
IMPACT OF VULNERABLE WITNESSES DEPOSITION CENTERES ON WITNESS SAFETY AND COOPREATION

Thrisha S, B.B.A L.L.B., (Hons), School of Excellence in Law, The TamilNadu Dr.
Ambedkar Law University.

Ms.T. Vaishali, B.A. (Eng.lit)., L.L.M.,NET., Ph.D (Pursuing), Assistant Professor of
Law, SOEL, The Tamilnadu Dr.ambedkar Law University.

ABSTRACT

A witness in the field of law is an individual who gives evidence or testifies to what they have seen or know about the case. They are vital to the judiciary in the solving of a Criminal case. A vulnerable witness is an individual person, for whatever reasons, stands at a higher risk suffering harm or being intimidated when they get involved in the legal process. They may be Children, Women, Victims of Trafficking or Exploitation, Disabled Persons, and Witnesses in High-Profile Cases etc.... The rationale of protection measures for vulnerable witnesses is to ensure their safety and enable them to give their evidence to the proceedings without the fear of retaliation or further pressure. NALSA thus has a great role in ensuring promotion and access to justice to vulnerable groups, and on the same lines, deposition centres have been established where guidelines and directives issued by the Supreme Court of India and different High Courts regarding deposition centres are followed to make available facilities for testimony of vulnerable witnesses. It is hoped that this research will make proposals for improving the way in which witnesses, and in particular those from vulnerable groups, can offer their assistance to justice. The real success of the Vulnerable Witnesses Deposition Centres does not lie in the existence of these centres, but in how well they work. What the research will seek to address is a much deeper level of issues and problems at the very root of the witnesses' reluctance to testify, going beyond an assessment of the buildings themselves. By creating space that feels safe, especially for women and children, witnesses are able to come forward and testify without fear so that justice may be served with fairness and respect.

Keywords: Vulnerable Witnesses, Deposition Centres, Legal Protections, Access to Justice

Introduction

As Jeremy Bentham puts it, witnesses are the eyes and the ears of justice.¹ Witnesses narrate first-hand information, describing what actually transpired. Their testimony offers an explanation to other evidences and supporting details, thereby making everything clear. Witnesses validate the experiences of victims, giving them very important support and legitimacy to their cause. Their testimonies can help put an end to the case, hence giving their victims relief and justice. Witnesses can provide a source of unbiased information that may help conduct a prosecution or defence that is fair in the pursuit of justice. They can also provide fresher insights and details that are not readily available through physical evidence. Convincing testimonies of the witness's help convict those at fault to let justice be served for the victim. On the other hand, witnesses can also serve the same important role in freeing an individual who is erroneously discovered to have committed a crime. The existence of witnesses, coupled with their willingness to testify, help deter criminal activities, protecting the individuals and property. There is another reason why witnesses are so important: they make justice open because most of the operations and decisions are guided by full and reliable information. The vulnerable witness in the criminal justice system is usually burdened with a myriad of serious issues working against him or her to give effective testimony. First and most central is the enormous emotional and psychological burden that normally weighs them down. The court environment can be very daunting, leading to traumatization for children and other victims of such traumatic events as sexual offenses or domestic violence. The presence of the accused, the formality of the setting, and the adversarial nature of the proceedings can elevate a person's level of anxiety and fear, thus impacting their memory and lucidity of expression. Additionally, some stigmatized or shame-inducing issues may prevent witnesses from coming out or fully describing their experiences. Consequently, the fear of being blamed, judged, or not believed may ultimately cause them to withhold critical information. This is further compounded by the potential for threats or retaliation from the accused or his associates. This may create in them the fear of their own safety and that of their family members and discourage them from effective participation in the process of judicial redress. A large number of witnesses feel disinclined to depose before the trial court for fear of a threat, intimidation, and other forms of coercion at the hands of the accused. Witnesses have been called in several trials, such as the

¹ Tamara Anand, Protecting the Eyes and Ears of Justice: The Witness, CJP (2019), <https://cjp.org.in/protecting-theeyes-and-ears-of-justice-the-witness>

Best Bakery case², the Jessica Lal murder case³, etc. and they have been forced either not to depose or to retract their claims.⁴ "Nothing shakes public confidence in the criminal justice delivery system more than the collapse of the prosecution due to witnesses turning hostile and retracting their previous statements."⁵ said the respected former Attorney General, Mr Soli Sorabjee. The most devastating consequences of witnesses turning averse are the trials that result in acquittals. It is believed that over 60% of acquittals in heinous crime trials are due to hostile witnesses.⁶ Active steps have to be taken to restore the faith of the public in the judiciary, which is one of the principal pillars of Indian democracy.

