



## WITNESS PROTECTION

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### ABSTRACT

A witness is basically a person who sees an event happening, an accident or a crime. A witness is the only person who can act as an eye witness in front of a court in consonance to a crime witnessed by him. In primary sense, a witness is basically a person who has the most direct knowledge of a particular event because he has seen it with his eyes. A witness is an indispensable part of the criminal justice system and judgements are based on witness's testimony. Therefore, truthfulness of a witness's testimony is the cornerstone of justice. Moreover, a witness should be able to deliver his statements without any threat or coercion and it is because of this reason that they are considered as 'eyes and ears' of justice. This is why Witness Protection system is becoming vital all over the globe and specially in the Indian Scenario. This research paper will cover the meaning of witness and witness protection.

Moreover, through this paper, the author will also be explaining the importance and need of Witness Protection in India, will explain about witness protection laws and programs in other parts of the world, will explain the reason behind witnesses turning hostile leading to hindrance in the justice system. Moreover, this paper will be covering the developments regarding witness protection in the Indian Justice system and how it tries to enhance the protection and state of witnesses and how it helps in imparting justice.

This project aims to explain the aspects of witness protection in detail and aims to cover the practical scenarios and application related to witness protection as Witnesses basically act as fuel for every step in the procedure of imparting justice and without witnesses, the justice system cannot move ahead.

**Keywords:** Witness, Witness Protection, testimony, cornerstone, practical scenarios, fuel, criminal justice system.

### INTRODUCTION

A witness is regarded paramount and vital to the Criminal justice system. He acts as a fuel for the justice system to move forward and also helps in enhancing the justice imparting procedure, also leading to a fair trial. A witness is considered as the backbone of Criminal Justice System because he is the person having the most direct knowledge of happening of the event or crime and so can act as a direct evidence to a crime. The testimony of a witness helps the court to deliver justice through fair trials. Therefore, truthfulness of a witness's testimony is the cornerstone of justice. Moreover, a witness should be able to deliver his statements without any threat or coercion and it is because of this reason that they are considered as 'eyes and ears' of justice'. Extraneous factors in the form of corruption or threats form a reason for scaring witnesses and turning them hostile and which is why Witness Protection system is becoming vital all over the globe and specially in the Indian Scenario. Witness protection is basically security provided to a threatened person providing testimonial evidence against the opposite party to the case and it can be in the court during trial or before the trial or after the trial. Witness protection programs and



laws now days are the need of the hour because absence of these laws in India has helped strengthening the delinquents as it becomes easy for such people to coerce and hold the witness hostile.

The success of criminal justice system which India is trying hard to seek largely pivots upon the individuals, the witnesses to deliver information and take an honest stand in front of the court without being threatened to death or family and without coercion being against them because no innocent person would assist or help the court by putting his own personal or private life in danger and unrest.

### **WITNESS PROTECTION LAWS AND PROGRAMMES-WORLD**

#### **International Law**

The international law does not define clearly who is a witness but the need for setting up witness protection units during the criminal trial has been acknowledged in many in tribunals worldwide.

The International Criminal Tribunal of Rwanda has formulated rules for protection of witnesses and victims and similar rules exist in the International Criminal Court<sup>1</sup>. They have reckoned in time that protection is necessary so as to reach to the ends of justice and fair trial. Yugoslavia and Rwanda have recognised duties to be performed which were also added in the Statute for International Criminal Court and they are:

- Delaying the disclosure of witness details to the defence.

- Allowing testimony to be given by one way closed circuit television.
- Conducting closed sessions hearings.
- Using voice and image altering devices.
- Total non-disclosure of information relating to the identity of the witness<sup>2</sup>.

The international court has become very vigilant and responsible and has made a separate unit that provides support to the witnesses and responds effectively against anything endangering the protection of witnesses or when witnesses receive threats. These protective services extend to pre and post trial procedures. Not only just International Criminal Court, but even the European Court through the judgement of the landmark case of Doorson V. Netherlands<sup>3</sup> recognised that the witnesses should be given rights and protection.

