

The Urgency of Witness and Victim Protection in Transnational Crimes: A Comparative Study of International Law

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ABSTRACT: The growing complexity of transnational crimes such as human trafficking, narcotics trafficking, cyber-enabled offenses, and cross-border corruption has heightened the urgency of effective witness and victim protection mechanisms. Witnesses and victims face substantial risks of intimidation and retaliation, which can undermine investigations and prosecutions. This study employs a normative juridical method combined with a comparative legal approach to examine the international legal framework particularly the UN Convention against Transnational Organized Crime (UNTOC) and the Trafficking in Persons Protocol and its implementation across several jurisdictions. Data were collected through library research, including international instruments, national regulations, and recent academic literature, and analysed qualitatively using statute and conceptual approaches. The findings indicate a persistent gap between international standards and domestic implementation. Substantive challenges arise from fragmented legal norms, divergent definitions of transnational crimes and witness/victim status, and the absence of a unified legal basis for cross-border relocation. Implementation challenges include limitations in resources, weak inter-agency coordination, the lack of standardized cross-jurisdictional procedures, and increasing difficulties related to digital identity protection and electronic evidence. Comparative analysis shows significant variation in protection models, ranging from comprehensive systems such as WITSEC in the United States, strong oversight structures in Canada, to fragmented arrangements in Australia. In Indonesia, the Witness and Victim Protection Agency (LPSK) continues to face constraints in capacity and international cooperation. This study recommends harmonizing international and domestic norms, strengthening mutual legal assistance mechanisms, establishing fast track cross-border cooperation systems, enhancing the capacity and resources of protection agencies, adopting a victim-centred approach, and developing shared standards for digital evidence management and secure technological tools for witness examination. Implementing these recommendations is essential to improving witness and victim protection and reinforcing the effectiveness of transnational crime enforcement.

KEYWORDS: Protection of Witnesses and Victims, Transnational Crime, International Cooperation

I. INTRODUCTION

Transnational crimes including cross-border narcotics trafficking, human trafficking, cross-border corruption, and organized cybercrime continue to evolve alongside globalization and technological advancement. The success of law enforcement efforts against transnational crime actors depends heavily on the participation of witnesses and victims who are willing to provide testimony, as well as on the capacity of states to protect them from intimidation, threats, and retaliation. Without adequate protection, witnesses and victims tend to be reluctant to come forward, thereby weakening judicial processes and allowing criminal networks to continue operating (Mark Shaw, 2023).

International literature demonstrates that the protection of witnesses and victims is an integral component of effective law enforcement against cross-border crimes. The UNODC emphasizes that witness protection is a primary prerequisite for successful investigations and prosecutions of transnational criminal organizations, given that threats and intimidation toward witnesses increase in proportion to the growing sophistication of organized crime. Several studies highlight that international instruments such as UNTOC have established minimum standards for witness and victim protection, yet domestic implementation frequently remains insufficient (Cantarella et al., 2024).

Under international law and national practice, various efforts have emerged to build effective protection mechanisms such as witness protection programs, anonymization procedures, and psychosocial assistance for victims although their implementation varies significantly across countries. Several international bodies stress that witness protection and victim-support policies must

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form an integrated part of strategies to combat transnational crime, including mechanisms for interstate cooperation in relocation, evidence-sharing, and procedural safeguards. Weak or inconsistent implementation risks undermining international cooperation in investigations and prosecutions (Aziz, 2025).

In many jurisdictions, practical challenges arise from limitations in substantive and procedural law (e.g., legislative deficiencies, gaps in extradition or surrender procedures, data-protection issues, and inter-agency coordination), as well as from fiscal and institutional-capacity constraints. Recent comparative studies indicate that countries with specific regulations, institutionalized witness-protection agencies, and robust international cooperation procedures tend to achieve higher levels of witness and victim participation and better law-enforcement outcomes. Nonetheless, empirical assessments also reveal the need for continuous improvement, including enhanced protections for victims of cybercrime and human trafficking both of which require harmonization between international standards and national practices (Arsawati et al., 2024).

