
WITNESS PROTECTION IN INDIA AND USA: A COMPARATIVE ANALYSIS

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ABSTRACT

The primary goal of a criminal justice system is to serve justice, which can only be accomplished when correct testimony of witnesses is obtained and proper evidence is presented. As a result, witnesses are one of the key aspects for a trial to reach a fair judgement. The testimony of a witness may have a direct impact on the conviction or acquittal of an accused. As a result, it is essential that the witness be safeguarded so that they do not feel intimidated or fear revealing the truth in court. Because witnesses and their families are being threatened and their lives are being jeopardised as a result of a lack of sufficient protection, they turn hostile. This paper contributes to a better understanding of witness protection in India and The United States. The United States has "Witness Protection" regulations that most countries do not have. Some of the most essential parts of "Witness Protection" issues that the "Witness Protection Programmes" in the United States deliberate on and deal with fully and extensively prevention of "witness intimidation" and the maintenance of "anonymity" while on the other hand India does not offer this type of protection to the witness. It also looks into the obstacles that witnesses experience, such as threats, coercion, and physical harm, which prevent them from testifying truthfully. These challenges have direct repercussions for the justice systems efficacy, as cases are weakened due to the lack of credible testimony. Furthermore, this paper discusses the notion of witness protection and analyses India's witness protection scheme 2018 in relation to the provisions of the Code of Criminal Procedure, 1973 and the Evidence Act, 1872. And presents a comparative analysis of the witness protection in India and USA.

INTRODUCTION

Witnesses play an essential role in judicial proceedings other than the accused and the complainant. By testifying about the commission of an offense, he fulfils a sacred responsibility by aiding the court in discovering the truth. Therefore, the witness either swears an oath in the name of God or solemnly pledges to speak the truth. He or she plays a vital public duty by aiding the court in determining the guilt or innocence of the accused in the case. Both of the parties to the case are aware that a single witness could change the outcome in their favor, as a result, witnesses are frequently emotionally blackmailed or paid, or bribed to remain silent and modify their stance in a case. External circumstances such as corruption or threats also constitute a major reason due to which the witness becomes hostile. As a result, cases fail to reach their legitimate and reasonable conclusions. In their pursuit of justice, victims are let down by the court system. Thus, safeguarding witnesses becomes essential for achieving the primary objective of the Criminal Justice System.

1. WHO IS A WITNESS

A witness is a person who provides evidence or deposes in a court of law.

The following definition is provided by Black's Law Dictionary: *“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”*¹.

The renowned English philosopher and jurist Jeremy Bentham once said *“witnesses are the eyes and ears of justice”*. Witnesses are persons, different from the accused person/s who have been called by authorities involved in criminal proceedings to testify on matters essential to the outcome of the proceeding based on information perceived through his senses, like what he heard or saw².

¹ Black's Law Dictionary, available at <http://thelawdictionary.org/witness-n/#ixzz2cm686Dz8> (last visited on 8th November, 2023).

² A.Pradeep, “What are the best ways to protect the witnesses from retaliation in criminal cases”, Court of the Principal Junior Civil Judge,,Karimnagar,

A witness is a vital part of the criminal justice system since his testimony affects the basis of the case's judgment. As a result, the credibility of the witness's evidence becomes the foundation of justice. A witness must testify without coercion, fear, or pressure, and must do so of his or her own free choice and consent. The quality of a witness's statements also influences the swiftness of a particular case.

2. TYPES OF WITNESS

2.1 NATURAL WITNESS

A natural witness is a witness who witnesses the crime and has the ability to describe it to the court.

In addition, it is stated that these witnesses must be reliable and that their evidence must be reliable and admissible under the law. However, it will be important to examine the statement to see if it is reasonable.

2.2 HOSTILE WITNESS

Hostility is one form of perjury. A hostile witness is someone who was a witness to a criminal incident or other information that helped the prosecution build a case but later changed their testimony in a court of law to contradict it, in other words, we can say that a hostile witness is someone who seems to be refusing to testify completely in support of the person who called him or who testifies in a manner that differs extremely from their pre-trial statement.

The person who calls upon a witness expects him to submit evidence the same as what he may have said in his pre-trial statement to the court. If he refuses to answer questions or contradicts previous statements, the party who called him can request the judge to have him named as a hostile witness.

