

Protecting Witnesses in Nigeria's Justice System: Legal Developments and Practical Realities

Ekpenisi Collins¹, Maureen Stanley-Idum², Waliya Gwokyalaya³, Patience Omohoste Agbale⁴, Resty Babirye⁵

¹ School of Law, Kampala International University, Kampala, Uganda. E-mail:

collins.ekpenisi@kiu.ac.ug

² Nigerian Law School, Augustine Nnamani campus, Agbani- Enugu, Nigeria. E-mail: [maureen.stanley-](mailto:maureen.stanley-idum@nigerianlawschool.edu.ng)

idum@nigerianlawschool.edu.ng

³ School of Law, Kampala International University, Kampala, Uganda, E-mail:

waliya.gwokyalaya@kiu.ac.ug

⁴ Faculty of Law, Ambrose Ali University, Edo State, Nigeria. E-mail: patient.agbale@aau.edu.ng

⁵ School of Law, Kampala International University, Kampala, Uganda. E-mail: resty.babirye@kiu.ac.ug

*Author Correspondence email: collins.ekpenisi@kiu.ac.ug

Abstract

Witnesses are essential to the effectiveness of any justice system. Their significance to legal proceedings makes their protection extremely necessary and prudent. However, in a country like Nigeria, witnesses often face different forms of intimidation, persecution, and life-threatening danger that negatively affect their willingness to testify in court. This paper critically examines the legal frameworks and practical realities of witness protection in Nigeria, regarding it primarily as a human right and analysing it from the theoretical viewpoints of natural justice and human rights theory. Using the doctrinal method of data analysis, the paper analyses the country's current legal framework, highlighting some vital laws and statutes, while identifying their scope of application, limitations, and areas of potential improvement. It also illustrates the most notable deficiencies of Nigeria's witness protection system by briefly utilising comparative insights from countries like Kenya and South Africa. It then explores other relevant issues and challenges that limit the effectiveness of the country's witness protection initiatives. The paper concludes with recommendations for improving Nigeria's justice system including the establishment of an independent witness protection agency, adequate funding, consistent application of protective measures, post-trial witness security, and public awareness of the significance of Witness protection and its value as a human right.

Keywords: Witness Protection, Crime, Nigerian Justice System, Protective Measures

1. Introduction

There are several closely related components of the justice system, each of them essential to fair and effective trial processes. Amongst these, investigation, evidence, and legal arguments are three of the most essential¹. However, in many cases, revealing the truth in its entirety requires much more than these three; it requires a crucial and indispensable fourth component: the testimony of a witness. Witnesses are often categorised based on their specific role in a case, as there are different kinds of witnesses. Legal contexts and the unique details of each case are what make these differences necessary². Nonetheless, even when witnesses - their definitions and specific roles - change, their primary function remains the same. The eyewitness, expert witness, and all other variants of witnesses serve to provide credible information that could aid in the proper execution of justice. Their testimonies not only complement other components of the justice system, such as investigation, evidence, and legal arguments, but also enhance trust, reliability and credibility in the legal system itself³. All other components of justice can be compromised, and witnesses are no exception. They can be bribed, intimidated, threatened, or even killed by those seeking to silence their testimonies. Several countries have developed sophisticated laws and institutions to address this problem; however, some others are yet to fully appreciate the significance of witnesses and act accordingly to ensure their total protection.

Although Nigeria has made commendable efforts to address its lack of effective witness protection, it remains one of those countries with underdeveloped witness protection systems. In the West African nation, cases of public condemnation, intimidation, death threats, and threats to family members of witnesses remain serious recurring issues⁴. Situations like these evidently endanger lives, but more latently, they damage the credibility and effectiveness of the entire justice system. In several cases, witnesses have been vital in the conviction of notorious criminals. Their observations at the crime scene or their specialised knowledge of the circumstances surrounding the crime make them extremely essential to the process of trial⁵. While physical evidence is of the utmost importance, adjudicating the veracity of claims in court also requires someone who has either seen the related events unfold or has the necessary expertise to help the court interpret what had happened. Corrupt politicians, drug lords, cult members, and violent criminals are also aware of this. They all understand the gravity of a witness's statement in court,

¹ Umejiaku N and Uzoka NC, 'The Role of Evidence in Criminal Justice System in Nigeria: A Legal Appraisal' (2024) 2(1) *Journal of Refugee Law and International Criminal Justice*, 24.

² Nwogu MIO and Ahaneku SO, 'A Critical Appraisal of the Rights of Witnesses and Compensation of Victims under the Nigerian Criminal Jurisprudence' (2025) 12(2) *Journal of Commercial and Property Law* 203.

