

Comparative Analysis of “Standards for the Protection of Witnesses and Informants” in International Criminal Proceedings and the Possibility of Their Application in Iran

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Received: 2025-10-27

Revised: 2026-02-10

Accepted: 2026-02-27

Initial Publish: 2026-02-27

Final Publish: 2026-10-01

The protection of witnesses and informants constitutes one of the fundamental requirements of fair and effective criminal proceedings, particularly in cases whose nature involves threats, violence, or entrenched power structures. The purpose of this study is to conduct a comparative analysis of protective standards in international criminal trials and to evaluate the feasibility of incorporating such standards into the Iranian legal system. The research adopts a descriptive–analytical method with a comparative approach, and data were collected through the examination of international legal instruments, the jurisprudence of international criminal tribunals, and domestic legislation. The findings indicate that although Iran has taken certain steps in recent years toward strengthening witness protection mechanisms, a significant gap remains in comparison with international standards in terms of comprehensiveness of protective measures, institutional independence, enforcement guarantees, and practical effectiveness. Moreover, a considerable portion of international protective mechanisms can be localized within the Iranian legal framework through legislative reforms and the establishment of specialized institutions. The study ultimately proposes a set of recommendations aimed at enhancing the system of protection for witnesses and informants within the framework of domestic law.

Keywords: *witness protection, informants, International Criminal Court, Iranian criminal procedure, fair trial, international standards.*

How to cite this article:

Moradi Zirian, Y. A., Habibatbar, M., & Tadayyon, A. (2026). Comparative Analysis of “Standards for the Protection of Witnesses and Informants” in International Criminal Proceedings and the Possibility of Their Application in Iran. *Interdisciplinary Studies in Society, Law, and Politics*, 5(5), 1-15. <https://doi.org/10.61838/kman.isslp.466>

1. Introduction

Witnesses and informants constitute one of the most important sources for discovering the truth and proving criminal responsibility within the criminal justice system. In many cases—particularly those involving organized crime, administrative and economic corruption, crimes against national security, gender-based violence, and serious international crimes—their role becomes so decisive that, without their active and secure participation, the possibility of uncovering the truth and administering justice is significantly

diminished. However, participation in judicial proceedings exposes witnesses and informants to numerous risks, ranging from psychological and social pressure to serious threats against life, property, and reputation. This reality has led to the recognition that witness protection is not merely a procedural formality but rather a necessary condition for achieving fair, effective, and rule-of-law-based criminal proceedings (Hoyle, 2021; Newman, 2020).

Developments in international criminal law over recent decades demonstrate that effective adjudication of complex and large-scale crimes is impossible without



robust protective mechanisms. The International Criminal Tribunals for the former Yugoslavia and Rwanda were among the first institutions to systematically and structurally incorporate protective measures within their rules of procedure and evidence. These measures included confidentiality of identity, closed hearings, use of pseudonyms, voice and image distortion, relocation, resettlement in third countries, and the establishment of specialized witness protection units. Drawing upon these experiences, the International Criminal Court developed an institutional and procedural framework for witness protection that is now considered one of the most advanced protection systems worldwide (Cassese, 2019; Sluiter, 2020; Von Hebel, 2018).

In Iran, although the concept of witness protection had appeared in scattered legal provisions prior to 2013, the legal system lacked a coherent, efficient, and enforceable framework for protecting such individuals. The adoption of the Criminal Procedure Code of 2013 and the Executive Regulation on the Protection of Witnesses and Informants in 2015 marked a significant turning point in this area. For the first time, concepts such as “risk of harm,” “financial loss,” “reputational danger,” and “protective measures” were formally defined, and certain protective mechanisms were introduced. Nevertheless, scholarly and empirical assessments indicate that these mechanisms continue to face serious limitations in terms of comprehensiveness, institutional independence, financial resources, enforceability, and practical effectiveness (Hosseini, 2021; Karimi, 2020; Zarei, 2022). Furthermore, the enactment of the Law on the Protection of Corruption Whistleblowers in 2023 represents an important step toward safeguarding informants, yet the legislation still falls short of international standards and remains primarily focused on anti-corruption reporting rather than comprehensive witness protection in criminal proceedings (Moradi, 2023; Rostami, 2023).

Under these circumstances, comparing protective standards applied in international criminal proceedings with the Iranian legal framework can provide a clearer understanding of existing gaps and potential reform pathways. The experience of the International Criminal Court as well as the tribunals for the former Yugoslavia and Rwanda demonstrates that successful prosecution of complex crimes has largely depended on effective

protection mechanisms, independent institutional structures, and diverse security measures. By contrast, the Iranian legal system still lacks a specialized witness protection authority, comprehensive protective mechanisms, and sufficiently strong enforcement guarantees. A comparative study therefore helps identify which international standards are capable of localization within Iran and what legal reforms are necessary to achieve this objective (Cryer et al., 2022; Findlay & Henham, 2015).

Focusing on the functional analysis of international protective institutions and the assessment of Iran’s legal and institutional capacities, this study seeks to demonstrate how successful global experiences can be utilized to strengthen the protection system for witnesses and informants in Iran. The ultimate aim is to propose solutions that, while compatible with Iran’s legal and cultural structure, ensure witness security and facilitate their participation in criminal proceedings.

2. Theoretical and Conceptual Foundations of Witness and Informant Protection

In recent decades, witness and informant protection has emerged as one of the central issues in criminal justice systems. In modern legal systems, testimony provided by individuals possessing direct or indirect knowledge of criminal events plays a fundamental role in truth-finding and evidentiary proof. Nevertheless, participation in criminal proceedings—especially in cases involving organized crime, corruption, collective violence, security offenses, and power-based crimes—often exposes witnesses to serious threats against their physical safety, psychological stability, economic security, and social standing. Consequently, witness protection is regarded not merely as an ethical concern but as a structural and legal obligation necessary for guaranteeing fair and effective criminal proceedings (Jackson & Summers, 2018; Maguire & Sherrin, 2022).