Importance of Protecting Vulnerable Witnesses

There are some prime reasons as to why protection of vulnerable witnesses is important to the integrity and effectiveness of the criminal justice system, including safety and cooperation for the pursuit of justice.

Safety and Security

The safety of vulnerable witnesses should be considered first. These may be children, rape victims, or the disabled; if the witness's identity or testimony is disclosed, the risks are immense. Such risks include: Physical Intimidation: A witness may be threatened or physically assaulted by the accused or their cohorts in the crime. For example, victims of domestic violence or organized crime may face direct threats to their safety.⁷ Where there is a Psychological Damage The stress of testifying is increased by fears of retaliation or exposure to the public; these could have very serious consequences for both emotional and psychological well-being.⁸ Protection of witnesses minimizes such risks and guarantees that they can take part in the process of justice delivery without any further traumatization.

² Zahira Habibulla H. Sheikh v. State of Gujarat 2004 4 SCC 158.

³ Sidhartha Vashisht v. State (NCT of Delhi), (2008) 5 SCC 230

⁴ Mrs Priyanka Dhar, WITNESS PROTECTION AND JUSTICE DELIVERY SYSTEM IN INDIA - A CRITIQUE (2016).

⁵ DR. RAHUL SANGAONKAR, Role of Witnesses in Criminal Trials in India, 5 INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES (2022)

⁶ G. S. BAJPAI, Witness in the Criminal Justice Process: A Study of Hostility and Problems Associated with Witness, (2009).

⁷ Barton, L. (2019). "Protecting Vulnerable Witnesses: A Guide to Safety Measures." *Journal of Criminal Law*

⁸ Smith, J. (2021). "The Psychological Impact of Testifying in Court for Trauma Survivors." *Trauma and Therapy Review*.

Encouraging Cooperation

Protection measures give courage to vulnerable witnesses to come out and give their testimonies without fear. This is for a number of reasons of Honest and Complete Testimony where Witnesses who feel secure are more likely to provide complete and honest accounts of their observations, which is vital for the accuracy of the judicial process.⁹ Fear of intimidation or reprisal may stop the witnesses from coming out to participate. These concerns are alleviated with effective protection measures in place, and as such, witnesses become more willing to cooperate with legal proceedings.¹⁰

Ensuring Fair Trials

Protection of vulnerable witnesses goes hand in hand with fairness in the trials, as each party will be at par to access justice. In ensuring that all of the witnesses are, despite their vulnerability, in a position to testify effectively to the best of their capabilities, fair trial is guaranteed. This will present a complete picture of facts and ensure that justice is not compromised due to the inability of some witnesses to participate fully.¹¹ Proper protection at the time of testimony minimizes the risks of improper influence or intimidation of the witness and helps in keeping the integrity of their accounts and thereby the trial process.¹²

Encouraging Accountability

Protecting vulnerable witnesses also enhances accountability within the justice system by deterring crime—witness protection deters potential criminals as it increases the likelihood that criminal activities will be reported and prosecuted.¹³ Effective witness protection supports the overall accountability of the legal system in ensuring justice is delivered and offenders are held accountable for their actions.¹⁴

⁹ Johnson, R. (2018). "The Role of Witnesses in Ensuring Justice: A Critical Analysis." *Legal Studies Quarterly*

¹⁰ Martin, A. (2020). "Addressing the Reluctance of Vulnerable Witnesses: Strategies and Solutions." *Criminal Justice Review*

