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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

IMPLEMENTATION OF WITNESS PROTECTION PROGRAM AND LEGAL PROBLEMS IN INDIA.

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Abstract: -

Witnesses form the backbone of the criminal justice system. Without their testimony, investigation and prosecution often fail, leading to acquittals even in serious criminal cases. In India, witness intimidation, hostility, threats, inducements, and even physical elimination have severely affected the administration of justice. Recognizing these concerns, the Supreme Court of India approved the Witness Protection Scheme, 2018, making it enforceable across the country. Further developments under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) have strengthened the statutory framework for witness protection.

This article critically examines the implementation of the Witness Protection Program in India and the legal challenges associated with it. It analyzes constitutional provisions, judicial precedents, statutory developments, practical limitations, comparative international perspectives, and institutional weaknesses. The article also explores structural deficiencies such as lack of funding, inadequate infrastructure, absence of independent protection authorities, and procedural ambiguities. Finally, it provides recommendations for strengthening witness protection mechanisms to ensure fairness, transparency, and credibility in the criminal justice system.

Keywords: - Witness Protection Scheme, Fair Trial, Criminal Justice System, challenges, Implementation.

1. Introduction: -

The implementation of an effective Witness Protection Program in India is essential to ensure fair trials, strengthen the criminal justice system, and uphold the rule of law. The criminal justice system of any democratic country rests upon the foundational principle of a fair trial, and witnesses play a crucial role in ensuring that justice is delivered. In India, however, witnesses often face threats, intimidation, coercion, and even physical harm for coming forward to testify in criminal proceedings. The absence of a comprehensive statutory framework for witness protection for many decades resulted in frequent instances of witnesses turning hostile, thereby weakening prosecutions and allowing offenders to escape punishment. This situation posed a serious challenge to the rule of law and undermined public confidence in the justice delivery system. Recognizing the gravity of the issue, the judiciary and legislature gradually acknowledged the need for structured witness protection mechanisms. A significant milestone was achieved with the approval of the Witness Protection Scheme, 2018, which was endorsed by the Supreme Court of India in *Mahender Chawla v. Union of India*¹. The Court declared the Scheme to be the “law of the land” under Articles 141 and 142 of the Constitution until appropriate legislation is enacted. The Scheme introduced measures such as identity protection, relocation, change of identity, and security arrangements depending upon the threat perception level of the witness.

Further legislative support has been reflected in the enactment of the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, which replaced the Code of Criminal Procedure, 1973. The BNSS incorporates provisions aimed at protecting victims and witnesses, including measures for in-camera trials and safeguarding sensitive information. These developments indicate a progressive shift toward institutionalizing witness protection in India. Despite these advancements, the implementation of witness protection programs in India continues to face several legal and practical challenges. These include inadequate funding, lack of uniformity among states, bureaucratic delays, concerns regarding misuse, and insufficient awareness among witnesses about their rights. Additionally, balancing the rights of the accused with the safety of witnesses raises complex constitutional questions.

¹ (2019) 14 SCC 615

Therefore, an examination of the implementation of witness protection programs and the legal problems associated with them is both timely and necessary to strengthen the Indian criminal justice system.

2. Research Questions: -

- i. What is the constitutional and legal basis of witness protection in India?
- ii. How effective is the Witness Protection Scheme, 2018 in practical implementation?
- iii. What are the major legal and administrative problems in the current witness protection framework?
- iv. What reforms are necessary to ensure effective implementation?

3. Research Problems: -

- i) **Inadequate Statutory Backing:** - One major research problem is that witness protection in India largely operates through executive schemes rather than a comprehensive parliamentary statute. Although the Witness Protection Scheme, 2018 was approved by the Supreme Court, it lacks the same authority and clarity as a codified law. This creates uncertainty in uniform implementation across states and raises concerns regarding enforceability and accountability.
- ii) **Implementation and Administrative Challenges:** - Another significant issue is the uneven implementation of protection measures at the state level. Many states face financial constraints, lack of infrastructure, and insufficient trained personnel. The absence of a centralized monitoring authority further weakens coordination between police, prosecution, and judiciary.
- iii) **Fear, Delay, and Witness Hostility:** - A persistent problem is the rising number of hostile witnesses due to threats, intimidation, and delayed trials. Weak security mechanisms and prolonged judicial processes discourage witnesses from cooperating, thereby affecting fair trial rights and the overall administration of criminal justice in India.