³ Oyakhire SO, 'Protection of Victim-Witnesses of Human Rights Violations in Criminal Prosecutions in Nigeria' (2021) 8 *Transnational Human Rights Review* 1.

⁴ Aziz DKAA, 'International and Regional Legal Frameworks for Witness Protection: Promoting Peace and Justice Through Strong Legal Institution' (2025) 5(1) *Journal of Lifestyle and SDGs Review* e04676.

⁵ Oyakhire S, *Witness Protection and Criminal Justice in Africa: Nigeria in International Perspective* (Routledge 2023).

especially in criminal trials, and will go to great lengths to suppress, discredit, or even eliminate their testimonies⁶

These scenarios clearly show the urgent need for the establishment of effective witness protection measures. In several developed countries with relatively fair and functional justice systems, such protection is not considered a negligible option, but a distinct and non-negotiable obligation⁷. Witnesses are provided with clear and easily enforceable protections, often even before their testimony is presented in court. Additionally, these kinds of assurances are reinforced continuously throughout and after the court proceedings⁸. Waziri-Azi (2019) groups measures taken by these countries into three: measures to delimit fear by making it difficult for the witness to encounter the defendant, measures to make it impossible for the defendant or their allies to trace the witness, and measures to isolate and protect the witness from unnecessary public scrutiny⁹. These protective provisions are not pretentious or merely ceremonial. They are often backed by carefully designed and comprehensive systems intended to guarantee the long-term safety and complete cooperation of witnesses. These may include safehouses, financial assistance to support movement, and, in some instances, relocation to completely new and untraceable locations.

Admittedly, no system is flawless. Even in developed societies, some witnesses remain reluctant to testify due to doubts about the effectiveness of their promised protection¹⁰. Some cases are also uniquely sensitive, carry enormous consequences, or even involve some extremely dangerous individuals. Nevertheless, the right to witness protection is still formally acknowledged, legally codified, and actively implemented. In Nigeria, however, this is not the general norm. Although there appear to be a variety of legal instruments that make provision for the protection of witnesses, these measures and provisions are rarely enforced adequately. Individuals who could serve as potential witnesses or are somewhat involved in the justice process remain completely unaware of the rights and protections available to them under Nigerian law. It is difficult to blame such people, however, as the frequent cases of lawlessness and government inefficiency have given them mostly pessimistic views of witness protection. Nigeria must take active steps to ensure the effective protection of witnesses. For a country with a high rate of cases that need witness testimony, it is even more crucial. Convicting certain criminals would be impossible without witnesses; the citizens also need assurances that they can and would be protected if they ever came forth to speak in court for the sake of justice. Intentional steps towards witness protection also reassert the government's broader commitment to the rule of law. This study evaluates the concept of witness protection, especially as a human right, and its place in the Nigerian legal system.

⁶ Waziri-Azi F, 'Legal Framework of Witness Protection Measures during Criminal Trial in Nigeria and Emerging Practices' (2019) 7(1) *European Journal of Research in Social Sciences*, 34.

⁷ Wilson K, Ngetich K and Mwangi W, 'Challenges Facing Criminal Justice System in Relation to Witness Protection in Kenya' (2015) 20(10) *IOSR Journal of Humanities and Social Science (IOSR-JHSS)* 93.

⁸ Chaudhary SI and Razi N, 'Witness Protection in Global Perspective: An Analysis of International Laws' (2024) 2(4) *Contemporary Journal of Social Science Review* 170.

⁹ *Ibid.*

¹⁰ Dandurand Y and Farr K, *A Review of Selected Witness Protection Programs* (Public Safety Canada 2012).

2. Method

Research methodology describes the systematic and orderly processes scholars undertake to examine, assess, and understand issues systematically and holistically. This study utilises a doctrinal research methodology which has an explicit focus on legal doctrine, and the rules, principles, and frameworks informing judges' reasoning and the outcomes of cases. In this context, the doctrinal methodology is used to analyse women's rights to research and scholarship in Nigeria, Uganda, and Indonesia. This analysis relies considerably on primary and secondary legal materials. Primary legal materials include constitutional provisions, statutes, case law, and policy documents, which provide the legal framework for the analysis. Secondary materials include academic publications, journal articles, textbooks, policy papers, conference papers, theses, and reputable online sources, which provide scholarly interpretations and critiques. Following conceptual and comparative legal analysis, the research will compare and contrast the legal doctrines from the jurisdictions that comprise the study, specifically, where lessons could be learnt from other jurisdictions. The methodological approach allows for good arguments to be made, reasoned conclusions to be drawn, and a constructive contribution to the existing academy and policy discourse regarding the legal struggles experienced by women in accessing, undertaking, and participating in research.

