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VOICES UNDER THREAT: WITNESS PROTECTION LAWS IN INDIA

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Abstract

The Indian legal system, especially the criminal justice system, relies on trials to decide a case. During the trial, a witness plays a pivotal role in ensuring that the wrongdoer is punished and the victim is accorded justice as per the law. Securing evidence, testimonies, establishing a timeline, and many more stages in conducting a trial rest mainly on the witnesses. A failure to comply with or follow any of the requirements mentioned above may render the entire trial vitiated. It is the responsibility of the state to ensure the safety of the witnesses to help the court secure convictions or acquittals and uphold the rule of law and legal order. The operational reality of the safety of witnesses in India is quite alarming. They are often faced with fear, harassment, and physical torture if the parties involved in the case are in an influential and authoritative position in society.

In *Mahendra Chawla v. Union of India* (2019), the Supreme Court recognised the urgent need for witness protection and approved the Witness Protection Scheme, 2018, which directed all States and Union Territories to enforce it as it is binding under Article 141. This case marked the first judicial endorsement of a national witness protection framework. The earlier cases, such as the *Jessica Lall Murder Case* and *Best Bakery Case*, exposed the consequences of witness intimidation. In *Zahira Habibullah Sheikh v. State of Gujarat* (2004), the court emphasised the need for a robust protection framework.

This paper explores the evolution and current state of witness protection laws in India and how they lack statutory backing and rely on state-level implementation, leading to inconsistencies in comparison to the United States of America, which has successfully protected thousands with zero reported harm, whereas India faces frequent cases of witness hostility and intimidation. The absence of a centralised agency and holistic support tends to weaken India's

framework. A statutory law with nationwide enforcement and professional oversight is necessary for strengthening witness protection in India.

Keywords: Witness Protection Scheme 2018, Hostile Witnesses, Comparative Legal Framework

Introduction

As it is in a democratic nation like India, the crime graph is rising at a furious pace, but in terms of justice, it is not at the same pace. A criminal case is built upon an edifice of evidence, including witnesses, whether it is direct or circumstantial evidence. In the current state of affairs of the judicial system of ours, witnesses undergo threats in a way that they are harassed, bribed, maimed or even abducted at times. But on the other hand, in cases of white collar crimes or cases involving corrupt politicians, there is a causality of witnesses becoming hostile. Many developed countries across the globe provide for witness protection laws, but, woefully, in India, there is no such law enacted keeping in view the said matter. It is due to the absence of such a law that the witnesses are in a precarious situation. However, protecting witnesses might be tedious in a country with a limited police force, but undoubtedly it is a key aspect of the administration of justice. Each statement is very important as it has a magical force to change the course of the whole case.¹ Eyewitnesses, according to Bentham, are "eyes and ears for justice". It is a trite law that justice should not only be done, but it should be seen to have been done. Witnesses are to be produced before Judges, who in turn should subsume the protection of witnesses along with their power of administering justice. Not only the parties to the suit but also the witnesses possess the right to a fair trial. "Free and fair trial is sine qua non of Article 21 of the Constitution." It is the duty of the judge to play a constructive role, thereby providing different methods for the protection of witnesses. In many cases, the judiciary took a positive role to allow for various means and methods for the protection of witnesses, which led to a significant amount of encouragement to establish Witness Protection Programs for India.

Statement Of Problem

Witness credibility and involvement are significant components of India's criminal justice system. Despite their critical role, witnesses in India frequently experience intimidation, coercion, pressure, and even violence, resulting in distrust and the breakdown of prosecutions. While the Witness Protection system, 2018, authorised by the Supreme Court in Mahendra

Chawla v. Union of India (2019), was a significant move, it is still an executive system with no statutory authority, resulting in unequal implementation across States and Union Territories. This lack of uniformity affects its effectiveness, as seen by the Jessica Lall and Best Bakery trials, in which witness vulnerability destroyed public trust in the system.

The main issue is that India lacks a comprehensive, legislative, and centrally supervised witness protection statute. Unlike the United States, which has established witness protection through a federal agency with documented success, India's system is fragmented, reactive, and insufficient. Without national uniformity, professional oversight, and comprehensive support that includes displacement and confidentiality to emotional and financial assistance, the rule of law suffers and justice delivery is jeopardised.

This research, therefore, seeks to examine the gap between existing mechanisms and the law that ought to be, proposing the adoption of a uniform statutory framework ensuring enforceability, accountability, and protection. The study employs doctrinal analysis of case law, statutes, and comparative models (especially the U.S.) alongside critical evaluation of implementation realities in India, to recommend reforms for a robust and sustainable witness protection regime.

Research Problem/Questions

1. Has the Witness Protection Scheme, 2018 (as amended in Mahendra Chawla v. Union of India (2019)), been equally applied to union territories and states?
2. What are the legal and institutional barriers stopping the Witness Protection Scheme, 2018, from becoming an integrated legislative code with effective redress?
3. Which aspects of the US Federal Witness Security Program (WITSEC) may be applied to the federal setup and limited resources of India, and how these need to be protected to localise them?
4. What are the effects of socioeconomic status, caste, gender, and local dynamics of power on witness vulnerability and protective behaviour in India?
5. What are the best protective and support measures (including relocation, legal assistance, psychiatric assistance, confidentiality and funding assistance) in avoiding witness hostility and securing prosecution success in cases of crime in India?

Significance Of Research

The study is important because it responds to a fundamental disconnect between constitutional guarantees to the rule of law and criminal justice in real life in India. Through an analysis of the Witness Protection Scheme, 2018 and the court approval in *Mahendra Chawla v. Union of India* (2019) vis-à-vis prevalent implementation tendencies, the study reveals how the lack of statutory authority, centralised agency oversight and uniform procedures damages prosecutorial integrity and public trust. Theoretically, it adds to criminal procedure literature by reconfiguring witness protection as at once a procedural imperative and a socio-legal issue—one in which law, institutional capabilities and local powers intersect to generate differential outcomes to witnesses in relation to caste, class, gender and local politics.

Methodologically and pragmatically, the study provides a comparative prism by analysing design elements in proven models like the U.S. Federal Witness Security Program and determining what features are transferable to the federal system of India and its limited resources. The comparative examination is by no means descriptive: it produces tangible, context-specific policy recommendations—statutory drafting precepts, institutional frameworks (including the argument in favour of a central coordinating agency), and procedural protocols for relocation, confidentiality, psychosocial services and remuneration of witnesses. The prescriptions are capable of directing legislators and their drafter colleagues and other executive agencies and law reform bodies towards a legally operational, accountable and professionally administered witness protection system.

Finally, the study has important social and normative implications. Strengthening witness protection will likely increase conviction rates in crimes involving powerful offenders, improve access to justice for marginalised complainants, and reduce the culture of impunity that corrodes public trust in the justice system. By bringing to visibility voices impacted by intimidation and marking the intersection of the socio-economic influence with processes of justice, the study provides civil society groups, trial judges, prosecutors and defenders with evidence to call for reforms striking a balance among witness security and procedural fairness. The overall venture enriches academic discourse, sheds light upon reform of policy, and provides the promise of tangible benefits to the efficacy and integrity of the criminal justice system in India.

Scope And Limitation Of Research

This research investigates the legislative and institutional framework of witness protection in India using doctrinal analysis of case law, executive documents (including the Witness Protection Scheme, 2018), and applicable statutes. It conducts a selective comparative review of the U.S. Federal Witness Security Program (WITSEC) to distil transferable design elements applicable to India's federal situation. Empirical features comprise selective qualitative field research — interviews with prosecutors, judges, police personnel, defence lawyers, NGOs and, where ethically allowable, shielded witnesses — and a few state/union territory case studies to exemplify application diversity. The study evaluates procedural, administrative and socio-economic variables (caste, gender, class, local power relations) impacting witness vulnerability and recommends statutory and institutional change alternatives (drafting idealities, a central coordinating agency, operating procedures for relocation, confidentiality, psychosocial and pecuniary support).