Given these circumstances, it is essential to analyze the urgency and comparative dimensions of witness and victim protection in the context of transnational crime: how international legal frameworks and comparative practices across various jurisdictions provide legal and operational safeguards for witnesses and victims in transnational crime cases; what substantive and implementation barriers undermine the effectiveness of such protection; and what policy recommendations could strengthen protection mechanisms and enhance interstate cooperation. This comparative analysis is necessary to ensure that policy recommendations are properly aligned with the distinct enforcement needs associated with transnational criminal activity.

II. METHODS

This study employs a normative juridical approach, focusing its analysis on legislation, international legal instruments, and academic doctrines and literature related to the protection of witnesses and victims in transnational crimes. This approach is appropriate because issues concerning witness and victim protection are primarily rooted in international legal norms, such as the United Nations Convention against Transnational Organized Crime (UNTOC) and its accompanying protocols (*Victim assistance and witness protection*, s. d.). Moreover, the normative method enables an in-depth examination of the principles, concepts, and regulatory developments that form the essential foundation for shaping witness and victim protection policies.

In addition, the research uses a comparative legal approach to examine how legal frameworks and implementation mechanisms for witness and victim protection operate across several countries, including Indonesia, a common-law jurisdiction, and a civil-law jurisdiction. This comparative perspective is necessary to identify variations in protection models, the effectiveness of witness-protection institutions, and the degree of alignment between national practices and international standards, as highlighted in recent comparative studies (Arsawati et al., 2024).

The data were collected through library research by reviewing scientific journals from the past five years, reports from international organizations, policy documents, and decisions issued by international bodies. The study was then analyzed using qualitative methods, including the interpretation of legal norms (statute approach), a conceptual approach, and an evaluation of regulatory implementation in practice, as recommended by recent research on the effectiveness of witness and victim protection systems.

III. RESULTS AND DISCUSSION

A. The International Legal Framework and the Comparative Practices of Several Countries That Provide Legal and Operational Protection for Witnesses and Victims in Cases of Transnational Crime

The international legal framework governing the protection of witnesses and victims in transnational crime is primarily established through the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons. These instruments require State Parties to provide physical protection, procedural assistance, confidentiality safeguards, and access to recovery mechanisms for witnesses and victims. Academic literature consistently reiterates that witness protection is a fundamental prerequisite for effective transnational law enforcement, particularly because the cross-border nature of such crimes significantly heightens risks to witnesses (Amirullah et al., 2022).

These normative obligations are further reinforced at the policy level through various international recommendations that provide States with practical guidance for implementation. One notable example is Recommendation CM/Rec (2022)9 issued by the Committee of Ministers of the Council of Europe, which offers operational directives on protecting witnesses and justice collaborators. The document not only underscores the importance of identity confidentiality and cross-border relocation when domestic mechanisms are insufficient, but also stresses the need for psychosocial support and accountability systems to prevent abuse of authority. As such, the recommendation bridges international norms with practical implementation, illustrating that witness protection in transnational cases requires balancing confidentiality with transparency and the right to a fair process

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(Recommendation CM/Rec (2022)9 of the Committee of Ministers to member States on the protection of witnesses and collaborators of justice, 2022).

In line with these international developments, comparative practice across jurisdictions demonstrates a range of protection models that reflect how international principles are translated into national policy. The United States, through the Federal Witness Security Program (WITSEC), provides one of the most comprehensive and structured protection systems. WITSEC includes risk assessment, relocation, new identities, temporary financial support, and reintegration programs, illustrating that effective protection depends on close inter-agency collaboration and adequate administrative backing (*Witness Security | U.S. Marshals Service*, s. d.).

A different model can be observed in Canada, where the federal witness protection program implemented through the Royal Canadian Mounted Police (RCMP) emphasizes governance, oversight, and strong internal accountability mechanisms. Regular evaluations ensure program integrity and offer valuable lessons for other countries regarding the importance of robust supervisory structures. In contrast, Australia's experience demonstrates the risks of fragmentation: divided authority between federal and state levels often results in inconsistent standards, coordination gaps, and discontinuity of protection. Empirical studies on Australia highlight the need for structural reforms to harmonize standards, enhance interoperability, and create effective cross jurisdictional referral mechanisms (Monterosso, 2022).

