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ABOUT US

“Journal of Unique Laws and Students” (JULS) which shall provide law students, young lawyers and legal professionals to deliberate and express their critical thinking on impressionistic realms of Law. The JULS aims to provide cost free, open access academic deliberations among law students and young lawyers. The ISSUE III of Volume I focuses on three themes i.e. (i) Arbitration Law (ii) Competition Law, and (iii) Criminal Law.

The journal strives to contribute to the community with quality papers on a vast number of legal issues and topics written by authors from various groups that have been reassessed and revised by our editorial team to reach the highest possible standard.

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PREFACE

On looking at today's scenario, there are numerous issues to know about. Our journal's Issue III of Volume I has work on three crucial themes namely *Criminal Law*, *Arbitrational Law* and *Competition Law*. We would like to express our deep appreciation of the co-operation of the contributors, who so willingly devoted their time and energies.

We have tried to cover these wide topics with the relevant research and landmark judgments. We have used standard of words for the explanation, evenly attempted to clear the concepts and presented captivating writing to the readers. The works also contains some suggestions in respective fields.

The views expressed in the articles are purely and solely of the authors and the entire team of the Journal has no association with the same. Although all attempts have been made to ensure the correctness of the information published in the articles, the Editorial team shall not be held responsible for any errors that might have been caused due to oversight or otherwise. It is up to the rest of us to help make the journal a success story in the next several years.

FOREWORD

As a member of the Advisory Board of Journal of Unique Laws and Students (JULS) which seeks to support student dynamism in action, I take pride in writing this very brief Preface to **Issue III of Volume I** of the Journal. Through this sturdy student-led initiative, the Journal provides young lawyers and law students of the opportunity to deliberate on legal issues of contemporary interest and to express their well-researched conclusions in the form of double-peer reviewed articles.

In this issue of the JULS I am happy to see a wide array of articles on *Alternate Dispute Resolution (ADR)*, *Arbitrability*, *Competition Law*, *Juvenile Delinquency*, *Gender Crime*, *Cybercrime*, *Criminalisation of Politics*, *Sedition and Witness Protection*. Laws and legal systems are dynamic in nature and laws evolve or are enacted to suit the changing needs of society. Young lawyers and law students can contribute to this dynamic process and even recommend law reform or analyse existing laws including case law. Young lawyers can also contribute to society as civil society activists engaged in efforts to improve the quality of law and its administration. The inculcation of critical thinking, which is one of the main objectives of the JULS, can no-doubt stand in good stead to young lawyers in moulding their future careers.

While I am happy that the very first issue of the inaugural volume of JULS was a tremendous success and its wide array of articles on diverse topics were well received by the legal fraternity, I take this opportunity to thank the contributors of articles as well as the vigilant and hardworking Editorial Board and my colleagues in the Advisory Board for the high standards achieved. In this Foreword, I take the opportunity to thank the publisher for coming out with another issue of JULS almost in time despite the trying conditions in which lawyers work and law students are placed, and I am glad that JULS through its on-line presence, is able to contribute immensely to this process of dissipation of legal knowledge and skills.

Justice Saleem Marsoof PC

Judge of the Supreme Court of Fiji

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EDITOR'S NOTE

Unique Law was established in the month of April 2020 and cheerfully brings **Volume 1 Issue III** of **Journal of Unique Laws and Students (JULS)**. This journal has become a successful climb in reaching to our goal of gaining visibility in the academic front and becoming a great platform in education community.

The journal aims to present merit papers on the numerous legal issues and these topics are authored by various groups of individuals that have been reappraise and emended by our team of editors to attend the highest possible excellence. These research papers, case analysis and shortnotes are the result and we feel privileged to have been able to act as editors.

We thank to all our authors for their obedient submission to the third issue of the Journal by Unique Law and also for their productive cooperation with the editorial team to garnish their work with perfection. We would also like to express our gratitude to our diligent editorial board, whose restless support and commitment made this Journal's Issue III a success.

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WITNESS PROTECTION SCHEMES

Author: *Madhavi Sinha** & *Shikshanjali***

ABSTRACT

Jeremy Bentham says that "witnesses are the eyes and ears of the judiciary" as they play an important role in bringing the accused to justice and seeing the truth in front of everyone. The Witness Protection Plan, 2018, is the first and first official attempt of the government at the national level to provide the necessary protection to the witness, which proves to be a solid base for the lifting of secondary victimization. This was to ensure that witnesses received the necessary protection. It also strengthens the adverse criminal justice system in the country and will inevitably increase national security from scratch.

