

# A STUDY ON WITNESS PROTECTION LAWS IN INDIA AND THE USA: A COMPARATIVE PERSPECTIVE

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## ABSTRACT

In order to guarantee Witness protection, an essential part of the criminal justice system, guarantees the safety and security of those who testify against criminals. The United States' laws pertaining to witness protection and India are compared in this paper, evaluating their effectiveness, legal frameworks, and implementation challenges. In India, the Witness Protection Scheme serves as the primary mechanism for safeguarding witnesses, 2018, which provides essential measures to protect them from threats and intimidation, whereas the USA has a more structured and long-standing Federal Witness Protection Program (WITSEC). The research examines the procedural safeguards, anonymity provisions, relocation measures, and financial assistance provided in both countries. It also evaluates the impact of these laws on witness participation in criminal proceedings and their role in securing convictions. Furthermore, the study identifies gaps in India's witness protection mechanisms and suggests reforms based on best practices from the USA. By analyzing case studies and legal precedents, This research emphasizes the necessity of a stronger and more effectively enforced In India, a strong framework for protecting witnesses is necessary to increase the legitimacy of the legal system.

**Keywords:** Witness Protection, Criminal Justice System, India, USA, Witness Protection Scheme 2018, WITSEC, Legal Framework, Anonymity, Law Enforcement, Criminal Proceedings etc

## 1. INTRODUCTION

Witnesses play a vital role in the judicial system as neutral individuals who assist courts in determining the truth. Apart from the accused and the complainant, they are instrumental in delivering justice by providing firsthand accounts of an offense. Recognizing the gravity of their duty, in front of the court, witnesses take an oath or make a solemn affirmation to speak the truth. When assessing the guilt or innocence of the accused, their testimony is essential, making them indispensable to legal proceedings. However, the significant impact of their testimony also makes witnesses vulnerable to external pressures. Since a single witness can sway a verdict, they often become targets of coercion, emotional manipulation, and bribery. Powerful individuals or parties involved in a case may resort to threats and intimidation to influence a witness's testimony. As a result, many witnesses succumb to pressure, either remaining silent

or altering their statements, leading to cases of witness hostility<sup>1</sup>. This interference disrupts the justice process and compromises the integrity of court verdicts. When witnesses are manipulated or silenced, justice is obstructed, and perpetrators frequently evade punishment, leaving victims without proper legal recourse. Corruption and intimidation erode public confidence in the judicial system, This underscores the necessity of strong witness protection measures. In addition to being required by law, Witness protection is also essential to upholding the rule of law and the integrity of the criminal justice system.<sup>2</sup>.



**Figure 1. Comparative analysis of Witness protections laws**

## 1.1. DEFINITION OF WITNESS

Anyone who testifies or offers evidence in a court of law is considered a witness.

The following is how Black's Law Dictionary defines the phrase :“In the primary sense of the word, a witness is a person who has knowledge of an event. As the most direct mode of acquiring knowledge of an event is by seeing it, “witness” has acquired the sense of a person who is present at and observes a transaction”

The famous English philosopher and jurist Jeremy Bentham famously said, "Witnesses are the eyes and ears of justice." In criminal procedures, authorities may summon witnesses—individuals who are not the accused—to testify on important issues that might affect the case's verdict. The firsthand knowledge people have experienced via their senses—such as what they have seen or heard—forms the basis of their testimony<sup>3</sup>.

## 1.2. IMPORTANCE OF WITNESSES

Witnesses are integral to the justice system, offering critical testimony and evidence that assist courts in uncovering the truth during legal proceedings. Their statements act as a vital link between crime and justice, helping the court decide if the defendant is innocent or guilty. In both civil and criminal situations, witnesses contribute to the fair administration of justice by offering firsthand accounts, expert opinions, or documentary evidence that aid in the legal decision-making process. Without reliable witnesses, the judicial system would struggle to function effectively, as evidence alone may not always be sufficient to convict offenders or protect the rights of victims<sup>4</sup>.

