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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **Witness Production In The View Of The Indian Judicial System**

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## **Introduction**

The role of a witness is critical in any country's criminal justice system. They are an essential component of any civilized society's justice system. Each of their statements is critical because it has the power to alter the course of history. The entire case they bring the case forward by providing evidence relating to the commission of an offense putting the criminal justice system into action. "Witness is the eyes and ears of Justice wrote Jeremy Bentham". The witness may be unable to speak the truth in court due to circumstances beyond his control, such as negligence or ignorance, or a combination of these factors.

In its various provisions, the 1973 Code of Criminal Procedure attempted to define it. Section 161 of the Code, for example, states that "any police officer conducting an investigation under this section Chapter, or any police officer of a rank not lower than that which the State Government may, by general or special order, prescribe in this regard, acting on such officer's requisition, may question orally any person who is supposed to be familiar with the facts and circumstances of the case."

## **The Term "Witness" Is Explained As?**

The word "witness" does not have a definition in Indian criminal law. As a result, it is critical to rely on the ordinary dictionary definition of the word. The term is defined by the Oxford Dictionary as "one who testifies in a court of law; an indifferent to both parties, sworn to speak the truth, the whole truth, and nothing but the truth". The witness is defined by Black's Law Dictionary as "one who sees, knows, or vouches for something, or one who gives testimony, under oath or affirmation in person, or by oral or written deposition, or by affidavit." The Indian Evidence Act of 1872 provides for the competency of witnesses as well as the mode of examination of witnesses.

As a general rule, anyone is competent to testify. Unless the court believes he is unable to understand or respond to the questions posed to him. Rational responses to them could be due to old age, extreme old age, or disease, regardless of the cause. Body or mind, or any other similar cause, As a result, no one is specifically declared to be incompetent. Even a lunatic is not declared incompetent unless his lunacy prevents him from performing his duties. Comprehending or responding to inquiries.

## **Witness Protection Under Indian Laws Code Of Criminal Procedure, 1973:**

<sup>1</sup>The Code of Criminal Procedure specifies the detailed procedure for criminal trials. It is worth noting that the CRPC. Modern law recognizes the role of the witness in criminal trials. Section 160 of the CRPC empowers a police officer to summon a witness. In this case, the payment of reasonable travel expenses incurred by the person for traveling shall be made under this section. Section 284 of the CRPC states that whenever it appears to the court that the attendance should be made without delay if the witness is required to be examined during the trial the court may waive the personal examination Attendance of a witness, as well as the issuance of a commission, are required to achieve justice.

Furthermore, the accused is responsible for the costs associated with the issuance of a commission for examination. Section 309 of the CRPC states that every inquiry or trial should be held as soon as possible and that once the examination of witnesses begins; it should be completed as soon as

possible, Continue on a day-to-day basis unless the Court adjourns the proceeding for good cause. Article 312 of The Criminal Procedure Code empowers the criminal court to order the payment of reasonable expenses incurred by the complainant or parties. Attendance at court proceedings as a witness the government will pay the amount.

### **The Unlawful Activities (Prevention) Act, 1967:**

<sup>2</sup>This Act contains two provisions that address the issue of Witness. Threatening a witness is punishable under Section 22 of the Act. It states that anyone who threatens a witness with a violent act, or who unlawfully restrains or confines the witness, etc., will be imprisoned. Furthermore, witnesses are protected under Section 44 of the Act. This section states that the proceeding may be conducted in private if the court so desires. This section provides two types of protection to witnesses: identity protection and the confidentiality of the witness's address. The application under this section can be made by the witness on his or her behalf. Furthermore, anyone who violates the provisions of this section will be imprisoned. Suo moto action by the public prosecutor or court based on the witness's life is in danger. The Terrorist and Disruptive Activities (Prevention) Act, 1987:

The Terrorist and Disruptive Activities (Prevention) Act of 1987 was enacted specifically to combat terrorist activities in India. Witnesses are protected under Section 16 of the Act. It specifies that if the designated court so desires, the proceedings can be held in private. Furthermore, under subsection (2), the Designated Court may take steps to protect the identity of the witness and keep the address of any witness secret. based on an application made by a witness or his prosecutor, or based on suo moto cognizance by the court. Furthermore, if a person violates the provisions of this section, he will be punished.

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<sup>1</sup>Criminal Procedure Code 1873- <http://www.sconline.com/DocumentLink/7WaxEjw6>

<sup>2</sup> The Unlawful Activities Prevention Act 1967 - <http://www.sconline.com/DocumentLink/M11S873T>.