A hostile witness' reliability might be called into question, and they can be cross-examined by being asked leading questions by the person who called them. The person who called him could also use the procedure to convince him to provide the evidence that supports his prior claim³.

A witness may become hostile for a variety of reasons, the most significant of all are-

1. Lack of police protection during and after the trial. Witnesses are frightened of dealing with the vengeance of prisoners who may be prominent in the system.
2. Another factor is excessive delay in case disposition. It prolongs the torture of the witnesses.
3. Offering incentives in cash and kind also seems to have a significant impact on witnesses becoming hostile.
4. Intimidation might also be one of the reason of witnesses turning hostile.
5. Gruelling cross-examination and periodic adjournments are also some of the key causes that lead a witness to become hostile.

3. RIGHTS OF THE WITNESSES

The state must provide a sense of safety to the witness who comes forward to testify, and it is the State's responsibility to provide proper protection to the witness. According to various Law Commission Reports, a witness has the following rights:

1. **Right to Be Informed:** Witnesses have the right to be informed about their role and the nature of the proceeding in which they are called upon to testify.

³ Naveena Varghese, "Witness Protection: Problems Faced and Need for a Protection Programme in India", lawctopus, available at <https://www.lawctopus.com/academike/witness-protection-problems-faced-and-need-for-a-protection-programme-in-india/> (last visited on 8th November, 2023)

2. **Right to Be Compensated:** In some situations, witnesses may be entitled to compensation for their time and other expenses spent attending court or testifying.
3. **Right to Privacy:** Witnesses have the right to have their personal information and privacy protected, and their identity has to be kept secret in some situations to prevent harassment or intimidation.
4. **Right to a Safe Environment:** The right to a safe environment requires that witnesses do not experience threats, harassment, or intimidation as a result of their involvement in proceedings. To protect witnesses from such actions, laws, and procedures are to be followed.

4. STATUTORY PROVISIONS RELATED TO WITNESS PROTECTION IN INDIA

4.1 The Code of Criminal Procedure, 1973:

Section 171⁴ of the Code states that a witness shall neither be obliged to accompany a police officer on his way, nor shall he be subjected to unnecessary restraint.

Section 327⁵ of the Code focuses on open court trials as well as camera trials in cases of sexual offences in order to restore victims' confidence.

Section 173(5)(b)⁶ of the Code requires the police officer to submit its report to the magistrate, which includes the statements of all those persons whom the prosecution seeks to examine as witnesses, and such recorded statements may not be disclosed to the accused once the police officer forms an opinion in the interests of justice and reasons for it must be provided to the magistrate.

Section 312⁷ of the Code additionally provides for the Criminal Court to reimburse complainants or witnesses for reasonable expenditures incurred in connection with any

⁴ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s.171

⁵ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s.327

⁶ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s.173(5)(b)

⁷ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s.312

inquiry, trial, or other proceeding.

Sections 406 and 407⁸ of the Code address the Supreme Court's and High Court's respective powers to transfer cases and appeals if they believe it will promote the interests of justice.

Section 195 A⁹ of the Code requires witnesses to file a complaint if they are threatened to give false testimony.

4.2 Indian Penal Code, 1860:

Section 228A¹⁰ of the Code prohibits the disclosure of identity and the publication of the names of victims of certain crimes.

Section 195A¹¹ of the Code penalizes for threatening any person to give false evidence.

4.3 Indian Evidence Act, 1872:

Section 134¹² of the Act prohibits the requirement of a specific number of witnesses to prove a fact, shedding light on the maxim "evidence has to be weighed, not counted."

Proviso to Section 132¹³ of the Act provides a defence to witnesses, stating that any answer a witness is compelled to give will neither subject him to arrest or prosecution, nor will it be proven against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

Section 138¹⁴ of the Act specifies how witnesses must be cross-examined.

Section 146¹⁵ of the Act protects the witness by allowing only legitimate questions to

⁸ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s.406,407

⁹ The Code of Criminal Procedure, 1973 (Act 2 of 1974), s.195 A

¹⁰ Indian Penal Code,1860 (Act 45 of 1860), s. 228A

¹¹ Indian Penal Code,1860 (Act 45 of 1860), s. 195A

¹² Indian Evidence Act, 1872 (Act 1 of 1872), s. 134

¹³ Indian Evidence Act, 1872 (Act 1 of 1872), s. 132

¹⁴ Indian Evidence Act, 1872 (Act 1 of 1872), s. 138

¹⁵ Indian Evidence Act, 1872 (Act 1 of 1872), s. 146

be asked during cross-examination.