#### **United States of America**

USA has Witness Security Program(WITSEC) which is one of the most developed and most efficient security program all over the world. Before this program, United States had a witness protection program instituted under Ku Klux Klan Act of 1871 and later after evolution became WITSEC. In the USA, agencies such as, the Federal Bureau of Prisons, The United States Marshals Service, the Office of Enforcement Operations(OEO and the U.S Attorney General's Office are associated with the programme. The main purpose of this program is to protect the witnesses so that they can testify and give statements against members of organised crimes and against

<sup>1</sup> <https://www.ijert.org/research/witness-protection-in-rwanda-judicial-system-IJERTV2IS4828.pdf>

<sup>2</sup> ibid

<sup>3</sup> (1996) ECHR 14



dangerous criminals. Not only this, but this program assists in providing housing, medical care, training for jobs, employment and subsistence funding for the needy witnesses. But USA takes action for protection and services to witnesses after assessing properly the extent and level of threat and also whether the threat is serious enough.

The Witness Protection program in USA is so advanced and effective that it provides the witness and his family a Memorandum of Understanding in total secrecy through which they enter into the Witness Security program(WITSEC)which relocates the witness and his family temporarily to a new location and provides them with temporary employment and pays them subsistent. Also the witness and the family get new ID's which they presume after the trial is over. Since the program's inception, the USA has been able to successfully protect a large percentage of witnesses.

#### **United Kingdom**

The UK govt. enacted the Criminal Justice System and Public Order Act which provides for punishment for intimidating the witness. S.51 of the act not only protects the witness but also anyone who helps in the investigation or finding of evidences. Also, Sec.16 to 33 of the Youth Justice and Criminal Evidence Act, 1999 requires the court to consider special measures for intimidated witnesses.

The procedure for application of Witness Anonymity is given in the Coroners and Justice Act, 2009. It basically orders that the identity of the witness should not be disclosed so as to ensure their safety. It states that the personal information of the witness

should be removed or when disclosing the documents to the opposite party or pseudonyms be used and moreover no question leading to the personal identity of the witness should be used. The witness protection program in the UK is so advanced and diverse that it also to an extent provides for voice modulation of the witness so as to ensure his safety and also talks about child witnesses to be accompanied by witness supporter.

Such a system in UK has been ensuring safety and security of the witnesses.

#### **Australia**

The courts of Australia have constituted a program namely Witness Protection Act, 1991 which is extremely comprehensive and effective as it defines widely the definition of witness which no other country does and has defined it as " a person, who for any reason, may require protection or other assistance under this act. This definition is wide and covers everyone who requires protection or assistance from the govt. it has an express inclusion of change of identities and guidelines regarding making changes in the birth certificates and marriage certificates of the witnesses for their protection.

#### **Ireland**

In the Republic of Ireland, runs a Witness Security Program which is administered by the Attorney General of Ireland and is operated by the Special Detective Unit(SDU). This particular program provides witnesses with a new identity, address, and armed police protection either in Ireland or abroad. Witness protection is basically needed in very serious and organised crimes and terrorism. the Irish Government only grants protection to those who cooperate with the investigations conducted by the Irish



court and appearances by witnesses in protection are carried out by the security of the Emergency Response Unit which is the highest tier special weapons and tactical group in Irish law enforcement.

### Italy

The witness protection program in Italy has been in force since 1970's and 1980's but then the witness protection program was very ineffective as it granted protection to the witnesses in some exceptional cases only which was very insufficient. Moreover, the system was corrupt and focussed more on protecting the former members of criminal or terrorist organizations. It was in 1991 when the new Witness Protection Program came into being in Italy under which most of the witnesses were given new identities and a chance to live under govt. protection for several years. But even this program has not been fully able to protect the witnesses and holds some drawbacks in implementation.

### WITNESS PROTECTION IN INDIA

#### **Need of Witness Protection In India**

It is basically a general rule of law that a witness should not be intimidated, threatened or coerced to not to give a statement against the opposition which he had been direct witness. Basically 'Witnesses are eyes and ears of the court'. Witnesses act as an indispensable part of Criminal Justice system as they are the ones who have seen a crime being committed by their own eyes are the most direct and most reliable evidence to testify regarding that event in the court but as far as our country goes, it hurts the reliability and hinders the criminal justice system.

In our country, the high ups, hot shots, famous personalities and corrupted ministers

are the ones who are the reason that witnesses have never faced protected when talking against them or testifying against them in the criminal court.