Moreover, witnesses act as a deterrent to crime by holding perpetrators accountable for their actions. Their testimonies help law enforcement agencies and courts reconstruct crime scenes, verify facts, and validate other forms of evidence. However, given the high stakes involved, witnesses often face threats, intimidation, and coercion from powerful individuals or criminal organizations seeking to influence their statements. In such instances, Programs for witness protection are essential for guaranteeing their security and promoting truthful testimony. By shielding witnesses

<sup>1</sup> Shabnam Mahlawat, *Hostile Witnesses and Evidentiary Value of Their Testimony Under the Law of Evidence*, II ILI LAW REV. (2017), [http://www.asiainstitutetorino.it/Indologica/volumes/vol23-24/vol23-24\\_art40\\_PIOVANO.pdf](http://www.asiainstitutetorino.it/Indologica/volumes/vol23-24/vol23-24_art40_PIOVANO.pdf).

<sup>2</sup> G S Bajpai, *Witness in the Criminal Justice Process : A Study of Hostility and Problems Associated with Witness* (2009)

<sup>3</sup> Prashant Rahangdale, *Witness Protection: A Comparative Analysis of Indian and Australian Legislation*, 21 J. GUJARAT RES. SOCIETY 141 (2019), <https://ssrn.com/abstract=3516628>.

<sup>4</sup> Inking Your Brain et al., *INTERNATIONAL JOURNAL OF LAW Probativ Value of Eye Witnesses Testimony in Criminal Justice System*, 3215 (2024).

from external threats, the legal system upholds the principles of fairness, accountability, and justice, thereby strengthening public confidence in the rule of law.

### 1.3. RESEARCH OBJECTIVES

Maintaining the integrity of the criminal justice system and the rule of law also depends on protecting witnesses maintaining the integrity of the criminal justice system and the rule of law also depends on protecting witnesses.

## 2. LITERATURE REVIEW

**Table 1. Literature review**

Sr. No	Author(s)	Year	Findings
1	Ashi Pahariya et al <sup>5</sup> .	2021	Crime reduction requires penalizing criminals justly. Witness testimony is crucial for fair trials.
2	Chandi Prasad Khamar et al <sup>6</sup> .	2021	Witnesses in high-profile cases turn hostile due to threats or bribes, weakening the criminal justice system.
3	Tadesse Melaku <sup>7</sup>	2018	Withholding witness identity may harm fair trials and accused persons' rights in Ethiopia.
4	Shabana Kauser et al.	2024	Child witnesses are often ignored in investigations and trials. A legal mechanism is needed to protect them.
5	Samriti <sup>8</sup>	2022	Reviews witness protection schemes and highlights their ineffective implementation.
6	Ms. Neha Singh et al <sup>9</sup> .	2022	Analyzes witness roles, challenges, statutory provisions, and global witness protection programs.
7	Md Khalid Rahman et al <sup>10</sup> .	2022	Witness protection laws reduce case backlogs; highlights need for comprehensive criminal laws in Bangladesh.
8	Asst. Prof. Bhosale Rakesh Arvind et al.	2022	Defines hostile witnesses and discusses crime's impact on national development.
9	Subrata Naskar et al <sup>11</sup> .	2017	Telepsychiatry can bridge mental healthcare gaps in India, especially in rural areas.
10	Nehaluddin Ahmad et al <sup>12</sup> .	2016	Examines international laws against torture and the reliability of evidence obtained through torture.
11	Shruti Sharma et al <sup>13</sup> .	2023	Witnesses are essential to achieving justice, making their protection a top priority. The study compares witness protection frameworks in India, the USA, and China, analyzing best practices and legal provisions.

<sup>5</sup> Institute of Law Nirma University, *Comparative Analysis of Witness Protection in Common Law Countries: Challenges and Their Potential Solutions*, SSRN ELECTRON. J. (2021).

<sup>6</sup> Talin V, *INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES Ambush Marketing*, 3 INT. J. LAW MANAG. HUMANIT. (2020), <https://www.vidhiaagaz.com>.

<sup>7</sup> Tadesse Melaku, *The Right to Cross-Examination and Witness Protection in Ethiopia: A Comparative Study*, 131 INT. STUD. HUM. RIGHTS 61 (2020).

<sup>8</sup> Rajkumar Chinthala, *A Critical Study on The*, 26 KOREAN LIT. ARTS 55 (2018).

<sup>9</sup> Indian Journal & O F Legal, *Volume II Issue IV*, 2022 INDIAN JOURNAL OF LEGAL REVIEW Volume II Issue IV, 2022, II 39 (2022).