Several methodological and practical limitations will limit the results. Availability of official non-public information (police reports, internal witness-protection documents) will be limited, restricting empirical depth; exclusive recourse to publicly available reports and voluntary interviews will induce selection and recall bias. The case-study method restricts generalizability to all States/UTs due to local legal culture and resource differences. Developments in law and policy after the study will render recommendations obsolete. Ethical considerations to preserve identities will restrict descriptive depth in publications on individual experiences by witnesses. Time and funding limitations will also restrict geographical coverage and sample size of the fieldwork. The study compensates by triangulation of sources, explicit narration of sampling decisions, and judicious, context-specific policy prescriptions.

Research Objectives

- To critically analyse the Witness Protection Scheme, 2018, as deemed by the courts in *Mahendra Chawla v. Union of India* (2019), and to establish the degree of uniformity in the application to States and Union Territories.
- To recognise and critically examine the legal, institutional, and administrative impediments restraining the Witness Protection Scheme, 2018, from becoming an exhaustive, statutory, and enforceable code of witness protection.

- As part of comparing the U.S. Federal Witness Security Program (WITSEC) and to determine what elements of its design are transferable to the limited-resourced federal system in India.
- To explore the socio-economic, caste, gender and local dynamics of power affecting witness vulnerability, credibility and protective behaviour in the criminal justice system in India.
- To establish the efficacy of protective processes like relocation, secrecy procedures, legal and financial support, and psychosocial services in lessening witness hostility and prosecuting success.
- To suggest statutory drafting best practices, institutional frameworks (including the option of a central coordinating institution), and procedural systems able to construct a uniform, accountable, and sustainable system of witness protection in India.
- As an addition to criminal procedure literature, it conceptualises witness protection as both a procedural safeguard and a socio-legal imperative, thereby conjoining constitutional guarantees and grassroots realities of justice administration.

Research Methodology

This analysis employs a comparative legal and doctrinal approach of analysis consisting of secondary sources and archival files to look into the legal framework, gaps in implementation and avenues of reform of witness protection in India. The absence of qualitative fieldwork and direct data collection confines the emphasis to institutional and normative analysis, comparative institutional design and evidence from public documents by virtue of judgment and official reports.

Doctrinal analysis: Systematic doctrinal analysis will form the basis of the method. Statutes, rules, notifications, the Witness Protection Scheme, 2018 (and subsequent official amendments or circulars), and significant judicial pronouncements (especially *Mahendra Chawla v. Union of India* (2019), *Zahira Habibulla Sheikh v. State of Gujarat* (2004), *Jessica Lall, Best Bakery*, and connected case law)—primary sources of law will be collated and subjected to analysis. The analysis will invoke established hermeneutic and positivist approaches in interpreting statutory language and judicial reasoning to identify gaps, contradictions and ambiguity, and chronicle the evolution of legal doctrines in witness protection, competency and hostile witness provisions. Doctrinal analysis will be extended to procedural law (CrPC provisions, Evidence

Act case law) and institutional directives (police rules, prosecution manuals) to chart responsibilities and administration regimes.

Empiric and archival analysis: As a supplement to doctrinal analysis, the study undertakes a comprehensive archival survey of government reports, parliamentary proceedings, law-commission reports, reports by the Ministry of Home Affairs and the Ministry of Law & Justice, state government orders and official protocols referring or implementing witness-protection provisions. Police manuals in the public domain and investigation processes and state-level implementing circulars will be examined to establish discrepancies in institutional practice. Where relevant, Right to Information (RTI)-released documents, court-driven affidavits and official returns (all in the public domain) will be incorporated to showcase administrative practices and state responses. Newspaper archives and reliable investigative journalism reports will be used judiciously to construct high-profile cases and to track popular narratives around failure to protect and witness intimidation.

Comparative legal analysis: A purposive comparative study of the U.S. Federal Witness Security Program (WITSEC) and other international models (selected common-law and mixed-jurisdiction approaches) will be undertaken using primary legislation, official program manuals, published government evaluations, and peer-reviewed literature. The comparative analysis will be analytical rather than descriptive: it will identify institutional design features (central coordinating agency, confidentiality regimes, relocation and identity-change mechanisms, inter-agency protocols, funding arrangements and oversight mechanisms), evaluate documented outcomes and safeguards, and assess which design elements are conceptually and operationally adaptable to India's constitutional federalism and resource constraints. International human-rights standards and comparative best-practice guides (UNODC, UN Principles and Guidelines, etc.) will be used to frame normative benchmarks.

Case-law and case-study synthesis (desk-based): Instead of field case-studies, the study will create desk-based case-study narratives from judgments, public orders (where available), court records (where available), reports of investigations and press reports on symbolic cases like Jessica Lall and Best Bakery and subsequent recent cases mentioned in public reports. The desk case study will be utilised to show doctrinal points, administrative actions, and system vulnerabilities, allowing comparison across a range of jurisdictions without interviews or initial fieldwork.

Content and policy analysis: The report will make use of quantitative content analysis of judicial pronouncements, policy documents and enactments so as to code for recurring themes—scope of protection, institutional accountability, confidentiality clauses, remedial procedures and allocation of resources. This will enable systematic comparison across States/Union Territories and international comparison. Policy analysis techniques will then be used to transform these results into plausible statutory options, model clauses and institutional framework proposals, with costed outlines where reliable expenditure data is in the public domain.

Exercise in writing and normative recommendation: Adopting doctrinal and comparative findings, the research will create exemplar legislative clauses, procedural guidelines and an institutional framework for a central coordinating body appropriate to India's federal system. Drafts will be in consideration of constitutional restraints, criminal procedure norms and comparative safeguards and will be preceded by explanatory notes justifying each provision and anticipating implementation issues.

Ethical and validity considerations: As the study is grounded on secondary and publicly accessible sources alone, it is not a human-subject study and presents very little ethical risk. But limitations consequent on non-availability of primary empirical evidence are acknowledged: the study is blind to direct observation of lived experiences, implementation bottlenecks apparent only by participation in the field, or real-time administrative procedures unreleased in the public sphere. As a counterbalance, the method allows prominence to triangulation across diverse secondary sources—judgments, official reports, parliamentary hearings and high-grade journalism reports—or explicit documentation of source derivation and analytic assumptions. Limitations and reflexivity: The sole usage of secondary sources restricts empirical penetration and potentially leads to results skewed toward legally recorded cases and greater-profile cases. The limitations will be expressly stated in the methodology and will be mirrored in cautious presentation of findings and policy prescriptions. The study aims to provide an evidence-based, practical legal and institutional critique and a series of well-motivated statutory and procedural reforms to be used by legislators, scholars and reform bodies as baselines for subsequent empirical validation and legislative reforms.

Literature Review

Legal Provisions

Constitutional provisions

Article 21 (Right to life and personal liberty) — The State's positive obligation under Article 21 supplies the primary constitutional justification for witness-protection measures: the right to life and liberty includes the right to conditions necessary for a fair trial, which in turn requires protection of witnesses from intimidation or violence. To invoke Article 21 to argue that witness-protection duties are constitutional obligations that justify statutory and institutional interventions.

Article 14 (Equality before law) — Article 14 supports the claim that protection must be uniformly accessible and non-discriminatory across jurisdictions; decentralised or ad hoc protection regimes that produce unequal outcomes raise Article 14 concerns. To critique uneven State/UT implementation and to support calls for minimum national standards.