Witness Protection is becoming the need of the hour in our country because Indian system works in a certain prejudicial manner and gives importance to recognition. In this system, the people with more money and big businesses, the actors, the politicians tend to have a lot of authoritative and unnecessary power which the law doesn't give them but this system of recognition because of which, they tend to think they are powerful and tends to give them a right to belittle the other citizens not in the aforementioned category and not immune by law. What really happens in practical India is that whenever there is a criminal case between two normal citizens, it goes the desire way leading to justice but whenever it is against the extraordinarily recognised class, the class tries to protect itself not legally but by threatening, intimidating, coerce the witnesses in the name of death and family and if this does not stop them, the consequences for the witness becomes even more ill and intense. Now this type of system not only affects the witnesses but also hinders the process of fair trial and justice and degrades the Criminal Justice System because when such a circumstance occurs in front of any witness, he tends to take a step back or become hostile in front of the court which at the end hinders the court to provide the ends of justice. No witness wants to threaten his life and livelihood and so witnesses find it better as an option back out. In the very important case of Krishan Mochi



v. State of Bihar<sup>4</sup>, the Supreme Court observed that society suffers by wrong convictions and wrong acquittals due to the threatening of witnesses and the system of unnecessary recognition. In this case, the Supreme Court pointed that “one of the reasons may be that they do not have courage to depose against an accused because of threats to their life, more so when the offenders are habitual criminals or high ups in the Government or close to power which may be political, economic or other powers including muscle power”. There is one more case to explain why witnesses turn hostile and also explaining the need witness protection. According to People’s Union for Civil Liberties(PUCL), there were two reasons in the Best Bakery Case<sup>5</sup> and second one was that the witnesses retracted from their previous statements because of intimidation and other methods of manipulation by the accused or defendant and his counsel. This paper will now focus on discussing about some popular cases where witnesses turned hostile due to fear and threat and other manipulation which indeed leads to the explaining the need of Witness Protection in the Indian Scenario.

### 1. The Sohrabuddin Case:

This case acts as a classic example of witnesses turning hostile. Here, one of the passengers of the bus wherein Sohrabuddin, and his wife Kauser Bi along with associate Tulsiram Prajapati were travelling in November 2005 from Hyderabad to Sangli was Sharad Krushanji Apte who International Journal of Pure and Applied Mathematics Special Issue 1839 had deposed that he had seen them in the bus, but denied it later. The

bus driver of the bus Misbah Hyder, and the cleaner Gazuddin Chabuksawar, earlier had stated that the bus had been stopped by a police vehicle and that the police had taken them away. However, they later retracted their statement. The bus operator M J Tours provided CBI with a photocopy of their tickets, but later denied issuing them. The person who had hosted Sohrabuddin in Hyderabad later denied that he had stayed with them.

### 2. Salman Khan Hit & Run Case:

In the 2002 hit-and-run case involving the superstar, there were 2 eye witnesses, one policeman sitting in Salman Khan’s car and other one being a person from the footpath where the others died. Later in 2014, the man near the footpath turned hostile because of threat or manipulation by Salman Khan but the other witness that is the policeman did not change his statement and then again the consequence of that was that the policeman wasn’t given protection and he then got ill and died and no one tried to save him.

### 3. Best Bakery Case<sup>6</sup>:

In this case, Zaheera Sheikh initially complained of an armed mob chanting anti-Muslim slogans, and spoke of “dance of death which continued all night”, but turned hostile later. Not just her, but 4 others also turned hostile. Due to this, Supreme Court punished her with imprisonment for committing perjury., and ordered for retrial of 21 accused at trial as well as higher court. This not only led to wrong acquittal but also led to wastage of time and energy of the courts.

<sup>4</sup> AIR 2003 SC 886

<sup>5</sup>(2004) 5 SCC 353

<sup>6</sup> ibid



#### 4. Asaram Bapu Case:

In this case also, subsequent to the proceedings, the eye witnesses started to disappear which makes it clear why Witness Protection Program is the need of the hour.