## **Prevention Of Terrorism Act, 2002:**

<sup>3</sup>Witness protection is also provided for under the Prevention of Terrorism Act of 2002 (POTA, 2002). Section 3(7) provides for imprisonment for anyone who threatens a witness with a violent act, places any wrongful restraint or confines the witness, or does any unlawful act to threaten him. Furthermore, Section 30 of the Act provides for witness protection. It states that the proceedings can be held in private if the Special Court so desires. Furthermore, on an application made by a witness or his prosecutor or court on suo moto cognizance, the Special Court under sub-section - 2 may take measures to protect the identity of the witness and keep the address of any witness secret. Furthermore, if any individual If he violates the provisions of this section, he will be punished.

## **The National Investigation Agency Act, 2008:**

<sup>4</sup>The National Investigation Agency was established in 2008 to combat terrorist activity. Witness protection is also provided for under the NIA Act. The Special Court has the authority to hold court proceedings in private under Section 17 of the Act. Whenever it appears to the court that the witness's or the person on whose behalf the witness is testifying's life is in jeopardy If a person's identity or address is in jeopardy, this section protects that person's identity and address. Witnesses can be granted the privilege of secrecy. The application for protection under this section can be made either by Suo moto cognizance can be taken by a witness, prosecutor, or even the court. The person who violates the Any violation of this section will result in imprisonment.

## **Examining the Law Commission's Report on Witness Protection?**

<sup>5</sup>In 1958, the 14th Law Commission Report 23 considered a new perspective on 'Witness Protection' About the aforementioned matter, it was stated that there were "inadequate arrangements for witnesses in the Courthouse, the scales of traveling allowance and daily (allowance) paid to witnesses for attending court in response to a summons issued by the Court." The Report acknowledged that inadequate arrangements for witnesses had been made, but it focused on the physical aspect rather than the emotional or mental turmoil endured by the witnesses. The Law Commission Report, presided over by Mr. M.C Setalvad pondered the

witnesses' financial perspectives and stated that they had to be compensated for the time and effort they expended in attending the proceedings. The report focuses on and gives due consideration to the well-being, suitability, and remuneration of the witness to assist the court of law. The report is based on the assumption that if the witness is not thoroughly investigated, it may result in the witness developing a negative attitude, which will prevent him from supporting the court in its fight for justice.

### **Analysis 154 Law Commission Report**

<sup>6</sup>The 154th Law Commission Report 24 in 1996, which dealt entirely with 'Protection and Facilities to Witnesses,' did not dispute the fact that criminals were walking free due to a lack of witness protection. The Report vouched for those witnesses turning hostile because they were subjected to not only physical but also mental torture. According to the Report, the allowances for attending court proceedings must be made on a case-by-case basis. A much more realistic basis and a simple procedure must be obtained, resulting in convenience and reducing any delays. It also stated that witness protection is a right that should be treated with the utmost respect. It was also mentioned that Legislation to protect must instill trust in the public and witnesses. Allow them to come forward and assist the courts as needed. The Report was published. Firm in stating that time is of the essence, and when the court lists cases, It must be kept to avoid wasting the time of the witnesses. The Highest The court was tasked with providing guidelines to all criminal courts for the listing of the cases.

### **Law Commission 172 Report**

<sup>7</sup>Due to the case of Sakshi v. Union of India, the 172nd Law Commission Report took on the subject of Rape Laws to amend and define the term 'rape' to include all types of forcible penetration. In this regard, the Report stated, "Provided that where the evidence of a person under the age of sixteen who is accused of sexual assault or other heinous crime If a sexual offense is to be recorded, the Court may take appropriate measures to ensure that it is not repeated. That such person is not confronted by the accused while also ensuring the accused has the right to be cross-

examined." This recommendation was incorporated into the Criminal Procedure Code in 1973. It was suggested that in the case of a minor victim who has been assaulted, the principle of natural justice must be flexible in allowing the victim to provide evidence to support his or her claim. Screen to avoid further mental anguish this strikes a balance between procedural law and substantive law. Defending the rights of the accused as well as the mental health of the victim

## **Law Commission 178 Report**

<sup>8</sup>The 178th Law Commission Report focused on the role of police officers in crime prevention .securing the witnesses and keeping them from becoming hostile The Report suggested Section 164 A of the 1973 Code of Criminal Procedure is being inserted. The section is organized for the recording of witnesses in front of the magistrate. This, however, did not apply to all offenses, but only to those punishable by imprisonment for more than ten years, with or without a fine, or by the death penalty.