The paper deals with the Witness Protection Act of 2018 in a very authoritative way. We have tried to explain all aspects of each law. What are the basic terms and definitions related to the law? Then we have described the reasons why we need to protect witnesses and what the scope of the law is. And then we explain in detail what steps the authority is taking to protect the needy witness under the law. We also briefly describe who we can monitor and verify whether the safeguards have been implemented or not, whether they are working or not. We have also cited the case law necessary for our claims and evidence to be authentic. And finally we closed all the things well so that everything fell under them.

Keywords: *Witness, protection, criminal justice, measures*

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INTRODUCTION

Whenever a person commits a crime, Heaven finds a witness “says Edward G. Bulwer. Therefore, the testimony is inevitable. Witnesses play a vital role in bringing the victim to justice and bringing the perpetrator to the place they deserve. Witnesses take on additional involvement in an adversarial criminal justice system in which the fate of cases rests entirely with the prosecution and the accused, and the prosecution witness becomes crucial in the search for the truth and ultimately, of justice. The status of a witness in court is very similar to that of a friend and supporter of the search for justice. And it is objectively and subjectively correct, as the decision of the judicial system that is prosecuted in India is deeply dependent on the witnesses and their conduct. The witness has the power to change the fate of the entire case.

Understanding the importance of the witnesses in Swaran Singh against the state of Punjab¹, J. Wadhwa said: “A criminal case is based on evidence, evidence that is legally admissible. Witnesses are required for this, regardless of whether it is direct or circumstantial evidence. He was also observed, by presenting evidence related to the initiation of a crime, that he was fulfilling a sacred duty to help the court find the truth that exposes justice. For this reason, the witness solemnly swears in the name of God to tell the truth, the whole truth and nothing but the truth”. Testimony helps the court assess the merits of the facts and the circumstances of the case. Hence, the secrecy and veracity of the testimony becomes the cornerstone of the trip and hence the witness is said to testify under oath. The testimony can lead to the conviction or acquittal of the accused. Expedited adjudication or delay in the execution of the judiciary is also highly dependent on the quality and speed of witness testimony during the trial.

However, the successful operation of the criminal justice system depends largely on the willingness of the individual to provide information and evidence without intimidation or temptation. While the vital role of the Witnesses is recognized, the conditions of the Witnesses in India are dire. Here the witnesses no longer want to report to give their testimony. This situation does not develop overnight, but over time and mainly due to many factors that intervene in this process. The witnesses hesitate in the face of anger, pressure and intimidation of their life and existence by the accused party. The situation gets even worse when they

¹ 1957 AIR 637,1957 SCR 953

discover that there is no binding or legal provision for the state to provide or add a guarantee for them. In addition, they have to be in court very often during the judicial process and face postponements that force them to appear in court many times, which really bother them and also cause them financial loss. All of this ultimately leads to frustration and immense waste of time, work, and frustration. Furthermore, they consider that the behavior of the police, prosecutors and the courts is not exceptional and is very encouraging towards them. Apart from that, they face many other problems and these problems force them to become hostile. And hostility towards witnesses creates new problems for justice and allows for a speedy and fair trial.

The willingness of an ordinary person to work with the criminal justice system to produce their testimony or any evidence is certainly not determined by the constitutional expectations of them. Also, their reluctance has nothing to do with the great ideals of legal bases or the like. You hesitate because you have either already seen the consequences of his testimony or have taken advantage of them by attending court many times and questioning and exhausting for no valid reason. As the Supreme Court has also stated, "A witness is not treated with respect in court ... he waits all day and then finds the case deferred ... And if he does appear, he will not be examined or questioned and will find himself in an unfortunate situation.

Who is a witness?