4. Hypothesis: -

The effective implementation of the Witness Protection Scheme in India significantly enhances the willingness of witnesses to testify truthfully and reduces hostility during trial proceedings, and Judicial intervention, particularly through guidelines issued by the Supreme Court of India, has strengthened the framework of witness protection but challenges remain in uniform state-level implementation.

5. Research Methodology: -

This research shall be conducted by employing the Doctrinal Method by adopting an analytical and critical approach. Hence the primary source of data shall be gathered from Statues and Case laws. Further, secondary sources of data shall be gathered from Review of Books, historical materials, Law Commission Reports, academic writings, leading journals, newspapers, magazines etc.

6. The Legal and Judicial Framework for Witness Protection in India

For decades, witness protection in India existed in a legal vacuum. The Code of Criminal Procedure, 1973 (CrPC) and the Indian Evidence Act, 1872 contained scattered provisions for in-camera trials (Section 327 CrPC) and recording evidence in the absence of the accused (Section 299 CrPC), but these were inadequate to address systemic intimidation.

The judiciary, particularly the Supreme Court of India, played a pioneering role in recognizing the need for witness protection. In *NHRC v. State of Gujarat*,² the Supreme Court, while dealing with the 2002 Gujarat riots, explicitly acknowledged the state's duty to protect witnesses. The landmark *Zahira Habibulla H. Sheikh v. State of Gujarat*³ (Best Bakery Case) was a watershed moment. The Court strongly condemned witness hostility and emphasized that a witness who is threatened cannot be considered a free witness. The Court laid down guidelines for witness protection, including the possibility of holding trials outside the state.

² 2003 (9) SCALE 329.

³ 2006 (3) SCALE 104.

This jurisprudential evolution culminated in *Mahendra Chawla v. Union of India*⁴. The case involved witnesses in a rape and murder case who were facing grave threats. The Supreme Court, noting the absence of a law, took the extraordinary step of approving and enforcing the Draft Witness Protection Scheme, 2018, prepared by the Ministry of Home Affairs in consultation with National Legal Services Authority (NALSA).⁵ The Court directed all states and union territories to implement the scheme until a law was enacted by Parliament.

7. The Witness Protection Scheme, 2018: A Legislative Overview

The WPS, 2018, is a comprehensive document that forms the backbone of India's witness protection regime. Its key features include:

- i) **Threat Analysis:** A three-tier classification of threat perception (Grade A, B, C) to determine the level of protection required.
- ii) **Protection Measures:** These range from simple measures like ensuring confidentiality of identity and monitoring mail and calls (Grade C) to more stringent steps like providing a police escort, temporary relocation, and even change of identity (Grade A).
- iii) **Competent Authority:** The scheme establishes State and District Witness Protection Committees to administer the program.

The Supreme Court's directive, the WPS, 2018, was given statutory footing through an amendment to the Code of Criminal Procedure, 1973, by inserting Section 195A. This formally incorporated the scheme into the statute book.

8. Implementation Mechanism, Structure and Process: -

On paper, the implementation structure is clear. A witness, or the public prosecutor, can file an application before the Competent Authority (the Head of the District Police in most cases). The Authority, after receiving a threat analysis report from a designated officer, makes a recommendation to the State Witness Protection Committee (SWPC). The SWPC, chaired by the State Home Secretary, then orders appropriate protection measures.

⁴ 2019 (14) SCC 615.

⁵ **Witness Protection Scheme, 2018**, Ministry of Home Affairs, Govt. of India, Notification No. 25023/26/2018-Legal Cell.

The measures are to be funded by a dedicated State Witness Protection Fund, which is to be established by each state government, comprising contributions from the state budget and fines collected from accused persons.