3. Analysis or Discussion

3.1. Conceptual and Theoretical Issues on Witness Protection in Nigeria

Witnesses are important in every legal system. Parwez et al. call witnesses, the eyes and ears of the criminal justice system, and go even further to characterise them as individuals with any form of information or documentation relevant to a legal case¹¹. Kiprono et al. define a witness as someone who has information that will be important to a specific criminal or judicial proceeding. According to Black's Law Dictionary, "a witness provides a testimony under an oath, whether audibly, in writing, or by an affidavit"¹². While this definition is technically accurate, it barely captures the essence and full meaning of what it means to be a witness, especially when considering diverse cultural, regional, social, and judicial contexts. Practically, witnesses are far more than mere revealers of facts; they symbolise integrity, bravery, and courage. They are individuals who, despite threats, intimidation, and the very real possibility of harm, decide to come forward and assist in attaining justice¹³. Their willingness to speak the truth even when facing severe adversity shows not only personal bravery but a deep commitment to what the law itself stands for. In Nigeria, witnesses can be seen in three main legal contexts: criminal

¹¹ Parwez Z, Sarangi NC and Jabbal D, 'Role of Judiciary in Protecting Witnesses in the Criminal Justice System: A Critical Analysis' (2023) 10(2) International Journal of Membrane Science and Technology 20.

¹² Black's Law Dictionary, 11th edn, s.v. 'Witness'.

¹³ Waziri-Azi F, 'Legal Framework of Witness Protection Measures during Criminal Trial in Nigeria and Emerging Practices' (2019) 7(1) European Journal of Research in Social Sciences.

trials, civil disputes, and administrative legal proceedings¹⁴. Nonetheless, it is mainly in criminal litigation, particularly high-risk cases involving terrorism, finance-related crimes, cult activities, or politically motivated crimes, that the role of the witness becomes of huge importance. In these cases, witnesses often find themselves walking a dangerous and thin line between fulfilling what they feel is their moral responsibility and preserving their personal and familial safety. The stakes become considerably high when a testimony could expose them to revenge or vindictive actions from powerful, well-connected, or dangerous people determined to suppress the truth¹⁵.

Kariri and Salifu proffer that witness protection is any range of actions applicable at any phase of criminal proceedings to protect witnesses and guarantee their effective participation in rendering their testimony¹⁶. The United Nations Office on Drugs and Crime (UNODC) defines witness protection as a comprehensive process or system comprising “strategies and procedures to ensure the safety of a witness whose willingness to cooperate with law enforcement and judicial authorities places them at risk or grave danger”. These definitions fit perfectly with the modern understanding of international law, which, over time, has recognised witness protection not simply as a judicial tool but as an extension of the fundamental right to life and even security of the person in question. This principle seems to carry less weight in most parts of Nigeria. Witness protection in the country has often been seen as an extension of courtesy by the government, something that those who receive it ought to be grateful for. It is seldom seen or treated as what it is: a right. For years, Nigeria has had no fully functional legal framework or program for witness protection, leaving numerous witnesses unprotected and in different situations of real danger. Prospective witnesses of sensitive criminal cases often had no choice but to withdraw from testifying in court, prioritising their safety and that of their family members¹⁷. This trend, which has negatively affected the justice system, diminished the credibility of numerous trials, and reduced public trust in the legal system for years, continues today, even amidst new laws and statutes.

Witness protection measures are not clearly defined in Nigeria. Prosecutors and law enforcement agents are often left with little direction on what to do, and are often forced to rely on their own judgment as it applies to each case before them. This then leads to a significant degree of inconsistency in application, further making it difficult to decide which legal precedent is the best to follow when implementing certain protective measures. Some of these measures include the use of pseudonyms

¹⁴ Oyakhire SO, ‘Developing a Legal and Institutional Framework for Witness Protection in Nigeria: Reflections from International Perspectives’ (2020).

¹⁵ Ibid.

¹⁶ Kariri JN and Salifu U, ‘Witness Protection’ (Institute for Security Studies 2016).

¹⁷ Madu VC and Eboh NJ, ‘Establishing Gender Sensitive Witness and Victim Protection Measures in Complex Criminal Cases’ (2021) 112 *Journal of Law, Policy and Globalization* 86.

to hide the real names of witnesses, holding court proceedings behind closed doors, or even the use of a police escort for certain witnesses. While these measures are undoubtedly helpful in the cases where they are applied, they are often used sparingly and reactively. More proactive measures, such as identity change or relocation of witnesses, which guarantee more long-term protection, are rarely practised in Nigeria. In some cases, this is due to a lack of adequate funding; in others, it is simply the result of a lack of solid resolve, a consequence of the conventional view that witness protection is not worth such lengths of meticulous execution. The real-world consequences to the lives of witnesses are even more dire. Some have been forced to recant their testimonies or not show up to court at all. Some have suffered brutal and undoubtedly intentional injuries before trial. While others who are not as lucky have been viciously assassinated¹⁸.