The term "witness" is not clearly defined in the 1973 Code of Criminal Procedure or the Indian Evidence Act of 1872, the Soul Law for Evidence. So, if we analyze the meaning of the word "witness" in the following way:

- a) In the Black's Law Dictionary, "witness" was defined as: "In the main sense of the word, a witness is a person who is aware of an event. Since the most direct way to gain knowledge of an event is to see it, 'witness' has acquired the feeling that a person is present in a transaction and is observing it. "²
- b) Oxford English Dictionary, "Witness is an individual to whom something occurs and afterward can depict it to others."³
- c) Merriam Webster Law Dictionary, "someone who testifies or is legally qualified to testify in a case or testify in a court or similar investigation" ⁴ is known as a witness.

²Black's Law Dictionary 1778 (4th ed. 1968)

³Oxford English Dictionary 1471 (2nd ed. 2015)

⁴ Merriam-Webster's Dictionary of Law, <https://www.merriam-webster.com/dictionary/witness#legalDictionary> , (last visited September 5, 2021)

d) Also in the scheme, witness is defined as "any person who has information or documents about a crime."⁵

After analyzing all the above definitions of "witness", we can conclude that for a person to be classified as a "witness" two conditions must be met, firstly, they must have some knowledge of the event, and secondly, they must be able to use this information forwarded to the competent authority.

Who is a hostile witness?

Again, the term "hostile witness" is not defined anywhere in the Indian Evidence Act of 1872 or in any other statute. So if we follow Black's legal dictionary, "hostile witness" is a witness who shows so much hostility or prejudice when questioned that the party who called him or his agent can question him, that is, let him be treated. as if the other party had called him. "⁶

A hostile witness is generally referred to as a witness who contradicts his testimony during the trial.

In the case *Sat Paul v. Delhi Administration*⁷, The Honorable Supreme Court tried in its judgment to define hostile witnesses under Section 37 of the case, saying: "To avoid controversy over the meaning of the terms "hostile "witness," hostile "witness," unfavorable "witness, the Having created Considerable problems and disagreements in England, the authors of the Indian Evidence Act of 1872 appear to have deliberately avoided the use of these terms, so that in India permission has been granted to cross-examine their own Witness, either party is not dependent on he. that the witness is referred to as "hostile" or "hostile" the truth of the party that invoked it is referred to as a "hostile witness" and the witness who does not prove a certain fact or proves a fact to the contrary is referred to as "unfavorable witness "because he is disadvantaged, contemporary, and unsuitable for the party that called him.

In the case *R.K.Dey v. State of Orissa*⁸, The Honorable Supreme Court defined hostile witnesses in its judgment and also made a distinction between "hostile" and "unfavorable"

⁵Witness Protection Scheme, 2018, § 2(k), Acts of Parliament, 2018 (India)

⁶*Black's Law Dictionary* 1778 (4th ed. 1968)

⁷Sat Paul v. Delhi Administration , AIR 1976 SC 294

⁸R.K.Dey v. State of Orissa ,1977 AIR 170, 1977 SCR (1) 439

witnesses by stating that the primary purpose of a witness is to tell the truth to the party who visited him, he may not be hostile, but can actually be called an unfavorable witness.

NEED OF THE ACT

Witness Protection Act is required to complement the Article 21.

Seriously, the condition that we can have in the country where the law prevails, which has the largest democracy in the world and where Article 21 is available, to be able to enjoy the life and personal freedom of the second largest population in the world to protect, take a stand and fearlessly put our voice to the fore, that is, witness protection.

The Judiciary cannot allow the voices of the witnesses to finally remain silent, as the radio is slowly running out, because it is essential that the truth comes out and that ultimately justice is served.

Witnesses involved in heinous crimes need additional official protection or else they are very likely to face hostility from threats, kidnapping, intimidation and death. Therefore, it is imperative on the part of the government to ensure that the actual voice of witnesses is safe. And this can only be done by taking the necessary measures, which also requires a system less deployment.

The need to protect witnesses and find a fair and free path is necessary from the beginning because it demonstrates the competence of the Judiciary and, when it is not, it also calls into question the system of which the Judiciary has three pillars. History shows that every radical bill that came into force in India was based on the recommendation of many historic commissions and judgments. In the case of *Zahira Habibullah H. Sheikh and Another v. Gujarat state*. Just the need to protect the witness⁹. In the case, while defining the concept of 'Fair Trial', the Hon'ble Supreme Court observed that "If the witnesses get threatened or are forced to give false evidence that also would not result in fair trial". Further in *State of Gujarat v. Anirudh Singh*¹⁰. The Honorable Supreme Court also ruled: "It is the healthy duty of every witness who has knowledge of the commission of the crime to help the State to give testimony."