In many developing countries, including Indonesia, the institutional landscape presents yet another dynamic. The Witness and Victim Protection Agency (LPSK) is the primary national institution responsible for implementing protection measures. Although supported by statutory frameworks such as the Witness and Victim Protection Law and provisions related to trafficking in persons, LPSK faces challenges in resources, operational procedures, and alignment with international cooperation mechanisms especially in cases involving cross-border elements. The high volume of protection requests related to trafficking cases indicates the need to strengthen LPSK's operational capacity and expand international cooperation arrangements to facilitate cross-border relocation and long-term victim support (Nararya, 2024).

Based on the international framework and comparative practice, several key principles emerge for strengthening protection in transnational crime cases. First, risk-assessment standards must be harmonized to ensure objective and accountable selection of protection beneficiaries. Second, protection services should be integrated holistically, encompassing psychosocial, economic, and legal support. Third, States must enhance bilateral and multilateral cooperation to ensure continuity of protection when witnesses require cross-border relocation. Fourth, independent oversight mechanisms should be strengthened to monitor the implementation of inherently confidential programs. These principles appear consistently across international instruments and established practices in advanced jurisdictions, offering a foundation for improvement in other countries (*United Nations Convention against Transnational Organized Crime*, s. d.).

Ultimately, contemporary challenges present two central dilemmas for policymakers. The first concerns balancing the need for operational confidentiality essential for witness safety with accountability and the right to a fair trial. The second involves ensuring long-term recovery for victims, particularly when relocation disrupts their social and economic ties. Addressing these dilemmas requires harmonizing international instruments (including UNTOC obligations and regional recommendations), strengthening national institutional capacity (such as that of LPSK), increasing sustainable resource allocation, and developing cross-border cooperation protocols that protect the legal status and fundamental rights of witnesses and victims throughout relocation and post-protection phases. Best practices from international experience WITSEC, Canada's federal program, and the Council of Europe guidelines combined with empirical evaluations such as those conducted in Australia, provide essential references for shaping policies that balance effective law enforcement with the protection of human rights (Annas & Izzul Asyrofisyauqi, 2024).

B. The Substantive and Implementation Barriers That Hinder the Effectiveness of Witness and Victim Protection in the Handling of Transnational Crimes, and the Policy Recommendations That Can Strengthen Protection Mechanisms and Enhance Cooperation Among States

In addressing transnational crimes, the effectiveness of witness and victim protection continues to face both substantive and implementation-related obstacles. Substantive challenges primarily arise from normative fragmentation across jurisdictions—such as differing definitions of cross-border crimes, varying qualifications for witness and victim status, and the absence of harmonized priority protection mechanisms. These inconsistencies mean that the substantive and procedural laws of one country do not necessarily provide an adequate legal basis for equivalent protective measures in another. As a result, access to mutual legal assistance (MLA) becomes slower, issues of double criminality frequently emerge, and differences in evidentiary standards complicate the use of cross-border witness testimony (Prawira & Alamsyah, 2023).

In addition, substantive barriers are compounded by institutional capacity gaps in both requesting and requested States. Several countries have yet to ratify or effectively implement MLA treaties or regional protocols, rendering evidence requests and witness

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transfers inefficient (Díaz-Pérez et al., 2022). At a more practical level, the absence of standardized rules on the recognition of protection status and international relocation mechanisms creates an imbalance between the sending and receiving countries when ensuring physical safety and new identities for witnesses participating in cross-border cooperation (Haprifanyuna et al., 2021).

Implementation obstacles further intensify these challenges. Limited financial and human resources within witness and victim protection agencies hinder the consistent delivery of services. Technical capacity for safeguarding digital identities remains low, and domestic inter-agency coordination among law enforcement, immigration, and protection bodies often lacks coherence (Mulyani & David, 2023). In many jurisdictions, protection measures remain reactive and case-by-case rather than systematic and sustainable. These gaps are even more evident in cases involving migrant victims or victims of trafficking, who face additional barriers such as immigration status, language limitations, and restricted access to social services, all of which reduce their willingness to report or participate as witnesses (Najib & Juned, 2025).

Technological issues and the growing reliance on electronic evidence further complicate the situation. Digital witness statements often require cross-border legal processes for preservation and authentication, while differences in data-protection and privacy regulations create delays or refusals in responding to electronic evidence requests. This, in turn, weakens witness protection because legal proceedings slow down and threats persist for longer periods.