9. Barriers to Implementing Witness Protection Program in India: -

For a long time, the Indian judicial system lacked a comprehensive statutory framework relating to the protection of witnesses. Unlike developed courts, which have codified criminal and administrative mechanisms for the protection of witnesses, Indian law remained silent and relied entirely on judicial interpretations and ad hoc governmental measures. Bharatiya Sakshya Adhiniyam, 2023 deals with matters relating to evidence, and Bharatiya Nagarik Suraksha Sanhita, 2023 relates to the process of criminal law justice. Despite these laws forming the procedural backbone of criminal trials, they do not contain specific provisions regarding the protection of witnesses' identities, relocation, or security measures.⁶

The traditional approach was based on the assumption that honest witnesses could cooperate with the criminal justice system and that the police and courts were capable of protecting them. This assumption, however, has proven false in the face of modern realities marked by the politicization of crime, organized syndicates, caste-based intimidation, and communal tensions.⁷

The Law Commission of India, in more than one of its reviews, has highlighted this legislative vacuum and stressed the urgent need for a dedicated witness protection regulation mainly in the context of India's low conviction rates and the growing number of hostile witnesses.⁸

The 154th Report of the Law Commission of India (1996) on the Code of Criminal Procedure emphasized the need for recording complaints in-camera and, in certain cases, for non-disclosure of the identity of witnesses. However, the 172nd Report (2000), which reviewed the legal

⁶ Ratanlal & Dhirajlal, *The Bharatiya Sakshya Adhiniyam* 27th edn., LexisNexis, 2023, p. 220.

⁷ Ujjwal Kumar Singh, "Witness and the Crisis of Testimony," *Economic and Political Weekly*, Vol. 40, No. 14 (2005), pp. 1430–1432.

⁸ Law Commission of India, *198th Report on Witness Identity Protection and Witness Protection Programmes*, (2006), p. 3.

guidelines relating to rape, explicitly encouraged witness protection measures, particularly for victims of sexual violence.

Subsequently, the 198th Report (2006) became a milestone report advocating for: -

- a) Protection of identity of witnesses.
- b) Provisions for in-digital camera testimony.
- c) Formation of an independent Witness Protection Authority.
- d) Application of generation for nameless depositions.
- e) Legislative action at the principal level.

On the other hand, the National Human Rights Commission (NHRC) submitted reports urging reforms to protect witnesses from police pressure, political influence, and acts of retaliation by the accused, particularly in cases of custodial deaths and communal riots.⁹ These guidelines remained unimplemented for more than a decade, reflecting a lack of political will and executive inaction in addressing one of the major shortcomings of India's criminal justice system.

In the absence of legislation, Indian courts invoked Articles 21 and 141 of the Constitution to create a binding judicial framework. In the case of *Zahira Habibullah Sheikh v. State of Gujarat*, the Supreme Court held that: "*Legislative enactments lay emphasis on prohibiting obstruction in the work of witnesses and informants, and they play a decisive role in the trial.*"¹⁰

Subsequently, in *Mahender Chawla v. Union of India*,¹¹ the Court declared the Witness Protection Scheme, 2018 as the law of the land until it was enacted by Parliament. This judicial endorsement conferred the scheme with binding constitutional authority, enforceable across all states and union territories under Article 141. According to Article 141, the law declared by the Supreme Court through its judgments and decisions is binding on all other executive authorities, High Courts, and District Courts in India.

⁹ National Human Rights Commission (India), *Annual Report 2014–15*, Chapter VII.

¹⁰ *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 SCC 158.

¹¹ (2019) 14 SCC 615.

Thus, India's approach to witness protection transformed from complete legislative silence to judicial innovation, fostering a hybrid framework executively drafted, judicially mandated, but not yet statutorily recognized.

i) Present Administrative Challenges

At the administrative level, implementation depends primarily on District Witness Protection Committees (DWPCs), chaired by District and Sessions Judges. However, recent compliance reports submitted to the judiciary reveal that many districts either have not convened these committees regularly or lack standardized procedures for processing applications. The decentralized structure has created significant disparities between states such as Delhi and Maharashtra, where limited institutional progress is visible, and other states where the scheme remains largely inactive.