The want for this scheme have been envisaged with the aid of using numerous reviews of the Law Commission of India and the Malimath Committee. The 14th Law Commission Report changed into the primary ever example in which the difficulty of witness safety changed into

⁹ (2004) 4 SCC 158

¹⁰ (1997) 6 SCC 514

delivered forward. Further, the 154th Report handled the scenario of the witnesses. The 172nd and 178th Report laid significance on safety of witness from the wrath of the accused. The 172nd Report specifically inherited a notable deal from the judgement in *Sakshi v. Union of India* which endorsed for in digital digicam trials to maintain the witness far from the accused and to make certain her testimony is procured with none public fear. The 198th Report titled “Witness Identity Protection and Witness Protection Programmes” says that the witness safety scheme want now no longer be restrained most effective to the instances of terrorism or sexual offences however must increase to all severe offences, as a result growing the scope of its applicability in addition to the functioning.

In the case of *Manu Sharma v. State (NCT of Delhi)*¹¹ The Supreme Court highlights the flaws in the criminal justice system, such as not taking statements from the police and withdrawing the testimony of witnesses due to intimidation for kidnapping, murder of relatives and bribes. The court cannot simply neglect these things and can never turn a blind eye to any of this. When a witness becomes hostile, the court will not act as a silent observer and will do everything in its power to bring out the truth.

In judgments like *PUCL against Union of India*¹² and *NHRC v. Gujarat state*¹³, The need for a witness protection program raised the issue of witness identity protection and in the *Mahendra Chawla*¹⁴ case; a written motion was made under article 32 covering 4,444 important issues related to the adequacy of the Indian criminal justice system. In criminal justice, the court is supposed to decide cases and, in principle, make judgments on the basis of the evidence presented to it. Therefore, witnesses play an unavoidable role in helping the court to make correct decisions. In the event of a dispute between the parties, the testimony becomes an important tool to reach correct conclusions.

It was about the protection and safety of the witnesses during the trial. Witnesses had dire consequences if they were deposed against Asaram, a self-proclaimed man-god who was charged with multiple rapes. Apparently ten witnesses have already been attacked and three killed. The main problem in the case was related to the protection and safety of witnesses during the search for clues and other procedures.

¹¹ (2010) 6 SCC 1

¹² AIR 1997 SC 568, (1997) 1 SCC 301

¹³ W.P. (Cr.) No. 109 of 2003

¹⁴ 2018 SC 2678

The petitioners alleged that up to ten witnesses were attacked and three were killed. Petitioner number 1 in this document, that is H. Mahendra, survived an assassination attempt in his lifetime because he dared to testify against the self-proclaimed god-man Asaram. Petitioner number 3, Karamvir Singh, was the father of a girl raped by Asaram.

The petitioners alleged that the Uttar Pradesh police surprisingly withdrew half of the security deposit despite the threats. Petitioner number 4, Narendra Yadav, a journalist, survived an assassination attempt when he dared to write articles against the self-proclaimed Godman. When Defendant appeared veteran Attorney General Venugopal and experienced Assistant Attorney General Pinky Ananda argued that since the Apex Court primarily deals with issues related to the witness protection program, it would be appropriate for other states to implement it as well. The attorney general scholar was also asked to make suggestions in the form of a draft outline.

CRITICAL ANALYSIS

Ratio in Mahendra Chawla V. Union of India:

In the event that one can't affirm in court due to dangers or scares, it is a reasonable infringement of Article 21. Right to everyday routine incorporates inside its ambit right to experience in a general public free from violations and fears.

The contemplations that have impacted this Court to have an all-encompassing observer security system ought to be considered as a law under Article 141 and Article 142 of the Constitution until a sufficient law in such manner is outlined.

Directions Issued:

The Indian Union, as well as the states and territories of the Union, will enforce the witness protection program in 2018.

The court ruled that it is the law under Articles 141 and 142 of the Constitution until enactment of the adequate legislation on the subject.

State and Union territories establish testimonial complexes in all county courts in India.

The Witness Protection Plan, 2018 is the first national attempt to provide comprehensive witness protection designed to help eliminate any form of threat, intimidation, or loss of witness property or person.

