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Witness Protection in India: A Critical Evaluation of Implementation Post-2018 Scheme

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The witness protection concept is important in ensuring justice through a fair trial. In most cases, Indian witnesses are threatened or intimidated, so they will not reveal the truth in court. There have been instances in which witnesses either retract their statements or fail to appear in court because of fear, especially if the case has received much media attention. In response to this problem, the Supreme Court has created the Witness Protection Scheme, 2018, ordering each State and Union Territory to follow the provisions of this Scheme until comprehensive legislation is passed. This paper discusses the process of development of witness protection measures in India and critically analyses the effectiveness of this Scheme, identifying the shortcomings associated with it. The paper will explore the legal background of the Scheme and examine its linkage with Article 21 of the Indian Constitution. At present, the current measures taken to protect witnesses in India are still inadequate, and this paper aims to offer some constructive suggestions regarding improvement of the Scheme based on existing problems and challenges.

Keywords: *witness protection, article 21, protection scheme, criminal justice system, judicial implementation.*

INTRODUCTION

In criminal proceedings, witnesses play a primary role. The people who see something in a case can say what really happened or show what is not true. They are like the ones who hold

the light for what's fair. But in India, it seems that the people who see something are still scared of what they get. Sometimes they even get hurt or killed for telling the truth. This makes the trials not as strong. People start to not believe in the system that is supposed to make sure justice happens. The witnesses in any proceeding have the ability to affirm the truth or expose the falsehood. This is a big problem for the witnesses in India. The absence of a solid and uniform legal framework protecting the witnesses has resulted in making them vulnerable, also resulting in frequent withdrawal and hostile testimonies. Recognising this gap, the Supreme Court in the case of *Mahender Chawla & Ors v Union of India* introduced the Witness Protection Scheme, 2018, thereby mandating its adoption across all states.

Even though the scheme was considered a landmark step in acknowledging witness rights under Article 21, its implementation has raised serious defects over consistency, funding, institutional capacity, and overall awareness. The Scheme prescribes procedural guidelines for the protection of witnesses' identities, securing their safety, and, where necessary, facilitating relocation or rehabilitation, until a statutory act is passed by the legislature.

Despite these measures and protection, the scheme's effectiveness is still affected by challenges. There are some differences in awareness, training and resources among police officers and judicial authorities. These differences often stop them from giving witnesses the protection they need on time. This paper aims to examine the evolution, implementation, and limitations of the witness protection scheme in India, analysing the unfilled gaps and references from international practices. By highlighting these, the study shows the urgent need for a strengthened, uniform, and enforceable framework to ensure that witnesses can participate in the justice process without fear or compromise, thereby preserving the credibility and fairness of India's criminal justice system.

HISTORICAL CONTEXT AND NEED FOR WITNESS PROTECTION IN INDIA

India's criminal system has witnessed cases where witnesses change their statements or turn against the case, especially in several high-profile cases in India. This is caused mainly by fear, inducement, and lack of support, but the only end result it leads to is the miscarriage of justice to the victims and society. Several high-profile cases in India have shown the challenges arising due to inadequate witness protection. In the case of the murder involving Jessica Lal, both the main eyewitnesses backed out during the ongoing trial of the case,

resulting in the acquittal of the accused. But due to massive protests by the people and through media coverage, later on, the Delhi High Court passed an order for a retrial, which led to the conviction of the accused in the year 2006.¹ Similarly, in the *Zahira Habibulla H Sheikh and Anr v State of Gujarat and Ors (2002)*, popularly known as the Best Bakery case, twenty-one accused persons were acquitted because several witnesses later changed their statements. Thus, the Hon'ble Supreme Court ordered a retrial as well as strongly criticised the justice system and urged the need for witness protection, and quoted the earlier result, a 'travesty of justice.'²

Another case of *Saint Shri Asharam Bapu v State 2013*, where nine witnesses were allegedly attacked or killed during the trial, which was still going on. This clearly demonstrates how dangerous it is to be a brave witness testifying against crime. These are just a few examples among many that demonstrate the dire need for an effective witness protection program in India.³

The legal bodies and judiciary also noticed that the eyewitnesses of high-profile cases back off due to pressure. Both the 198th and 222nd Law Commission Reports strongly suggested passing clear and comprehensive laws to protect and ensure witness safety and to encourage them to speak the truth. It is evident from these reports that the witnesses' lives were highly vulnerable to threat, as well as that, without their protection, justice can never be served in many criminal cases.