Section 148¹⁶ of the Act authorizes a court to decide as to the relevancy of questions asked during cross-examination.

4.4 Juvenile Justice (Care and Protection of Children) Act, 2015:

Section 21¹⁷ of the Act restricts the publication of a juvenile's name, address, photograph, or other details. However, it may be permitted in the interests of the juvenile if authorization is granted for the same by recording reasons in writing¹⁸.

5. WITNESS PROTECTION SCHEME, 2018

It is worth noting here that all sorts of criminal prosecution, as well as civil rights adjudication, cannot be carried out properly without witnesses. Even so, neither the 'Indian Evidence Act, 1872' nor the 'Code of Criminal Procedure, 1973' defines the term 'witness'. However, the 'Witness Protection Scheme, 2018' defines it as follows:

“Witness’ means any person, who possesses information or document about any crime regarded by the competent authority as being material to any criminal proceedings and who has made a statement, or who has given or agreed or is required to give evidence concerning such proceedings”¹⁹.

The issue of witness protection emerged in a PIL (Mahender Chawla vs Union Of India Ministry Of Home Affairs²⁰) that sought witness protection in cases against self-styled Godman Asaram Bapu. The scheme was finalised in collaboration with the National Legal Services Authority (NALSA). The following are major components of the 2018 Witness Protection Scheme:

¹⁶ Indian Evidence Act, 1872 (Act 1 of 1872), s. 148

¹⁷ Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), s. 21

¹⁸ Prithivi Raj, “Witness Protection Laws in India: An Analysis” 10 Pen Acclaims 5 (2020)

¹⁹ The Witness Protection Scheme, 2018 India, available at https://www.mha.gov.in/sites/default/files/2022-08/Documents_PolNGuide_finalWPS_08072019%5B1%5D.pdf (last visited on 7th November, 2023).

²⁰ Mahendra Chawla v Union of India, Writ Petition (Crl.) No. 156 of 2016

- ☐ Identifying categories of threat perceptions
- ☐ Preparation of a 'Threat Analysis Report' by the head of police
- ☐ Protective measures such as ensuring that the witness and accused do not come into contact throughout the investigation, and identity protection
- ☐ Identity transition
- ☐ Relocation of the witness
- ☐ Witnesses are to be informed of the scheme.
- ☐ Confidentiality and record preservation
- ☐ Recovery of expenditures, etc.

According to the scheme, there are "3 categories of witnesses based on threat perception":

1. Category A: Cases in which a witness' or family member's life is threatened during the investigation, trial, or even afterward.
2. Category B: Cases in which the threat extends to the witness's or family members' safety, reputation, or property during the investigation or trial.
3. Category C: Threats that are mild in nature and include harassment or intimidation of the witness or his family members²¹.

5.1 NEED AND JUSTIFICATION FOR THE SCHEME

Witnesses become hostile in cases involving powerful people due to threats to life and property. According to witnesses, the state has no legal obligation to provide any security. The Supreme Court of India has ruled in *State of Gujarat v. Anirudh Singh* (1997) 6 SCC

²¹ Editorial, "What is Witness Protection Scheme?" *The Indian Express*, Nov. 8, 2023

514²² that "it is the salutary duty of every witness who has knowledge of the commission of the crime, to assist the State in giving evidence." According to the Malimath Committee on Reforms of the Criminal Justice System's 2003 stated in its report that, "by giving evidence relating to the commission of an offence, he performs a sacred duty of assisting the court in discovering the truth."

In *Zahira Habibulla H. Shiekh and Another v. State of Gujarat* 2004 (4) SCC 158²³, the Supreme Court while giving the definition of fair trial stated that "if witnesses are threatened or forced to give false evidence, that would also not result in a fair trial"²⁴. Witness Protection was first mentioned in India in the 14th Report of the Law Commission of India in 1958²⁵. Further references on the subject may be found in India's Law Commission's 154th²⁶ and 178th²⁷ reports. The matter is covered in the 198th Report²⁸ of the Law Commission of India, titled "Witness Identity Protection and Witness Protection Programmes, 2006."