<sup>10</sup> Md Khalid Rahman & Md Maksudur Rahman, *Addressing the Necessity for a "Witness Protection Law" to Eliminate Backlogs in Criminal Cases in Bangladesh*, 3 INDONES. J. LAW SOC. 167 (2022).

<sup>11</sup> Subrata Naskar et al., *Telepsychiatry in India-Where Do We Stand? A Comparative Review between Global and Indian Telepsychiatry Programs*, 39 INDIAN J. PSYCHOL. MED. 223 (2017).

<sup>12</sup> Nehaluddin Ahmad & Gary Lilienthal, *Proscribing Torture: An Analysis in Indian and Ethical Contexts: (The 2010 Indian Prevention of Torture Bill)*, 42 COMMONW. LAW BULL. 38 (2016).

<sup>13</sup> Shruti Sharma, *WITNESS PROTECTION IN INDIA, THE USA AND CHINA : A COMPARATIVE STUDY*, 11 967 (2023).

12	Larry Diamond et al <sup>14</sup> .	202 Tadesse Melaku, A Comparative Analysis of Ethiopia's Right to Cross-Examination and Witness Protection, 131 INT. STUD. HUM. RIGHTS 61 (2020).0	The study highlights the decline of democracy from 2006 onward, with democratic regression being evident in major global economies. Weak rule of law has facilitated the erosion of democratic principles, allowing authoritarian leaders to suppress opposition, independent media, and civil society.
13	Prashant Rahangdale et al <sup>15</sup> .	2019	Witnesses are crucial for fair trials, but witness intimidation leads to hostility and miscarriage of justice. The study discusses India's <i>Witness Protection Scheme, 2018</i> , comparing it with Australia's more effective witness protection program.
14	Baisakhi Pattnaik et al <sup>16</sup> .	2024	Analyzes the effectiveness of India's <i>Witness Protection Scheme, 2018</i> , highlighting design, challenges, and results. The scheme offers safeguards like identity concealment and relocation but suffers from bureaucratic inefficiencies, funding shortages, and inconsistent execution.
15	Varinder Singh <sup>17</sup>	2016	Witness protection is essential for a fair judicial system, but India lacks comprehensive legislation. The judiciary has attempted to provide protection through various rulings, As a result, the 2018 Witness Protection Scheme was developed.

### 3. RESEARCH METHODOLOGY

#### 1) Research Design

This study adopts a comparative legal research approach to analyze witness protection laws in India and the USA. The research is primarily doctrinal in nature, relying on qualitative methods to examine legal frameworks, policies, and judicial interpretations in both jurisdictions. A comparative method is employed to identify similarities, differences, and effectiveness of witness protection mechanisms.

#### Sources of Data

This study relies on secondary data sources, including:

- **Legislation and Legal Provisions:** An analysis of legal statutes, Including the Witness Protection Scheme, 2018 (India) and other relevant legal frameworks & the Witness Security Program (USA).
- **Judicial Decisions:** A review of landmark judgments from the Supreme Courts of India and the USA that have influenced witness protection jurisprudence.
- **Government Reports:** Review of official reports and policy documents related to witness protection.
- **Scholarly Articles and Books:** Study of academic literature discussing the effectiveness of witness protection laws.
- **News Reports and Case Studies:** Review of real-life cases where witness protection laws have been implemented.

#### Comparative Analysis Framework

A comparative framework is utilized to assess:

- **Legal Provisions:** Statutory basis and legislative evolution in both countries.
- **Institutional Mechanisms:** Implementation authorities and funding.
- **Effectiveness and Challenges:** Success rates, witness participation, and security concerns.
- **Best Practices and Recommendations:** Lessons that India and the USA can learn from each other.

<sup>14</sup> Larry Diamond, *Democratic Regression in Comparative Perspective: Scope, Methods, and Causes*, 28 DEMOCRATIZATION 22 (2021).

<sup>15</sup> Prashant Rahangdale, *Witness Protection: A Comparative Analysis of Indian and Australian Legislation*, 21 J. GUJARAT RES. SOCEITY 141 (2019), <https://ssrn.com/abstract=3516628>.

<sup>16</sup> Inking Your Brain et al., *INTERNATIONAL JOURNAL OF LEGAL Effectiveness of Witness Protection Programs in India*, 774 (2024).

<sup>17</sup> Varinder Singh & Regional Campus, *Manuscript Info Abstract*, 4 INT. J. 367 (2016).