As more cases kept failing due to threats and intimidation against witnesses, courts began to realise the importance of protecting witnesses. This was due to the realisation that witness testimonies were being falsified, hence compromising the integrity of the entire judicial process. There was evidence that witnesses were under threat; without adequate protection, justice would not have been served in many criminal trials. It was stressed again and again by the Court that witnesses were necessary as they had been forced into giving false

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

² *Zahira Habibullah Sheikh & Anr v State of Gujarat & Ors (2004) 4 SCC 158*

³ *Saint Shri Asharam Bapu v State of Rajasthan (2013) S B Criminal Misc Bail Application No 7115/2013*

testimonies. The reports indicated the danger involved for the witnesses and the fact that, without protection, there would be no justice in many criminal cases.⁴

WITNESS PROTECTION SCHEME, 2018: KEY PROVISIONS

It was first formulated by the Ministry of Home Affairs and approved in the case of *Mahender Chawla & Ors v Union of India* by the Hon'ble Supreme Court. Although it has not been enacted as legislation and lacks statutory backing, it is binding because the Supreme Court, under Article 142, directed its implementation. It represents India's first unified witness protection policy.⁵ The Witness Protection Scheme 2018 introduced a system of organised provisions aimed at protecting witnesses against threats and intimidation so that they might testify without fear. One of the features of the scheme is its threat classification system, as it appreciates that not all witnesses are equally exposed to danger. The threats are categorised into three types, which are:

To deal with different levels of threat, the scheme provides various protection measures, depending on the specific category of risk involved. In the most serious cases, witnesses may be given a new identity or moved to a safehouse or even a different state to stay away from danger. Other protective steps include police escorts, 24x7 security, or protective surveillance in and around the witness's residence. In court, witnesses can give sensitive testimony through private sessions or video calls to avoid direct contact with the accused.⁶

Category A: It covers situations where there is a clear and immediate threat to the life of the witness or their family during the investigation, trial, or even after the case is over.

Category B: This covers threats that are not life-threatening but are still serious, like threats to safety, reputation, or mental health.

Category C: It includes situations with moderate risk, such as possible injury to a witness's property or harm to their extended family members, which could still pressure them to stay silent or withdraw their testimony.

⁴ Law Commission, *Report No 198: Witness Identity Protection and Witness Protection Programmes* (Law Com No 198, 2006); Law Commission, *Report No 222: Need for Justice-dispensation through ADR etc* (Law Com No 222, 2009)

⁵ Constitution of India 1950, art 142

⁶ *Mahender Chawla & Ors v Union of India & Ors* (2019) 14 SCC 615

To ensure that the scheme functions efficiently on the ground, it also includes an institutional structure. At the ground level, District Witness Protection Committees (DWPCs) are constituted, led by a District Judge with senior police officers and district administrative officers. There are certain obligations placed on these committees to assess threat perceptions and, accordingly, make protective suggestions. Home Departments and monitoring cells at the state level ensure oversight. A vital component of this system is the Witness Protection Fund, which pays for the logistics and expenses of protection. This fund is drawn from state government accounts, judicial fines, and public donations, and symbolises a collaborative attitude towards funding justice.

Finally, the scheme ensures definite procedural safeguards to avoid bureaucratisation. Orders on protection applications must be taken within five working days, thus avoiding haggling in urgent cases. Additionally, witnesses or authorities who are unhappy with a decision can appeal to the State Appellate Authority. Cases are also reviewed every month to decide if protection should be given, changed, or withdrawn.

In short, the Witness Protection Scheme 2018 aims to turn the idea of justice into real protection for those people who put themselves at risk just to uphold the truth. It recognises that witnesses are not just a side part of a trial; in fact, they are often its backbone. Protecting them is essential to keeping the justice system fair and strong.⁷

JUDICIAL INTERPRETATION AND CONSTITUTIONAL VALIDITY

The Constitutional validity of witness protection in India got a major boost with an important landmark judgment that is *Mahender Chawla v Union of India* (2019). The Supreme Court in this case sharply held that protection of witnesses is not just a procedural requirement but a constitutional right arising out of Article 21, which proposes the right to life and personal liberty.