These cases very well explain why the witnesses turn hostile and why is there need of Witness Protection Program in India. These are just some of the high profile and important cases we know about. Other than them, if we look at the whole of India, eye witness manipulation is very common specially in states like Uttar Pradesh and Bihar where corruption and recognition is coupled with more organized and high end criminals who aren't afraid of the law and can go to any extent to act against anyone who goes against them in the court or outside. In such a state of affairs, an act to protect the witnesses is a must otherwise the Criminal Justice system will have come to a standstill or will have to work with manipulated and hostile witnesses.

#### DEVELOPMENT REGARDING WITNESS PROTECTION IN INDIA

Witness protection in India has been there since a long time but earlier wasn't specially dedicated and with time, it is becoming better and dedicated in India. Now coming to the statute from where this importance of witness and witness protection came into India.

The basic problem about any statute talking about witnesses is that they don't define the word witness. The word witness has not been defined anywhere in the Code of Criminal Procedure but during trials or any other proceedings under the Code of Criminal Procedure, the courts recognised witnesses as any person whose statement was essential to the case or any other person present, but not

summoned as witness, any person for examination or re-examination or any person summoned by the court for the reason of that person being important to the case.

Code of Criminal Procedure also prescribed that subject to any rules made by the State Govt., any criminal court may, if it thinks fit, order payment of the reasonable expense of any complainant or any person or witness attending the court for purposes of the court and case, i.e for the purposes of any inquiry, trial, examination or cross examination, for proving conclusive evidence or for testifying. The Code also prescribes that this payment shall be made by the State Govt.

Now, coming to the Evidence Act, 1872. This act covers the evidence of witnesses and documentary evidences under Section 3. Chapter IX of the Evidence Act, i.e "OF WITNESSES" consists of sections spreading from sections 119 to 134 which recognise who are witnesses and considers family of the witnesses as witnesses and also talks about the choice provided to the witnesses to decide whether he wants to testify or not.

Section 151 and 152 of the Evidence Act protects witnesses from the being asked scandalous or indecent questions no matter they may have some importance in relation to case and are only considered if related to facts in issue. Moreover, they protect the witnesses from any questions to annoy or insult the witness and appears only offensive and absolutely needless to the court. They also protect the witness from being approach by the organised criminal or by any person out on bail in case a crime.

There were then the provisions under the National Investigation Agency Act, 2008 which states that a witness on being



threatened of life, can make an application through a proceeding or to the public prosecutor and in that case, if the Special Court is satisfied of the danger to the life of the witness, it may take whatever measures it may deem fit for the protection of the identity of the witness in order to protect the witness and any person who goes against the order of the court or infringes the protection of the witness or endangers the life of the witness will be punished with imprisonment for a term of up to 3 years and with fine up to thousand rupees.

So there have been statutes working on the protection of witnesses since long but have not been very effective considering the Indian Scenario and the increase in corruption and the recognition system that prevails in India.

#### **Important Law Commission Reports**

The Law Commission of India has been working on this ever subsisting problem of witnesses turning hostile and has choiced out reports to enhance the status of protection of the witnesses and their condition in the country.

The Law Commission in its **14<sup>th</sup> Report**, i.e. the 1<sup>st</sup> report in this matter suggested a witness protection program which basically protected witnesses in a limited sense by providing for adequate arrangements for the protection of the witnesses only in respect of making them appear in the court and thus avoiding delay in justice and protecting him in court premises. This report was very limited as it only protected the witness in the court and did not provide for any provisions for the protection of the witnesses after trial

or outside of the court. Moreover, this report was only one sided as it protected witnesses only for the convenience and ease of the court and not otherwise specifically.

Then came the **154<sup>th</sup> Report** of Law Commission which was a bit wider in implementation and covered the defects of the 14<sup>th</sup> Report by recommending that witnesses should be protected from the wrath of the accused or the opposite party in any eventuality. This report suggested to prevent witnesses from turning hostile by writing their statements and getting them signatured by the witness under the declaration of witness being literate and of sound mind made to particular statement. This report covered the problem in a wider amplitude but didn't suggest anything regarding physical protection of the witnesses.

Then the next report in the context was the **172<sup>nd</sup> Report** of the Law Commission along with emphasising on protection witnesses from the wrath of the accused. This report more importantly and particularly took on a subject requested by the Supreme Court through the judgement of Sakshi v. Union of India<sup>7</sup>, which advocated that trials be conducted in camera proceedings to keep the witness away from the accused and to protect his identity from the accused. So this report was very progressive and directly suggested the protection of witnesses in a more effective manner.