Within contemporary legal scholarship, a “witness” is generally defined as a person who possesses direct or indirect perception of a criminal incident and contributes to clarifying the truth through testimony. An “informant,” by contrast, is an individual who holds relevant information about the crime or the perpetrators even if they were not an eyewitness. Both groups may face intimidation, coercion, social pressure, psychological harm, and economic repercussions.

Accordingly, their protection constitutes an inseparable component of the right to a fair trial and a core requirement of criminal justice systems (Hoyle & Ullrich, 2020; Kirchengast, 2020).

Recent developments in international criminal law and transitional justice demonstrate that witness protection has evolved from a narrowly defined security concept into a comprehensive and multilayered framework. This framework encompasses identity protection, physical security measures, psychological support, social assistance, cultural sensitivity, and economic safeguards. International tribunals—including the International Criminal Court and earlier ad hoc tribunals—have shaped globally recognized standards through the creation of specialized institutions, binding procedural rules, and expanding judicial practice (Clark, 2017; Daly & Holder, 2023; Moffett, 2023).

In contrast, many national legal systems, including Iran, continue to face challenges such as the absence of independent protection bodies, weak enforcement guarantees, insufficient psychological and social assistance, and the lack of post-testimony protection mechanisms. Examining the theoretical and conceptual foundations of witness protection therefore represents the first step toward analyzing these structural deficiencies and proposing reform strategies. These foundations reveal that witness protection is not a supplementary measure but an integral component of criminal justice architecture and a prerequisite for fair trial guarantees, effective truth-finding, and public confidence in judicial institutions (United Nations, 2021; Unodc, 2020).

2.1. *The Concept of Witness and Informant in Criminal Proceedings*

In criminal law doctrine, a “witness” is defined as a person who has direct perception of a criminal event and is capable of recounting what they have seen, heard, or experienced through testimony. An “informant,” on the other hand, is not necessarily a direct observer but possesses information relating to the offense, the perpetrators, or the contextual circumstances surrounding the crime. This distinction has been recognized across various legal systems because the nature and level of protection required for these two categories may differ (Newman, 2020; Sluiter, 2020).

Iranian law likewise recognizes this distinction. The Criminal Procedure Code of 2013 explicitly refers to both “witnesses and informants,” acknowledging their differentiated roles within criminal proceedings. Nevertheless, legal scholars have argued that, in practice, the boundary between these two concepts remains insufficiently clear, which may generate ambiguity in determining the scope of protective measures (Akhoundi, 2019; Khaleghi, 2023).

Conceptual ambiguity between “witness” and “informant” in Iranian law—unlike international systems that adopt precise functional definitions—may ultimately restrict the extent of protection available. In international criminal proceedings, any individual possessing information relevant to truth-finding may fall within the protective framework. This functional approach expands the scope of protection and enhances its effectiveness by prioritizing evidentiary contribution rather than rigid categorical distinctions (Bassiouni, 2016; Cryer et al., 2022).

2.2. *The Necessity of Witness Protection and Its Theoretical Foundations*

The protection of witnesses and informants in contemporary criminal justice systems is recognized as one of the essential elements for guaranteeing a fair trial. The role of witnesses in the process of truth-finding and proof of crime is so fundamental that, without their voluntary and secure participation, many cases fail to reach a judicial outcome and the administration of criminal justice is effectively disrupted. In numerous offenses—particularly organized crime, administrative corruption, collective violence, power-based crimes, and security-related offenses—witnesses and informants face both direct and indirect threats capable of endangering their physical safety, psychological well-being, economic stability, and social status. From this perspective, witness protection is not a ceremonial measure but a structural necessity for maintaining the effectiveness of criminal justice systems (Kirchengast, 2020).

The necessity of witness protection rests upon several theoretical foundations. The first foundation is the right to a fair trial. A fair trial can only be realized when a witness is able to provide information without fear, pressure, or intimidation. Any threat or vulnerability affecting a witness directly influences the quality of

testimony and, consequently, the accuracy and justice of judicial decisions. The absence of effective witness protection therefore constitutes one of the primary causes of weakened evidentiary reliability and increased judicial error (Jackson & Summers, 2018; Newman, 2020).

Another theoretical basis lies in the right to security and human dignity. Witnesses and informants, regardless of their procedural role, remain citizens entitled to personal security and respect for dignity. Threats, intimidation, social pressure, or psychological harm resulting from testimony represent direct violations of these fundamental rights. International legal instruments emphasize that states are obliged to create conditions enabling witnesses to participate in justice processes without fear of harm (United Nations, 2020).

From a functional perspective, witness protection is directly linked to the effectiveness of criminal justice systems. In many proceedings, witness testimony represents the sole or most decisive evidentiary element. If witnesses refuse cooperation or provide incomplete or inaccurate testimony due to fear, the judicial process becomes impaired and the pursuit of justice is undermined (Maguire & Sherrin, 2022).

The necessity of witness protection is also grounded in public trust in the judiciary. Citizens are willing to cooperate with criminal justice institutions only when they are confident that their safety and dignity will be safeguarded. Any harm inflicted upon witnesses or institutional indifference toward their condition weakens public confidence and reduces societal participation in the justice process. As Hoyle emphasizes, witness protection represents not only a legal duty but also a social investment aimed at strengthening public trust in justice institutions (Hoyle, 2021).

Theoretically, witness protection is also connected to restorative justice and protective justice approaches. These perspectives emphasize that criminal justice systems should not focus solely on punishing offenders but must also support individuals who participate in judicial processes. Within this framework, the witness is no longer viewed merely as an evidentiary instrument but as a person possessing psychological, social, and security needs deserving institutional protection (Daly & Holder, 2023).

Finally, the necessity of witness protection is related to crime prevention. Effective protection mechanisms send

a clear message to potential offenders that intimidation or retaliation against witnesses will be ineffective. Such a message may serve an important deterrent function, particularly in organized and violence-based crimes, thereby strengthening social security (Moffett, 2023).