Criminal Law a When the Criminal Law (Amendment) Bill, 2003 was introduced in the Rajya Sabha, it modified the recommendations by reducing the recording of witness statements with the magistrate from ten years to seven years. In addition to its point of view on balancing In the interests of the witnesses, victims, and accused, the Rajya Sabha ensured that the witness's statement must be investigated to determine whether the witness is going back. on the previous statement as a result of any type of inducement, pressure, or other external factor influences .amendment Bill 2003.

<sup>3</sup> Prevention Of Terrorism Act 2002- <http://www.scconline.com/DocumentLink/n5g79iQE>

<sup>4</sup> National Investigation Agency Act- <http://www.scconline.com/DocumentLink/Dxz15sDe>

14 Law Commission Report

<sup>6</sup> 154 Law Commission Report

<sup>7</sup> 172 Law Commission Report

Sakshi vs Union Of India on 26 May, 2004 SCC

<sup>8</sup> 178 Law Commission Report

## **Justice Malimath Committee Report:**

<sup>9</sup>The Justice Malimath Committee's Report on Reforms of the Criminal Justice System consisted of 158 recommendations that elaborated on the need for witness protection, which will

Increase the number of rightful convictions and bring down the cost of the criminal justice system Justice for society.

The Report examined the erroneous problem of the witness's safety, as well as the safety of their family or dependents. Being rational in their approach, the Report also states that protection does not have to be provided in all cases, but rather depends on the gravity of the offense. Case, threats, if any, and the accused's background If the crime is particularly heinous, The Court must go so far as to allow the Witness to change his or her identity.' Depending on the discretion of the judge, camera' proceedings should be carefully permitted. Court, along with witness rights protection, must be favorable to the cross-examination privileges.

## **Law Commission 198 Report**

<sup>10</sup>The Report presented a Consultation Paper and invited the public to provide feedback through a Questionnaire. The authenticity of the witness is tested if they go back or retract their previous statements, according to the paper. Witnesses and their families will be physically and mentally protected until the trial is over. The trial must strike a balance between concealing the identity of the witnesses and the right to a fair trial to conduct cross-examination of the accused. There is a need for comprehensive legislation, and there must be criteria in place to provide this protection. In addition, the paper addressed some realistic aspects such as police protection and witness relocation. another state or region.

The Report did not overlook the fact that the accused has a right to an open and public trial in a criminal court, as well as the right to cross-examine witnesses in their presence. However, the accused's rights are not absolute and can be limited to such an extent. the extent to which justice is administered fairly There were two types of Witnesses who were called:

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<sup>9</sup> <https://www.thehindu.com/news/national/the-malimath-committees-recommendations-on-reforms-in-the-criminal-justice-system-in-20-points/article61493071.ece>

1. Victim-witnesses who are acquainted with the accused could include any acquaintance, family member, or relative. This type of witness does not need to change its identity because it is the very cause of it. Only physical protection is available in these cases. can be distributed to the witness and his dependents
2. Victims are unidentified witnesses who testify against the accused. Terrorist bombing is one example. If the court deems it necessary, physical protection and identity change can be granted. When a threat is harmful to someone's livelihood, it falls into this category. The identity of the witnesses and their identities are to be kept secret until the end of the trial.

Finally, the report stated that, in addition to changing the identity of witnesses, the witnesses should be relocated to a different location with their dependants, and the expenses of witness protection should be borne by the State Legal Aid Authority through the Legal Aid Authority for the District. Aside from that, there must be a memorandum of understanding. Between the State and the witness that establishes both parties' obligations. Contravention on the part of the witnesses will result in his removal from the program.

### **Ramesh And Others Vs. State Of Haryana 2566 SC**

<sup>11</sup>Witnesses turning hostile in criminal cases are becoming a common occurrence, almost a regular occurrence. There could be a variety of reasons for the witnesses' behavior or attitude. It is possible that when the statements of such witnesses were recorded by the police during the investigation under Section 161 of the Code of Criminal Procedure, 1973, the Investigating Officer forced them to make such statements and, as a result, they resolved from them while deposing in Court, and rightfully so. However, in most cases, this is no longer the case. This trend of hostile witnesses is caused by a variety of other factors. It could be a fear of testifying against the accused/delinquent, political pressure, pressure from other family members, or any number of other sociological factors. It is also possible that witnesses have been influenced by monetary considerations.

There is no clear-cut legislation in place to combat witness hostility." One of the main reasons for witness hostility has been threats and intimidation.

