

# Protection of Witnesses and their Role in Criminal Justice

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**Abstract:** *The criminal justice system fundamentally relies on the testimony of witnesses for the discovery of truth and the delivery of justice. However, in many jurisdictions, particularly in India, witnesses often face intimidation, threats, harassment, and even violence, which undermines their ability to testify freely and truthfully. Witness hostility has become a major challenge, leading to acquittals in serious criminal cases and eroding public confidence in the justice system. This paper examines the concept of witness protection, its importance, and its role in ensuring fair trials. It also analyses the legal framework governing witness protection in India, including the Witness Protection Scheme, 2018, approved by the Supreme Court of India. The study further explores international practices, challenges in implementation, and suggests reforms to strengthen witness protection mechanisms.*

**Keywords:** Witness Protection, Criminal Justice System, Fair Trial, Witness Hostility, Evidence Law, Justice Delivery, Human Rights

## I. INTRODUCTION

The role of witnesses in the criminal justice system is indispensable, as they serve as the primary source of evidence in most criminal trials. Without credible witness testimony, courts often struggle to establish facts and determine guilt or innocence. In India, the problem of witnesses turning hostile has become widespread due to fear, coercion, inducement, or lack of protection. This issue weakens the justice delivery system and allows offenders to escape punishment.

Witness protection refers to a set of measures adopted to ensure the safety, security, and dignity of witnesses who are at risk due to their involvement in criminal proceedings. The need for such protection arises from the increasing instances of threats, intimidation, and violence against witnesses. A robust witness protection mechanism is essential not only for safeguarding individuals but also for upholding the rule of law and ensuring fair trials.

## 2. Meaning and Concept of Witness Protection

Witness protection involves safeguarding witnesses from harm before, during, and after the trial process. It includes physical protection, identity concealment, relocation, financial assistance, and psychological support. The concept is based on the principle that justice cannot be achieved unless witnesses can testify without fear.

The idea of witness protection is closely linked to the right to life and personal liberty under Article 21 of the Indian Constitution. Ensuring witness safety is therefore not merely a procedural necessity but a constitutional obligation of the State.

## 3. Role of Witnesses in Criminal Justice

Witnesses play a central role in the administration of justice. Their testimony helps establish facts, corroborate evidence, and assist courts in reaching fair decisions. In many criminal cases, especially those involving serious offences such as murder, rape, and organized crime, witness testimony becomes the backbone of prosecution.

The importance of witnesses can be understood from the fact that even strong documentary or forensic evidence often requires oral testimony for interpretation and validation. Without witnesses, the prosecution's case becomes weak, leading to acquittals.



#### **4. Types of Witnesses**

Witnesses can be classified into various categories depending on their role and relevance:

Eye Witnesses

Expert Witnesses

Hostile Witnesses

Character Witnesses

Child Witnesses

Each type of witness contributes differently to the trial process. However, all witnesses require protection if they face threats or intimidation.

#### **5. Problems Faced by Witnesses in India**

Witnesses in India face numerous challenges that discourage them from participating in the justice system. These include:

Threats to life and safety

Harassment by accused persons

Lack of police protection

Delay in trials

Financial burden

Social pressure

These issues often result in witnesses turning hostile, which weakens the prosecution's case. High-profile cases have shown how witnesses retract their statements due to fear or coercion.

#### **6. Witness Hostility and Its Impact**

Witness hostility refers to a situation where a witness changes or contradicts their earlier statement during trial. This phenomenon has become common in India and is one of the major reasons for low conviction rates.

Hostile witnesses undermine the credibility of the justice system and create obstacles in the path of justice. Courts have repeatedly expressed concern over this issue and emphasized the need for effective witness protection mechanisms.

#### **7. Legal Framework in India**

India did not have a comprehensive witness protection law for a long time. However, judicial intervention played a crucial role in addressing this gap.

The landmark development came with the introduction of the Witness Protection Scheme, 2018, approved by the Supreme Court of India, making it legally enforceable across the country.

#### **8. Witness Protection Scheme, 2018**

The Witness Protection Scheme, 2018 provides a structured framework for protecting witnesses. It categorizes witnesses based on the level of threat and prescribes appropriate protection measures.

Key Features:

Categorization of witnesses (Category A, B, C)

Protection measures such as police escort, identity protection, relocation

Establishment of Witness Protection Funds

In-camera trials and use of video conferencing

This scheme represents a significant step towards strengthening the criminal justice system in India.



### **9. Judicial Pronouncements**

Indian courts have played an active role in emphasizing the importance of witness protection. In several cases, the judiciary has highlighted the need to ensure witness safety to uphold justice.

One of the notable cases is:

Zahira Habibullah Sheikh v. State of Gujarat - The court emphasized the importance of protecting witnesses to ensure fair trials.

### **10. International Perspective**

Many countries have established advanced witness protection programs. For example:

United States Witness Protection Program

United Kingdom Witness Protection System

These programs provide relocation, identity change, and financial assistance, ensuring comprehensive protection.

### **11. Importance of Witness Protection**

Witness protection is essential for:

Ensuring fair trials

Preventing miscarriage of justice

Encouraging public participation

Strengthening rule of law

Without protection, witnesses may refuse to testify, leading to failure of justice.

### **12. Challenges in Implementation**

Despite the introduction of the Witness Protection Scheme, several challenges remain:

Lack of awareness

Insufficient funding

Poor coordination between authorities

Delays in implementation

These challenges hinder the effectiveness of the scheme.

### **13. Role of Police and Judiciary**

The police and judiciary play a crucial role in implementing witness protection measures. The police are responsible for providing security, while courts ensure procedural safeguards such as in-camera trials.

### **14. Need for Legislative Backing**

Although the Witness Protection Scheme is enforceable, there is a need for a dedicated legislation to provide a stronger legal framework and ensure accountability.

### **15. Use of Technology in Witness Protection**

Technology can play a vital role in protecting witnesses by enabling:

Video conferencing

Digital evidence recording

Identity masking

These measures reduce direct confrontation with the accused.



### **16. Comparative Analysis**

Comparing India with developed countries highlights the need for stronger implementation and better infrastructure in witness protection.

### **17. Suggestions and Reforms**

Enact a comprehensive witness protection law

Increase funding and resources

Ensure speedy trials

Provide psychological support

Strengthen coordination between agencies

### **18. Conclusion**

Witness protection is a cornerstone of an effective criminal justice system. Without it, the entire system risks collapse due to lack of reliable evidence. India has made significant progress with the introduction of the Witness Protection Scheme, 2018, but much remains to be done. Strengthening witness protection will not only ensure justice but also enhance public confidence in the legal system.

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