Taken together, these theoretical foundations demonstrate that witness protection constitutes a multidimensional necessity encompassing legal, ethical, social, security, and functional dimensions. In advanced legal systems and international criminal tribunals, this necessity has materialized in the form of multilayered and specialized protection systems capable of serving as appropriate models for reforming protective structures within Iran.

2.3. *The Position of Witness Protection in Iranian Law*

The position of witness and informant protection within Iranian law has received increasing attention in recent years; nevertheless, it remains at an early and fragmented stage and still differs substantially from standards adopted in advanced legal systems. Within Iran's legal framework, testimony constitutes one of the most significant means of proof, playing a decisive role in many proceedings, particularly those involving security offenses, organized crime, violence-related crimes, and administrative corruption. Despite this importance, witness protection has not yet developed into an independent legal institution and is instead addressed through limited and unsystematic provisions (Hosseini, 2021).

The Criminal Procedure Code of 2013 represented the first formal legislative step toward recognizing witness protection by referring, in provisions such as Article 214, to the possibility of adopting protective measures. However, these provisions lack precise definitions, clear standards, effective enforcement guarantees, and a specific institutional mechanism. The legislator merely refers to the adoption of "necessary measures," leaving determination largely to prosecutorial or judicial discretion without establishing executive tools or specialized institutions. Consequently, witness protection in practice often depends on case-by-case decisions and lacks coherence and operational effectiveness (Khaleghi, 2023; Zarei, 2022).

The Executive Regulation on the Protection of Witnesses and Informants adopted in 2015, although considered a supplementary development, has not substantially

strengthened the institutional status of witness protection within Iranian criminal procedure. Due to its administrative nature, implementation limitations, and absence of institutional backing, many protective measures envisioned—such as relocation, physical protection, or identity confidentiality—remain largely unenforceable because of insufficient funding, infrastructure, and organizational capacity. Moreover, the regulation adopts a predominantly security-oriented approach and fails to address psychological, social, or cultural forms of support (Karimi, 2020).

More recently, the adoption of the Law on the Protection of Corruption Whistleblowers in 2023 marked an important development aimed at safeguarding individuals who disclose information concerning economic and administrative offenses. Nevertheless, this legislation is limited to corruption-related reporting and cannot address broader deficiencies in witness protection across other categories of crime. Its effective implementation also depends upon specialized institutions and supervisory mechanisms that have not yet been fully established (Moradi, 2023; Rostami, 2023).

One of the most significant challenges concerning witness protection in Iran is the absence of an independent and specialized institution. Unlike international criminal tribunals, which have established professional units such as the Victims and Witnesses Unit within the International Criminal Court, responsibility for witness protection in Iran largely rests with the public prosecutor. Given the extensive duties already assigned to prosecutors and the lack of specialized expertise in security, psychological, and social protection, this institutional arrangement has resulted in fragmented, inconsistent, and non-specialized protection practices (Hosseini, 2021).

From a practical standpoint, witness protection in Iran also faces serious operational challenges. Confidentiality of witness identity is frequently not maintained during various stages of proceedings, and personal information may be disclosed in police reports, indictments, or even public media coverage. Post-testimony protection mechanisms are almost entirely absent, leaving witnesses exposed to threats, social pressure, or economic harm after providing testimony. No structured programs exist to prepare witnesses for court participation, and psychological or social support

services are generally absent from procedural frameworks. As a result, many individuals refrain from cooperating with judicial authorities or alter their testimony due to fear of potential consequences (Sadeghi, 2024).

Overall, the position of witness protection in Iranian law remains at an early developmental stage and requires comprehensive structural, legislative, and institutional reform. Experiences drawn from international legal systems demonstrate that witness protection must be designed as an independent, multilayered, and specialized institution capable of guaranteeing fair trial standards, facilitating truth discovery, and strengthening public confidence in judicial institutions. For Iran, enhancing the status of witness protection necessitates movement toward establishing an independent authority, adopting comprehensive legislation, and creating effective protective and enforcement mechanisms.

3. Standards for Witness Protection in International Criminal Proceedings

Witness protection in international criminal proceedings constitutes one of the most advanced and coherent domains of international criminal law—a field that has developed significantly over the past three decades through the experience of various international tribunals, particularly the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia, and the International Criminal Tribunal for Rwanda. The importance of this topic arises from the fact that, in many international cases, witness testimony is among the primary tools for truth-finding and proof of crime. Such witnesses often testify in circumstances marked by serious threats, political pressure, organized violence, psychological trauma, and security risks. Accordingly, the establishment of effective protective mechanisms is not only an ethical imperative but also a necessary condition for making international adjudication feasible (Cassese, 2019; Cryer et al., 2022). From the earliest days of their operation, international tribunals recognized that, without guarantees of witness safety and well-being, free and meaningful participation would not be possible, and the entire judicial process could be undermined. For this reason, each tribunal—taking into account the particular political, social, and security conditions of its cases—developed specific

protective standards and mechanisms. Over time, these standards evolved into a set of shared principles that are now often described as an “international system of witness protection” (Findlay & Henham, 2015; Sluiter, 2020).

As the first permanent international criminal institution, the International Criminal Court has established the most advanced and structured protection regime. Its Victims and Witnesses Unit (VWU) operates as a specialized and multidisciplinary body responsible for risk assessment, provision of security, psychological and social support, and ensuring the confidentiality of witnesses’ identities. Drawing upon the experience of earlier ad hoc tribunals, the ICC has designed a multilayered system in which witness protection is treated as an inseparable element of fair trial guarantees (Hoyle & Ullrich, 2020; Von Hebel, 2018).