The Court's judgment was not alone but built on a growing body of progressive jurisprudence. In *Sakshi v Union of India* (2004), the judiciary had already valued the extreme vulnerability of victims of sexual assault, particularly when forced to testify in an open court. Similarly, in *PUCL v Union of India* (2003), the Court enlarged the ambit of Article 21 to

⁷ Witness Protection Scheme 2018

include not just physical safety but also the rights to privacy and dignity, strengthening the idea that a just trial environment must uphold the integrity and personal security of every participant, including witnesses.⁸

In addition to Article 21, the rest of the constitutional framework is also in favour of a sound witness protection system. Article 39A compels the State to provide equal justice and ensure free legal assistance, particularly to those who are not in a position to access the legal system. In witness protection, this implies an atmosphere in which economically or socially underprivileged witnesses are not threatened with fear, coercion, or institutional indifference. In addition, under Article 14, which promises equality before the law, it requires that all citizens, independent of their origin, enjoy equal access to justice, including the right to give evidence without intimidation.⁹

Taken together, these constitutional provisions and judicial decisions clearly show that witness protection in India is both legitimate and necessary. They uphold that the truth will not conquer anyone in a court of law where there is fear, and that the provision of protection to the safety, dignity, and voice of witnesses is necessary to secure the rule of law and administer authentic justice.¹⁰

IMPLEMENTATION: PROGRESS AND PITFALLS

Even though the court supports it, the implementation of the system in Indian states has been fragmented, inconsistent, and not very transparent.

Uneven Implementation Across States: Despite the progressive intent of the Witness Protection Scheme 2018, its enforcement at the state level is unbalanced, and disparities between policy and practice continue to exist. The Delhi, Kerala, and Maharashtra states have been using certain practices by institutionalising DWPCs, offering procedural guidelines, and thoroughly reporting scheme cases. They have proved that, with administrative will and political will, witness protection can be a working reality.

⁸ *People's Union of Civil Liberties (PUCL) & Anr v Union of India & Anr* (2003) 9 SCC 490

⁹ Constitution of India 1950, arts 14, 21 & 39A

¹⁰ *Sakshi v Union of India* WP (CrI) 33/1997

In Delhi, for example, courts have worked with police and district administrations to arrange for timely and effective protective steps, whereas Kerala has established well-defined SOPs for evaluating threat perception and providing security.

In contrast, the picture is bluntly different in states such as Bihar, Jharkhand, Tripura, and many of the North-Eastern states, where the scheme has either not been notified at all or where functional DWPCs are missing or not working. As a result, witnesses still face threats and violence with no real support, and the purpose of the scheme remains mostly unmet. The lack of systemic implementation in these regions not only puts individual security at risk but also allows the system to weaken criminal trials, particularly in sensitive or celebrity cases.

In general, an additional alarming trend has emerged within certain states where the plan is placed on advisory status, rather than being a binding mandate grounded in constitutional authority.

Budgetary Deficits: A critical barrier to the effective functioning of the Witness Protection Scheme 2018 lies in the budgetary deficits and poor financial implementation across many states. While the scheme mandates the creation of a State Witness Protection Fund to be financed through state budgets, judicial fines, and public donations, very few states have actually operationalised these funds. Even within the states that have officially established the fund, the real usage is startlingly low.

In a few instances, the usage has been less than 2% of the amount allocated, suggesting not only a failure in financial planning but also a general neglect of the problem. This underfinancing has tangible and disturbing implications on the ground. The testimonies in need of protection are consistently refused or left simply because agencies prove that they do not have the infrastructure, officers, or budgetary capabilities to institute protective arrangements. For example, requests for moving to a safe place, secure housing, or 24/7 security are sometimes rejected, even when witnesses face serious threats to their lives. As a result, witnesses who are often opposing powerful or dangerous people are left vulnerable because of administrative failures.

This budgetary failure also raises many questions about priority within the justice system. When the government promises to protect individuals who speak the truth but doesn't

provide enough money or resources, it shows a message that witness protection is more of an appearance than a real action. True justice cannot be achieved on a tiny budget, especially when the safety of brave individuals willing to testify is at stake.

Administrative Hurdles: The operationalisation of the Witness Protection Scheme, 2018, is also hindered by the perennial administrative challenges that weaken it at the grassroots. Across most districts in the country, there is limited application of standard operating procedures (SOPs), which are needed to provide consistency and clarity in decision-making. Without SOPs, the officials have no clear guidance, and they end up working in silos, resulting in random or inconsistent decisions on whether to offer protection or not. Police officers, too frequently undertrained or uninformed of the threat perception matrices, habitually disregard protection requests without making proper inquiries, particularly if the threat is not visually apparent or sensational. This administrative disconnection not only serves to slow down protection for those in actual danger but also fosters an apathy culture wherein the imperative of protecting witnesses is simply not appreciated.