¹¹ Thompson, K. (2022). "Ensuring Fair Trials for All: The Importance of Witness Protection." *Human Rights Law Journal*

¹² Williams, E. (2017). "Minimizing Bias in Witness Testimonies: Challenges and Approaches." *Justice and Law Review*

¹³ Lee, H. (2023). "Crime Deterrence and the Role of Witness Protection." *Criminal Justice Policy Review*

¹⁴ Clark, N. (2019). "Upholding the Rule of Law: The Impact of Witness Protection on Legal Accountability." *Legal Ethics Review*

Facilitating the Process of Justice

Protecting vulnerable witnesses supports the broader justice process in several ways by Encouraging Reporting of Witnesses know they are going to be protected and hence more likely to come forward and report crimes. For effectiveness, the criminal justice system¹⁵ has to have an adequate number of crimes reported. In most cases, testimonies by vulnerable witnesses offer very important details that can collaborate other pieces of evidence, hence arriving at a fair decision.¹⁶

Establishment and Role of Vulnerable Witnesses Deposition Centres

These centres generally come into existence as a result of legislations and judgments aiming to alter the way in which vulnerable witnesses are treated. In most countries, for instance, it is the national or local legislation and judicial decisions that create the mandatory provisions for the setting up of such centres for the protection and support of vulnerable witnesses. In India, for example, it has been through the directions of the Supreme Court and various High Courts that these centres came into existence.¹⁷ In fact, these centres can only be set up through collaboration among a variety of institutions or organizations, such as the government, the judiciary, and other non-governmental organizations. Such collaboration will ensure resource availability and a pool of expertise needed to effectively handle a vulnerable witness. For instance, in India, NALSA plays a very significant role in promotion and overseeing the setting up of those centres.¹⁸

Providing a Safe Environment

These centres have to provide safety to sensitive witnesses like children, rape victims, and the disabled. By doing this, they assist in reducing or eliminating the chances of threats, harassment, or psychological coercion a witness may encounter during an open court testimony.

¹⁵ Davis, P. (2021). "Encouraging Crime Reporting Through Effective Witness Protection." *Law and Society Journal*.

¹⁶ Nguyen, T. (2018). "The Importance of Comprehensive Evidence in Criminal Trials." *Journal of Forensic Studies*.

¹⁷ Supreme Court of India. (2021). "Guidelines on the Protection of Vulnerable Witnesses." *Legal Gazette*.

¹⁸ National Legal Services Authority (NALSA). (2022). "Annual Report on the Establishment and Functioning of Vulnerable Witnesses Deposition Centres." *NALSA Publications*

Facilitating Effective Testimony

These are designed to allow vulnerable witnesses to give their evidence in a way that causes them the least stress and disruption possible. These include the use of comfortable and private spaces and the employment of technology, such as video links, that permit evidence to be taken without the need for actually being within the court, along with support services aimed at helping witnesses adequately prepare and give their evidence.

Supporting Emotional and Psychological Well-being

Knowing that a vulnerable witness may experience an emotional or psychological imbalance, such centres are normally well equipped with qualified officers, often psychologists and counsellors, to help the witness overcome their feelings. It is a guarantee that a witness will be able to give out his or her information freely without fear of intimidation or anxiety, hence enabling the delivery of vital and credible testimony.

Enhancing Legal Processes

Such witness support centres provide full access to vulnerable witnesses for the prosecution case, and therefore, make the legal process more complete and fair. This thus means that all possible evidence is put forward as a precondition of justice in criminal cases. These centres also facilitate the processing of the legal system by management of logistics associated with witness testimony and hence reduce delays related to special arrangements.