The International Criminal Tribunal for the former Yugoslavia was the first tribunal to confront witness intimidation in the context of active armed conflict in a sustained and systematic manner. Through a broad range of identity-based, security-related, and procedural measures—such as pseudonyms, closed sessions, voice and image distortion, and restrictions on access to sensitive information—it played a critical role in shaping early standards of witness protection. The ICTY experience demonstrated that, in wartime and post-conflict settings, protective measures must be flexible, rapid, and proportionate to the level of risk (Harmon, 2014; Sluiter, 2020).

The International Criminal Tribunal for Rwanda faced a different constellation of challenges. It operated in a context where Rwandan society had suffered profound institutional and social collapse following genocide, and many witnesses—including children, survivors of widespread violence, and individuals with severe psychological harm—continued to live in environments still influenced by perpetrators. By emphasizing psychological, social, and culturally sensitive forms of support and by creating special arrangements for vulnerable witnesses, the ICTR contributed significantly to the development of the concept of the “vulnerable witness” in international criminal law (Clark, 2017; Morris, 2016; Newman, 2020).

A comparative examination of these three institutions indicates that international witness protection standards rest upon a shared set of principles: ensuring

security and confidentiality, providing psychological and social support, establishing independent and specialized bodies, and designing measures proportionate to assessed risk. Together, these principles have formed a system that is widely regarded as one of the most important achievements of international criminal law and that can serve as a valuable model for domestic legal systems (Bassiouni, 2016; Sluiter, 2020).

3.1. *Witness Protection before the International Criminal Court (ICC)*

Among all international criminal bodies, the International Criminal Court has developed the most advanced and systematic mechanism for witness protection. This protection regime rests on three central pillars: first, a detailed and binding legal framework embedded in the Rome Statute and the Rules of Procedure and Evidence; second, an independent and specialized institutional structure operating through the Victims and Witnesses Unit; and third, a dynamic and development-oriented body of jurisprudence that has progressively expanded both the scope and depth of protection in numerous cases. Taken together, these elements form a multilayered and operationally effective system designed to secure the safety, well-being, dignity, and meaningful participation of witnesses throughout proceedings (Cassese, 2019; Cryer et al., 2022).

At the legal level, Article 68 of the Rome Statute functions as the cornerstone of the ICC’s protective framework. It obliges the Court to take “appropriate measures” to protect the security, physical and psychological well-being, dignity, and privacy of witnesses. This broadly framed obligation provides the legal basis for issuing extensive protective orders and enables judges to impose diverse measures based on risk assessment, case context, and witness vulnerability (Bassiouni, 2016; Sluiter, 2020).

At the institutional level, the Victims and Witnesses Unit represents one of the ICC’s most consequential innovations. Operating within the Registry, the Unit enjoys significant functional independence and is tasked with individualized risk assessment for each witness, provision of psychological, social, and medical support, witness familiarization and preparation for courtroom participation, coordination of relocation or resettlement, safeguarding confidentiality of information, and delivering security advice. The Unit is staffed by

professionals with expertise in psychology, security, social work, and law. Its independence is particularly important because it enhances witness confidence in the protective system; without such trust, many witnesses would be unwilling to cooperate with the Court (Hoyle & Ullrich, 2020; Von Hebel, 2018). In addition, the Unit plays a preventive role: by assessing risk and implementing suitable measures before threats materialize, it seeks to prevent harm rather than merely respond after damage occurs (Von Hebel, 2018).

At the jurisprudential level, the ICC has used protective measures extensively across multiple cases. It has employed identity-protection tools, including procedural arrangements that reduce exposure and mitigate risk, while attempting to maintain an appropriate balance with the rights of the defense. The Court's approach in this area reflects a continuing effort to operationalize witness protection as a core fair-trial safeguard rather than as a merely administrative add-on (Cryer et al., 2022; Sluiter, 2020).

Another important feature of ICC practice is a functional approach to the concept of "witness." In various proceedings, individuals holding indirect or contextual knowledge relevant to truth-finding have also been brought within the protective framework. This functional orientation tends to widen the protective umbrella and enhance operational effectiveness by focusing on the individual's contribution to establishing facts rather than on a narrowly formal category (Bassiouni, 2016; Newman, 2020).

Alongside these elements, the ICC has also paid particular attention to the protection of victims and witnesses in cases involving sexual violence. In such contexts, the Court has sought to reduce the risk of retraumatization through supportive measures, the involvement of specialized expertise, and procedural management aimed at preventing humiliating or harmful questioning and limiting unnecessary exposure. This approach reflects the broader trend in international criminal justice toward integrating psychological and social protection into procedural design (Hoyle, 2021; Sluiter, 2020).

The ICC's witness protection regime can be assessed from several angles. Structurally, the existence of a specialized unit with meaningful independence stands out as a principal strength, because independence from prosecutorial and judicial functions tends to build

witness trust and encourages cooperation. In terms of diversity and flexibility, the ICC has access to a spectrum of identity-related, physical, psychological, social, and procedural measures, enabling tailored combinations that correspond to the nature and degree of risk. At the level of jurisprudence, the Court's practice remains dynamic and developmental, continually refining and expanding protective techniques. More fundamentally, the ICC treats witness protection as part of the architecture of international criminal justice rather than as a peripheral administrative measure, and this conceptual stance has had a profound impact on the effectiveness of its protection system (Sluiter, 2020; Von Hebel, 2018).

3.2. *Witness Protection before the International Criminal Tribunal for the Former Yugoslavia (ICTY)*

The International Criminal Tribunal for the former Yugoslavia represents one of the earliest and most significant international criminal bodies to establish a comprehensive, sophisticated, and pioneering system for witness protection. Its importance lies in the fact that many of the protective standards currently applied by the International Criminal Court and other international tribunals were first designed, tested, and institutionalized within this tribunal. The ICTY commenced its work during the 1990s amid the violent Balkan conflicts, characterized by ethnic cleansing, systematic sexual violence, armed hostilities, and the collapse of governmental structures. In such circumstances, witnesses were not only exposed to serious threats but often lived within communities still controlled by the accused or their affiliates. Consequently, the Tribunal was compelled to create a protective framework capable of responding to real, widespread, and organized threats against witnesses. These exceptional conditions ultimately transformed the ICTY into one of the most advanced witness protection systems in the history of international criminal adjudication (Cassese, 2019; Robertson, 2016).