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<sup>10</sup> Law Commission 198 Report

"Witnesses are the eyes and ears of justice," said Jeremy Bentham. When witnesses are unable to properly depose in court, it results in a low rate of conviction, and many times even hardened criminals escape conviction. It undermines public trust in the criminal justice system.

### **Satish S/O Bandu Ragde Vs. State Of Maharashtra 161** **Bombay HC 2017**

<sup>12</sup>A two-judge bench of this court issued directions for the establishment of special centers for the examination of vulnerable witnesses in criminal cases to facilitate a conducive environment in which a vulnerable victim could make a statement before the court. In Bandu's case, the Court addressed the suggestion that special centers be established for the examination of vulnerable witnesses in criminal cases in the interest of creating a Conducive environment in the Court to encourage a vulnerable victim to make a statement. "Such centers should be established with all necessary safeguards," the Court said.

### **Mahendra Chawla and Others vs. Union of India and Others (2019)** **14 SCC 615,**

<sup>13</sup>The Supreme Court issued a landmark decision in Mahendra Chawla v. Union of India which is the first attempt to bring witness protection within the purview of the law and hold the state accountable for effectively implementing it. This decision comes in the wake of several fatal attacks on witnesses in the past.

According to the Central Government's affidavit, the Witness Protection Scheme, 2018, is based on input from 18 states/union territories, 5 state legal services authorities, and open sources such as civil society, three high courts, and police personnel. It is also stated that the scheme was developed in collaboration with the National Legal Services Authority (NALSA).

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<sup>11</sup> Ramesh And Others V State Of Haryana on 22 November, 2016 SCC

<sup>12</sup> State Of Maharashtra vs. Bandu 2017 SLP (CRL)NO.2172 OF 2014 SCC

It is stated that the scheme's aim and objective are to ensure that the investigation, prosecution, and trial of criminal offenses are not hampered because witnesses are intimidated or fearful of giving evidence in the absence of protection from violent or other criminal recrimination. It seeks to promote law enforcement by facilitating the protection of individuals who are directly or indirectly involved in assisting criminal law enforcement agencies and the administration of justice in general.

The Court ordered that the Witness Protection Scheme, 2018, be implemented by the Union of India, as well as the states and union territories. The Court ruled that it shall be the 'law' under Article 141/142 of the Constitution until appropriate legislation on the subject is enacted. Following the aforementioned provisions of the Scheme, vulnerable witness deposition complexes shall be established by the States and Union Territories in all district courts throughout India.

### **Delhi Witness Protection Scheme, 2015**

<sup>14</sup>The Delhi Witness Protection Scheme, 2015 is the first piece of legislation in which the term "witness" is defined. Section 2 (m) of the Scheme defines a witness as "any person who has knowledge of any criminal act or possesses any document relating to that criminal act." the same, and he has made or agreed to make the statement in the course of a criminal proceeding Section – states that 3 of the Scheme, the witness is classified into three categories, based on the threat. Perception Section 6 of the scheme outlines the procedure for requesting witness protection.

Section 7 of the Scheme provides for various types of protection that are proportional to the threat and only last for a limited time. They may include no meeting between the witness and the accused during the trial, concealment of the witness's identity, close protection, and regular patrolling. Around the witness's house, temporary change of residence, in-camera proceedings, and awarding The Witness Protection Fund provided financial assistance to the witness for relocation and sustenance. or beginning a new vocation/profession, etc. 9th section 8 The Act protects the identity of the witness in serious infractions A separate application must be made to the competent authority under this section. Examination of witnesses and their families that must take place during an investigation or trial.

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<sup>13</sup> Mahendra Chawla and Others vs. Union of India and Others (2019) 14 SCC 61

## **Witness Protection Scheme 2018**

<sup>15</sup>The Central Government finalized the "Witness Protection Scheme, 2018" ("Scheme") in consultation with the National Legal Services Authority. Following that, the Hon'ble Court, in its judgment dated 05.12.2018, noted the critical importance of having a witness protection mechanism/scheme in India. However, in the absence of a statutory regime, the Scheme was duly adopted and declared to be law by the Hon'ble Court under Article 141 of the Constitution, until a suitable law was framed in this regard.