Then came the very comprehensive **198<sup>th</sup> Report** of the Law Commission which formulated a "Witness Identity Protection and Witness Protection Programs" that covered a very wide amplitude while

<sup>7</sup> 2004 (2) ALD Cri 504



protecting the witnesses. It emphasized that the witness protection scheme should not only be limited to the cases of terrorism or sexual offences but should extend to protect the witnesses in cases of all the serious offences, thereby widening the ambit and applicability of the protection schemes to protect the witnesses.

These reports proved beneficial for India to a partial extent as they led to the identification of certain rights to the witnesses which are:

- Right to obtain a place for waiting in the court during the proceedings.
- Right to information of the status of the investigation and prosecution of the crime.
- Right to maintain their privacy and right to be treated with respect, dignity and compassion.
- Right to protection from harm, threat or intimidation.
- Right to conceal their identity while providing evidence.
- Right to obtain a relocation and stay safely.

They also suggested to make it mandatory for the court to inform each and every witness about the existence of a Witness Protection Scheme and how it protects them. This is a very comprehensive and a very vital step and suggestion for a country like India because a large number of infringement of rights happen because people and specially people of states like Madhya Pradesh, Chattisgarh, U.P, Bihar etc. don't even know about their rights because these states have more of illiterate population and even those who are educated aren't aware of their rights and fall into threats and intimidation.

Next comes the **Committee on Reforms of Criminal Justice System**. This committee has submitted a report containing recommendations over 150 and

recommendations also include the recommendations regarding the protection of witnesses for which it recommends that there should be a law for protecting the witnesses and their family members and the identity should the witness and the family must be kept a secret and the names of the witnesses be not mentioned even in the judgement or other court documents. A chapter in the report named "Hybrid System of Criminal Justice" has sought to incorporate certain features of "inquisitorial" system of trial into adversarial system, which means empowering the judges with the duty of leading evidence with the object of providing justice to the victims which is only possible if the witnesses would be protected and also when witnesses, the victim as witness's rights are protected, leading to enhancement in imparting justice and convicting and acquitting the right people.

The Criminal Law Amendment Act of 2005 has also been working on the protection of witnesses and have made many amendments among which include section 195A of the Indian Penal Code, 1860 operation of which will be focussing on punishing anyone who threatens or induces any person to give false evidence.

So all the committee reports and statutes have been working to protect the witnesses against organized criminals and offenders and with time, these policies and schemes are becoming better and more accurate.

#### **Witness Protection Bill, 2015**

Following this, a bill for the witness protection was introduced in the year 2015



and was named the Witness Protection Bill, 2015<sup>8</sup>.

This bill was prepared and introduced in parliament in 2015. Its objective was to put in place a

strong law for witness protection in a manner which ensures a fair trial to both the parties.

The

bill sought to ensure protection of witness by the following:

1. Formulation of witness protection programme to be provided to a witness at all stages i.e. during the course of an investigation; during the process of trial; and after the judgment is pronounced.
2. Constitution of a “witness protection cell” to prepare a report for the judge of the trial court to examine and grant protection to the witness referred a “protectee” after being admitted in the programme.
3. Constitution of National Witness Protection Council and State Witness Protection Councils to ensure implementation of witness protection programme in its letter and spirit.
4. Providing safeguards to ensure protection of Identity of witness.
5. Providing transfer of cases out of original Jurisdiction to ensure that the witness can depose freely.
6. Providing stringent punishment to the persons contravening the provisions;
7. Prescribing stringent actions against false testimonies and misleading statements.

This bill was introduced but this couldn't pass in Rajya Sabha due to the members not having common consensus on this particular issue.

### WITNESS PROTECTION SCHEME, 2018

With evolution, with referring to the earlier reports and laws regarding the protection of the witnesses from threats, coercion, manipulation and intimidation and also referring to the Witness Protection Schemes and Programs of more developed countries like United States and UK, India has finally come up with its own properly drafted Witness Protection Scheme, 2018<sup>9</sup> in the year 2018 by the Ministry of Home Affairs. The drafted scheme is as follows.