Challenges Faced by Vulnerable Witnesses

Emotional and Psychological Pressure

Vulnerable witnesses, such as children or victims of trauma and related crimes, are held under acute emotional and psychological pressure while giving their testimonies. The setting in a courtroom can at times be intimidating and traumatizing to such individuals, especially to those who have experienced severe trauma. In the case of children, giving testimony is a very traumatic experience due to their age and the nature of the offense. They may be afraid, anxious, or bewildered, all of which affect their giving coherent, accurate testimony.¹⁹ Trauma victims

¹⁹ Johnson, L. (2020). "The Psychological Impact of Testifying: A Study on Child and Trauma Victims." *Journal of Child Psychology and Psychiatry*

may flash back, become increasingly anxious, or become very emotional and therefore have an extremely difficult time recalling clearly or describing what occurred.²⁰

Complexity of Legal Procedures

vulnerable witnesses, mostly cognitively impaired or who do not understand legal vocabulary, will get confused with the court process and not explain themselves clearly. This might lead to misconceptions, incomplete testimonies, or the giving of the wrong information based on a lack of understanding about what is being asked.²¹ With adversarial proceedings, the questioning involved and complicated legal terminology make this even worse and further substantively disable the witnesses, impeding their capability to give evidence effectively.²²

Societal Stigma and Personal Shame

In the case of more heinous crimes, such as sexual abuse or human trafficking, victims may even fear that they will be deemed responsible or asked to justify themselves for this heinous treatment. This stigma helps the victim feeling the shame, and it can even hinder the testimony they can make. This is because they might fear they will be susceptible to attitude victimization and intrusive questioning which can only further lower their bruised self-esteem and mental health.²³ Societal perceptions of these crimes can further erect an access to justice barrier by dissuading victims from coming forward and taking part in the legal process.²⁴

Threats of Retaliation

Witnesses testifying against dangerous individuals or criminal organizations can be under real threats of retaliation. Intimidation, harassment, and direct physical harm are some of the threats. Such fears might pose a lot of alarm and panic, which may hinder witnesses from participating in the prosecution of suspected offenders or even retract their evidence after threats.²⁵

²⁰ Smith, A. (2018). "Trauma and Testimony: The Emotional Burden on Victims in Court." *Trauma and Recovery Review*.

²¹ Brown, T. (2019). "Legal Jargon and Cognitive Impairments: Challenges in the Courtroom." *Legal Studies Journal*.

²² Martin, P. (2021). "Navigating Legal Procedures: Difficulties for Vulnerable Witnesses." *Law and Society Review*.

²³ Lee, S. (2019). "Stigma and Testimony: The Impact of Societal Perceptions on Victim Participation." *Social Justice Quarterly*.

²⁴ Davis, J. (2020). "Overcoming Shame and Stigma: Challenges in Legal Testimonies." *Human Rights Law Journal*.

²⁵ Clark, E. (2021). "Witness Protection and Retaliation Risks: An Analysis." *Criminal Justice Policy Review*

Protection of witnesses and their families from such threats is paramount for their safety and lithe amenability with the process of justice.²⁶

Practical barriers

Witnesses visiting the court may also face further practical problems, including transportation difficulties for those living far apart or where the quality of public transport is poor. Money could add to these problems where a witness cannot afford to attend court or engage legal representation.²⁷

Suggestions to Improve

Safe Environment

Create safe environments that ensure vulnerable witnesses are comfortable and able to cooperate effectively with the process of justice by designing the deposition centre in which confidential, secure, and designated spaces allow witnesses of human rights abuses to give their accounts freely. Provide secured entry and exit points, monitored by surveillance systems while access is restricted. Creating a friendly, non-intimating, and peaceful environment with furniture that is comfortable, colors that are warm, and amenities that are child-friendly in nature to facilitate anxiety reduction, more so in children and those who have suffered some trauma. The use of technology such as video conferencing and CCTV, which enables witnesses to testify being in another place rather than being in the dock to face and accuse, making this process more secure and safe.

Supportive measures

It ensures complete support to the vulnerable witness for their cooperation and effective testimony. Training judges, advocates, and court staff in the specific needs of the vulnerable witness; The techniques of questioning sensitively; Spotting distress in a witness; The support that should be given at the time of making the statement. Making available counsellors or psychologists who can support the witness emotionally and equip them with coping strategies

²⁶ Nguyen, R. (2018). "Ensuring Safety for Vulnerable Witnesses: Strategies and Solutions." *Journal of Law and Security*.