The 4th National Police Commission Report, published in 1980²⁹, stated that "prosecution witnesses are turning hostile because of pressure of accused and there is need of regulation to check manipulation of witnesses." In 2006, the legislature introduced Section 195A of the Indian Penal Code³⁰, making Criminal Intimidation of Witnesses a criminal offence punishable by seven years in imprisonment. Similarly, statutes such as the Juvenile Justice (Care and Protection of Children) Act, 2015³¹, Whistleblowers Protection Act, 2011³², and the Protection of Children from Sexual Offences and Tribes (Prevention of Atrocities) Act,

²² *State of Gujarat v. Anirudh Singh* (1997) 6 SCC 514

²³ *Zahira Habibulla H. Shiekh and Another v. State of Gujarat* (2004) 4 SCC 158

²⁴ S.aatif23, "Need For A Witness Protection Law In India" legal service India, available at, <https://www.legalserviceindia.com/legal/article-3498-need-for-a-witness-protection-law-in-india.html> (last visited on 8th November, 2023)

²⁵ Law Commission of India, "14th Report on Reform of Judicial Administration" (1958)

²⁶ Law Commission of India, "154th Report on the Code of Criminal Procedure, 1973" (1996).

²⁷ Law Commission of India, "178th Report on Recommendations for amending various enactments both Civil and Criminal" (December, 2001)

²⁸ Law Commission of India, "198th Report on Witness Identity Protection and Witness Protection Programs" (August, 2006)

²⁹ National Police Commission, "4th Report on handicaps of witnesses", (1980).

³⁰ Indian Penal Code, 1860 (Act 45 of 1860), s. 195 A

³¹ Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016)

³² Whistleblowers Protection Act, 2011 (Act 17 of 2014)

1989 protect witnesses from threats.

However, no official structured approach has been implemented till date to address the issue of witness protection in a holistic manner. Extremism, terrorism, and organised crime have expanded in recent years, becoming stronger and more diverse. It is critical that witnesses have faith in the criminal justice system during the investigation and prosecution of such offences. Witnesses must have the confidence to come forward in order to assist law enforcement and prosecuting agencies. They must be guaranteed that they will be supported and protected against intimidation and violence that criminal groups may want to inflict on them in order to prevent them from cooperating with law enforcement and testifying in court. Therefore, it is high time to implement a scheme to handle witness protection issues fairly across the country.

5.2 SCOPE OF THE SCHEME

Witness protection can be as easy as escorting the witness to the courtroom or using current communication technology (such as audio video tools) to record testimony. In more complex situations involving organised criminal groups, extreme techniques like anonymity, offering temporary residence in a safe house, providing a new identity, and transportation of the witness to an undisclosed space are required to protect the witness's safety. However, a witness's need for witness protection may have to be assessed on a case-by-case basis, based on their vulnerability and threat perception.

5.3 WITNESS PROTECTION FUND

The scheme prescribes the establishment of a fund known as the "Witness Protection Fund." The money is administered by the 'Department/Ministry of Home under the State/UT Government'. This fund solely covers expenses connected to the program's effective implementation. Contributions to the fund are also permissible in the form of firms complying with the mandate of corporate social responsibility. Donations from international and national non-profit organisations are also accepted. The state government

is in charge of allocating the fund's annual budget³³.

5.4 FILING OF APPLICATION BEFORE COMPETENT AUTHORITY

The application for a protection order under this scheme can be made in the appropriate form with the Competent Authority of the concerned District, through its Member Secretary, along with any supporting documents.

5.5 THE PROCEDURE UNDER THE SCHEME

1. The Individual seeking protection must apply to the competent authority with territorial jurisdiction, accompanied by documents substantiating the necessity for protection obtained from the district's SP.
2. When the competent authority receives the application, it will request the 'threat analysis report' from the Commissioner of the Commissionerate's/SSP in districts where the case is being investigated. They must provide the report within five working days of the request by the competent authority.
3. Where the witness is under imminent threat, the competent authority may issue an interim order giving immediate protection.
4. The 'threat analysis report' should include the threat level perception as well as some other suggestions for appropriate protective actions based on the nature of the offence and the duration of the investigation.
5. An application for witness protection must be heard in private by the appropriate authority. It is done to protect the applicant's confidentiality.
6. The head of the police at the state and UT level i.e., the Director General of Police and the Commissioner of Police in the Commissionerate, are tasked with the obligation of

³³ Sneha Mahawar, "Witnesses protection in India", ipleaders, available at <https://blog.ipleaders.in/witnesses-protection-india/> (last visited on 8th November, 2023).

supervising the order granting witness protection.