The legal framework for witness protection before the ICTY was primarily developed through its Rules of Procedure and Evidence. Two provisions played a particularly central role: Rules 69 and 75. Rule 69 permitted the non-disclosure of a witness's identity prior to trial and, in certain circumstances, even during proceedings, allowing prosecutors to disclose identifying

information only when adequate security guarantees existed. Rule 75 provided a wide range of protective measures, including closed sessions, use of pseudonyms, voice and image distortion, restrictions on access to confidential information, redaction of testimony in public records, and protective orders directed at media disclosure. These provisions were deliberately flexible, enabling judges to adopt combinations of measures based on individualized risk assessments. Such rules emerged as a necessary response to unprecedented levels of intimidation directed at witnesses and became foundational elements of later international practice (Cassese, 2019; Cryer et al., 2022).

Alongside its legal framework, the ICTY established a specialized Witnesses and Victims Support structure responsible for implementing protective measures. This unit undertook extensive responsibilities, including individualized risk assessment, provision of psychological and social assistance, coordination of relocation or temporary accommodation, security consultation, and support for witnesses' families. Its personnel included psychologists, social workers, security specialists, and legal experts. One of the defining characteristics of the unit was its relative institutional independence, which enabled it to conduct security assessments without direct interference from prosecutors or judges. This independence significantly increased witness confidence in the Tribunal and encouraged participation in highly sensitive proceedings (Harmon, 2014; Sluiter, 2020).

The jurisprudence of the ICTY also played a decisive role in shaping international protection standards. In early proceedings, the Tribunal authorized witnesses to testify under pseudonyms and through protective arrangements designed to conceal identity, marking a turning point in international criminal procedure. For the first time, an international court formally accepted that extensive identity-protection measures could be justified—even where they imposed certain limitations on defense rights—provided that overall fairness of proceedings remained preserved. The Tribunal reasoned that witness protection formed an essential component of fair trial guarantees because, without witness security, truth-finding would be impossible (Cryer et al., 2022; Jackson & Summers, 2018).

In subsequent cases involving mass atrocities, including prosecutions arising from the Srebrenica genocide, the

ICTY issued particularly stringent protective orders to prevent retaliation against witnesses. Some witnesses were former members of armed forces and faced serious risks of revenge or intimidation. The Tribunal therefore restricted access to identifying information to an extremely limited circle of authorized individuals, demonstrating its willingness to adopt exceptionally strong measures when required to ensure witness safety (Robertson, 2016; Sluiter, 2020).

A notable feature of ICTY practice was its expansive interpretation of the concept of a witness. Protection was extended not only to individuals possessing direct knowledge of criminal events but also to those holding contextual, structural, or indirect information relevant to establishing responsibility. This functional approach broadened the protective framework and enabled many threatened individuals to testify without fear. In doing so, the Tribunal transformed the notion of the witness from a purely evidentiary role into a participatory and protection-oriented status within international criminal justice (Bassiouni, 2016; Newman, 2020).

The ICTY also placed significant emphasis on psychological and social protection. Many witnesses were survivors of sexual violence, torture, or ethnic persecution, and participation in judicial proceedings carried a substantial risk of retraumatization. Through continuous psychological counseling, social assistance, and structured support mechanisms, the Tribunal sought to prevent secondary victimization. In this sense, the ICTY was among the first international criminal bodies to recognize psychological care as an integral component of judicial protection rather than an auxiliary service (Hoyle, 2021; Morris, 2016).

In addition to psychological measures, the Tribunal implemented extensive physical and security protections. Witnesses were, in certain cases, relocated to safe locations, provided with security escorts, or temporarily transferred outside their home countries. In exceptional situations, resettlement programs were coordinated in cooperation with states willing to host protected witnesses. These practices illustrate that the ICTY regarded witness protection not merely as a legal obligation but as a practical prerequisite for uncovering the truth in complex international prosecutions (United Nations, 2021; Unodc, 2020).

From an analytical perspective, the ICTY protection regime may be evaluated across several dimensions.

Structurally, the Tribunal was among the first international bodies to establish a specialized institutional unit dedicated to witness protection, combining operational, psychological, and security expertise. The relative independence of this unit enhanced institutional credibility and strengthened witness trust. From the standpoint of judicial practice, the ICTY played a formative role in developing protective jurisprudence that later influenced the International Criminal Court and other international mechanisms. Through its institutional innovations and evolving case law, the ICTY laid the foundations of what has become the contemporary international standard for witness protection in international criminal proceedings (Cassese, 2019; Sluiter, 2020).

3.3. *Witness Protection before the International Criminal Tribunal for Rwanda (ICTR)*

The International Criminal Tribunal for Rwanda constitutes one of the most influential international criminal institutions in the development of witness protection standards. Its importance extends beyond prosecuting the crimes of the 1994 Rwandan genocide; rather, it lies in the fact that the Tribunal operated in circumstances marked by the near-total collapse of social and governmental structures, widespread insecurity, and continuing influence of genocide perpetrators within local communities. Many witnesses continued to reside in environments where individuals responsible for mass atrocities retained social or political power. Under such conditions, witness protection was not a supplementary procedural measure but an essential prerequisite for the very possibility of criminal adjudication. The ICTR recognized that without a comprehensive, specialized, and multilayered protection system, witnesses would be unwilling to testify about crimes whose perpetrators remained present in society. These extraordinary circumstances led the Tribunal to develop one of the most sensitive and advanced protection regimes in the history of international criminal justice (Cassese, 2019; Henry, 2019).