Unlike centralized programs such as the U.S. WITSEC system, India lacks a National Witness Protection Authority. There is no centralized risk database, uniform threat assessment format, or national audit system. Applications are often delayed due to bureaucratic procedures, police workload, or unclear lines of administrative responsibility. In politically sensitive cases—especially those involving organized crime, caste violence, or communal tension—local police authorities may face conflicts of interest, undermining impartial threat assessment.

The problem of ineffective risk classification remains persistent. The Scheme categorizes threats into A, B, and C levels, but without standardized national guidelines or digital tracking systems, assessments vary widely between districts. Presently, there is no integrated digital portal for confidential filing of applications, and in many courts, witness names continue to appear in open cause lists, compromising confidentiality.

ii) Financial Constraints and Resource Gaps

One of the most significant present-time barriers is financial insufficiency. Although the Scheme mandates the creation of Witness Protection Funds at the state level, several states have either failed to operationalize these funds or allocated negligible resources. The absence of a centrally sponsored scheme under the Ministry of Home Affairs has led to uneven financial commitment across jurisdictions.

Protection measures such as relocation, identity change, safe houses, surveillance, and escort services require substantial funding and infrastructure. However, as of recent reports, Vulnerable Witness Deposition Complexes (VWDCs) exist primarily in metropolitan regions, leaving rural districts without secure testimony environments. In many states, police departments cite shortage of manpower and vehicles as reasons for limited protection. Without guaranteed budgetary allocation, even judicially ordered protection measures remain partially implemented.

The financial barrier is not merely about lack of money but about absence of structured fiscal planning. There is no national audit mechanism through the Comptroller and Auditor General specifically dedicated to witness protection expenditure. Nor is there transparency in reporting the number of beneficiaries, duration of protection, or fund utilization rates. Consequently, accountability remains weak.

iii) Procedural and Operational Gaps

Operational inefficiencies further undermine the scheme. The application process is often unclear to witnesses, particularly those from marginalized communities. Many applicants are unaware of their rights under the Scheme. Legal Services Authorities rarely conduct awareness campaigns, and police officers often fail to inform witnesses about available protection measures.

Delays in threat assessment reports are common. While the Scheme prescribes a five-day timeline for review, in practice applications may remain pending for weeks or months. In urgent cases, such delays defeat the preventive purpose of protection.

Another major gap is the absence of appellate remedies. If a DWPC denies protection or downgrades threat perception, the witness has no specialized appellate forum and must approach the High Court through a writ petition—an expensive and time-consuming process. This procedural vacuum discourages vulnerable witnesses from pursuing protection.

Confidentiality failures remain frequent. Although courts have permitted in-camera proceedings in sensitive cases like *Sakshi v. Union of India*, similar safeguards are not uniformly applied in other serious offences such as organized crime or corruption trials. Digital case records and publicly accessible orders may inadvertently disclose identities, highlighting the need for secure technological systems.

iv) Judicial Monitoring and Enforcement Deficit

Judicial activism has been instrumental in conceptualizing witness protection, yet monitoring mechanisms remain inadequate. While *Mahender Chawla v. Union of India* declared the Scheme binding under Article 141, there is no structured nationwide reporting system requiring quarterly compliance updates from states.

High Courts have not consistently established monitoring benches or designated judges to supervise implementation. Contempt jurisdiction under Article 215 is rarely invoked against non-compliant officials. Consequently, court directives are often treated as advisory rather than mandatory.

The enforcement deficit is also linked to data absence. There is no centralized Management Information System tracking applications, approvals, rejections, duration of protection, or outcomes. Without data, policy reform becomes speculative rather than evidence-based.

v) Constitutional Complexities

Witness protection in India involves delicate constitutional balancing. Article 21 guarantees the right to life and dignity, forming the foundation of witness safety. However, Articles 20 and 22 protect the accused's right to a fair trial, including confrontation and cross-examination.