Beyond its legal flaws, Nigeria's justice system also faces deeply ingrained cultural barriers that serve as hindrances to witness protection. In many communities, silence is often viewed as a form of loyalty, perceived as a necessary mark of honour. Umar and Hassan expound on the theory of cultural immersion, asserting that most people live in a society for such a long time that they subconsciously imbibe certain behaviours, such as forced silence in the face of evil, even to their own detriment. Fapohunda presents a similar idea, tagging it "Organisational silence", where people are afraid to speak up in an environment where injustice is already heavily entrenched¹⁹. Calling out family members, community heads, or other influential individuals who have either committed or are accomplices in crime is widely seen as betrayal rather than an act of doing the right thing. This culture of subtly silencing people is made worse by the overall mistrust of law enforcement agencies like the police, mainly caused by decades of corruption, incompetence, and a constant failure to protect those who dared to say the truth.

Criminals are well aware of this culture. As a matter of fact, they also use it to their advantage. They rely on the fear of the citizens and operate with the understanding that certain crimes invoke such fear that people are rarely willing to speak about them, even when they are victims. Criminal activities associated with cultism, kidnapping, armed robbery, and political violence almost always leave people dreading for their lives. Testifying in such cases often seems like a self-inflicted death sentence to the average Nigerian. Prospective witnesses are not just silenced by their fear. In some instances, even family members and loved ones talk them out of it, immediately highlighting the dangers that could befall not just the witness but also everyone around them. In such a terrifying condition, silence only seems logical. Choosing not to testify is then viewed as a wise decision, a praiseworthy step taken

¹⁸ Madu VC and Eboh NJ, 'Establishing Gender Sensitive Witness and Victim Protection Measures in Complex Criminal Cases' (2021) 112 *Journal of Law, Policy and Globalization* 86.

¹⁹ Fapohunda TN, 'Organizational Silence: Predictors and Consequences among University Academic Staff' (2016) 2(1) *International Journal for Research in Social Science and Humanities Research* 83.

by the witness in protecting themselves and everyone they care about. In response to the possibility that a dangerous criminal may go free and wreak more havoc without their testimony, they easily rationalise that putting oneself in mortal danger without either a guarantee of protection or an assurance that justice will be done is unnecessary, even if they choose to testify.

One of Nigeria's biggest problems with witness protection is the absence of a fully functional framework that recognises it as a fundamental right. It is often seen in the best-case scenarios as an optional tool and in the worst-case scenarios as a negligible expense, not worth the hassle. Several countries seem to dissent from this view. South Africa, for instance, has built a commendable witness protection structure that currently guarantees both the protection and participation of witnesses²⁰. The Witness Protection Agency of Kenya offers a good example, with the Agency running in full autonomy, giving services such as relocation, financial aid, and counselling to witnesses whose lives and safety depend on the program. There must be a complete shift in the witness protection program in Nigeria. This will enable the adoption of international best practices from any of these countries. Witness protection must be comprehended as a guaranteed right, not based on speculation. These must reflect in policies and practices backed up by law; otherwise, witnesses in deserving cases will be doubtful in giving evidence, and even where the witnesses are courageous in giving evidence, they might suffer damaging and avoidable consequences²¹.

Human rights law and the doctrine of natural justice are the bastions upon which the principle of witness protection is built. This notion is built on the foundation that witnesses should be detached from fear, harassment or duress when giving their evidence. In this case, natural justice ensures the preservation of the witnesses' sense of freedom and security in presenting testimonies during trials, without fear or threats, and apprehension of potential harm²². The concept of human rights theory comprises fundamental human rights, including the right to life, the right to dignity, the right to personal security, and the right to freedom of speech and expression. The Nigerian constitution guarantees and protects these rights. International agreements and conventions that Nigeria is a party to also support them as fundamental to human existence. The right to witness protection stems from such principles; they imply that witnesses must be sufficiently protected, that their lives ought not be under threat or danger, and that they should be allowed to speak and be heard without fear.

²⁰ Mphaphuli LN and Botha P, 'Experiences and Coping Strategies of Protected Witnesses in South Africa: A Social Work Perspective' (2021) 34(2) *Acta Criminologica: African Journal of Criminology & Victimology* 143.