7. If the competent authority wishes to revise a previously issued witness protection order, the Commissioner of Police or Senior Superintendent of Police must provide a fresh 'threat analysis report'³⁴.

5.6 DRAWBACKS OF THE SCHEME

Although the scheme provides significant relief to witnesses regarding their safety during the period of the trial and, in exceptional cases, even after the trial is completed, it has several flaws, including:

1. The functioning criminal justice system is the responsibility of the state, and some states may lack adequate resources to implement this scheme effectively. The alternative is funding from the centre, yet nowhere in the scheme does the centre have the authority to contribute a single penny to the Witness Protection Fund;
2. The duration of the Witness Protection Order has been limited to three months;
3. The task of deciding the contents and preparing the Threat Analysis Report has been assigned to the district's chief of police, so in high-profile cases involving politicians or influential people, the police officer may be put under pressure to provide information about the witness to those people³⁵.

6. WITNESS PROTECTION IN USA

As the United States of America is a developed nation, its witness protection laws are among the most advanced. The US Marshals Service is in charge of protecting witnesses, however, several states have passed laws specifically protecting witnesses against offenses that aren't covered by the federal program. Witnesses who put their lives in danger to testify

³⁴ Nair, V.V., "The status of victim protection in India: comparative analysis with international regime" 9 IJLP 130–147 (2023)

³⁵ Ms. Neha Singh and Prof. (Dr.) Mahammad Sharif, "Witness Protection: A Stepping Stone to Restorative Justice" 2 IJLR 42 (2022)

are relocated, given new identities, and given financial and job assistance by the U.S. Federal Government³⁶. In order to allow the states to offer the same program, the federal government also provides funding to those states. However, because of the program's lack of clear criteria, the Witness Security Reform Act of 1984 was established, making the system far more comprehensive. It is estimated that over 6,600 witnesses and over 8,000 family members have received assistance as beneficiaries of the Program, in the 25 years since the Reform Act.

6.1 WITNESS SECURITY REFORM ACT, 1984

The Witness Security Reform Act of 1984 (the Act) expands the authority of the Attorney General established as part of the Organized Crime Control Act of 1970³⁷ to provide protection and security through relocation for persons who are witnesses in official proceedings brought against persons involved in organized criminal activity or other serious offenses where it is determined that an offense described in Title 18, United States Code, Chapter 73 (obstruction of justice) has occurred. The Act also establishes the ability of the Attorney General to offer security facilities to certain relatives and acquaintances of protected witnesses³⁸.

6.2 PROCEDURES FOR SECURING PROTECTION

Requests for protection of witnesses must be filed as soon as it is established that the Witness Security Program individual will be a substantial and vital witness who will require relocation. A witness's pending or current involvement in the Program is not to be publicly revealed without the prior consent of OEO due to security concerns of the witness and his/her family. It is the responsibility of each USA, Assistant United States Attorney, and investigative agency to provide the request for authority to place an individual in the Program to OEO as soon as possible. This will provide time for the USMS preliminary interview, psychological testing, suitable evaluation, and actual preparation of assistance

³⁶ Ashi Pahariya and Saumya Katara, "Comparative Analysis of Witness Protection In Common Law Countries: Challenges And Their Potential Solutions" 10 NULJ 108-124 (2021)

³⁷ Organized Crime Control Act, 1970

³⁸ Witness Security Reform Act, 1984

by the USMS and/or BOP, by reducing disturbance for both the witness and the interested government agencies.

Requests (applications) should be sent to OEO by US Attorneys and Criminal Division Attorneys. Communications should be sent to the Chief, Special Operations Unit, OEO, and P.O., and the Program applications should be submitted online. The web address needed to get a Program application is available on the website of OEO's Special Operations Unit, which is accessible via DOJNet. Program requests must be signed by the US Attorney or, in the absence of the US Attorney and in accordance with 28 C.F.R. Sec. 0.131, the Acting US Attorney. In matters handled by the Criminal Division, the request must be signed by the relevant Division Section Chief/Office Director. All other divisions, agencies, and entities who are considering using the Program must contact OEO for application information and instructions.