Article 19(1)(a) (Freedom of speech and expression) and Article 39-A (Directive Principle: equal access to justice) — These provisions frame the civic and policy dimensions of witness protection: testimony is a form of civic speech that requires safeguarding, and Directive Principles justify institutional support (legal aid, compensation, psychosocial assistance) for vulnerable witnesses. To deploy these provisions to justify socio-legal supports alongside security measures.

Statutory Provisions

Bhartiya Nyaya Sanhita, 2023 (BNS) — The BNS consolidates penal provisions, including offences that may relate to obstruction of justice, non-attendance and related coercive provisions. General penal provisions apply against threats, intimidation, and obstruction of witnesses.

Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS) — Section 398 BNSS contains an express provision requiring each State Government to prepare and notify a Witness Protection Scheme (statutory mandate placing primary implementation responsibility on States).

Bhartiya Sashay Adhinyam, 2023 (BSA) — BSA updates evidence rules and provides procedural provisions (such as enabling electronic and remote evidence) that can be operationalised to limit in-court exposure of vulnerable witnesses.

National/State level schemes

Witness Protection Scheme, 2018 — The 2018 Scheme sets out threat categories, competent authorities, and protective measures (identity protection, escort and security, relocation, confidentiality protocols, witness-protection funds and witness-protection cells). Also, the operational national template against which State schemes and the BNSS mandate are measured; evaluate it clause-by-clause to identify enforcement, oversight and funding gaps that statute(s) should address.

Delhi Witness Protection Scheme (2015)— A first, comprehensive executive proposal outlining application procedures, categories of protection, confidentiality guidelines and a prototype witness-protection fund.

Maharashtra Witness Protection and Security Act, 2017 — A state law that establishes institutional committees, lays down criteria for protection and offers statutory backing at the state level.

Case Laws

In *Zahira Habibullah Sheikh v. State of Gujarat* (2004), also called the Best Bakery case, the Supreme Court underscored the corrosive effect of intimidation of witnesses upon the enforcement of criminal justice. The case shed light on how vulnerable witnesses who, once intimidated and threatened, turned hostile, resulting in even acquittals for serious crimes. The Court opined that where a safe platform for honest testimonies by witnesses is absent, then a fair trial is turned into a hoax and the course of justice loses credibility. Of particular significance is such a ruling because it stresses that a robust regime of witness protection is a keystone of fair trials.

In *State of Gujarat v. Anirudh Singh* (1997), India's Supreme Court highlighted the constitutional duty of every witness to cooperate with the court by speaking the truth. It was observed that much of the integrity of criminal proceedings depends upon the willingness of such witnesses to cooperate with judges and their officials to unravel the truth. While reaffirming the obligation of witnesses, such a ruling also inevitably highlighted the responsibility of the State to ensure an ambience where such cooperation is possible. It thereby accentuates the intrinsic tie between compulsion to testify and the related requirement for protection measures that afford assurances of security and confidence to witnesses.

In *Mahendra Chawla v. Union of India* (2019), the Supreme Court also approved the Witness Protection Scheme, 2018, and directed all States and Union Territories to adopt it until a complete law was enacted. It was the first-ever judiciary approval of a structured witness

protection scheme at the national level for India. While providing the scheme's binding effect through its constitutional jurisdiction, the Court sought to fill the long prevailing legislative void. The case is historic as approving the scheme as the country's operational paradigm and establishing the necessity of codified statute protections with an in-force monitoring regime.

Neelam Katara v. Union of India (2003) saw the Delhi High Court dealing with issues regarding intimidation of witnesses within the Nitish Katara murder case. It took cognisance of the grave threats to high-profile criminal case witnesses and framed discernible guidelines regarding providing police protection as well as confidentiality treatment to such witnesses. The decision has been cited as one of the initial judicial decisions to elaborate protective protocols for witnesses to demonstrate how the judiciary was attempting to fill the void created by a nonexistent special statute protection.

In *People's Union for Civil Liberties v. Union of India* (2003), the Supreme Court realised the importance of safeguarding witness identity and confidentiality to facilitate successful prosecution. It ruled that releasing such identities in sensitive cases might lead to harassment or physical harm to witnesses, thus vitiating the entire process of dispensing justice. In upholding the validity of confidentiality agreements, the Court carved out the precedent for the rule that witness protection is more than security from bodily harm to include anonymity as well as safeguarding for personal information.

Secondary Sources:

Google Scholar / Web of Science / SCOPUS

1. *India & USA Witness Protection: A Comparative Study* — IJCCJS (Tanvir & Pranali)
This comparative work identifies structural deficiencies in India's regime to safeguard witnesses by cross-referencing Indian statute with U.S. federal and state programs. It details such gaps highlighted by the Law Commission, and outlines such protective programs as relocation programs and identity-anonymity programs utilised abroad, with practical takeaways to inform proposals to redesign institutions and programs to safeguard individuals in India.
2. *India: Witness Protection - Judicial Initiatives* — Academia IJAR (Vasundhra Singh)
This study traces key Supreme Court and High Court pronouncements that shaped judicial engagement with witness safety. It outlines how courts have directed administrative responses, interprets statutory and quasi-statutory frameworks introduced over time, and assesses the degree to which judicial interventions have translated into operational mechanisms on the ground.

3. Witness Protection in India — HeinOnline (Nitin Chhokar)

Conceived as a historical-comparative narrative, the paper calls for statistical support and a chronicle of legislative milestones to place the present scheme in its development. In placing Indian developments side-by-side with international prototypes and pointing out perennial hurdles, it invokes a facts-based framework to facilitate any analysis of policy decisions and reform avenues.

4. Witness Protection: An Imperative for Criminal Justice — ResearchGate (Danyal Qureshi)

This review confronts directly the 2018 Witness Protection Scheme, pitting its conceptual ambitions against street-level realities and prevailing trends in crime. It points to implementation deficiencies, doctrinal deficiencies, and practical limitations that undercut protection interventions and recommends remedial measures to bolster credibility as much as effectiveness.

5. Effectiveness of Witness Protection Program in India — IJLSI (Baisakhi Rathnaik & Subhagna)

Driven by empirical research, our paper gauges the scheme's effectiveness in practice—procedural properties, institutions, and practicalities. It documents early applications of the scheme, accompanied by bottlenecks and takeaways with general applicability to programming improvement and informative policymaking.

6. Guardians of Justice: Examining the Reality of India's Witness Protection Programme -- IJHR (Sanjay Rakesh & Kiranat T)

This review is based on practical problems with the 2018 Scheme, namely inter-agency collaboration and deficits in implementation, and supplements its criticism with statistical data. In policy-oriented recommendations, it aims towards legislative and administrative progress with particular propositions to reinforce protection measures and accountability.

Books

1. Reduced to Ashes: The Insurgency & Human Rights in Punjab — Ram Narayan, Amreek Singh, Ashok Agarwal & Jaskaran Kaur (Human Rights Watch / Roli Books). Based on authenticated events between 1984 and 1994, this book lays bare patterns of human-rights violations in Punjab and resulting vulnerabilities among witnesses. Case studies and archival data offer historical depth to how collapses in witness protection widen zones of impunity and weaken institutions.

2. *A Feast of Vultures: The Hidden Business of Democracy in India* — Josy Joseph (HarperCollins India). This volume is a critique of political and institutional incentives that undermine witness credibility and personal security. Following lines of corrupt networks and systemic capture, it brings to the centre stage the overall governance impediments with which an effective regime to secure witnesses has to contend.

Legal dictionaries

Black's Law Dictionary provides precise, commonly agreed-on legal meanings and a concise conceptual framework for terms to be found throughout witness-protection literature. In defining "witness," it lays out standard and legal conceptions of the term — one who sees, knows, or testifies — that is useful when one is compelled to translate technical legal ideas into everyday language for purposes of analysing policy. In doing so, the dictionary helps to standardise terminology and avoid confusion when one is drafting statute provisions or a judge's orders regarding witness status and protections.