²¹ Wakili SA, Obisesan OO, Ekpenisi C, Antai GO and Umo ME, 'Legal Framework and Challenges Concerning Forensic Evidence in Nigeria' (2025) 7(1) *Trunojoyo Law Review* 33.

²² Lawrence B Solum, 'Natural Justice' (2006) 51 *American Journal of Jurisprudence* 65.

The rationale for witness protection is threefold. First, the State has the inherent duties of protecting life and upholding tenets of the fundamental right to life. It is affirmed under Article 6 of the International Covenant on Civil and Political Rights that States are obligated to take ‘special measures’ to protect people whose lives or safety are at risk. This underlines the core principled basis for the protection measure given to every witness²³. Second, the State has a duty to also defend justice and the rule of law. It is worthy of note that where relevant evidence is missing due to failure of a witness to present such evidence for fear of intimidation or danger to life, then justice is compromised, as there cannot be justice where the court relies on weak evidence. Hence, where the witness testimony is crucial, the State is under an obligation to safeguard the witness and ensure that the court is not denied relevant evidence in the interest of justice, and to prevent impunity. If affluent or powerful people can successfully prevent witnesses from testifying, it immediately results in several harmful interpretations. It conveys that the State cannot adequately protect its citizens; that wealthy or influential people can circumvent justice; and that truth, rights, and all other foundations of society can readily be disregarded. In principle and practice, this is disastrous for any society. However, witness protection sends a contrary message. It conveys that the State is perfectly capable of ensuring citizens’ safety; that attempts to thwart justice will never succeed; and that truth, rights, and every principle upon which society is founded bend to the will of no one.

3.2. Legal Frameworks on Witness Protection in Nigeria

The effectiveness of witness protection in any legal system depends not just on the existence of laws but on how tenaciously those laws are enforced and integrated into the everyday operations of the country’s most essential institutions²⁴. In Nigeria, witness protection has developed slowly and reactively, predominantly shaped by immediate challenges within the criminal justice system rather than by deliberate and carefully scrutinised legislation. It is important to carefully analyse the main laws and legislation designed to ensure witnesses’ protection in Nigeria, evaluate their effectiveness, showcase their shortfalls, and identify the issues that prevent their effective application. Although the 1999 Nigerian Constitution does not clearly mention witness protection in its chapters, some of its provisions still lay a strong basis for justifying protective measures. Oyakhire notes that it is the groundwork of all other legal frameworks about witness protection in Nigeria. Section 33 of the Constitution guarantees the right to life, while Section 34 protects

²³ United Nations, International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 6.

²⁴ Parwez Z, Sarangi NC and Jabbar D, ‘Role of Judiciary in Protecting Witnesses in the Criminal Justice System: A Critical Analysis’ (2023) 10(2) International Journal of Membrane Science and Technology 2089.

the dignity and integrity of every individual²⁵. Also, Section 36 ensures the right to a fair hearing, which inherently includes the ability to present evidence through reliable witnesses. These interrelated rights make clear that when a witness faces threats or harm, it is not only their personal safety at risk, but also the accused's right to a fair trial as well. This close connection spotlights a constitutional obligation to protect witnesses as a crucial part of delivering justice.

A good example where the contents of the constitution were interpreted to permit a consideration of witness protection was in the case of *FRN v Nnamdi Kanu & 3 others*, where the leader of the Indigenous People of Biafra (IPOB), a separatist group advocating for the separation of South East Nigeria, was charged with treason. Section 36 of the Constitution clearly notes that, a court or such a tribunal may exclude from its proceedings persons other than the parties thereto or their legal practitioners in the interest of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of eighteen years, the protection of the private lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interests of justice.²⁶ This was interpreted to permit a considerable level of witness protection due to the political nature of the case.²⁷

The introduction of the Administration of Criminal Justice Act (ACJA) 2015 was a huge step forward in Nigeria's legal system. It introduced certain important measures made to strengthen witness protection. Section 232 of the Act gives courts the power to protect the identities of witnesses, especially in sensitive cases. Section 233 permits the use of video testimonies and testimonies behind protective screens with the aim of preventing witnesses from being exposed to threats or fear during trial. While section 195 notes that courts have the authority to forcefully compel witness attendance, it barely mentions the issue of witness security after their testimony has been given. Although these are relatively noteworthy provisions, the ACJA remains quite limited. The Act is not accompanied by a complementary institution or agency that ensures consistent execution of its provisions. It also does little to ensure the long-term protection of witnesses after trials. It raises lots of questions about witness safety, and if such considerable guarantees cannot be offered, the Act then fails in addressing the key issues it was enacted to deal with in the first place. In 2022, the Witness Protection and Management Bill was signed into law by then-President Muhammadu Buhari, turning it into an Act of the National Assembly. The Act was enacted to create a strong and efficient legal and institutional framework for the management of witness protection. It sets down the duties relating to the protection of witnesses and 'related persons', facilitation of suitable

²⁵ Constitution of the Federal Republic of Nigeria 1999.