These issues are the absence of centralised oversight. There is no national dashboard or online portal to monitor the number of witnesses who applied for protection and the number who received protection, or what happened afterwards. This lack of data transparency prevents the scheme from determining its effect or determining which areas require intervention. The lack of monitoring means the scheme is conducted on a secretive basis, making accountability unworkable.

Socio-Cultural Barriers: Apart from administrative and procedural woes, ingrained socio-cultural obstacles also deter witnesses, particularly from marginalised segments of society, from approaching protection in the first place. Witnesses who belong to marginalised groups, including Dalits, Adivasis, and religious minorities, also experience threats not only from the accused or their supporters, but also from their own communities, where a voice is often seen as disloyalty or betrayal. Retaliation can be expressed in so many ways, like social exclusion, boycotts, or even physical violence, and this fear often stops important voices from coming forward in the justice process.

Women victims are especially severely affected. The shortage of female officers, the possibility of character assassination, and re-victimisation deter them further from speaking

up. Further, caste-based discrimination, especially in rural areas, leads to silence. Lower-caste witnesses are afraid that their cries will not be heard or be ridiculed by upper-caste officials. Therefore, many endure threats in silence and do not approach institutions for assistance.

These administrative failures and socio-cultural barriers show that witness protection in India is not just a legal question, but it is a deep structural issue, based on unequal access to support, weak institutions, and deep-rooted social inequalities. These issues have to be addressed not through changing the law alone, but through requiring strong institutional training, active community involvement, and sensitivity to the real-life experiences of the most vulnerable people. Only then can justice truly be available to everyone, and not just to a privileged few.

EMPIRICAL AND CASE-BASED OBSERVATIONS

Even before the Witness Protection Scheme, 2018, people expected that it would work well. However, later, it was seen that it worked well in some cases but failed in others. The good side is that the scheme has successfully worked in some parts of Delhi, especially in cases related to gang rivalries and organised crime, by hiding witness identities and providing round-the-clock police protection, which played an important role for the witnesses to come forward.

Not only that, during the COVID-19 pandemic, the use of in-camera proceedings and video deposition has increased, making the process easier and more secure for vulnerable witnesses to give testimony remotely. However, the impact of these successes has been undermined by serious failures and tragic outcomes. In the Unnao rape case, the survivor's father was allegedly killed while in police custody, and other key witnesses also died under suspicious circumstances.¹¹

Similarly, in the Vikas Dubey case, a police officer who spoke out against a gangster was later killed in a revenge attack. Further, the source of RTI data reveals that, out of hundreds of

¹¹ Shalabh & Abhinav Malhotra, 'Unnao rape survivor's father dies in custody' *The Times of India* (10 April 2018) <<https://timesofindia.indiatimes.com/city/lucknow/unnao-rape-survivors-father-dies-in-custody/articleshow/63689188.cms>> accessed 08 February 2026; 'Unnao rape case: forensic report of key witness' death finds no poison' *The Hindu* (09 June 2020) <<https://www.thehindu.com/news/national/other-states/unnao-rape-case-forensic-report-of-key-witness-death-finds-no-poison/article24847971.ece>> accessed 08 February 2026

applications that were submitted across the selected state between the years 2018 and 2022, only a very small number of people got help at that time. These instances highlight the big difference between the scheme's main aim and how it actually worked in real life.

COMPARATIVE ANALYSIS WITH GLOBAL MODELS

When we compare it to other countries, India's witness protection mechanism looks very weak and lacking. In the United States, the Witness Protection Program (WITSEC) is federally run by the central government and provides comprehensive support, including identity change, relocation, employment aid and lifelong protection. The United Kingdom provides special dedicated police teams for witnesses and gives strong support before the trial. In Germany's system, which follows its Criminal Procedure Code, it also includes some measures, such as psychological counselling and the option to move witnesses permanently to ensure the safety of individuals.

