Jessica Lal murder case, Best Bakery and Vyapam Scams. Witnesses face severe threats because of defective enforcement even though Supreme Court rulings along with the Unlawful Activities (Prevention) Act, MCOCA, and NIA Act legislation exist.

Globally the countries like United States along with the United Kingdom and Canada operate established witness protection initiatives by supplying relocation services with new identity programs and financial assistance. The country needs to establish a national framework that provides its citizens with such complete security protection. The witness protection policies established by states Delhi and Maharashtra exist independently yet their execution differs between these jurisdictions.

The protection of witnesses in India can be boosted through better laws along with financial support growth and technological safeguards and an established national witness protection agency. The absence of witness safety endangers the entire judicial procedure so powerful criminals can avoid punishment.

A nation dedicated to both law and democracy must fulfill its ethical requirement by safeguarding witnesses for their protection. The functioning success of criminal justice depends on protecting truth as witnesses can expose it when they feel protected from threats.