One of the most distinctive features of the ICTR was its particular emphasis on the protection of child and adolescent witnesses. During the Rwandan genocide, thousands of children directly witnessed massacres, village destruction, displacement, and widespread

violence. Many had lost family members and lived under severe psychological and physical insecurity. Recognizing this reality, the Tribunal introduced specialized protective measures tailored to young witnesses. In several proceedings, children were permitted to testify without physical confrontation with the accused, and remote testimony mechanisms were employed. These measures marked an important turning point in international criminal procedure, demonstrating that the Tribunal was prepared, when necessary, to adjust procedural practices to safeguard vulnerable witnesses while maintaining overall fairness of proceedings. The ICTR thus established an early model for child-sensitive justice within international criminal law (Hoyle, 2021; Newman, 2020).

Beyond child protection, the ICTR devoted significant attention to witnesses suffering psychological trauma resulting from genocide-related experiences. Many witnesses experienced severe post-traumatic stress and emotional distress, and participation in court proceedings risked retraumatization. The Tribunal's witness support structures provided psychological counseling, social assistance, and continuous accompaniment throughout judicial proceedings. Cooperation with non-governmental organizations, medical institutions, and local community networks enabled the creation of a broader support system addressing both legal participation and psychological recovery. The ICTR is therefore widely regarded as one of the first international tribunals to recognize psychological support as an integral component of criminal justice rather than a peripheral welfare measure (Daly & Holder, 2023; Morris, 2016).

The Tribunal also confronted the complex challenge of protecting witnesses living in insecure environments. Many witnesses remained in rural regions still influenced by individuals connected to genocide crimes. To address these risks, the ICTR implemented extensive security measures, including relocation to safe areas, provision of security escorts, and, in exceptional circumstances, temporary transfer to third countries. In certain cases, states cooperated with the Tribunal to facilitate resettlement programs designed to ensure long-term safety. These measures illustrate that the ICTR viewed witness protection not merely as a legal obligation but as a practical necessity for truth-finding; without such safeguards, many witnesses would never

have testified about atrocities committed within their own communities (United Nations, 2021; Unodc, 2020). Identity protection constituted another central feature of ICTR practice. In numerous proceedings, witness identities were strictly restricted, sometimes even within confidential case materials, allowing access only to a narrowly defined group of authorized individuals. Particularly in cases involving former militia members or individuals exposed to retaliation risks, witnesses were permitted to testify under pseudonyms or through video-link testimony. These measures reflected the Tribunal's willingness to adopt stringent identity protections where required by security considerations (Newman, 2020; Sluiter, 2020).

A further distinguishing characteristic of the ICTR was its attention to Rwanda's cultural and social context. Many witnesses belonged to tightly interconnected traditional communities where testifying against fellow community members could result in social exclusion or communal retaliation. The Tribunal therefore sought to adapt its protective measures to local cultural realities. In certain instances, witnesses were allowed supportive presence from trusted community figures or culturally familiar intermediaries, reinforcing their sense of safety and legitimacy. This culturally sensitive approach demonstrated that effective witness protection must account not only for legal and security dimensions but also for social and cultural dynamics influencing witness participation (Clark, 2017; Findlay & Henham, 2015).

The ICTR also played a decisive role in developing the concept of the "vulnerable witness." For the first time, international criminal practice formally recognized differentiated categories such as child witnesses, psychologically traumatized witnesses, displaced persons, and individuals exposed to communal or ethnic threats. Tailored protective measures were designed for each category, thereby transforming witness protection into an individualized and risk-based system. This conceptual innovation later influenced the jurisprudence and institutional practice of the International Criminal Court and contributed significantly to contemporary international standards (Hoyle & Ullrich, 2020; Newman, 2020).

From an analytical standpoint, the ICTR protection regime may be assessed across several dimensions. Structurally, the Tribunal was among the first international bodies to integrate psychological and social

support into the core architecture of criminal proceedings, demonstrating that witness protection extends beyond physical security concerns. This dimension highlights a significant gap between international standards and systems in which psychological and social protections remain underdeveloped. From the perspective of child protection, the ICTR established innovative standards later adopted by subsequent international tribunals. In terms of interpretative methodology, the Tribunal applied a development-oriented reading of protective rules, expanding the scope of protection even within relatively limited legal frameworks. Finally, its emphasis on cultural sensitivity illustrated that witness protection must be adapted to the social environment in which witnesses live, an insight of particular relevance for legal systems operating within strong traditional or community-based social structures (Clark, 2017; Daly & Holder, 2023).

4. The Status of Witness and Informant Protection in Iranian Law

An examination of the status of witness and informant protection in Iranian law indicates that, over recent decades, the legal system has undertaken efforts to develop protective mechanisms; however, these efforts have not yet reached a stage at which they can be regarded as a coherent, effective protection regime comparable to international standards. Iran's protective structure is largely built on fragmented provisions, administrative duties, and limited measures, and it lacks an independent institution, strong enforcement guarantees, and the multilayered approach commonly observed in international fora. To understand Iran's situation accurately, three principal dimensions must be assessed: first, the existing legal framework; second, the institutional and executive structure; and third, practical and judicial practice. Taken together, these dimensions provide a clear picture of the strengths, weaknesses, and challenges of Iran's protection system.

At the legal level, the most important provisions related to witness protection in Iran are found in the Criminal Procedure Code of 2013 and the Executive Regulation on the Protection of Witnesses and Informants adopted in 2015. Article 214 of the Criminal Procedure Code provides that "whenever there is a risk of harm to a witness or informant, the investigating judge is obliged

to take the necessary measures to protect them.” This provision introduced the concept of “risk of harm” into Iranian criminal procedure discourse for the first time and, on its face, represented a significant step toward protecting witnesses. Nevertheless, the article suffers from several fundamental limitations. First, the concept of “risk of harm” is not defined, and no clear criteria are articulated for its assessment. This ambiguity has led to decision-making on protective measures becoming heavily dependent on the discretion of the competent authority, with many situations of threat being overlooked in practice. Second, Article 214 refers primarily to the investigating judge and does not establish an independent or specialized body responsible for risk assessment and implementation of protection measures, despite the fact that international systems rely on specialized units staffed by professionals. Third, Article 214 provides no explicit enforcement mechanism where protective measures are not adopted; accordingly, if the competent authority declines to implement protection, there is no clear legal process to compel compliance. In this sense, the provision has often been criticized as lacking effective enforceability and operating more as a general exhortation than as a robust legal duty (Akhoundi, 2019; Khaleghi, 2023).