The Supreme Court in *State of Maharashtra v. Praful Desai* upheld video conferencing as a valid method of recording evidence, recognizing technological innovation as compatible with fair trial standards. Yet, full anonymity or permanent identity change without statutory backing raises questions about procedural fairness and equality under Article 14.

The principle of open trials under Article 19(1)(a) also intersects with confidentiality measures. While in-camera proceedings are constitutionally permissible in sexual offence cases, broader application requires legislative clarity to prevent arbitrary restrictions.

Thus, constitutional reconciliation demands codified standards defining when anonymity, relocation, or identity alteration may be granted, ensuring proportionality and judicial oversight.

vi) Socio-Cultural and Structural Barriers

Beyond institutional gaps, socio-cultural realities significantly hinder effective witness protection. India's social fabric—marked by caste hierarchies, patriarchal norms, and communal

polarization—creates additional layers of intimidation. Witnesses from marginalized communities often face economic coercion, social boycott, or physical violence.

In rural areas, police infrastructure is limited, and social proximity between accused persons and witnesses increases vulnerability. Survivors of sexual violence, whistleblowers, and victims of corruption frequently experience retaliation without adequate state support.

Public legal literacy remains low. Media sensationalism sometimes reveals sensitive information, undermining confidentiality. Without community sensitization and awareness programs, witnesses may distrust formal protection mechanisms.

10. Present Opportunities and Reform Path: -

Despite the numerous challenges in implementing witness protection mechanisms in India, the current landscape presents significant opportunities to institutionalize a comprehensive, rights-based, and technologically advanced system. The proactive role of the judiciary, growing public discourse on criminal justice reform, increasing global cooperation, and the expanding use of digital platforms collectively provide fertile ground for sustainable reform. These developments offer India a chance to transform witness protection from a reactive and fragmented process into a structured, reliable, and constitutionally compliant framework.

A primary opportunity lies in enacting a dedicated statutory framework through a comprehensive Witness Protection Act. Such legislation would formally recognize the Witness Protection Scheme, 2018, and provide a legal basis for uniform procedures, risk evaluation, anonymity, relocation, identity changes, and post-trial support. It should clearly define who qualifies as a “witness,” encompassing victims, whistleblowers, and informants, and outline procedural safeguards for the accused under the Code of Criminal Procedure. The Act must also incorporate clear levels of protection, timelines for assistance, and mechanisms for grievance redressal and appellate review. Previous drafts, such as the Law Commission’s 198th Report¹², along with international examples from Australia and Canada, provide valuable models for structuring such legislation¹³.

¹² Law Commission of India, *198th Report on Witness Identity Protection and Witness Protection Programmes*, (2006), pp. 17–25.

¹³ Witness Protection Act, 1994 (Australia); Witness Protection Program Act, 1996 (Canada).

Institutional reform is equally critical. India should establish an autonomous, multi-member National Witness Protection Authority (NWPA), akin to the National Human Rights Commission, to oversee nationwide implementation. This body would supervise state-level programs, maintain a centralized risk database, standardize protective protocols, coordinate inter-state transfers, and monitor compliance through district-level committees. The NWPA should possess quasi-judicial powers to summon officials, issue binding directions, and audit financial and administrative practices. Multi-disciplinary representation from the judiciary, law enforcement, civil society, digital security experts, and psychologists would ensure professional, consistent, and independent oversight.

At the district level, infrastructure and capacity must be strengthened. Vulnerable Witness Deposition Complexes (VWDCs) should be established in all courts to facilitate safe testimony, while trained District Witness Liaison Officers should provide procedural guidance, risk assessment, and trauma-informed support. Specialized police units, separate from routine law-and-order duties, should be deployed to manage protective responsibilities impartially. Mandatory training programs for Sessions Judges, Investigating Officers, Public Prosecutors, and personnel from the District Legal Services Authorities should be instituted to build awareness on witness safety, procedural handling, and trauma-sensitive approaches. The Delhi High Court's guidelines in *Virender v. State of NCT of Delhi*¹⁴—including separate courtrooms, identity concealment measures, and secure access routes—can serve as a template for nationwide replication.