In extreme cases, the Witness Protection Scheme, 2018 envisages means of ensuring witness life/safety in events ranging from; providing a police escort to witness up to Courtroom or using audio-video means for recording the testimony of such witness to steps ensuring anonymity, temporary residence in the safe house, providing new identity, relocation of witnesses, etc. The Scheme, among other things, provides for categorizing witnesses into three categories based on threat perception, namely Category A20, Category B21, and Category C22, and it also provides for the establishment of a State Witness Protection Fund, which is operated by the Department/ Ministry of Home under the State/ Union Territory Government, to meet the expenses incurred during the implementation of Witness Protection Order, passed by Competent Authority. The genesis of a Witness Protection Order, according to the Scheme, is the filing of an application in the prescribed form before the Competent Authority of the concerned District, through its Member Secretary. Clause 6 of the Scheme specifies the procedure for processing such application(s) based on a Threat Analysis Report ("TAR") prepared by the Additional Commissioner of Police/Deputy Commissioner of Police in charge of the concerned Police Station, and its disposition within five working days of receipt of said Report. The aforementioned Clause also empowers the Competent Authority to issue interim protection orders until a final decision on the witness' application is made, as well as to conduct monthly follow-ups and review of the final order of protection issued. Witness Protection Orders, proportionate to the threat and for a specific duration and subject to monitoring/review, that may be issued include monitoring of mails/phone calls; ensuring witness and accused do not come face to face during investigation/trial; concealment of identity; holding in-camera trial; regular patrolling

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<sup>14</sup> Delhi Witness Protection Scheme <http://dlsia.org/wp-content/uploads/2015/12/Delhi-Witness-Protection-Scheme-2015>.

<sup>15</sup> Witness Protection Scheme- <https://www.mha.gov.in>

around witness' house, and so on. The Scheme also includes provisions for witness identity protection (Clause 9), identity change (Clause 10), witness relocation (Clause 11), confidentiality and record preservation (Clause 13), and so on. Furthermore, under Clause 12 of the Scheme, every state is required to publicize the scheme widely, and the Investigation Officer and Court are required to inform witnesses about the Scheme's existence and key features.

### **Loopholes In The Scheme:**

Though the Witness Protection Scheme, 2018, is a welcome step toward witness/victim safety, it does have some shortcomings. For starters, the protection envisioned therein is limited to three months at a time. Second, the basis of orders that may be issued under the Scheme appears to be heavily based on recommendations/advice given in TAR(s) by concerned police officials, who are frequently prone to corruption, superior/political pressures, and so on. Moreover, while the Scheme provides for confidentiality and the preservation of records, there are no penalties for such violations. The Scheme also makes no provision for the witnesses' occupation/work/education in the interim. In contrast, the Witness Protection Bill, 2015<sup>29</sup> included, among other things, specific provisions regarding the penalties that may be imposed for violating the terms of the said Bill; orders for the safety and security of the protectee<sup>30</sup> from the beginning of the investigation until the stage after trial on terms as warranted by the Court based on the individual's threat perception; and so on. There were specific provisions in the said Bill relating to the protectee's right to practice an alternate occupation without jeopardizing the integrity of the case or the continuity of education of juvenile protectees, which were lacking in the Scheme. A similar Bill for the Protection of Witnesses' Identity<sup>31</sup> was introduced in Parliament. Unfortunately, neither of the aforementioned Bills could be made into a statute.

### **Haryana Witness Protection Scheme**

<sup>16</sup>The Haryana government has announced its witness protection scheme, which aims to provide complete protection to witnesses in criminal cases as well as their immediate families. The new institutional mechanism, known as the 'Haryana Witness Protection Scheme, 2020,' aims to ensure free and fair trials by protecting, even changing, the identity of witnesses and relocating them to an anonymous location until the trial is completed.

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<sup>16</sup> Haryana Witness Protection Scheme

<https://cdn.s3waas.gov.in/s36cdd60ea0045eb7a6ec44c54d29ed402/uploads/2021/09/2021090836>.

The new program divides witnesses into three categories based on threat perception: the first covers witnesses whose own lives or the lives of their families will be affected during the investigation, the trial, and after it.

The second category includes cases in which witnesses' reputations, property, or family members' reputations are jeopardized. Witnesses who are intimidated or harassed fall into the third category. Other safeguards include ensuring that witnesses do not meet any of the suspects in the case during the investigation, installing security features such as close circuit cameras, alarms, and security doors in their homes, police escorting to and from courtrooms, in-camera trials, using special witness courtrooms, expediting deposition during the trial, and monitoring witnesses' emails and phone calls.