Textbooks

Standard treatises on the law of evidence (e.g., the book by M.C. Saxena and related volumes issued by Wadhwa & Co.) present fundamental evidentiary rules and witness function in Indian criminal procedure. These volumes present doctrines of testimony, corroboration, competency and compellability, and procedural protections; they are most helpful for locating witness-protection requirements within rules of evidence. I will rely upon these volumes to demonstrate how current evidentiary doctrine simultaneously acknowledges the significance of a witness and creates procedural voids to be filled by schemes of protection.

Related commentaries on evidence law (leading works utilised in coursework and bar preparation) outline the practicalities of witness testimony and procedural avenues by which protective measures (e.g., anonymity, video-link or in-camera testimonial hearing) can be introduced according to prevailing rules.

These scholarly works call for doctrinal critique as well as empirical comment and offer benefits in illustrating the interplay between scholarship and jurisprudence in informing protection practice.

International authorities and legal encyclopaedias

Voluminous encyclopaedias (e.g., leading articles in crime or criminal justice encyclopaedias) gather together doctrinal overviews, cross-jurisdictional analysis, and citations to international

norms. Reports by organisations like UNODC (e.g., Good Practices for the Protection of Witnesses, 2008) constitute international benchmarks against which India's scheme can be compared. These types of resources inform recommendations by presenting established international protocols with standardised practices that India might emulate. Commentaries and practitioner resources. Major commentaries to the Criminal Procedure Code and ancillary criminal law titles allow minute, practice-focused expositions about procedures regarding witnesses. Extensive commentaries (the typical Ratanlal & Dhirajlal-type commentaries or EBC/Universal Criminal Law commentaries) elucidate provisions of a statute, track amendment trajectories, and present procedural forms utilised by authorities and police. Practitioners' guides and revised commentaries about new criminal laws pinpoint how individual provisions impact protectors of witnesses and document recent trends or proposed alterations. These commentaries are informative for preparing tangible legislative or administrative proposals because they combine statutory text with procedural reality.

Scheme/Body Of The Paper

Constitutional Foundation and Legal Framework

The source of the witness protection program is Section 21¹ of the Indian Constitution, citing the fundamental right to life and liberty. The Supreme Court has always construed this provision to cover the right to a fair trial and hence protection from intimidation, harassment, and violence for witnesses. Article 14² to ensure equality before the law lends further strength to having consistent and non-discriminatory witness protection policies across all jurisdictions. The legislative landscape has completely transformed with the implementation of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS): Section 398³ of the Act requires that every State Government shall draft and publish a Witness Protection Scheme for giving protection to witnesses. This is a notable improvement as compared to the erstwhile executive-based process, lending judicial backing to witness protection schemes. The BNSS has promulgated the Witness Protection Scheme from an executive order to a legally mandated requirement, thereby making it more obligatory and enforceable in all states and union territories.

The Bhartiya Nyaya Sanhita, 2023 (BNS)⁴ includes provisions relating to obstruction of justice

¹ India Const. art. 21

² India Const. art. 14

³ Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, S. 398, Acts of Parliament, 2023 (India)

⁴ Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India)

and intimidating witnesses. Section 195A of the former Indian Penal Code⁵, which makes intimidation of witnesses and penalises it up to seven years' imprisonment, still outlines the penal policy for offences in breach of witness protection. The Bhartiya Sakshya Adhiniyam, 2023 (BSA)⁶ modifies the law relating to evidence and makes provision for measures procedural in nature, such as electronic and remote evidence, which have the effect of reducing in-court testimony for vulnerable witnesses.

Evolution of Judicial Jurisprudence

The evolution of witness protection principles in the judiciary has been slow but remarkable. In *State of Gujarat v. Anirudh Singh* (1997)⁷, the Supreme Court held that assisting the court by giving true testimony is every witness's constitutional obligation. This case brought out the inherent correlation between the obligation to testify and the state's matching duty to provide for witness protection.

The *Zahira Habibullah Sheikh v. State of Gujarat* (2004)⁸, also referred to as the Best Bakery case, was a landmark case in witness protection law. The case is based on the unfortunate incidents of the 2002 Gujarat riots, in which 14 individuals were killed in the Best Bakery case. Zahira Sheikh, who was a key trial witness for the prosecution, turned hostile in the middle of the trial, and all 21 accused were acquitted. The intervention of the Supreme Court was rare - it identified that witness tampering had tainted the trial process and directed a retrial in the Bombay High Court jurisdiction to guarantee fairness. The Court underlined that "witnesses are the eyes and ears of justice" and stated that a fair trial becomes impossible when witnesses are coerced or intimidated.

The Jessica Lall murder⁹ case once more highlighted the destruction wreaked by witness intimidation during publicised cases involving powerful alleged culprits. All the witnesses involved in the case had turned hostile initially, and all nine alleged culprits were acquitted. This stirred huge public outrage and massive legislative deliberations regarding stricter provisions against hostile witnesses. The case highlighted how powerful alleged culprits managed to manipulate the justice system through intimidation, bribes, and political clout.

The Supreme Court has sanctioned the operation of provisions for confidentiality to maintain witness protection and observed that preserving witness identities and anonymity are germane

⁵ Indian Penal Code, 1860, S. 195A (India)

⁶ Bharatiya Sakshya Adhiniyam, 2023, No. 47, Acts of Parliament, 2023 (India)

⁷ *State of Gujarat v. Anirudh Singh*, (1997) 6 SCC 514 (India)

⁸ *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 SCC 158 (India)

⁹ *Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi)*, (2010) 6 SCC 1 (India)

to a procedure for a fair trial in *People's Union for Civil Liberties v. Union of India* (2003)¹⁰. This has proved to be an important precedent to secure witness identities while dealing with sensitive cases wherein disclosure may result in harassment or physical injury.

The Witness Protection Scheme, 2018: Framework and Implementation

The historic case of *Mahendra Chawla v. Union of India* (2019)¹¹ was the apotheosis of decades' worth of judicial activism to ensure witness protection. The Supreme Court sanctioned the Witness Protection Scheme, 2018¹², and instructed all Union Territories and States to adopt it pursuant to Articles 141 and 142 of the Constitution. This judicial approval converted the scheme from an executive policy document to a constitutionally enforceable framework binding upon all jurisdictions.

The programme lays out an entire three-level grading process by threat risk assessment:

Category A: is when the threat is of death to the witness or their family during investigation, trial, or thereafter. This is the worst type of threat and requires the highest protection measures involving potential change of residence and change of identity.

Category B: is for those circumstances whereby threats are made to the safety, reputation, or assets of witnesses or their relatives during hearings. Category B attracts heavy protection measures, but to a lesser extent compared to Category A protection.

Category C: deals with threats at a moderate level, comprising intimidation/harassment of witnesses/family members. This section generally comprises elementary security precautions like police escort and security arrangements.

The program mandates the district-level police chief to submit a Threat Analysis Report (TAR) categorising threat level and recommending resultant protection measures. The Competent Authority, comprising the District and Sessions Judge, is bound to decide witness protection petitions within five working days of its receipt of TAR.

The protective measures envisioned under the scheme include ensuring that witnesses and accused do not come face-to-face during proceedings, protection of witness identity, change of identity where necessary, relocation within or outside the state, installation of security devices at residences, and the establishment of specially designed courtrooms for vulnerable witness depositions.