Digital integration offers transformative potential. India's e-Courts initiative and judicial digitization programs can be leveraged to create secure, encrypted platforms for filing, processing, and tracking witness protection applications. Such systems should allow real-time communication, maintain confidentiality, and facilitate remote testimony through advanced video conferencing with features like voice modulation and facial shielding. These tools would not only enhance safety but also ensure timely access to justice for high-risk witnesses, as recognized in *State of Maharashtra v. Praful Desai*¹⁵.

¹⁴ 160 (2009) DLT 84.

¹⁵ (2003) 4 SCC 601.

Financial sustainability is essential to the success of any witness protection program. A centrally sponsored Witness Protection Fund, supported by both Union and State governments, should be established. States must earmark dedicated budgetary allocations, while courts should have the authority to direct expenditures for protective measures without bureaucratic delays. Contributions from corporate social responsibility initiatives and public philanthropic institutions should be encouraged with appropriate tax incentives, and regular audits by the Comptroller and Auditor General should be mandated to ensure transparency and accountability.

International best practices provide valuable insights for India. The U.S. WITSEC program¹⁶ demonstrates the effectiveness of comprehensive witness support, including relocation, identity changes, employment assistance, and long-term reintegration, boasting a high success rate. Canada's federal statute¹⁷ emphasizes judicially monitored risk classification and confidentiality, while the United Kingdom permits anonymous testimony under statutory provisions. India can adapt these approaches, incorporating pre-trial protection, witness anonymity where necessary, and post-trial relocation and support, contextualized to its socio-cultural and economic realities.

Legal empowerment and community engagement are equally important. Nationwide awareness campaigns should educate witnesses about their rights, particularly in rural and tribal areas, using vernacular media, folk art, radio, and digital tools. Partnerships with District Legal Services Authorities, NGOs, religious leaders, panchayats, women's collectives, and student organizations can foster a culture of community protection and support. The Supreme Court, in *Delhi Domestic Working Women's Forum v. Union of India*¹⁸, emphasized victim-oriented justice, a principle that must extend to witnesses to ensure their safety, dignity, and willingness to participate in the justice process.

The proposed roadmap envisions a holistic transformation of witness protection in India. It calls for legislative codification, institutional oversight, district-level infrastructure, technological integration, financial sustainability, international benchmarking, and societal engagement. By

¹⁶ U.S. Marshals Service, *WITSEC Program Annual Summary Report*, 2021.

¹⁷ Government of Canada, *Annual Report on Witness Protection*, 2020–21.

¹⁸ (1995) 1 SCC 14.

implementing these measures, India can shift from an ad hoc and reactive system to a robust, statutory, and socially integrated framework that strengthens both justice delivery and public confidence in the legal system.

The path to effective witness protection in India is undoubtedly challenging, but it is also filled with opportunity. The convergence of judicial activism, technological capability, administrative commitment, and growing public awareness makes this the opportune moment for comprehensive reform. A constitutionally sound, legally enforceable, institutionally supported, and socially inclusive witness protection system is essential to safeguard truth, justice, and the rule of law. India must seize this moment to transition from reactive measures to proactive, preventive, and empowering mechanisms that enable every citizen to participate in the justice system without fear.

11. Conclusion: -

The right of a witness to testify freely, honestly, and without fear is a cornerstone of a fair criminal justice system. In India, despite decades of judicial pronouncements, committee recommendations, and the introduction of a nationally applicable Witness Protection Scheme, the protection of witnesses remains largely aspirational. The analysis in this chapter reveals a wide spectrum of legal challenges, administrative, procedural, financial, constitutional, and socio-cultural that collectively impede the realization of meaningful witness safety.

At the legal and policy level, the absence of a dedicated parliamentary statute has resulted in a framework that lacks uniformity and enforceability. Although the Witness Protection Scheme, 2018, was strengthened by the Supreme Court in *Mahender Chawla v. Union of India*, it remains primarily a government guideline, without statutory authority or punitive consequences for non-compliance. Judicial orders aimed at ensuring protection are frequently ignored or poorly implemented at both state and district levels, exposing a disconnect between legal mandates and ground realities. Protection, where it exists, is often ad hoc, inconsistent, and inadequate.