Witness Protection Scheme, 2018 provides for protection of witnesses based on the threat assessment and protection measures inter alia include protection/change of identity of witnesses, their relocation, installation of security devices at the residence of witnesses, usage of specially designed Court rooms, etc.

The Scheme provides for three categories of witness as per threat perception:

Category 'A': Where the threat extends to life of witness or his family members, during investigation/trial or thereafter.

Category 'B': Where the threat extends to safety, reputation or property of the witness or his family members, during the investigation/trial or thereafter.

Category

'C':

Where the threat is moderate and extends to harassment or intimidation of the witness or his family member's, reputation or property, during the investigation/trial or thereafter.

The Scheme provides for a State Witness Protection Fund for meeting the expenses of

<sup>8</sup>Witness Protection Bill, 2015

<sup>9</sup>Witness Protection Scheme, 2018



the scheme. This fund shall be operated by the Department/Ministry of Home under State/UT Government and shall comprise of the following:

- i. Budgetary allocation made in the Annual Budget by the State Government;
- ii. Receipt of amount of costs imposed/ordered to be deposited by the courts/tribunals in the Witness Protection Fund;
- iii. Donations/ contributions from Philanthropist/ Charitable Institutions/ Organizations and individuals permitted by the Government.
- iv. Funds contributed under Corporate Social Responsibility.

The Hon'ble Supreme Court of India in its Judgment dated 05.12.2018 in Writ Petition (Criminal) No. 156 of 2016 has endorsed the Scheme. As per Article 141/142 of the Constitution, the Witness Protection Scheme, 2018 endorsed in the said Judgment of the Supreme Court is binding on all Courts within the territory of India and enforceable in all States and Union Territories.

This was stated by the Minister of State for Home Affairs, Shri Nityanand Rai in a written reply to question in the Rajya Sabha today.

### **ANALYSIS OF THE WITNESS PROTECTION SCHEME, 2018**

#### **About the Scheme**

The Witness Protection Scheme of 2018 was formulated by the central govt. with the aim of protecting the witnesses from the wrath of the organized criminals, from intimidation, threat and manipulation from the high end criminals so that the Criminal Justice system can practically deliver justice to the accused,

however powerful he may be. The scheme covers 3 segments which include the segment of categorisation of witnesses on the basis of Threat Perception system to make a clear demarcation among the witnesses being very seriously and grossly intimidated and threatened, witnesses moderately threatened and witnesses are little threatened which would help the courts to deal with the category of intimidators in a better and a clearer manner. The scheme has a proper segment with requisite provisions for funds, the procedure for filing a complaint of intimidation and a list of the kind of protection the witness would be entitled on the basis of Threat Perception. Moving further, the parts of the scheme also mention the change of identity in case of need to the witness. This scheme is based on a wide frame and has tried to cover the aspects to the promotion of witness protection. The scheme also covers the type of protection measures to be provide to the witnesses on the basis of thereat perception system and some of them are as follows:

- The scheme ensures that the accused is away from the witness.
- Asking the telephone company to allot the witness an unlisted number.
- Giving adequate physical security to the witness by assisting the witness in daily life by regular patrolling or having policemen appointed for his safety.
- Changing the identity of the witnesses.
- The scheme provides for relocation of the witness, which may be permanent or temporary depending upon the degree of intimidation.
- The scheme prescribes holding in-camera trials.



- The scheme also provides for times financial aids for the witness from the Witness Protection Fund.
- The scheme also covers pre and post-trial protection for the witnesses by providing them conveyance in govt. vehicles for enhanced security.

All these provisions are covered by this scheme to make a strong protection system for the witnesses. This scheme also provides for any other request of the witnesses apart from the above mentioned provisions.

### Appraisal of the Scheme

This scheme has taken ideas and has been influenced from the Witness Protection Schemes of some other large economies, has been influenced from the previous reports of the law commission and statutes already providing some protection to the witnesses. The main positive point about this scheme is that it covers a wide ambit for the protection of the witnesses by including not only the persons as witnesses under the protection scheme but also including all the persons related to the witness under this scheme. Moreover, this scheme does not provide protection only theoretically but also covers the practical application for its implementation through providing for funds for change of identity, for relocation, for safety and it also prescribes the application to be made against intimidation and threat under this scheme. Not just this, this scheme provides for the type of protection measures that can be used depending upon the threat perception. So this scheme has a very practical approach and has covered almost all the needs and possibilities for an effective scheme to protect the witnesses. This scheme has the potential of becoming one of the most comprehensive schemes in the world.