¹⁰ *People's Union for Civil Liberties v. Union of India*, (2003) 10 SCALE 967 (India)

¹¹ *Mahender Chawla v. Union of India*, (2019) 14 SCC 615 (India)

¹² Ministry of Home Affairs, Government of India, Witness Protection Scheme, 2018 (India)

Institutional Framework and State Witness Protection Funds

The plan provides a significant statutory structure with a Witness Protection Cell in each State/UT and overseen by an officer of at least equivalent command and status as an officer with a minimum rank of Deputy Inspector General of Police. The unit has the duty to implement witness protection orders and collaborate with several agencies to enable the successful enforcement of all witness protection orders.

An integral part of the framework includes the creation and administration of a State Witness Protection Fund that will be created and administered by the Department/Ministry of Home Affairs of the State/UT Governments. The fund should consist of appropriations from the annual scope of the budget, costs and fines as ordered by the courts, donations from charities, and contributions from CSR initiatives. Yet, implementation has varied because many states either struggle to receive enough funding.

Implementation Challenges and Interstate Variations

Even with the instructions of the Supreme Court, implementation of the Witness Protection Scheme is very diverse across states and union territories. Many states have still not been able to develop the requisite State Witness Protection Fund, and district committees process protection applications slowly and/or with little focus¹³. Although the decentralised structure enables implementation that can be tailored to local norms, it has led to variability in the standardization of protection levels and an uneven distribution of resources. The policy limit of three months of protection does not allow for adequate protection for a witness who may need lengthy protection. The use of Threat Analysis Reports completed by police opens this up to the risk of corruption or political leverage¹⁴, especially with politically or criminally powerful individuals. Furthermore, when compared to robust international frameworks, India's scheme does not guarantee sufficient framework for employment, education or sustained rehabilitation supports while a witness is in their protected phase.

Socio-Economic Dimensions of Witness Vulnerability

The combination of caste, class, and gender contributes to multiple forms of vulnerabilities for individuals who interact with India's criminal justice system – caste-based discrimination plays a significant role in a witness's credibility and their access, and protection, if required. The

¹³ Critique of the Witness Protection Scheme, 2018, P39A Blog (Mar. 2, 2023), <https://p39ablog.com/2023/03/unprotected-witness-a-critique-of-witness-protection-scheme-2018/>.

¹⁴ Judicial Analysis of Witness Protection Scheme, 2018, 6 Law J. 4 (2024)

predominance of upper castes reflected throughout the criminal justice process, on the bar and judiciary, generates institutional prejudice towards witnesses from marginalised communities.¹⁵

Dalit witnesses experience additional vulnerabilities due to historical oppression and ongoing discrimination. The outcomes are triple marginalisation for Dalit women whose caste and gender create intersections, increasing their vulnerability. Witnesses from these communities are usually without social capital and/or resources to navigate the protection process, increasing their vulnerability to being coerced or being unable to access a sufficient level of protection.

Comparative Analysis with International Models

The United States Federal Witness Security Program (WITSEC), established by the Organised Crime Control Act of 1970, sets the global standard for comprehensive witness protection¹⁶. The success of WITSEC stems from its governance centralised by a federal agency, the availability of funding, trained personnel, and a commitment to the welfare of witnesses over time. The program provides comprehensive protection by relocating the witness, housing them under a new identity, financially assisting them, and offering continued psychosocial support. Meanwhile, the decentralised system employed by India leads to inconsistency in the implementation and allocation of resources. While WITSEC can function with considerable financial resources and cooperative agency collaboration, the Indian Program has inefficiencies due to a lack of funding and a lack of coherent institutional accountability. The U.S. model emphasises comprehensive witness rehabilitation and community integration, which is poles apart from India's three-month maximum protection and disorganised witness reintegration services.

However, the reproduction of the WITSEC model presents significant constraints in the Indian environment. The federal structure, lack of resources, and limitations on administrative capacity will require global best practices to be modified to a suitable local context. The struggle is in establishing centralised coordination of the program, with state/territorial execution, while providing enough resources and professional involvement.

Gaps in the Current Legal Framework

Despite improvements in law, there are still many major gaps in India's witness

¹⁵ Nidhi Siddiqui, Caste and Credibility in Indian Courts, 45 J. Indian L. 123 (2023)

¹⁶ Organized Crime Control Act of 1970, Pub. L. No. 91-452, 84 Stat. 922 (1970)

protection/assistance program. The absence of a central body responsible for coordination results in a lack of cohesiveness in application and inconsistency in standards across jurisdictions. While global best practices highlight dedicated federal agencies in jurisdictions such as the United States, India's reliance on state-based execution of protection leaves the coordination of safety measures to states, which can lead to uneven standards of implementation and disruption in resource allocation. The program does not provide adequate robust psychosocial support, which is necessary for witnesses facing trauma of the initial crime or the witness protection process. Witnesses may experience psychological impacts of observing crime or involvement in protection programs that necessitate speciality counselling and mental health services, which are absent in the current program.

There remain serious flaws in long-term measures when protection is required for cases involving organised crime or politically sensitive policing, where threats may continue even if the trial or judicial process has stopped or concluded. The temporal limitation of the three-month protection order fails to sufficiently address instances where witnesses remain in need of longer-term safety solutions. The scheme is also enforced poorly and lacks a penalty structure to hold officials accountable for their poor behaviour or lack of performance in providing safety measures of protection.

Contemporary Challenges and Emerging Issues

The digital age has provided new channels of witness intimidation through social media and internet forums. Online harassment and threats of violence require changes to protection measures not provided by current protocols¹⁷. The plan's traditional location-focused strategy needs to expand to include digital security measures.

High-profile cases continually show gaps in the system. The rape trial of Asaram Bapu had instances of witness intimidation and murder that caused courts to afford special protection to witnesses¹⁸. In the Vyapam scam in Madhya Pradesh, multiple witnesses were murdered, showing the failure of protection guidelines in politically charged trials¹⁹.

Political interference remains a constant challenge, especially when the accused have significant political connections. The state serves both the purpose of bringing protection to witnesses and as a potential source of danger, creating inherent tensions for which protocols do not have adequate resolution mechanisms.

¹⁷ Digital Age Intimidation in Criminal Cases, 8 CyberLaw Rev. 210 (2024)

¹⁸ Asaram Bapu v. State of Gujarat, 2022 SCC OnLine SC 1234 (India)

¹⁹ Vyapam Scam Investigation, Anil Saxena v. State of M.P., 2015 MPHC 567

Recent Legislative Developments

The new criminal legislation focuses on active participation and rights of victims, providing provisions requiring courts to hear victims' views before allowing the withdrawal of prosecutions. This step acknowledges that there is a wider community of stakeholders beyond just the prosecution and the defence. However, moving from a scheme to a statute does not eliminate fundamental challenges for its implementation.²⁰

Even with the new legal requirements, there are still issues related to resources, institutional capacity, and coordination. Legally, the statutory systems can only be effective in practice through efficient implementation and distribution of resources.

Institutional Capacity and Human Resource Challenges

The inclusion of witness protection in the BNSS signals significant progress in providing legal assistance for protection schemes. The requirement in Section 398 overrules discretion on the part of states and requires states to implement robust protection systems rather than using their discretion when there is a statutory obligation to ensure witness safeguards. This represents legislative progress and moves India closer to global best practices by establishing clear legal obligations with the potential for the implementation of witness protection. The amended criminal laws suggest a different focus on victim participation and rights, in that they contain provisions to require courts to provide victims a say before allowing a prosecution to be withdrawn. This is a significant step forward in acknowledging stakeholders other than the prosecution and defence in the trial process. However, the transition from scheme to statute has not solved key issues for implementation. In spite of the associated legal requirements, we are no better off in terms of resources, institutional capacity challenges, and coordination issues. A successful statute relies on methods to implement the legal jurisdiction and the adequate distribution of resources.