²⁶ *Ibid.*

²⁷ Oyakhire SO, 'Developing a Legal and Institutional Framework for Witness Protection in Nigeria: Reflections from International Perspectives' (2020).

security and other connected services. The Act is a centre point of fusion between all other pre-existing laws. It also directs the creation of a Witness Protection Agency with the duty of guaranteeing the safety and protection of witnesses, including the conditions for admitting and removing witnesses from the programme. By virtue of the Act, the Agency also has the duty of providing arrangements for witness relocation, change of identity, and financial support. Furthermore, a Witness Protection Fund is provided, where money received from the National Assembly, the President and other sources is utilised for the Implementation of Witness Protection Measures. Despite the Act's enormously promising provisions, it remains mostly inoperative.²⁸

In Nigeria, several statutes and bills, such as the Corrupt Practices and other Related Offences Commission Act, 2000 (ICPC Act), and the Economic and Financial Crimes Commission Act, 2004 (EFCC Act), contributed to the advancement of the Witness Protection framework. Although the ICPC Act provides considerable degrees of protection for those who give information to the Commission, enabling the Commission to effectively manage information received in respect of corrupt practices, it remains limited in its prospects²⁹. The EFCC Act also creates provisions for preserving whistleblowers and persons who give information to the Commission in respect of cases of fraud, financial embezzlement, money laundering and other related financial crimes.³⁰ The Trafficking of Persons Enforcement and Administration (NAPTIP) Act 2015 is another statute that uniquely guarantees witness protection. It has several provisions for victim witnesses of human trafficking³¹. Most victims of such crimes are often reluctant to testify against perpetrators as a result of their traumatic experiences. This Act offers some measures to facilitate the process of the victim-witness's testimony. The Violence Against Persons (Prohibition) Act (VAPPA) 2015 also allows some level of protection for victim-witnesses, and in this case, those who have been victims of violence or abuse. This Act not only seeks to protect the most vulnerable in society, such as women, children, the elderly, disabled individuals, and internally displaced persons, but it also makes provisions to cater to their physical, psychological, and emotional well-being throughout the course of the legal proceedings.

Terrorism is a dangerous crime with severe punishment, the criminal trial of which is mostly characterised by witness fear, harassment and intimidation³². In recognition of the severity of the offence and the need to protect witnesses from

²⁸ An Overview of the Witness Protection and Management Act 2022," Mondaq, <https://www.mondaq.com/nigeria/trials-amp-appeals-amp-compensation/1201908/an-overview-of-the-witness-protection-and-management-act-2022>

²⁹ Corrupt Practices and Other Related Offences Act, 2000.

³⁰ Economic and Financial Crimes Commission (Establishment) Act, 2004.

³¹ Trafficking in Persons (Prohibition, Enforcement and Administration) Act, 2015

³² Terrorism (Prevention) (Amendment) Act, 2013

harm, the Terrorism Preventive Act (TPA) 2011 was enacted. The cases of frequent acts of violence against prospective witnesses by terrorist sects such as the Boko Haram abound. The Act creates measures that prop up security around vital witnesses to terrorist-related trials. In the case of *Kabiru Umar v Federal Republic of Nigeria*, the identity of witnesses who testified against the Defendant, alleged to have committed acts of terrorism, was protected by masks and the assignment of pseudonyms in place of their real names. Hence, this is a clear case where the principle of witness protection was applied to secure the safety of the witnesses from imminent threats, fear of attacks, danger or harassment. The case of *Federal Republic of Nigeria v. Aminu Ogwuche & Others*, where multiple people were charged in relation to bomb blasts in Nyanya Motor Park in 2014, also saw the use of witness protective measures in a terrorist-related case. The court allowed witnesses to wear masks to protect their identity during proceedings, with their testimonies treated with the same level of credibility as any other³³. However, this act of masked protection has often been questioned. In another case involving Dr Mohammed Yunus and other suspected Boko Haram members, it was reported that the judges refused to allow witnesses to wear facial masks, citing concerns about assessing witness demeanour and the rights of the accused to a fair trial. This further illustrates the inconsistent application of witness protection measures in different cases.