Administratively, District Witness Protection Committees, the central implementing bodies under the Scheme are largely dysfunctional. In many districts, these committees have either never

convened or, when they do, fail to follow standardized procedures for risk assessment and threat classification. The lack of a central nodal authority, insufficient operational protocols, and poor inter-agency coordination further undermine the Scheme's objectives. Police units remain undertrained and under-resourced for protective responsibilities, while the judiciary lacks the institutional support required to monitor and enforce implementation effectively.

Financially, most states have failed to operationalize Witness Protection Funds, and where such funds exist, there is little clarity on management, disbursement, or utilization norms. Without reliable financial mechanisms, even well-intentioned protective orders cannot be executed. Budgetary limitations are often cited as obstacles, but the deeper problem lies in institutional indifference and the absence of legislative prioritization.

Procedurally, the Scheme suffers from opacity and inaccessibility. Many witnesses remain unaware of their rights, while application forms are often unavailable in vernacular languages or formats suitable for illiterate applicants. The absence of grievance redressal and appellate mechanisms for denied protection leads to delays, frustration, and procedural injustice, leaving witnesses vulnerable at the very moment they are expected to assist the justice system.

From a constitutional perspective, witness protection presents complex dilemmas. Article 21 guarantees the right to life and dignity, encompassing the protection of witnesses, while Article 22 and principles of natural justice safeguard the rights of the accused. The challenge lies in harmonizing the witness's right to safety and anonymity with the accused's right to a fair and open trial. Currently, the law offers no clear framework for this balance, leaving it to the discretion of individual judges. This unpredictability undermines the legitimacy of both prosecution and defense, weakening the broader criminal justice process.

Social and cultural barriers compound these challenges. Witnesses from marginalized castes, rural communities, women, and survivors of gender-based violence face multiple layers of legal intimidation, social, and psychological. The current Scheme provides no tailored support for these vulnerable groups, perpetuating exclusion and leaving the most at-risk witnesses unprotected.

Despite these formidable obstacles, opportunities for transformative reform exist. The enactment of a dedicated Witness Protection Act offers the promise of legal clarity, institutional accountability, and financial responsibility. The establishment of a National Witness Protection Authority, integrated with initiatives such as e-Courts and Digital India, could ensure a future in which witness protection is systematic, standardized, and transparent. Lessons from international best practices such as relocation with new identities, post-trial support, and centralized protective databases can further enhance the effectiveness of such a framework.

However, legal reform alone is insufficient. Public legal literacy, media responsibility, and community sensitization, particularly in rural and tribal areas, are critical for building social acceptance of witness protection. Without socio-cultural recognition, even robust legal safeguards risk remaining purely theoretical.

Ultimately, witness protection is not a privilege it is a constitutional necessity and a prerequisite for the rule of law. The Indian criminal justice system must move beyond its fragmented and reactive approach and embrace a proactive, inclusive, and rights-based framework that protects those who step forward in the pursuit of justice. A system that fails to safeguard its witnesses, in effect, undermines its own pursuit of truth and justice.

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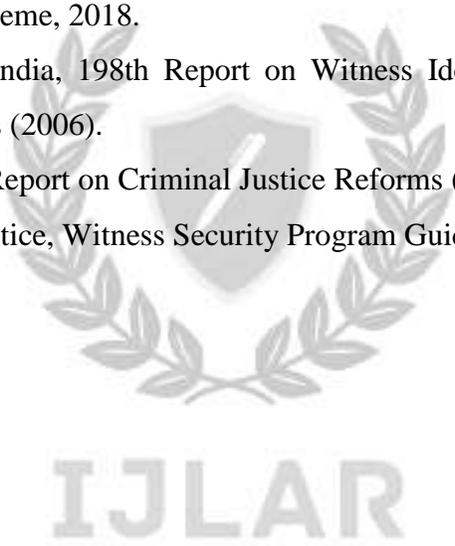
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