### Drawbacks of the Scheme

1. **Corruption**-The major drawback of the Witness Protection Scheme is that though it provides for excellent provisions, it does not solve the problem from the root of it which is basically the administration in our country and the level of corruption prevailing in the country. The witnesses according to the witness protection scheme will be protected under the police or by the police and by the state. This system in itself is the drawback of the scheme because our country is full of corruption and corruption forwards up with the help of the officers in the administration of the country. For making this scheme work, firstly the problem of corruption has to be solved because the aim with which this scheme was made can never be fulfilled and the scheme would start falling out if this problem of corruption doesn't go away and the scheme provides nothing to curb this problem.
2. **Over burden the Police Force**-Next major problem of this scheme is that it is very much dependent upon the police force and involves intermediation of senior police officials at various stages. The scheme has covered how police and administration will work to provide assistance to the witnesses but has not considered the fact that such amount work in such a highly burdened criminal justice system would overburden the police force, neither allowing them to perform their daily nor the protective functions properly.
3. **Lack of Awareness**-Another major problem with efficient implementation of the scheme is that this scheme provides protection, provides right to the witnesses, provides the protective measures and provides the procedure for application for protection under the scheme but misses out on the most important issue in our country, i.e. illiteracy



and lack of awareness. When the witnesses in small parts of the country would not know about their rights and privileges, they would not be able to get protection and ultimately the scheme would do no good to the society because it nowhere prescribes the procedure to make witnesses aware of the scheme for their protection.

4. **Paucity of funds-** Another very practical and very major drawback of this scheme is paucity of funds in our country which can lead the scheme to fall through because our Central Government already doesn't have funds to provide for protection and this scheme is a heavy job on the government as it relates to funds to be spent for assistance of witnesses, to be spent on relocation of witnesses, to be spent on providing witnesses with care and protection against the accused, to provide for change of identities of the witness which indeed requires a lot of money which our government doesn't have, hence leading to poor implementation of the scheme.

These are some major drawbacks of this scheme which pose high challenge to the implementation of this Witness Protection Scheme.

#### **Suggestions Provided by the Author for Better Implementation**

What can be done to make this scheme a little more affective and practically efficient is that is that the govt. should firstly employ more police force by filling the 4-5 lakh vacancies which have been vacant since long. This will help better allocation of work among the police force and would lead to better administration in the country.

Moreover, there is need to build up a special cell for dealing matters only related to protection of witnesses as it is one of the biggest challenges the Criminal Justice

system is facing right now. As the scheme progresses, it is suggested that there be training given to the officials to appointed in the Witness Protection Department so that works between the officers become classified and differentiated and it wouldn't even lead to any overburdening of work on the police which will in turn lead to efficiency in the work of police among different sectors of administration.

#### **CONCLUSION**

Witness acts as a fuel to every step of Criminal Justice System because of being the person closest to the event, a person who has the most direct knowledge of the event or the crime and is very pertinent to the Criminal Justice system in the sense of delivery of justice because of being an eye witness to the crime or the event and so is considered to be the most reliable source but this reliability is endangered by threats, intimidation, manipulation of the witnesses by the hot shots and politicians and organized criminals which leads to wrong convictions and acquittals by the justice system and this is the reason in today's scenario, Witness Protection has become the need of the hour. For this purpose, India has been working to provide such protection to the witnesses through its statutes, commission reports and schemes. India in this context has travelled from having one or two provisions to finally making its own scheme in 2018. This scheme is simply one of the best schemes amongst all over the world but has certain practical drawbacks related to the condition of our country. But the point here is that India has finally realised the importance of witness protection and we have to admit that this policy is the 1<sup>st</sup> version of a substantial step towards protection of witnesses and so some drawbacks will be



there. But with time, India will have to make the scheme more practical for India by making amendments wherein needed to formulate a program that will actually cover the ambit of protection of a huge number of witnesses and the day this becomes the situation, the Criminal Justice system will see immense growth.

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