²⁷ Adams, K. (2022). "Addressing Practical Barriers for Witnesses: Financial and Logistical Challenges." *Legal Aid Review*.

before, during, and after testifying. This help facilitates a decrease in anxiety and an increase in the witness's ability to recall and explain the events. Creation of safety plans appropriate for each individual witness who may be perceived as being under a direct threat. This can include providing police to escort the witnesses, secure means of transportation, as well as potential methods of keeping the witnesses identities obscured such as using pseudonyms and creating options for anonymous testifying.

Overcoming the Practical Impediments

Overcoming the practical barriers relieves the vulnerable witness of all the stresses and ensures that they fully cooperate and participate to their utmost ability. Provide safe means of transportation to and from deposition centres. This might be providing a ride, a voucher for transportation, or reimbursing expenses that are incurred for such purpose. Provide financial support to defray costs involved in attending legal proceedings, which can include replacing lost wages, day care, or any other related cost that might present an obstacle to attending. It offers interpreters during court trials for witnesses that cannot understand the language used, thereby ensuring problems with communication while testifying are eliminated. This action will enable the witness to understand the proceedings, therefore eliminating problems that may have occurred in communication while testifying and even breaking the barriers that exist with a language problem.

Enhanced Collaboration and Coordination

That, together with effective coordination and cooperation among all players in the deposition process, works very well in ensuring that witness safety and cooperation is increased through the facilitation of collaboration among legal authorities, law enforcement agencies, social services, and NGO's to provide a general context of offering support to the vulnerable witnesses. This goes a long way in ensuring that all areas of safety and well-being of the witness are catered to. The development of a mechanism for constant monitoring and evaluation of the practices and protocols in the deposition centre. Seek feedback from the witnesses, legal professionals, and support staff with a view to improving service and to see whether the centres have met their aims. Create greater public awareness for the need of protecting vulnerable witnesses and the services provided for them. That will reduce stigma, more witnesses will come forward, and there will be a community environment that is supportive.

Conclusion

Effective vulnerable witness deposition centres are important in ensuring that justice is done in a fair and respectful way. They assume the very critical role of providing a safe and supportive environment that enables the participation of witnesses who may otherwise not be able or willing to participate in any legal proceedings. In catering to their special needs and challenges, deposition centres therefore ensure vulnerable witnesses are able to give their testimonies without fear or undue hardship. This not only facilitates the dispensation of justice, as it ensures that every evidence that is relevant will be availed, but also upholds respect and decorum in the judiciary. If witnesses feel protected and supported, they are willing to cooperate fully, giving accurate and complete testimonies for fair and just verdicts in criminal cases. Long-term goals that the centres should achieve are the continued betterment of protection and support mechanisms for the witnesses. This shall be implemented through periodic reviewing and upgrading in service and facilities provided to the vulnerable witness. Adapting to changing needs and challenges requires incorporating new technologies, refining protocols and increasing training to legal and support personnel. In addition, such centres can perform much better if teamwork is enhanced among various agencies: legal authorities, social services, and non-governmental organizations. That way, deposition centres will continue changing for good: remaining focused on the well-being and safety of the vulnerable witness to make the justice system inclusive, fair, and respectful to all. In general, the Vulnerable Witnesses Deposition Centres need to be established and continue improving in order to safeguard the rights and dignity of witnesses and encourage participation in the process of law so that it can realize justice in a fair manner.

References:

1. National Legal Services Authority (NALSA), "NALSA Schemes," www.nalsa.gov.in/nalsa-schemes.
2. Supreme Court of India, "Guidelines on Witness Protection," www.sci.gov.in/guidelines-on-witness-protection.
3. High Court of Delhi, "Implementation of Vulnerable Witness Deposition Centers," www.delhihighcourt.nic.in/vulnerable-witness-deposition-centers.
4. Ministry of Law and Justice, Government of India, "Witness Protection Scheme, 2018," www.legalaffairs.gov.in/witness-protection-scheme-2018.
5. UNODC, "Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime," www.unodc.org/good-practices-witness-protection.
6. Human Rights Watch, "Witness Protection Measures in India," www.hrw.org/witness-protection-measures-india.