### Limitations of the Study

- This study focuses on legal provisions and policies, excluding empirical data and witness interviews.
- Variations in law enforcement practices and judicial interpretation across different states in both countries may impact the comparative findings.
- Accessibility to some official data, particularly from the USA, may be restricted.

## 4. DATA ANALYSIS

### 4.1. INDIAN STATUTORY PROVISIONS CONCERNING WITNESS PROTECTION

#### **Criminal Procedure Code, 1973:**

According to Section 171 of the Code, a witness cannot be subjected to excessive restriction or coerced into accompanying a police officer. Section 327 emphasizes the importance of open court trials while allowing in-camera proceedings for sexual offense cases to restore victims' confidence.

Under Section 173(5)(b), a police officer must submit a report to the magistrate containing statements from individuals the prosecution intends to call as witnesses. If the police officer feels it is essential to withhold these recorded remarks from the accused in the interest of justice, they may do so, and the magistrate will be given the justification for the decision<sup>18</sup>.

Additionally, Section 312 authorizes the Criminal Court to reimburse complainants and witnesses for reasonable expenses incurred during any inquiry, trial, or legal proceeding.

Under Sections 406 and 407, When judged essential for the administration of justice, cases and appeals may be transferred between the Supreme Court and the High Court.

Finally, Section 195A mandates that witnesses file a complaint if they are threatened or coerced into giving false testimony.

#### **1860 Indian Penal Code**

In situations involving certain offences, Section 228A of the Code forbids disclosing a victim's identify or publicising their name<sup>19</sup>.

Threatening or pressuring someone into giving false testimony is illegal under Section 195A.

#### **The 1872 Indian Evidence Act:**

Section 134 of the Act states that a fact may be proven without a certain number of witnesses, which emphasizes the idea that "evidence must be weighed, not counted."

The proviso to Section 132 safeguards witnesses by ensuring that any testimony they are compelled to provide cannot be used to subject them to arrest or prosecution, nor be used as evidence against them in any criminal proceeding, except in cases of perjury for giving false testimony<sup>20</sup>.

Section 138 outlines the procedure for cross-examining witnesses, while Section 146 safeguards witnesses by permitting only legitimate questions during cross-examination.

Additionally, Section 148 grants the court the authority to determine the relevance of questions posed during cross-examination.

#### **The 2015 act on juvenile justice (children's protection and care):**

Giving out a minor's name, address, picture, or any other identifying information is prohibited under Section 21 of the Act<sup>21</sup>. However, an exception may be made if it is deemed to be in the juvenile's best interests, provided that authorization is granted with recorded reasons in writing.

<sup>18</sup> R.B.S. Maurya, *Brochure on COMPLAINT UNDER CODE OF CRIMINAL PROCEDURE, 1973* JTRI AUDITORIUM (2010).

<sup>19</sup> Food and Agriculture organization of the United Nations, *The Indian Penal Code (Act No. 45 of 1860)*. | FAOLEX, (2025), <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC216618/> (last visited Mar 5, 2025).

<sup>20</sup> Astitva Kumar, *Indian Evidence Act, 1872 : An Exhaustive Overview - Ipleaders*, (2022), <https://blog.ipleaders.in/indian-evidence-act-1872-an-exhaustive-overview/> (last visited Mar 5, 2025).

<sup>21</sup> Sri vaishnavi, *All About Juvenile Justice Act - Ipleaders*, (2023), <https://blog.ipleaders.in/all-about-juvenile-justice-act/> (last visited Mar 5, 2025).



## 4.2. WITNESS PROTECTION SCHEME, 2018

Because their testimony and supporting documentation are essential to securing fair trials and just convictions, witnesses are essential to both criminal prosecutions and civil rights adjudications. However, the primary laws of the Indian legal system, The word "witness" is not defined in detail in statutes like either the 1973 Code of Criminal Procedure or the Indian Evidence Act of 1872.. The 2018 Witness Protection Program offers a formal categorization in spite of the lack of a legislative definition, characterizing a witness as any person who, in the opinion of a competent authority, has information or documents pertinent to a criminal prosecution<sup>22</sup>.

This definition extends to individuals who have testified, agreed to testify, or are required to provide testimony, ensuring that those who contribute to the justice system receive adequate legal protection.