## **Maharashtra Witness Protection Scheme 2017**

<sup>17</sup>The Maharashtra Witness Protection and Security Act, 2017, protect not only the witness but also their family members during the trial of serious crimes. The term "witness" is defined in Section 2 (e) of the Act to include the victim and his close relatives who are under threat of prosecution for serious offenses. Section 6 of the Act addresses the aspect of witness protection in serious crimes. The Committee is authorized by the Act to provide witness protection if the application is made by the witness, a relative, or someone else authorities referred to in the section

Section 7 of the Act addresses the procedure for providing witness protection. The District Committee is the highest authority to take action on an application for protection in a criminal trial made by a witness whose life is in danger. Before granting protection, the committee will conduct a thorough investigation into the threat perception. Sections 8 and 9 of the Act are applicable and provide protection during the investigation and trial as directed by the committee. 11th section mandates that the investigating officer not reveal the names and addresses of the witnesses until the investigation is completed. Disposition of the case, and if they violate the provision, they will be punished following Section 13 with imprisonment.

## **Many States Fail To Implement The Witness Protection Scheme**

“The Supreme Court observed that witnesses' right to testify in court in a free and fair manner, free of any pressure or threat, is under serious attack today.” “The right to life guaranteed to the people of this country includes the right to live in a society free of crime and fear, as well as the right of witnesses to testify in court without fear or pressure.”

### **Hari Vs. State Of Uttar Pradesh 2021 SC 685**

<sup>18</sup>To begin with, the State has a clear role to play in protecting witnesses, at least in sensitive cases involving those in power, who have political patronage and can wield muscle and money power, to prevent trials from becoming tainted and derailed, and truth from becoming a casualty. As a protector of its citizens, it must ensure that during a court trial, the witness can safely depose the truth without fear of being haunted by those against whom the witness deposed.

### **Mithlesh Narayan Tiwari State Of U.P And Others Writ - C No. - 18204 Of 2021**

<sup>19</sup>“The State Government's statements are merely a smokescreen, and the Witness Protection Scheme, 2018, is not being properly implemented by the State respondents,” the Court observed in dismissing the petition directing the State to implement the Witness Protection Scheme. The Allahabad High Court issued notice to the UP Government in December 2020 on a PIL (public interest litigation) seeking effective implementation of the Witness Protection Scheme, 2018.

The Madras High Court expressed its displeasure with the non-implementation of the Witness Protection Scheme, 2018, in September 2020. “Though the Witness Protection Scheme was developed in 2018, the system still does not provide confidence to witnesses to come out with the truth as opposed to hard-core criminals,” the Bench observed.

<sup>17</sup>Maharashtra Witness Protection Scheme

[https://www.mha.gov.in/sites/default/files/Documents\\_PolNGuide\\_finalWPS\\_08072019](https://www.mha.gov.in/sites/default/files/Documents_PolNGuide_finalWPS_08072019).

## Conclusion

Furthermore, there are a few flaws that must be addressed. The Witness Protection Scheme, 2018, provides for three months of temporary protection for the witness, after which the witness is vulnerable to threats from the accused. As a result, the three-month limit should be reduced, and the witness will be protected as long as the threat perception exists. Furthermore, the scheme categorizes the witness based on threat perception; however, such categorization will not serve the purpose of scheme incorporation. According to the scheme's provisions, the Threat Analysis Report must be prepared by the scheme's head. The presence of police in the district raises the possibility of political or influential people interfering in high places. A profile is important. Without a doubt, the scheme appears to be a watershed moment in the incorporation of a legal framework for the protection of witnesses during the trial, but due to the scheme's limitations, it will not benefit the witness.

Our criminal justice system has been rightly focused on protecting the rights of the accused, but the rights of witnesses have been ignored. When he approaches the Court to give his testimony, the witness appears helpless. In the landmark decision of Mahendra Chawla and Others vs. Union of India & Others, the Supreme Court endorsed the draught Witness Protection Scheme, 2018, and directed the Central and State governments, as well as Union territories, to enforce the scheme in letter and spirit. Furthermore, the Supreme Court The court also declared the scheme to be 'law' under Article 141/142 of the Constitution until any appropriate action is taken Enactment at the federal or state level. The scheme is a groundbreaking initiative for witness protection during the trial. During the co. While drafting such policies, a reference to Australian legislation can be made, as the provisions in Australian legislation are very effective in protecting witnesses from treatment and intimidation imposed by the accused. As a result, the Indian Parliament should also include such provisions. a policy that would make it easier for witnesses to testify

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<sup>18</sup> Hari vs. State of Uttar Pradesh 2021 SC 685

<sup>19</sup> Mithlesh Narayan Tiwari State of U.P and others writ - C No. - 18204 of 2021