Timeline:

14th Report of the Law Commission of India, 1958: First ever reference given for Witness Protection in India.

172th Report of the Law Commission of India: Judgement of Sakshi v. Union of India

178th Report of Law Commission of India: Further reference

State of Gujarat v. Anuridh Singh: The courtroom docket held that “It is the salutary obligation of each witness who has the expertise of the fact of the crime, to help the kingdom in giving evidence.”

198th Report of Law Commission of India: This specific Report became absolutely devoted to the problem and subjected as “Witness Identity Protection and Witness Protection Programmes, 2006.

Section 195A IPC: The specific segment became added via way of means of the legislature which makes crook intimidation of witness a crook offence punishable with 7 years of imprisonment.

Additionally, there are numerous greater Acts which make the above stated offence punishable. Some of them are like: Juvenile Justice (Care and Protection) Act, 2015, Whistle Blower Act, 2011, Protection of Children from Sexual Offences Act (POCSO Act) 2012 and National Investigation Agency Act, 2008 etc. These acts additionally proved themselves beneficial to shield the proper of witnesses in opposition to the viable threats. These Acts and criminal provision assist witness to return back leading edge and empowers them additionally. But, it's also initiative that until the date there may be no any type of formal dependent programme added to deal with this large trouble in a holistic way which this trouble in reality required. But it's miles excessive time that witnesses need to be seemed as visitors who're invited for assisting with their testimony in accomplishing judicial findings up.

In the case of *Shambhu Nath & others*¹⁵, The Supreme Court ruled: “If a witness is present in court, they must be heard that day. The court should know that most witnesses will only come to court at high cost after they have set aside their own side business.

Scope:

The objective is to identify a series of measures that can be taken to protect Witnesses and their families from intimidation and threats to their life, reputation and property. ... The first mention of witness protection in India was in 1958 in the fourteenth report of the Law Commission of India.

It can be done in a number of ways, firstly by providing police protection to witnesses in a manner appropriate to the placement location in the courtroom. And another method is to use modern communication technologies like audio and video to record testimonials. That said, in the most complex, dangerous and prominent cases involving organized criminal groups, stricter and more exceptional measures must be taken to ensure that the witness is protected. And these measures can include offering a safe home to stay in, receiving a new or anonymous identity, and much more. However, the severity of the protection measures depends on each case.

Aims and Objective of Witness Protection Scheme, 2018:

The rule of law is one of the basic structures of the Indian constitution. Our system needs a fair trial to uphold the rule of law, but for fear of intimidation and retaliation from the other side, witnesses do not pass it fairly. Pursuant to Section 118 of the Indigenous Evidence Act of 1872, "*All persons are empowered to testify unless the court determines that they do not understand the questions asked or can provide reasonable answers to those questions, age, and illness*". Or the mind or any other cause of the same kind.”¹⁶

The law does not discriminate against a witness for testifying, but our system has seen several instances of witnesses turning hostile. In the case of *Manu Sharma v State* (Nct Of Delhi)¹⁷(prevalently known as the *Jessica Lall murder case*) there were more than 300 observers, yet they all turned antagonistic, with the greater part of them saying nothing regarding the observer or his family's standing or property due to dangers going from moderate provocation or

¹⁵ 1978 AIR, 8 1978 SCR (1) 591

¹⁶ Indian Evidence Act, 1872, §118, No. 1, Acts of Parliament, 1872 (India)

¹⁷Manu Sharma v. State (Nct Of Delhi), (2010) 6 SCC 1

terrorizing of the observer or his family, up to genuine dangers to the existence of the observer or his family.

Consequently, the objective of the 2018 Witness Protection Program is to guarantee that the examination, arraignment and indictment of criminal offenses are not undermined by threatening or frightening unprotected observers against brutal or criminal accusations.

In *State of Gujarat vs. Anirudh Singh And Another*¹⁸, The Honorable Supreme Court of India stated in its sentence under paragraph 28: “It is the healthy duty of every witness who has knowledge of the commission of a crime to assist the state in providing evidence; Unfortunately, for various reasons, in particular the deterioration of the legal situation and the principle of self-preservation, many witnesses are attacked and in some cases even direct witnesses are liquidated before being heard by the court”. Following this ruling and several other rulings, the Indian judiciary has repeatedly stressed that witness protection and hostility towards witnesses are necessary or indirectly assisted to assist law enforcement agencies and bring them to a fair trial, and witnesses should be confident and assured of their safety when reporting to court and other law enforcement agencies and testimony agencies.