The 2015 Executive Regulation on the Protection of Witnesses and Informants attempted to specify certain protection measures. In its provisions, it anticipates measures such as physical protection, change of residence, confidentiality of identity, and accompaniment by security officers. However, this regulation also faces serious constraints. First, as an administrative instrument, it occupies a lower rank than statutory law in the hierarchy of norms and therefore cannot, by itself, create strong mandatory obligations with robust enforcement guarantees. Second, many of the measures envisaged remain difficult or impossible to implement in practice due to insufficient budgetary allocations, limited logistical capacity, and the absence of an appropriate executive structure. Third, the regulation makes no meaningful provision for psychological, social, or culturally responsive support, focusing instead on security and physical measures, whereas international practice treats psychosocial assistance as an integral component of witness protection regimes (Hosseini, 2021; Karimi, 2020).

Alongside these instruments, the Law on the Protection of Corruption Whistleblowers adopted in 2023 introduced certain protections for individuals reporting corruption. Although this law does not directly govern witnesses in criminal proceedings, corruption whistleblowers frequently function as witnesses or informants in practice, and the law can therefore be viewed as a partial component of a broader protective landscape. The law envisages measures such as confidentiality of identity, employment protection, financial support, and security measures. Nevertheless, it is limited in scope, as it applies primarily to corruption reporting and does not extend to witnesses in other categories of crime. Its implementation also requires specialized institutions and adequate resources that have not yet been fully established. Moreover, like Article 214, it is often regarded as lacking sufficiently strong enforcement mechanisms for breaches of confidentiality or threats against protected persons (Moradi, 2023; Rostami, 2023).

At the institutional level, the most significant weakness of Iran’s protection system is the absence of an independent witness protection body. In international fora, specialized units—such as those operating before the International Criminal Court, the ICTY, and the ICTR—are responsible for risk assessment, delivery of psychosocial support, coordination of relocation and resettlement, and ensuring confidentiality of information. These units are staffed by professionals in psychology, security, social work, and law, and they enjoy meaningful operational independence. No comparable institution exists in Iran. As a result, witness protection in Iran often takes on an administrative and largely formalistic character, and, in practice, many witnesses remain exposed to threats without adequate support. This institutional gap has been identified as a central cause of witness reluctance, including avoidance of court appearance or alteration of testimony under pressure (Akhoundi, 2019; Hosseini, 2021).

At the executive level, the practical implementation of witness protection in Iran faces serious difficulties. First, many measures mentioned in legal texts or regulations are not implemented in practice; for example, relocation or temporary accommodation is often effectively unavailable due to limited resources and institutional capacity. Second, confidentiality of witness identity is frequently not respected, with identifying information

disclosed at various procedural stages, including police reports, indictments, hearings, and, in some cases, public media coverage. Third, there is no clear mechanism for protecting witnesses' family members, despite the fact that threats often target relatives rather than the witness directly. Fourth, there is no structured system of psychological or social support; witnesses commonly participate in proceedings without specialized assistance. Fifth, there is no systematic program for preparing and informing witnesses about courtroom procedure, their rights, or available protective measures, despite the fact that witness familiarization is a central function of protection units in international practice (Hoyle, 2021; Sadeghi, 2024).

In addition to these operational challenges, Iranian judicial practice concerning witness protection remains limited. Courts rarely resort to protective measures and, in many instances, do not fully use even the modest powers available. By contrast, in international forums, jurisprudence plays a major role in developing protection standards by expanding the scope of measures and filling legal gaps through innovative judicial decisions (Cryer et al., 2022; Sluiter, 2020).

A continuing review of Iran's situation indicates that one of the most important structural problems is the absence of a multilayered and specialized approach. International mechanisms employ multidimensional protection models encompassing security, identity protection, psychological support, social assistance, cultural sensitivity, and, in some cases, economic safeguards. In Iran, protection is largely reduced to basic security considerations, and even those are applied in a limited manner. Whereas the ICC's protection architecture integrates professional competencies across psychology, social work, security, and legal expertise, the Iranian framework does not reflect such specialization, resulting in shallow, inconsistent, and often ineffective protection (Kirchengast, 2020; Von Hebel, 2018).

Another major challenge is the absence of effective confidentiality protections. In many cases, witness identity is disclosed at multiple procedural stages, which not only endangers the witness but discourages others from cooperation due to fear of retaliation. In international practice, confidentiality is a foundational principle, and breaches may carry serious legal consequences. In Iran, however, clear enforcement guarantees for breaches of confidentiality remain

underdeveloped, and even where disclosure results in intimidation or harm, effective follow-up is often lacking (Hosseini, 2021; Zarei, 2022).

A further issue is the lack of post-testimony support. In many cases, witnesses face threats, social exclusion, familial rejection, or economic hardship after giving testimony. International systems recognize that protection should not end at the moment testimony concludes and often provide longer-term safeguards such as resettlement, financial assistance, employment-related support, and continued psychological care. In Iran, there is no structured mechanism for post-testimony protection, and witnesses are frequently left without institutional support once proceedings move forward. This reality discourages cooperation and reduces public willingness to participate in criminal justice processes (Hoyle & Ullrich, 2020; Sharafuddin, 2021).

Another challenge concerns the absence of witness education and awareness programs. In international practice, witness familiarization and procedural education are core protective functions: witnesses are informed in advance about courtroom procedure, how to respond to questions, their rights, and available protective measures. Such preparation reduces anxiety, improves testimonial accuracy, and lowers the risk of psychological harm. In Iran, witnesses typically appear without structured preparation, which can lead to stress, confusion, and reduced quality of testimony (Hoyle, 2021; Kirchengast, 2020).