A Public Interest Litigation (PIL) raised awareness of the need of a proper witness protection mechanism in the Ministry of Home Affairs case of Mahender Chawla v. Union of India. Because witnesses in the criminal proceedings against self-proclaimed godman Asaram Bapu were threatened and intimidated, this case raised awareness of issues related to witness protection. The Witness Protection Scheme was established in 2018 in partnership with the Supreme Court and the National Legal Services Authority (NALSA) in response to the pressing necessity to shield witnesses from intimidation and abuse.

This plan strengthened the legal system by establishing a thorough framework to guarantee witnesses' protection and security. The Witness Protection Scheme, 2018, comprises several key components, including witness categorization based on threat perception, To ensure effective implementation, protective measures such as identity concealing and witness relocation, as well as the creation of Witness Protection Funds and financial assistance, are implemented.

The scheme includes the following provisions:

- Classification of threat levels based on perceived risks.
- The chief of police compiles a Threat Analysis Report.
- Protective measures, including preventing witness-accused contact during investigations and protecting witness identity
- Identity transition
- Witness relocation
- Providing witnesses with information about the protection scheme.
- Maintaining confidentiality and ensuring secure record preservation.
- Recovery of protection-related expenditures

According to the system, witnesses are divided into three groups according to how seriously they perceive a threat:

- 1) **Category A:** refers to situations when a witness or family member is directly threatened with death while the inquiry is ongoing, during the trial, or even after it is over.
- 2) **Category B:** Situations in which the witness's or their family members' safety, reputation, or property are under danger while the inquiry or trial is underway.
- 3) **Cases falling under Category C:** These include situations when the witness or their family members are the targets of harassment or intimidation. By putting these safeguards in place, the program aims to protect those who are vital to judicial procedures while upholding the values of justice, equity, and accountability.

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<sup>22</sup> Amikus Qriaie, *WITNESS PROTECTION IN INDIA - The Amikus Qriaie*, (2025), <https://theamikusqriaie.com/witness-protection-in-india/> (last visited Mar 5, 2025).

### 4.3. NEED AND JUSTIFICATION FOR THE SCHEME

Witnesses often become hostile when they are threatened with death or property during trials involving influential individuals. Many witnesses believe that they are not legally protected by the state. However, In *State of Gujarat v. Anirudh Singh* (1997) 6 SCC 514, the Indian Supreme Court ruled that "it is the salutary duty of every witness who has knowledge of the commission of a crime to assist the State in giving evidence." Similarly, in its 2003 report, the Malimath Committee on Reforms of the Criminal Justice System stressed that "a witness performs a sacred duty of assisting the court in discovering the truth by giving evidence relating to the commission of an offence."

The Supreme Court emphasised the need of protecting witnesses in *Zahira Habibulla H. Sheikh & Others v. State of Gujarat* (2004) 4 SCC 158, stating that "where witnesses are intimidated or compelled to submit false testimony, that would also not result in a fair trial." The 14th Report of the Law Commission of India, published in 1958, established the idea of witness protection in India<sup>23</sup>. The 154th and 178th Reports also made reference to it. The topic received a lot of attention in the Law Commission of India's 198th Report (2006), "Witness Identity Protection and Witness Protection Programmes."

According to the judge, "if witnesses are threatened or forced to give false evidence, that would also not result in a fair trial." This emphasises how crucial witness protection is to ensuring a fair trial. The concept of witness protection in India was developed by the Law Commission of India's 14th Report, which was released in 1958. It was mentioned in the 154th and 178th Reports as well. The Law Commission of India's 198th Report (2006), "Witness Identity Protection and Witness Protection Programs," gave the subject a great deal of attention.

The 4th National Police Commission Report (1980) also highlighted the issue, stating that "prosecution witnesses are turning hostile because of pressure from the accused, and there is a need for regulations to prevent the manipulation of witnesses." The Indian Penal Code's Section 195A was established by the Congress in 2006 to address this problem, making witness intimidation a felony that carries a maximum sentence of seven years in prison. Witnesses are additionally protected from threats by laws like The Juvenile Justice (Care and Protection of Children) Act of 2015 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989, and the Whistleblowers Protection Act of 2011.