The Organized Crime Control Act of 1990, which established the Federal Witness Security Program, has made significant progress in providing effective protection to witnesses and their families by providing housing, medical care, job training, employment, and adequate funding for their subsistence in the relocation area. The three major organizations in charge of witness protection in the United States are the United States Marshals Service, which is in charge of ensuring the health, security, and safety of nonincarcerated program participants, the Office of Enforcement Operations, which authorizes the induction of witnesses in the program whose lives are at stake, as a result of their testimony against drug traffickers, terrorists, and members of organized crime, and the Federal Bureau of Prisons, which is in charge of the custody of incarcerated witnesses. In major decisions such as *Smith v Illinois*³⁹, *United States v Palermo*⁴⁰, *United States v Rangel*⁴¹, and others, the United States Supreme Court has acknowledged the right of witnesses to anonymity when their personal safety is in danger.

³⁹ *Smith v Illinois* (1968) 390 US 129

⁴⁰ *United States v Palermo*, (1969) 410 F 2d 468 (7th Circuit)

⁴¹ *United States v Rangel*, 534 F.2d 147 (9th Circuit)

6.3 FEDERAL WITNESS PROTECTION PROGRAM

The Federal Witness Security Program, abbreviated WITSEC, offers protection assistance to witnesses and their families to safeguard their health, safety, and security. (18 U.S.C. § 3521.) The program, which is administered by the United States Marshall Service, began in 1971 and has since sheltered over 18,000 witnesses and their families. The program focuses on witnesses involved in federal cases, which are handled in federal courts or by federal investigative agencies.

WITSEC provides safety by creating new identities for witnesses and their close family members. It offers documents, shelter, and help with essential life expenditures including medical care. Essentially, witnesses in the program begin new lives with new identities, allowing them to stay away from the notice of those trying to harm them.

WITSEC also provides witnesses with 24-hour security when they testify at trial or attend any other "high-threat" event or court session. Armed guards, for example, offer physical security when the witness travels to the courts during certain periods. The witness may also be secluded in a safe place before and throughout the trial, and then integrated into their new life after the trial is over.

6.4 STATE WITNESS PROTECTION PROGRAMS

Some states, in addition to the federal WITSEC program, provide witness protection services. For example, the Witness Relocation and Assistance Program (CalWRAP) in California protects witnesses in any case where they may be in danger. When a witness does not otherwise qualify for the federal program, state programs, like as California's, frequently provide protective services.

In a domestic violence case presented in a state court, for example, the witness may be the accused's previous romantic partner. Because the case is being heard in a state court rather than a federal court, even if the accused threatens or endangers the witness, the witness is unlikely to be eligible for the federal WITSEC program. In such circumstances, the state

witness protection program may provide the witness with protective support⁴².

CONCLUSION

Witnesses play an important part in the discovery of the truth and the administration of justice. Therefore, they have the right to be protected from the accused in order to testify freely in a court of law. Without validation of safety, no one will come forward to offer information about the crime. It is the state's responsibility to safeguard the safety of witnesses in this situation so that individuals would be encouraged to testify against the accused. 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 concept 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. And, 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.

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, it is in India's best interests to count on the United States to initiate Witness Protection Programs. The situation for witness protection in India is not very appealing. Many witnesses in India do not favour the victim or attend court proceedings due

⁴² Suryaa Rajendran, "Comparative Study of Witness Protection Scheme Between USA & India", Scribd, available at <https://www.scribd.com/document/512374329/COMPARATIVE-STUDY-OF-WITNESS-PROTECTION-SCHEME-BETWEEN-USA-INDIA#> (last visited on 8th November, 2023)

to a lack of witness protection. Whereas, there is a highly successful Witness Protection Program in the United States. So, below are some suggestions, to make Witness protection more reliable in India -

- ☐ There should be a regulation governing the Witness Rehabilitation Fund, and anybody who contributes to it should receive tax advantages.
- ☐ A Specialized Witness Security Unit, similar to the US Marshal Service, might be developed to ensure the safety and security of the witnesses and their family members.
- ☐ Video conferencing for the purpose of providing testimony in court may be arranged, allowing the witnesses to testify freely.
- ☐ To address the issue of witness protection, separate and more detailed legislation may be enacted.
- ☐ 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, the Central government should provide some monetary assistance for the same.