The Federal Whistleblowing policy (2016) is another example of a statute that operates close to the confines of witness protection. The policy was created by the Ministry of Finance primarily to encourage reports about financial crimes, fraud, embezzlement, or theft of public assets. Tips were often sent via several means, a portal, phone, email, or SMS, with rewards given based on a certain percentage of assets recovered. Although the policy allows for anonymous submission of information that may help recover stolen funds and assets, it is not legally bound to protect whistleblowers, just as witnesses are protected under the TPA or ACJA. However, in the scenario where a whistleblower's testimony is needed in a terrorism or financial crime case, the prosecution can apply to the court for protective measures provided by both statutes. Nevertheless, defence teams are also allowed to object to witnesses wearing masks on the grounds of a fair trial.³⁴ A notable application of the Whistleblowing policy is the "Ikoyi loot" incident in 2017, where a whistleblower tipped off the EFCC about suspicious cash stored in an apartment at Ikoyi, Lagos.³⁵ The EFCC raided the apartment and eventually

³³ Nyanya Bombing: 'Witnesses to Testify in Masks' Channels Television (11 May 2015) <<https://www.channelstv.com/2015/05/11/nyanya-bombing-witnesses-to-testify-in-masks/>>.

³⁴ Ibid.

³⁵ Ikoyi Loot: 'Whistle-Blower Sues EFCC, AGF, Others' Punch Newspaper (Nigeria, November 2017) <<https://punchng.com/ikoyi-lootwhistle-blower-sues-efcc-agf-others/>>.

discovered more than 4 billion in naira³⁶. While the identity of the whistleblower was initially protected, delays in releasing the appropriate reward caused the whistleblower to go public with complaints. Multiple people eventually claimed to be the whistleblowers in the case.

3.3. Issues and Challenges on Witness Protection in Nigeria's Justice System

An effective analysis of witness protection in Nigeria requires a basic understanding of the country's unique social and political contexts. The Nigerian Justice System seems to be evolving. However, it remains extremely susceptible to unnecessary delays, corruption, and unopposed political manipulation. In this kind of environment, one pervaded by fear and silence, witnesses, especially those who testify against rich and powerful people, are at risk of receiving some heinous threats³⁷. The introduction of the Administration of Criminal Justice Act (ACJA) 2015 was a vital moment, as it was Nigeria's first federal law to introduce any form of legal provision for witness protection in criminal cases³⁸. Section 232 of the Act grants courts the authority to issue protective orders for witnesses involved in sexual offence cases, terrorism, and other serious crimes³⁹. However, these provisions are often treated like mere legal formalities. They largely fail to establish essential pathways for effective and invariant enforcement. Those in power at the time of the Act's inception also failed to create an independent, specialised agency exclusively responsible for witness protection, thus leaving a huge unaddressed gap in the country's legal setup. The Witness Protection and Management Act, which was established in 2022, was supposed to address this problem. The Act specifies that a "relevant agency" ought to be in charge of establishing the Witness Protection and management programme; however, there is still a lot of uncertainty about how functional such an organisation currently is.

This sort of issue is often present and can be observed in almost every other sector in the country. Beautiful laws are often made; however, implementation and other salient issues sometimes become a challenge. Indeed, the Nigerian justice system is plagued by unnecessary delays and bottlenecks, corruption, and frequent cases of undue political interference. In such an environment, where abuse of power seems like the norm, it is only natural for prospective witnesses to react in fear at the thought of testifying against a rich or influential person. The overall implementation of witness protection in Nigeria remains largely ineffective despite a number of policy advancements the country has made. This is due to multiple problems, some of which are caused by deep-rooted national issues that need to be intentionally

³⁶Ibid.

³⁷ Oyakhire SO, 'Developing a Legal and Institutional Framework for Witness Protection in Nigeria: Reflections from International Perspectives' (2020).

³⁸ Waziri-Azi F, 'Legal Framework of Witness Protection Measures during Criminal Trial in Nigeria and Emerging Practices' (2019) 7(1) European Journal of Research in Social Sciences.

³⁹ Nigeria, Administration of Criminal Justice Act, 2015, § 232

addressed. Most countries with successful witness protection systems have institutions or agencies tasked with the proper administration of witness protection. The United States has WITSEC. South Africa has the Office for Witness Protection. In Nigeria, while the creation of a “Witness Protection Agency” has been mandated by the Witness Protection and Management Act (2022), it remains non-functioning to the best of public knowledge. This is one of the biggest challenges the country faces in establishing a functional witness protection system. Admittedly, there have been other positive strides to create such an agency, a notable example being the initially proposed Witness Protection and Management Unit, which was set up to function under the Ministry of Justice. However, for such an agency to ever be fully effective, it needs to be completely independent; functioning under another Ministry would make that difficult. Such an agency also needs sufficient funding to effectively execute its duties and complete freedom from the unnecessary bottlenecks and delays that plague most Nigerian governmental bodies.