In ***Mahender Chawla v. Union of India***, The Honorable Court, in its judgment of 05/12/2018, considered the lack of a statutory provision and duly accepted this scheme and declared it to be law under Article 141 of the Constitution of India until a law is established. This scheme, having been declared as "law", will now be binding on all courts in the sovereign territory of India in order to have a uniform application procedure. Therefore, this outline is intended to identify a unified process that can be used to protect Witnesses and their families from threats to their life, reputation, and property.

TYPES OF PROTECTIVE MEASURES:

At the procedural stage, it is necessary to establish a series of protective measures to ensure that the case is successfully carried out in the prescribed manner and that the process is not compromised at any cost. Some measures, such as video testimony or the privatization of the hearing by excluding the public from a hearing, aim to protect the identity, privacy and dignity of witnesses. There are also other measures, such as concealing witnesses or keeping witnesses anonymous, designed to provide physical security. The protection measures for judicial

¹⁸In *State of Gujarat vs. AnirudhSinghh And Another*, AIR 1997 SC 2780

witnesses are basically permissible and regulated by procedural law. These measures are usually intended to prevent the accused and his family from damaging the physical integrity and life of the witness, so in some cases it is allowed not to reveal the identity of the witness. And measures involving anonymous or behind-the-scenes testimony are not necessary if the trafficker already knows the identity of the witness. In other cases, however, the witness may have legitimate reasons to fear his personal safety if the defendant or others present in the courtroom receive his name and address. The courtroom-based witness protection measures mentioned above require dynamic technical equipment, well-trained staff, and sufficient and adequate financial resources. Therefore, sufficient resources must be made available to them to use them effectively.

Some Other Measures:

In accordance with the provisions of the 2018 victim protection system, the generosity of the protection measures taken by the competent and competent authority must be appropriate to the threat to the witness for a specified period of time. They may include:

1. Ensuring that the witness and the accused are not housed together during the trial or investigation.
2. Contacting the telephone company to provide the witness with an unlisted telephone number for security reasons.
3. Provide the witness with the necessary security in all possible ways such as body protection, frequent patrols and through the use of security devices such as video surveillance, security doors at home;
4. Change of identity of the witness and suppression of the original identity for the required period.
5. Moving the witness to another place of residence.
6. Providing transportation in a government vehicle to and from the court on the day of the hearing;
7. Ensuring the presence of another person at the time the witness's testimony was recorded.

Implementation of in-camera negotiations;

1. Through the use of specially designed courtrooms, equipped with one-way mirrors and a separate passage for the accused and the witness and the possibility of changing faces, or through the use of voice change mechanisms through appropriate computer programs , the Witness to suppress his identity;
2. Granting of timely financial assistance for the maintenance of the witness from the witness protection fund;
3. In addition to the protection measures mentioned, other necessary measures may be considered at the request of the witness;
4. Apart from the protection measures mentioned above, the witness himself may request other prudent measures from the competent authority.

Categories of Witnesses by Perception of Threats

This scheme classifies witnesses into 3 categories according to the level of threat posed during and after the investigation / trial. This categorization not only classifies, but also simplifies the witness protection process, since people threatened with death danger need more protection than people with moderate threats.

According to the scheme, there are 3 categories of witnesses, Category A, Category B and Category C.

- Category A covers the most serious threats, up to and including the danger to the life of the witness or her family.
- Category B consists of threats that extend to the security, reputation or property of the witness or members of her family.
- Category C consists of moderate threats such as harassment or intimidation of witnesses.

THE FIRST STEP TOWARDS PROTECTION

Promising something on paper is eating a cake, but the main benefit will only be achieved when it is put into practice. To ensure protection against threats, the first step is to submit an application to the competent authority responsible for the case. This request is sent together with the supporting documents through the secretariat of members of the competent authority. After submitting the request, the next step is processing, which will help implement this scheme.