Despite these legal obligations, India does not yet have a comprehensive and well-organized plan to provide witness protection. With the rise of terrorism, extremism, and organized crime, it is more crucial than ever to preserve witness confidence in the system of criminal justice. For witnesses to come forward and assist law enforcement and prosecutors, they must feel secure enough. In order to deter them from testifying, they seek assurances that they won't be the target of assault or intimidation. To effectively address these concerns and maintain the integrity of the court system, a robust, nationwide witness protection scheme has to be established<sup>24</sup>.

### 4.4. USA WITNESS PROTECTION

Of all the major nations, the United States has one of the most advanced procedures for protecting witnesses. The U.S. Marshals Service is responsible for protecting witnesses, while several states have enacted specific laws to protect witnesses in cases not covered by the federal program. Witnesses who risk their lives to testify are relocated, provided with new identities, and receive financial and employment assistance from the U.S. federal government. Additionally, the federal government allocates funds to states to help them implement similar witness protection programs<sup>25</sup>.

<sup>23</sup> International Journal of Advanced Legal Research., *A STUDY ON PROTECTION OF WITNESS UNDER INDIAN EVIDENCE ACT - Ijalr*, (2022), <https://ijalr.in/volume-1/issue-3-2/a-study-on-protection-of-witness-under-indian-evidence-act/> (last visited Mar 5, 2025).

<sup>24</sup> International Journal of Advanced Legal Research., *A STUDY ON PROTECTION OF WITNESS UNDER INDIAN EVIDENCE ACT - Ijalr*, (2022), <https://ijalr.in/volume-1/issue-3-2/a-study-on-protection-of-witness-under-indian-evidence-act/> (last visited Mar 5, 2025).

<sup>25</sup> Naveena Varghese, *Witness Protection: Problems Faced and Need for a Protection Programme in India - Academike*, (2015), <https://www.lawctopus.com/academike/witness-protection-problems-faced-and-need-for-a-protection-programme-in-india/> (last visited Mar 5, 2025).

The Witness Security Reform Act of 1984 was enacted to address the lack of clear guidelines in the original program, making the system more structured and comprehensive. Since its implementation, the program has provided protection and support to over 6,600 witnesses and more than 8,000 family members over a span of 25 years. The Act also gives the Attorney General the authority to put security measures in place for certain friends and family members of protected witnesses in order to ensure their safety and well-being.

#### 4.5. WITNESS SECURITY REFORM ACT, 1984

In formal proceedings against individuals engaged in organized crime or other major crimes, the Attorney General was authorized under to relocate and safeguard witnesses under the 1970 Organised Crime Control Act. The Witness Security Reform Act of 1984 increased this power. In situations when Title 18, United States Code, Chapter 73 (Obstruction of Justice) has been broken, this protection is especially crucial<sup>26</sup>.

#### 4.6. PROCEDURES FOR SECURING PROTECTION

As soon as it is established that a person will be a critical witness who needs to be relocated under the Witness Security Program (WITSEC), requests for witness protection must be made. Any information about the witness's involvement in the Program, whether ongoing or pending, cannot be made public without prior Office of Enforcement Operations (OEO) permission in order to protect the witness and their family<sup>27</sup>.

U.S. Attorneys, Assistant U.S. Attorneys, and investigative agencies are responsible for promptly submitting petitions for witness protection to OEO. This minimizes disruptions for the witness and government agencies by giving the U.S. Marshals Service (USMS) enough time to perform initial interviews, psychological testing, and suitability assessments, as well as to set up any relocation and support services that may be required through USMS and/or the Bureau of Prisons (BOP).

##### Submission Process:

- OEO must receive protection requests, or applications, from U.S. lawyers and Criminal Division lawyers.
- Requests must be made online via DOJNet and sent to OEO's Chief of the Special Operations Unit.
- In compliance with 28 C.F.R. Sec. 0.131, the U.S. Attorney or, in their absence, the Acting U.S. Attorney, must sign all applications.
- The request must be signed by the appropriate Division Section Chief or Office Director in cases that are handled by the Criminal Division.
- For application information and instructions, other divisions, agencies, or organizations wishing to use the Program must get in touch with OEO.

By offering housing, medical care, job training, employment aid, and financial support in relocation locations, the Organised Crime Control Act of 1990 created the Federal Witness Protection Program (WITSEC), has significantly improved witness and family protection.