Additionally, the lack of protection for witnesses' families is a serious deficiency. Threats frequently target relatives, and international protection systems often incorporate family safeguards, including security measures and psychosocial support. Iranian law does not provide a clear framework for family protection, which further discourages witnesses from cooperating due to fear of harm to loved ones (Newman, 2020; Unodc, 2020).

From a cultural and social perspective, Iran's protection framework also faces significant obstacles. In many local communities, testifying against influential individuals or against members of one's family or tribe is socially condemned or perceived as dangerous. In such contexts, witness protection must be culturally responsive. The ICTR experience highlighted cultural sensitivity as a meaningful component of effective protection. In Iran,

however, protective arrangements are generally not designed with systematic attention to local social dynamics, reducing practical effectiveness (Clark, 2017; Findlay & Henham, 2015).

Finally, the absence of a development-oriented judicial practice represents a major weakness. In international systems, judicial decisions play a key role in extending protection standards and filling normative gaps. In Iran, judges typically adopt a more conservative approach and rarely use interpretive discretion to broaden protection. This contributes to the continued immaturity of the protection framework and hinders alignment with international standards (Cryer et al., 2022; Sluiter, 2020).

By contrast, international bodies such as the International Criminal Court, the ICTY, and the ICTR have developed multilayered, specialized, and operationally effective witness protection systems that can serve as useful models for reform in Iran. To move closer to these standards, Iran requires structural, legislative, and cultural reforms, including establishment of an independent witness protection institution, adoption of comprehensive and binding legislation, development of psychosocial support mechanisms, effective protection of confidentiality, and evolution of judicial practice in a more protection-oriented direction.

5. Conclusion

A comparative examination of protection systems developed within the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia, and the International Criminal Tribunal for Rwanda demonstrates that witness protection in criminal proceedings is not a subsidiary measure but a structural necessity for the realization of criminal justice. Through the establishment of independent institutions, adoption of binding procedural rules, development of judicial practice, and implementation of multilayered protective measures, these institutions have created effective, specialized, and reliable protection systems. Within these frameworks, witness protection encompasses security, identity, psychological, social, cultural, and even economic dimensions, and operates continuously before testimony, during proceedings, and after testimony has been given. The experience of these tribunals confirms that without effective witness

protection, truth-finding, proof of crime, and the administration of justice become practically impossible. In contrast, despite certain legislative and administrative efforts, the Iranian legal system still lacks a coherent and efficient structure in this field. Existing regulations remain fragmented, largely non-binding, and deficient in enforcement guarantees. No independent protection institution exists; psychological and social support mechanisms are largely absent; confidentiality of identity is not effectively ensured; post-testimony protection mechanisms are lacking; and a development-oriented judicial practice has not emerged. As a result, many witnesses refrain from cooperating with judicial authorities due to fear of potential consequences or alter their testimony under pressure. Consequently, the Iranian criminal justice system, in many instances, faces obstacles in achieving truth and delivering justice.

A comparison between Iran and international standards therefore demonstrates the necessity of fundamental reforms in the field of witness protection. Such reforms must be structural, legislative, and cultural, and should draw upon successful international experiences to establish a multilayered, specialized, and effective protection system.

Reform Proposals for Strengthening the Witness Protection System in Iran

1. Establishment of an Independent Witness Protection Institution

The creation of a *National Center for the Protection of Witnesses and Informants* with an independent organizational structure, dedicated budget, and multidisciplinary professional staff—including psychologists, social workers, security experts, cultural specialists, and legal professionals—is essential. This institution should operate similarly to specialized witness protection units in international tribunals and assume full responsibility for risk assessment, implementation of protective measures, and provision of psychosocial services.

2. Adoption of a Comprehensive and Binding Law

An independent and comprehensive statute should be enacted to:

- precisely define protective measures in mandatory terms;
- provide strong enforcement guarantees for breaches of confidentiality or threats against witnesses;

- cover protection before testimony, during testimony, and after testimony;
- extend protection to witnesses' family members.

3. Guaranteeing Confidentiality of Identity

Confidentiality of witness identity must be recognized as a fundamental principle of criminal proceedings. Unauthorized disclosure of identity should be criminalized and subject to clear penalties. Procedural mechanisms such as pseudonyms, closed hearings, and remote testimony should be formally incorporated into practice.

4. Development of Psychological and Social Support Mechanisms

Psychological and social assistance must become an inseparable component of witness protection, including:

- psychological counseling;
- social support services;
- accompaniment by trained specialists during court hearings;
- post-testimony rehabilitation programs.

5. Protection of Witnesses' Families

Because threats frequently target family members rather than witnesses themselves, legal provisions should include security, social, and, where necessary, economic protection for witnesses' families.

6. Establishment of Relocation and Temporary Safe Housing Programs

In situations involving serious risk, mechanisms should exist for relocation or temporary placement of witnesses in secure locations. Such measures have proven highly effective in international practice.

7. Witness Education and Awareness Programs

Witnesses should receive prior orientation regarding court procedures, their legal rights, and available protective measures. These programs reduce anxiety and improve the accuracy and quality of testimony.

8. Development of Protective Judicial Practice

Judges should actively utilize their procedural powers to expand protective measures. Innovative judicial practice can compensate for legislative gaps and contribute to the progressive development of protection standards.

9. Consideration of Cultural and Social Contexts

Witness protection policies should be designed with sensitivity to Iran's cultural and social environment. In some local communities, testifying against influential individuals or members of one's clan may carry

significant social risk; protective measures must therefore be adapted to these realities.

10. Allocation of Adequate Financial Resources

No protection system can function effectively without sufficient funding. The state must allocate stable and dedicated financial resources to ensure the practical implementation and sustainability of witness protection measures.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

Declaration of Interest

The authors report no conflict of interest.

Funding

According to the authors, this article has no financial support.

Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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