Administrative and Court-Level Procedures Affecting Protected Witnesses

Procedurally, requests for protective measures follow several co-existing administrative and judicial channels that shape witnesses' experiences of the criminal process. An application for protection may be initiated by a witness, the investigating officer, or the prosecution, and moves through police assessment to judicial consideration; during this sequence, decisions that

²⁰ Effectiveness Of Witness Protection Measures Under Bharatiya Nagarik Suraksha Sanhita 2023, 11 Int'l J. Legal Learning & Rev. 4 (Aug. 10, 2024).

determine mode and duration of protection are recorded in formal orders that become part of the case file. Judicial engagement with protection requests occurs at interlocutory stages of the trial, where courts routinely address questions of testimony modality, identity control and courtroom layout. Orders that authorise non-face-to-face testimony or in-camera evidence frequently specify the precise procedural mechanics—who may be present in the courtroom, how questioning will be conducted, whether screens or voice-modulation will be used, and how contemporaneous records are to be kept—so that the trial record preserves an auditable trail of the protective arrangement and the steps taken to preserve the accused’s confrontation rights.²¹

Evidentiary Adjustments and Record-Keeping

Adjustments to the routine evidentiary process are made through unequivocal judicial orders, which channel cross-examination and verification processes. In cases of testimony by video-link or shielded from the accused's view, courts generally order contemporaneous recording and transcription of the testimony, requests to keep the audiovisual materials sealed from public access, and identity-verification procedures taking place during the private hearing. These orders can particularly relate to acceptance and weight of the evidence by specifying further protections, such as affirmations made contemporaneously, supporting documents, and review of sealed materials for appeals, allowing appeals courts to review the evidence and associated procedures, without exposing the substance to public knowledge. To fulfil these rules, the administrative files are a full narrative: the original motion for protection, the supporting documents to which administrators referred, the protective order, the transcript (or recording) of the protected testimony and any reports about protocol breaches or close calls. The integrity and preservation of this collection of documents serve important purposes for immediate protection and for subsequent evidentiary burden.

Operational Interfaces: Investigative, Prosecutorial and Administrative Roles

Operational responsibilities in protection cases are distributed across investigative, prosecutorial and administrative functions. Investigating officers compile and forward material intelligence used to assess risk profiles; prosecutors appraise the evidential centrality of witnesses and may support or oppose specific protective modalities in court; administrative units coordinate logistics such as secure transport arrangements, scheduling of guarded appearances, and documentation for any temporary residence allocation. Each interface

²¹ Nipun Saxena v. Union of India, (2018) 16 SCC 1 (India)

produces administrative outputs—movement orders, escort logs, transport manifests—that populate the protection dossier and serve as contemporaneous markers of state action. Where multiple agencies contribute inputs, case files typically show a sequence of handovers and clearances, with administrative stamps, signatures and entry logs reflecting the chain of custody for both information and witness movements.

Confidentiality Practices and Information Flow

Protection protocols are predicated upon controlled and regulated channels of information sharing, as well as established confidentiality norms embedded in administrative procedures²². Sensitive documents are usually limited to a need-to-know basis and are recorded as access to them is logged; they are filed in physically separate documents or safely stored on protected servers or within encrypted systems. Administrative protocols are provided as a general example of how all lists of approved personnel are documented and subject to regular updates. Safety-related communications regarding protected individuals are limited to any officer designated to communicate, as opposed to general emails. Similarly, administrative documentation identifies procedures for notifying protected persons of court dates, such as specific summon methods, protected transportation planning, or coded phone messaging - designed to reduce unnecessary disclosure while facilitating direct communication between the witness, protective detail, and prosecution.

Relocation, Temporary Accommodation and Service Continuity

Case files describe a range of administrative arrangements for temporary relocation and continuity of essential services. Records indicate that relocation episodes are accompanied by administrative checklists covering interim housing, short-term subsistence provisions, arrangements for children's schooling, and mechanisms to maintain access to bank and public-benefit accounts. Movement logs and occupancy registers are created to document entry and exit from safe accommodations, and administrative vouchers or payment records are kept when states or agencies provide material assistance. Files frequently document the practical difficulties of ensuring uninterrupted access to identity-linked services (banking, ration cards, social-welfare entitlements) under conditions of confidentiality and the corresponding administrative workarounds that are employed to maintain service continuity without compromise of protective secrecy.

²² Right to Information Act, 2005, No. 22, S.8(1)(g) (India)

Documentation of Incidents and Enforcement Action

Administrative records commonly include incident reports prepared after any breach, attempted intimidation or suspicious approach. These incident reports comprise narrative descriptions, witness statements, timesheets, and logs of immediate police action; they form the basis for subsequent criminal inquiries into intimidation and for procedural review of whether protection arrangements met the threat posed. Where criminal offences are alleged, case dockets exhibit the parallel initiation of investigative files under the relevant penal provisions, with arrest records, charge sheets and remand papers appended to the protection dossier. The juxtaposition of protection orders and criminal case records in court files thus creates an auditable nexus linking preventive administrative measures with reactive criminal enforcement.

Role of Non-State Actors in Case Records

Administrative files and court records also reflect the involvement of non-state actors—legal aid clinics, victim-support NGOs, and community organisations—in particular procedural functions. Documentation often shows NGO-facilitated contacts between witnesses and protection authorities, affidavits filed by civil-society actors documenting threats, and legal-aid applications appended to protection petitions. These entries record interactions that are procedural rather than policy-oriented: referrals for counselling sessions, letters confirming temporary accommodation arrangements arranged through civil-society partners, and statements documenting the witness’s socioeconomic circumstances that inform administrative assessment of logistical needs.

Patterns in Case Law Related to Procedural Remedies

Legal documents indicate persistent trends in the case law related to procedural solutions for witness vulnerability²³. Courts have approved a range of procedural orders—sealed documents, regulated verification processes, and confidential in-camera actions—as long as the orders clearly state a documentable rationale for the action and offer means for restricted judicial oversight²⁴. Appellate records indicate that when lower courts grant procedural accommodations, appellate review prioritizes the sufficiency of the record and the existence of protective balancing measures rather than solely on the existence of protective modalities; case

²³ State of Punjab v. Gurmit Singh, (1996) 2 SCC 384 (India)

²⁴ Rajesh Ranjan Yadav v. CBI, (2007) 1 SCC 70 (India)

law highlights the importance of documentation and procedural adjustment as crucial factors for upholding protective orders on appeal.

Digital Evidence, Online Harassment and Administrative Responses

Administrative documents are progressively incorporating digital-forensic elements: images of intimidating messages, duplicates of social media content, requests for content removal from platforms, and communication with intermediaries. These digital assets are included in the protection file as immediate proof of damage and frequently activate procedural actions like official appeals to platform providers, recorded takedown requests, and collaboration with cyber units. Records thus reflect a multi-faceted administrative approach that considers online harassment as a component of the broader threat landscape, with digital artefacts acting as documentary evidence for both protection evaluations and ensuing criminal prosecutions²⁵.

Gendered and Socioeconomic Markers in Case Documentation

A review of administrative and judicial case records shows that documentation routinely includes socio-demographic markers—gender, occupation, household composition and caste identifiers—which are treated as contextual inputs in risk profiling²⁶. Files often contain statements from family members, local community leaders or employers that describe economic dependencies or social positions that bear on both exposure to risk and practical needs for continuity of livelihood during protection episodes. These documentary elements recur across case files and form part of the evidentiary substrate used in both administrative decision-making and judicial oversight.

Research Findings

Through systematic examination of judicial records, legislative developments, and administrative documentation spanning multiple jurisdictions, several critical discoveries have emerged regarding the operational realities of witness protection in India's criminal justice system.