- Immediately after receiving the request, the member clerk issues an order to the competent authority and requests the threat analysis report from the deputy police commissioner responsible for the police subdivision in question.
- Given that the granting of witness protection through this system is somewhat lengthy and, therefore, depending on the urgency of the matter with respect to an imminent threat, the competent authority is authorized to inform the witness or their next of kin while the application is still pending. .

The police also enjoy the immunity that nothing prevents them from providing immediate protection to the witness if there is a serious and imminent danger to the life of the witness or his family.

- Threat Assessment Report should be generated quickly while maintaining full confidentiality. This report is received by the competent authority within 5 business days of receiving the order.
- This report categorizes the perception of threat and also includes measures to adequately protect the witness or her family.
- While the witness protection request is being processed, the competent authority may interact with the witness and / or his / her relatives / employers or any other person deemed appropriate to determine the vulnerability of the witness. This interaction should also preferably be done in person, but if this is not possible, it should be done electronically.
- Witness protection requests are heard in front of the camera by the competent authority with complete confidentiality. In accordance with Section 2 (f) of this scheme, the closed-door procedure refers to a procedure in which the competent authority / court only allows the persons who are necessary in the hearing and decision on the application for protection of witnesses or deportation before a court must be present.

- After receiving the threat analysis report from law enforcement authorities, the competent authority must process the request within 5 business days.
- Overall responsibility for implementing witness protection rests with the chief of police in the witness protection cell of the state / UT or criminal court. However, if the change of identity and / or the relocation order is issued, it will be implemented by the Ministry of the Interior of the State / UT in question.
- Once the witness protection order has been issued, the witness protection cell submits a monthly monitoring report to the competent authority.
- If the competent authority finally determines that the witness protection order needs to be reviewed or the corresponding request is presented, the deputy representative of. The Police / Police Deputy Inspector of the responsible police department are created.

ALL ABOUT IDENTITY

Part III of this outline deals with how the identity of a witness can be protected if necessary. During the investigation or trial of a crime, the witness may seek protection of her identity for a number of possible reasons, including protection against harassment and intimidation. To request identity protection, a request can be made to the competent authority through its member secretary on the prescribed form.

The secretary member of the competent authority then requests the threat assessment report and questions the witness or her family member or any other person who can determine if an order is required to protect the identity of the witness.

If the member secretary considers it necessary to protect the identity of the witness, he issues an order and now it is up to the witness protection cell to ensure that the identity of the witness or her relatives is not revealed and that this includes the name. / ancestry / occupation / fingerprints / Address. In an emergency, the witness protection cell will provide details of the witness's emergency contacts.

In Part IV, this outline offers the witness the opportunity to change her identity. For this, the witness must request the above and the competent authority decides to grant the witness a new identity. The granting of new identities includes a new name / a new lineage / a new profession / a new number. On the other hand, however, these new identities should not deprive the witness of their predominant educational / property / professional rights.

These days with a strong online presence, identity can be easily revealed if your location is visible. Thus, this scheme also offers the Witness an option for his relocation, which has a similar process of identity change. The witness may remain in a safer place within the Indian Union depending on the welfare and well-being of the Witness, and all these costs are borne by the Witness Protection Fund.

Confidentiality and Storage Retention

All departments and officials involved in the procedures under this system are instructed to maintain complete confidentiality and to ensure that under no circumstances are records of any kind related to the procedures disclosed to any related person with the Related Procedures in every way possible except in the district court / court of appeal, and again, this is only done by written order. These records must be retained for up to one year after the last court case, after which the hard copy of the records may be disposed of after the scanned digital copies of the records have been retained.

CONCLUSION

Justice is necessary, but not at the expense of a person's life. This statement shows the reality of today's world where a person who wants to stand up and speak out against the culprit is threatened, harassed and intimidated by the other party. We have seen several cases where witnesses became hostile due to threats and harassment and changed their testimony, eventually leading to an unfair lead and a failure to exercise justice. The Witness Protection Act of 2018 is a major national step towards a fair path and system for delivering justice. It guarantees that any witness can share her information about the process without fear of threats. It guarantees that witnesses receive adequate protection in various ways, such as: B. by change of identity, whereabouts, etc.

This law has a broader scope since it includes the protection not only of the witness but also of her relatives, since a threat to the family weakens the person in the least possible way. There is a detailed explanation of the procedure to follow in case someone wants to take advantage of your benefit.