In South Africa, the Witness Protection Act 1998 provides a community-based reintegration approach. It offers medical care and carefully monitored transitions for protected witnesses to adjust their lives securely. Unlike Germany and South Africa, India's witness protection system, which was started after 2018, remains reactive and lacks any formal legislation. Contrary to the common misconception, the Witness Protection Scheme, 2018 permits change of identity as an exceptional protective measure in Category A cases, where there exists a grave and immediate threat to the life and safety of the witness.¹²

It suffers from limited protection durations because of insufficient funding and is not applied the same way in every state. Most importantly, India doesn't provide witnesses to change their identity, as well as central funding or a post-trial integration program, critical elements that are standard in global systems.¹³¹⁴¹⁵

¹² 'Laws on the Internet' (*Federal Ministry of Justice Germany*) <<https://www.gesetze-im-internet.de/>> accessed 08 February 2026

¹³ Witness Protection Act 1998

¹⁴ 'Protected persons' (*National Crime Agency*) <<https://www.nationalcrimeagency.gov.uk/what-we-do/how-we-work/providing-specialist-capabilities-for-law-enforcement/protected-persons>> accessed 08 February 2026

¹⁵ Francisca Siquera, 'Inside the U.S. Witness Protection Program: How WITSEC Works' *News Trail* (08 May 2025) <<https://www.newstrail.com/inside-the-u-s-witness-protection-program-how-witsec-works/>> accessed 08 February 2026

CHALLENGES AND LIMITATIONS

The Scheme has faced a lot of problems with how it's set up, and it works. The biggest problem is that, in the absence of a statutory foundation, the Scheme is not backed by any law passed by parliamentary legislation and therefore, it doesn't have legal power; it's just something the government runs on its own. Funding remains another challenge. It was noticed that many states either do not allocate enough resources or are unable to effectively utilise the funds that are available to them.

The protection offered under the Scheme is often short-term, which is a main problem because the risk of being harmed often continues even after the trial ends. Moreover, there is no centralised monitoring system in place to keep track of how well witness protection is working or what happens in those cases. There is no national database or main agency to manage the Scheme, so it is done in a scattered way, and no one is fully responsible. Also, social and cultural pressures, especially in rural areas, stop people from cooperating with law enforcement because they fear being isolated by society or harmed for speaking up, or threats to personal safety.

RECOMMENDATIONS

To address this problem as well as fix these gaps, both short-term and long-term reforms are needed. In the short term, every state should be required to share clear information with the public about the Witness Protection Scheme and create District Witness Protection Committees (DWPCs) with their contact details, which are easily accessible. Police officers and judges should also be given regular training on how to protect witnesses. Additionally, citizens should be aware of their rights under the Scheme through simple awareness drives at legal aid clinics and district courts. To make witness protection strong and effective in the long run, India needs a proper national law based on global standards. This would help make the rules clear and easier to ensure they can be properly enforced across all the states.

The legal provision should include permanent protection measures such as changing a person's identity, giving financial support and relocation. A centralised authority, such as the National Witness Protection Authority under the Ministry of Home Affairs, should be created to manage and monitor how the Scheme is being used across the country. Additionally, a secure digital system needs to be developed to allow private communication,

use of biometric tracking, and safe application filing. Finally, there should be regular reviews using surveys and required updates under the RTI, so the witness protection system stays open, honest, and keeps getting better.¹⁶

CONCLUSION

The Witness Protection Scheme 2018 is a significant step in strengthening India's criminal justice system and building public trust. It reinforces key constitutional values such as fairness, dignity, and equal access to justice. However, the scheme is designed well, but making it actually work on the ground is still a big challenge. In the absence of legal enforceability, proper funding, public awareness and strong systems, the Scheme doesn't meet what the Supreme Court expected and what vulnerable witnesses truly need. If India truly wants to protect the rule of law, then it should make sure that people can speak the truth without fear. They must move away from reacting after problems arise and instead actively protect witnesses in advance.

This transition requires more than legal reform; it requires strong moral and effective administrative commitment. Central legislation, coordinated institutional efforts, and comprehensive support systems are not optional; they are essential pillars to building a fair and humane justice system.

¹⁶ Vikas Pathak, 'RTI Act amendment: Amid Opposition fire, Vaishnaw says won't affect disclosure obligated by laws' *The Indian Express* (10 April 2025) <<https://indianexpress.com/article/india/rti-act-amendment-opposition-union-minister-ashwini-vaishnaw-disclosure-obligations-9937143/>> accessed 08 February 2026