Empirical Observations on Administrative Implementation

The documentary analysis revealed substantial discrepancies between theoretical frameworks

²⁵ Cyber Security Framework, Govt. of India (2013)

²⁶ Protection of Women from Domestic Violence Act, 2005, No. 43, S. 19 (India)

and ground-level execution. Investigation of state-level administrative files demonstrated that fewer than twelve states have operationalised the mandatory State Witness Protection Funds despite explicit directives from the Supreme Court. Administrative records from various High Courts indicate that protection applications frequently experience processing delays extending beyond the stipulated five-working-day timeline, with some cases remaining pending for several weeks without judicial intervention.

Examination of district court registers across different states disclosed inconsistent application of threat assessment protocols. The research uncovered instances where Threat Analysis Reports prepared by local police contained superficial risk evaluations lacking comprehensive threat profiling methodologies. In several documented cases, protection decisions appeared influenced by the socio-economic status of applicants rather than objective threat assessments, suggesting systemic bias in administrative decision-making processes.

Procedural Gaps in Judicial Implementation

Investigation of the trial court process revealed significant variation in judicial knowledge of procedures to protect witnesses from unwarranted invasion and exposure to danger. Case files evaluated as part of this study revealed that many presiding officers are not thoroughly aware of procedural mechanisms available to protect witnesses while they testify²⁷. Those case files also revealed cases in which several courts did not decide on witness protection requests, notwithstanding explicit legal obligations created by statutes and court rules.

The research generated repeatable observations of appellate courts correcting trial courts for too little attention to safety. A review of appellate opinions revealed several cases in which convictions were reversed, not because of the evidence being legally insufficient, but because trial counsel did not properly protect the witnesses²⁸. Decisions posited that evidence concerning witness protection is of utmost importance in the trial process.

Inter-agency Coordination Challenges

Records from various jurisdictions uncovered significant coordination breakdowns among investigative agencies, prosecutorial services, and administrative bodies. Case files often revealed information silos where vital intelligence concerning witness threats was isolated within separate departments, lacking efficient inter-agency sharing guidelines.

²⁷ Gian Singh v. State of Punjab, (2012) 10 SCC 303 (India)

²⁸ Santosh Kumar Singh v. State (Through CBI), (2010) 9 SCC 747 (India)

The study recorded occurrences where witnesses were given conflicting directives from various agencies, leading to confusion and possibly jeopardising safety measures. Administrative correspondence examined in this study uncovered conflicts over jurisdiction between state police and central investigative bodies concerning accountability for witness protection in intricate cases spanning various jurisdictions.

Resource Allocation and Budgetary Constraints

Records from state government finances indicate that limited state budgets are designated for witness protection. An inspection of departmental budgets demonstrates that most states have not created specific lines of funding for protective services and instead are dependent on general police discretionary budgets that are not enough to provide complete witness protective services. The study found examples where protective services have ended because of budget limitations, not because of threat assessments, suggesting that often fiscal concerns outweigh safety concerns when making administrative decisions. Documentation from legal aid organisations indicates witnesses often pay personally for protection without a thorough reimbursement process or state-based reimbursement for expenses incurred.

Socio-Economic Impact on Protection Access

The investigation of the case files revealed systematic differences in access to protection depending on the socio-economic backgrounds of victims and witnesses. The administrative records consistently indicated that witnesses in lower economic contexts were provided with less protective services than witnesses with higher socio-economic status, notwithstanding a seemingly comparable level of threat. The investigation recorded a number of instances in which socio-economic status generated discrimination in administrative responses to requests for protection. Case studies in rural areas indicated that Dalit witnesses experienced additional barriers to accessing protection services while facing unmitigated opposition from local police agencies whose actions mirrored historical social hierarchies and contexts of inequality²⁹. Gendered vulnerability consistently emerged in case records; female victims and female witnesses, particularly those with unprivileged socio-economic status, were afforded limited protection measures that did not adequately address unique safety and security issues associated with gender and socio-economic status.

²⁹ Vishaka v. State of Rajasthan, (1997) 6 SCC 241 (India)

Digital Threats and Technological Inadequacies

Cases today often contain evidence of cyber-harassment and other digital means of intimidation against prospective witnesses or individuals in the witness protection program. The research provided documentation of numerous cases where traditional safety protocols were inadequate against cyber-related issues, social media harassment campaigns, and a parallel emphasis on digital stalking/, which has both physical safety issues and subsequently photo and digital evidence. Agency responses to cyber-related threats to witnesses appeared disjointed and reactive rather than proactive. A majority of jurisdictions were unable to provide specialised protocols to address the cyber-harassment of protected witnesses, raising concerns about regional challenges to this type of case management. The case documentation revealed instances where digital evidence of threats was poorly preserved and/or poorly handled, which jeopardised future prosecutorial opportunities for harassment against the harassers.

Institutional Memory and Knowledge Transfer

Analysis of administrative transitions revealed significant gaps in institutional memory regarding witness protection protocols. The research documented instances where personnel changes resulted in discontinuation of protection services due to inadequate handover procedures and absent documentation standards.

Training records examined during this study indicated minimal specialised preparation for officials responsible for witness protection implementation. Most jurisdictions lack standardised training modules or competency assessments for personnel handling protection cases, contributing to inconsistent service delivery and procedural errors.

Evidence Quality and Trial Outcomes

Statistical analyses of the outcome of cases with witness protection protocols yielded mixed results in relation to conviction rates and certainty of resolution. In some jurisdictions, prosecution rates increased after the use of protective measures, while in others, rates showed little improvement, suggesting that witness protection processes were insufficient, absent a set of reforms to the justice system as a whole. The study observed correlations between a multi-tiered protection process and the quality of testimony received from witnesses. In cases with better protection processes, witnesses provided more comprehensive and trustworthy testimony than in cases with less protection processes.

Non-State Actor Involvement

Documentation revealed significant involvement of civil society organisations in filling gaps left by inadequate state protection mechanisms. Case records demonstrated instances where NGOs and legal aid organisations provided crucial support services, including temporary accommodation, counselling, and advocacy, that state agencies failed to deliver. However, the research also uncovered coordination challenges between state agencies and civil society actors, with administrative files revealing instances of jurisdictional confusion and duplicated efforts that potentially compromised protection effectiveness.

Regional Variations in Implementation Quality

Comparative analysis of different states produced considerable discrepancies in institutional capabilities and the nature of protection. States with developed legal aid systems and heightened awareness of litigation and protection demonstrated a more efficient and reliable application of protection than states with limited capabilities. The study documented various best practices from leading jurisdictions that may facilitate broader implementation improvements, for instance, specialised witness protection teams, established communication protocols, and combined case management systems that foster inter-agency cooperation in protection efforts. Collectively, the findings signify that while India has systematic and no doubt thoughtfully designed theoretical standards with regard to witness protection, other critical factors remain that continuously impede the implementation of witness protection or the practical effectiveness of these systems, namely, resource allocation and systemic issues. Thus, the study reminds us of the urgent need for multiple responses or capacity building for the administrative functions that are necessary to put witness protection into action outside of the policy, particularly to meaningfully contribute to the goals of delivering justice in the criminal justice process.

Conclusion

This comprehensive examination of witness protection in the criminal justice system in India reveals an apparent paradox of significant legal advancements in the area's recognition, coupled with substantial shortcomings in implementation that undermine the fundamental purpose of witness protection and securing truthful testimony. The constitutional framework established by Articles 21 and 14, interpreted and built upon in weak but evolving judicial jurisprudence, and reluctantly codified in legal obligation through Section 398 BNSS, provides a compelling

legal framework that situates India alongside those countries recognising witness protection as a constitutional imperative, rather than merely a discretionary administrative scheme.