Given the persistence of these obstacles, a number of strategic policy measures must be prioritized to ensure effective protection and strengthen cross-jurisdictional cooperation. Harmonizing norms and procedural agreements among States is essential, including through strengthened ratification and implementation of MLA instruments and the adoption of standard protocols for recognizing cross-border protection status such as temporary recognition mechanisms, interim relocation procedures, and rules for issuing new identities. Harmonization must also include clear guidelines on eligibility and prioritization for protection in transnational crime cases (Aziz, 2025). In regional frameworks such as ASEAN, States can develop joint operational mechanisms and fast-track referral systems that connect witness-protection agencies, cross-border police units, and immigration authorities. Such mechanisms should be formalized through operational memoranda of understanding outlining responsibilities, response timelines, and secure communication procedures (Siddiq et al., 2024).

Strengthening institutional capacity and securing sustainable funding must also become core components of policy reform. States should allocate dedicated budgets and provide integrated training for law enforcement officers, prosecutors, judges, and protection personnel, including on threat management, identity-protection techniques, and victim assistance. This reinforcement must be supported by independent audit and evaluation mechanisms to ensure accountability (Liana et al., 2025). A victim-centred approach is equally essential, including firewall policies that separate protection needs from immigration status so that migrant victims and trafficking victims can report without fear of deportation. These measures guarantee access to medical, psychological, and legal services.

As reliance on electronic evidence increases, States must establish joint technical arrangements for the preservation, authentication, and transmission of digital evidence. This includes secure transmission channels, uniform metadata standards, and mutual recognition mechanisms for electronic evidence to prevent administrative delays that undermine witness protection and judicial processes. Courts should also expand the use of secure video-link testimony and similar technologies to minimize physical exposure risks while safeguarding fair-trial guarantees, including the accused's right to confrontation and credibility testing (Pulvirenti, 2024).

To ensure continuity of cross-border coordination, it is crucial to build institutional trust through structured information sharing, capacity-building activities, secondment programs, and the establishment of joint task forces involving prosecutors, police, and victim-protection agencies. Such cooperation is widely recognized as a means of reducing bureaucratic barriers and enhancing operational responsiveness to threats faced by witnesses and victims in transnational crime cases. Ultimately, implementing these recommendations in an integrated manner linking normative harmonization, capacity strengthening, and procedural reform will significantly enhance the ability of States to protect witnesses and victims, accelerate judicial processes, and foster greater public trust in cross-border criminal justice systems.

IV. CONCLUSIONS

International legal frameworks such as UNTOC and the Trafficking in Persons Protocol require States to provide comprehensive protection for witnesses and victims in transnational crimes, including physical security, identity confidentiality, procedural assistance, and access to recovery mechanisms. International guidelines such as Recommendation CM/Rec(2022)9 complement these obligations by outlining operational standards on cross-border relocation, psychosocial support, and oversight mechanisms. Comparative practice demonstrates that States translate international principles into diverse national models: comprehensive

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systems such as WITSEC in the United States, oversight-oriented models such as those in Canada, and more fragmented arrangements such as in Australia. Developing countries, including Indonesia through the Witness and Victim Protection Agency (LPSK), continue to face challenges related to resources, international coordination, and implementation capacity. Overall, effective protection for witnesses and victims in transnational crime requires harmonizing international standards with national policies, strengthening cross-border cooperation, and ensuring holistic and accountable protection services.

The protection of witnesses and victims in transnational crimes is hindered by legal fragmentation across countries, differing standards for determining witness/victim status, weak legal foundations for international relocation, and limited ratification and implementation of MLA frameworks. Implementation barriers arise from insufficient resources, weak inter-agency coordination, the absence of cross-border standard operating procedures, limited technology for identity protection, challenges related to electronic evidence, and the heightened vulnerability of migrant victims. To enhance effectiveness, States must harmonize relevant norms, strengthen MLA mechanisms, establish fast-track cross-border cooperation systems, improve institutional capacity within protection agencies, adopt a victim centred approach, and develop shared standards for managing digital evidence and using secure testimony technologies. These measures will reinforce protection systems and strengthen international cooperation.

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