##### Key Agencies Responsible for Witness Protection in the U.S.:

The safety, security, and welfare of the Program's non-incarcerated witnesses are within the jurisdiction of the United States Marshals Service (USMS).

Office of Enforcement Operations (OEO): Authorizes the admission of witnesses into the Program, especially those who are in danger because they testify against members of organized crime, terrorists, and narcotics traffickers<sup>28</sup>.

The safety and treatment of incarcerated witnesses are supervised by the Federal Bureau of Prisons (BOP).

<sup>26</sup> UNODC, *Organized Crime Module 9 Key Issues: Witness Protection*, (2025), <https://www.unodc.org/e4j/en/organized-crime/module-9/key-issues/witness-protection.html> (last visited Mar 5, 2025).

<sup>27</sup> Archives, *Justice Manual | 701. Procedures for Securing Witness Protection | United States Department of Justice*, (2025), <https://www.justice.gov/archives/jm/criminal-resource-manual-701-procedures-securing-witness-protection> (last visited Mar 5, 2025).

<sup>28</sup> Raneta Lawson Mack, *The Federal Witness Protection Program Revisited and The Federal Witness Protection Program Revisited and Compared: Reshaping an Old Weapon to Meet New Challenges in Compared: Reshaping an Old Weapon to Meet New Challenges in the Global Crime Fighting Effort*, the Global Crime Fighting Effort, 21 COMP. LAW REV. 5 (2014), <https://repository.law.miami.edu/umiclrhttps://repository.law.miami.edu/umiclr/vol21/iss2/4> (last visited Mar 5, 2025).



The U.S. Witness Security Program continues to play a vital role in safeguarding witnesses and maintaining the integrity of the legal system by putting these protocols into place and maintaining strict secrecy.

The right to witness anonymity in situations when one's personal safety is in jeopardy has been acknowledged by the US Supreme Court. Historic decisions like *United States v. Palermo*, *United States v. Rangel*, and *Smith v. Illinois* have reinforced the legal foundation for safeguarding witnesses who are threatened because they cooperate with law enforcement.

#### 4.7. PROGRAM FOR FEDERAL WITNESS PROTECTION

In order to safeguard the health, safety, and security of witnesses and their families, the Federal Witness Security Program (WITSEC) provides assistance and protection (18 U.S.C. § 3521). Since its establishment in 1971, the program, which is run by the US Marshals Service, has safeguarded more than 18,000 witnesses and their families. WITSEC mostly assists witnesses in federal matters that are being processed by federal courts or investigative organizations.

To enhance their security, WITSEC gives witnesses and their close family members a new identity, helping them relocate and integrate into new lives while remaining protected. The program provides essential documents, secure housing, and financial support for necessities such as medical care. Essentially, participants are given a fresh start under new identities, allowing them to remain hidden from those who may seek to harm them<sup>29</sup>.

Additionally, WITSEC offers 24-hour security when witnesses testify at trials or attend other high-risk events or court proceedings. This includes armed guards for physical protection during travel to and from the courtroom. In some cases, witnesses are placed in secure locations before and during the trial, ensuring their safety until they are successfully reintegrated into their new lives after the proceedings conclude.

#### 4.8. PROGRAMS FOR STATE WITNESS PROTECTION

In addition to the federal WITSEC program, several states provide their own witness protection initiatives. For example, California's Witness Relocation and Assistance Program (CalWRAP) protects witnesses who are in danger regardless of the circumstances.

CalWRAP and other state-level programs often take over when a witness does not meet the qualifications for federal protection<sup>30</sup>.

For instance, the witness in a state court case involving domestic abuse can be the accused's ex-partner. Even if the witness is threatened or in danger by the accused, they would often not be eligible for the federal WITSEC program since the case is within state jurisdiction rather than federal. State witness protection programs might provide crucial security measures in these situations to guarantee the witness's safety.

**Table. 2. Comparison Table of India and USA**

Aspect	India	USA
<b>Legal Framework</b>	Witness Protection Scheme, 2018 (Supreme Court guidelines), CrPC provisions	Federal and State Laws Concerning the U.S. Marshals Service's Witness Security Program (WITSEC)
<b>Primary Legislation</b>	No dedicated legislation; governed by court directives and CrPC provisions	Witness Protection Act, 1984; various state-level laws
<b>Implementing Authority</b>	Law enforcement agencies, judiciary	U.S. Marshals Service, FBI, local police
<b>Eligibility</b>	Threat assessment by courts and law enforcement	Witnesses in serious federal or organized crime cases

<sup>29</sup> Michele Metych, *Witness Protection Program | Definition, RICO, New Identity, Rules, & Facts | Britannica*, (2025), <https://www.britannica.com/topic/witness-protection-program> (last visited Mar 5, 2025).