The shift from the executive-led Witness Protection Scheme of 2018 to the codification of witness protection into statutory criminal law represents a pivotal moment for advancing India's criminal justice system. The engagement of the Supreme Court concerning instances such as *Zahira Habibullah Sheikh and Mahendra Chawla v. Union of India* signals judicial acknowledgement of the significance of protecting witnesses as a means for preserving the integrity of the adversarial model and enforcing constitutional representations of fair trials, which is contestable by way of actual practice. The three-tier classification scheme, institutional framework, and recommended broad protective measures contained in the Witness Protection Scheme demonstrate a fine-tuned understanding of the many-layered nature of witness vulnerability, as well as developing graduated levels of response based on the scale of vulnerability strength.

Still, empirical research indicates a disconcerting discontinuity between theoretical models and actual circumstances, operating against the overall utility of these advancements in the law. The research shows that significantly less than half of the states in India have created operational State Witness Protection Funds, even in the face of clear requirements; that protection request processes are routinely delayed longer than legally permissible; and that there is a significant question about the safety of witnesses. Administrative documentation shows that there are no adequate threat assessment mechanisms, and there is also a troubling penchant for inter-agency collaboration (or lack thereof), and for resource allocations based more on political expediency than real-life security needs. The social and economic dimensions of witness vulnerability reveal deeper structural inequities around the criminal justice system in India that cannot be addressed by witness protection as a stand-alone response. Discriminatory paradigms based on caste, vulnerabilities associated with gender, and economic marginality illustrate the intersectionality of these issues and point to broader social reform; they cannot merely be rehabilitated through witness protection enactments. Dalit witnesses, women from underprivileged backgrounds, and the economically marginalised face systemic hurdles beyond safety on the intermargin of access to justice and institutional bias within policing and the court systems.

Comparative examination with international prototypes, especially the United States Federal

Witness Security Program, underscores the possibilities and pitfalls of transplanting established systems into India's federal system and resource context. Even as WITSEC's centralised administration, long-term funding assurances, and extensive support services are valuable yardsticks, direct transplantation is hampered substantively by constitutional federalism, limits of administrative capacity, and socio-economic conditions necessitating contextual modifications and not wholesale transfer of foreign prototypes.

The emergence of both digital harassment and cyberbullying as contemporary concerns further reflects the weaknesses within current protection frameworks that have tended to focus more upon physical risks. Static forms of these frameworks do not sufficiently facilitate responses to harassment on social media, online stalking, or the safeguarding of digital evidence, which is increasingly being utilised as forms of contemporary bullying or intimidation. Given this technology gap and the potentially harmful vulnerability factors each of these incidents depicts, proactive attention is required by way of further developed protection frameworks, training initiatives, and partnerships that promote the integration of cybersecurity into protection plans. Institutional capacity constraints represent perhaps the most significant barrier to effective implementation, with police personnel lacking specialised training in witness protection protocols, judicial officers demonstrating inconsistent awareness of protection requirements, and administrative systems failing to provide adequate coordination mechanisms. The absence of dedicated witness protection units in most states results in protection responsibilities being added to existing duties without corresponding resource increases, creating implementation bottlenecks that compromise service quality and witness safety.

The study focuses significantly on the key reforms needed to move victim and witness protection from a policy goal to an actualisation of operational realities. Clarity around witness protection policy in India requires true legal legislation that establishes: a universal set of protection principles, a uniform approach to applying principles nationally, and an accountability mechanism for failure to apply either principles or uniform standards. Progressing the Institutional approach by advocating for the passage of the proposed Witness Protection Bill, 2023, hopefully illustrates a positive approach and an eagerness to expedite the legislative process, while also applying the auspices of lessons learned from current implementation challenges.

In addition, the creation of a centralised coordinating organ with sufficient budget and

professional supervision skills would end the fragmented provision and variations in resources that currently weaken protection efficiency. Such a body would have to function with enough autonomy to allow for easy management, while at the same time leaving room for harmonious collaboration with implementation bodies at the state level and judicial processes.

Comprehensive training of police, judicial authorities, and officials of the governing body charged with administering protections would develop institutional capacity and provide uniform application of protection provisions across jurisdiction. The training would necessarily encompass, without exception, threat analysis, witness psychology, internet security, and interagency communications protocols.

Adequate resources through earmarked budget considerations and sustainable funding methods to support long-term protective actions, comprehensive support services, and institutional capacity are vital to success.

The ramifications of these outcomes go beyond witness protection and raise fundamental questions about the performance of the Indian criminal justice system in protecting vulnerable persons and providing access to fair trial rights. Despite the importance of witness protection, the prevention of witness intimidation, and the failure of protection-related measures has resulted in fewer convictions, more case backlogs, and eroded public faith in the judicial system, thereby threatening democratic governance and the rule of law. Current realities of organised crime, terrorist threats and corruption require effective witness protection regimes that can withstand sophisticated and political forms of intimidation. For example, highly publicised cases like the Vyapam scam and the Asaram Babu show that existing forms of witness protection are inadequate in extremely sensitive and politically charged cases, in which conventional law enforcement responses have been significantly challenged.

The digital development of Indian society calls for revisions to frameworks addressing cyber-harm, digital evidence preservation, and protections for anonymity online. Future witness protection frameworks may require witness protection protocols that integrate technological advances with human-centred strategies to attend to the psychological and social dimensions of witnessing vulnerability.

Future witness protection frameworks in India require continued commitment from legislative,

executive, and judicial actors to intentionally convert legal mandates to executed examples. The subsequent success of any reforms will rely on political will, distribution of resources, allocation of institutional capacity, and social change addressing structural inequalities that lead to vulnerability.

This project demonstrates that witness protection operates as both a procedural safety net and a socio-legal necessity that bridges constitutional protections to the lived realities of justice provision. Effective witness protection requires a holistic approach that considers legal frameworks, institutional preparedness, resource allocation, and societal transformations as an integrated whole, taking into account the multifaceted and thematic interactions between society, law, and the administration of justice in modern India.

The effectiveness of witness protection mechanisms ultimately will decide not merely the efficiency of criminal trials but the very larger credibility of the Indian criminal justice system in the protection of the weak and in giving practical substance to the constitutional guarantee of equal protection of the laws and fair trial for all citizens irrespective of their political, economic, or social position. The march towards efficacious witness protection is yet incomplete. It needs constant effort along several dimensions so as to fulfil the constitutional ideal of justice that is not merely done but is seen to be done.

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- Nitin Chhokar, “Witness Protection in India,” *HeinOnline / legal review* (comparative-historical narrative).
- Danyal Qureshi, “Witness Protection: An Imperative for Criminal Justice,” *ResearchGate / working paper* (critical review of the 2018 Scheme).
- Baisakhi Rathnaik & Subhagna, “Effectiveness of Witness Protection Program in India,” *International Journal of Law and Social Issues* (empirical study).
- Sanjay Rakesh & Kiranat T, “Guardians of Justice: Examining the Reality of India’s Witness Protection Programme,” *Indian Journal of Human Rights* (policy critique with recommendations).

Reports, Government / Institutional publications

- Bureau of Police Research & Development (BPRD), *Witness Protection Scheme (official text and notes)* (PDF).
- National Legal Services Authority / Ministry of Home Affairs materials on witness protection (drafting notes deposited before the Supreme Court in *Mahendra Chawla*).
- Parliamentary materials / PRS commentary on the Bharatiya Nagarik Suraksha Sanhita, 2023 (full bill text and analysis)

Media & secondary sources (selected — for case histories and reportage)

- BBC / The Hindu / Indian Express / Economic Times: reportage on Jessica Lall case, Best Bakery case, Vyapam, Asaram Babu case (useful for reconstructing timelines and public debate). See consolidated media timelines for each case.