Nigeria has repeatedly failed to prioritise witness protection funding within the justice sector budget.⁴⁰ While some measure of financial support is routinely provided, it is rarely ever sufficient, at least for the level of effectiveness required. Protective measures such as relocation, provision of safe housing, security escorts, and counselling require a lot of finances to sustain. If financial support for witness protection remains as insufficient as it is today, then most of the issues currently threatening the system will continue for a long time. This absence of a structured, properly-funded, and consistently enforced witness protection system severely harms the integrity of the justice system and destroys public trust in the state’s capacity and willingness to protect those who stand up for the truth. Without such a framework, prosecutions remain ineffective, and the very basis of criminal justice is utterly weakened. Furthermore, when citizens distrust courts and law enforcement agencies, they are often unlikely to cooperate as witnesses. This is a problem that needs to be addressed in Nigeria. Most citizens view the police and courts as inherently corrupt, a position often reinforced by cases where law enforcement agents have been found complicit in criminal activity. The legal system is also often perceived to be more favourable to the extremely wealthy. With such beliefs, few people are then willing to testify in high-profile criminal cases. In some areas, loyalty to clan or community is often prioritised over any legal or ethical consideration.⁴¹ All these perceptions and norms only hurt the practice of witness protection in the country. There have been multiple reports of witnesses being kidnapped, tortured, or killed in Nigeria⁴². Without effective protective measures,

⁴⁰ Osasona T, ‘Time to Reform Nigeria’s Criminal Justice System’ (2015) 3(2) *Journal of Law and Criminal Justice* 73.

⁴¹ Fapohunda TN, ‘Organizational Silence: Predictors and Consequences among University Academic Staff’ (2016) 2(1) *International Journal for Research in Social Science and Humanities Research* 83.

⁴² Madu VC and Eboh NJ, ‘Establishing Gender Sensitive Witness and Victim Protection Measures in Complex Criminal Cases’ (2021) 112 *Journal of Law, Policy and Globalization* 86.

witnesses and their families remain exposed to perpetual danger. Some flee for their lives or resort to hiding, living in constant fear as threats increase depending on the nature of the case in which they were to be a witness. In some cases, such as those involving organised crime, intimidation tactics are often used to scare witnesses. This not only deters those who had intended to testify but also dissuades others who may have once considered doing so, too. Although statutes like the Administration of Criminal Justice Act (ACJA) 2015 include vital provisions, their application is often limited⁴³. Judges and prosecutors may hesitate to exercise these protective powers due to fear of legalistic errors or appeals that could harm the credibility of cases. A good example of this is the case *Aminu Ogwuche V Federal Government*, where the defendant, who was alleged to have committed a terrorist attack, was acquitted based on a lack of “diligent prosecution”. The judge presiding over the case had also earlier ruled against the use of masks by witnesses as a result of opposition from the defence.⁴⁴

4. Conclusion

While Nigeria's justice system is gradually and significantly evolving in terms of an understanding of the utility of witness protection, there remains a considerable gap between legislative intent and practical implementation. Despite the existence of statutory and policy frameworks, several enforcement issues, lack of funding, public distrust, and institutional weakness continue to hamper enforcement. For witness protection to meaningfully deal with criminal justice reform in Nigeria, a shift in focus from theoretical frameworks and responses to sustainable mechanisms that allow witnesses to come forward without fear of history has to occur. Increased capacity to deal with the challenges of witness protection, accountability measures, and post-trial locus operations is a critical next step toward developing a justice system that guarantees the security of witnesses and the enforcement of the rule of law.

To effectuate meaningful reform, several actionable steps must be prioritised. Nigeria must establish and respect an autonomous witness protection agency and also learn from the successes of examples in countries like Kenya and South Africa, and get the funding needed for full protective programs. The National Judicial Council should also direct binding practice directions for courts to consistently apply protective measures, and educate the public and build trust in security agencies to lessen fears and foster collaboration; using technology to disguise the identity of witnesses should be utilised to the extent necessary. It is also vital to have protections in place beyond trial dispositions to frame ongoing protection and encourage additional decisions to cooperate. The cumulative effect of this collection of recommendations will create a better implementation picture and rebuild public belief in the Nigerian justice system.

⁴³ Waziri-Azi F, ‘Legal Framework of Witness Protection Measures during Criminal Trial in Nigeria and Emerging Practices’ (2019) 7(1) European Journal of Research in Social Sciences.

⁴⁴ Ibid.