<sup>30</sup> Mark Theoharis, *The Federal Witness Protection Program (WITSEC)*, (2024), <https://www.criminaldefenselawyer.com/resources/criminal-defense/defendants-rights/what-witness-protection-program> (last visited Mar 5, 2025).

<b>Protection Measures</b>	Identity change, relocation, security, in-camera proceedings	New identity, relocation, financial aid, job assistance
<b>Judicial Role</b>	Supreme Court and High Courts issue guidelines and supervise	Courts approve protection, U.S. Marshals implement measures
<b>Effectiveness</b>	Limited due to lack of legal backing and resources	Highly structured and successful with a near 100% success rate
<b>Challenges</b>	Implementation issues, limited resources, risk of exposure	High costs, psychological impact on witnesses, risk of leaks
<b>International Cooperation</b>	Limited scope, case-based approach	Extensive coordination with international agencies
<b>Success Rate</b>	Moderate; cases of witness intimidation still exist	High; very few cases of witness exposure or harm <sup>31</sup> .

## 5. CONCLUSION

When it comes to finding the truth and enforcing the law, witnesses are crucial. Thus, in order to testify freely in a court of law, witnesses are entitled to protection from the accused. People could be hesitant to come forward with crucial information about a crime if they are not certain of their safety. The state is in charge of making sure witnesses are safe, thereby encouraging individuals to testify against the accused without fear of intimidation or harm. Witness is the source who directs the judge's quest for the truth hidden in a certain case. If the source is incompetent in such a case, the judge may be misled into reaching a result that violates the idea of a fair trial. The rate of conviction can be raised by providing proper safety measures for witnesses. The successful execution of witness security programmes in other countries may serve as the foundation for the introduction of one such scheme in India. When we compare India's witness, protection laws to those of other nations, such as the United States, we see that witness protection in other countries has been tried and tested for many years. In addition, because the Witness Protection Scheme is a relatively new phenomenon in India, it may take some time to be administered properly. Thus, even if the Ministry of Home Affairs did accept feedback from many organizations, the main problem with its framework would only become apparent once the program's practical impacts became clear.

## 6. SUGGESTIONS

The United States has "Witness Protection" regulations that most countries do not have. Some of the most essential parts of "Witness Protection" concerns that the "Witness Protection Programs" in the United States deliberate on and deal with fairness and prevent "witness intimidation" and the maintenance of "anonymity." As a result, India could benefit from drawing inspiration from the **United States' Witness Protection Programs** to enhance its own system. The **witness protection system in India remains inadequate**, causing many witnesses to avoid supporting victims or participating in court proceedings due to **fear and lack of security**. In contrast, In the US, the Witness Protection Program is very effective and well-run. To improve the reliability of witness protection in India, the following steps are suggested:

There should be a regulation governing the Witness Rehabilitation Fund, and anybody who contributes to it should receive tax advantages.

- A dedicated Witness Security Unit, modeled after the U.S. Marshals Service, could be established to safeguard witnesses and their families, ensuring their protection throughout legal proceedings.
- Video conferencing for the purpose of providing testimony in court may be arranged, allowing the witnesses to testify freely.
- A comprehensive and specialized law should be enacted to specifically address witness protection and provide a structured legal framework for their safety.

<sup>31</sup> Tanuj Bhushan, *Witness Protection in India and United States: A Comparative Analysis* | Office of Justice Programs, (2007), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/witness-protection-india-and-united-states-comparative-analysis> (last visited Mar 5, 2025).

- In countries such as the United States, relocation of witnesses, as well as providing them with jobs and new identities, has proven to be useful, as it significantly decreases the risk posed to the witnesses. So, India should also give these kinds of benefits to the witnesses so as to encourage them to testify freely.
- There should be separate rooms for witnesses to testify. So, for this the infrastructure of the courts in India should be expanded. Therefore, For the same, the central government need to provide some financial support.

## CONFLICT OF INTERESTS

None.

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