

Regulating the Acceptance of Witnesses in Corruption Cases within the Protection Program in the Saudi Law and its Obligations

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Abstracts

In light of the development of the means of corruption crimes and the diversity of their methods including the use of modern technology in these crimes, and based on the growing idea of everyone's responsibility to address this crime and their right to do so, considering that the cooperation between members of society and the relevant state institutions is one of the most important ways to confront and address this crime, and since there is a potential threat to those who address reporting or witnessing the commission of these crimes, the Saudi Arabia has issued a new law for the protection of whistleblowers, witnesses, experts and victims, issued by Royal Decree No. (M/148) dated 8/8/1445 AH, which clarifies the mechanism for protecting whistleblowers, witnesses, experts and victims, and how they are subjected to the protection program, their responsibilities, and the forms of protection provided to them.

In view of the vital role played by the witness in detecting and combating corruption crimes, and the emergence of a new law in the Kingdom that sets statutory rules for the protection of witnesses, this research aimed to answer a key question, what are the mechanisms for regulating the acceptance of witnesses in corruption cases within the protection program in the Saudi law and what are its obligations?

This will be done using the descriptive and analytical research methodology, by studying the legal regulation of the admission of the witness to the witness protection program, and his obligations.

The study reached several results, the most important of which are: the development of the Saudi regulation in corruption cases and the application of the necessary guarantees to ensure the protection of human rights, and highlighting the methods of its inclusion within the witness protection program in corruption cases and the limits of the witness's obligations, in the event when requesting for protection is approved.

Keywords: witness protection, corruption cases, witness protection program, Saudi law.

1. Introduction

Praise be to Allah and enough and prayers and peace be upon His worshipers who were chosen by Him.

And then

In many cases, the prosecution or the defense alike need to summon some people to hear their testimony or witness in order to show the truth, as witness is one of the most important evidence, and the importance of witness increases if it represents the only evidence in the case in which the witness is legally and according to Sharia obliged to initiate and testify to report the crime, and the importance of testimony in corruption cases increases in particular, as testimony plays an important role in the early detection and prevention of crimes, but this role of witnesses and whistleblowers is accompanied by several risks, as witnesses need a safe environment, which gives them confidence in the justice low, and makes them feel reassured when they come forward to testify, which requires the provision of a number of guarantees provided by the public authority in the country to protect them from the damage that may befall them as a result of their testimony or reporting crimes, and to provide the necessary information to detect them. There is no doubt that the reluctance of these people to provide their testimony and information has a negative impact on the state's ability to combat and reduce crimes, hence we can say that providing protection for witnesses and whistleblowers is rightly a cornerstone in the law of combating crimes in general, and corruption crimes in particular, which requires legislative intervention that provides protection. It should be noted that this subject has been dealt with internationally and regionally through various treaties and conventions, which dealt with texts that provide to some extent the protection of witnesses, and domestic laws were not free from exposure to this matter, but Saudi Arabia was not in this stage, as Saudi Arabia issued a special modern law called "The law for the Protection of Whistleblowers, Witnesses, Experts and Victims". This will be the subject of our study hopefully entitled: "Regulating the acceptance of witnesses in corruption cases within the protection program in the Saudi law and its obligations."

Importance of Research:

The research finds its importance in the following :

- 1- The modernity of the law issued in its regard in Saudi Arabia, and the scarcity of statutory (legal) studies about it, as the Law for the Protection of Whistleblowers, Witnesses, Experts and Victims was issued in 2024.
- 2- Confronting the qualitative development in the methods and means of threatening and assaulting witnesses.
- 3- The existence of cases of threats to witnesses to discourage them from testifying, which calls for exploring ways to protect witnesses to strengthen the fight against corruption.

Study problem:

Corruption crimes are one of the most serious crimes that threaten countries and societies, and because they are like other crimes that lack evidence, including testimony, comparative laws have concerned the issue of protecting witnesses and whistleblowers, and this research tries to

shed light on the issue of regulating the acceptance of witnesses in corruption cases within the protection program in the Saudi law and its obligations, in order to answer a key question, which is: What are the mechanisms for regulating the admission of witnesses in corruption cases within the protection program in the Saudi law and what are its obligations?

Within the framework of this main question, a set of sub-questions that we will try through the study to answer, are as follows:

- What is the mechanism for accepting the witness to the approved witness protection program?
- What are the obligations of the protected person?

2. Research Methodology:

In preparing this research, I relied on the descriptive analytical approach, in order to study the regulating of the acceptance of the witness in corruption cases within the protection program in the Saudi law and its obligations, the descriptive approach appears through our description of the procedures taken by the program to include the witness protection.

As for the analytical method, I tried to analyze the provisions of the Saudi whistleblowers, witnesses, experts and victims protection law, in order to determine the organization under study.

Previous studies:

I did not find according to my knowledge a research or study related to this topic within the scope of the Saudi law, and this may be due to the novelty of the law for the protection of whistleblowers, witnesses, experts and victims, as it was approved in early 2024.

Research Limitations:

The subject will be studied within the limits of the law for the protection of whistleblowers, witnesses, experts and victims issued by Royal Decree No. (M/148) dated 8/8/1445 AH, highlighting Arabic and international conventions in the same context.

Research Plan:

The study of this topic necessitated dividing the research into an introduction, two sections, a conclusion, and then a list of references, as follows:

Introduction: It included the importance of the research, its problem, research methodology, previous studies, and research divisions.

Subchapter I: Regulation of the Admission of the Witness to the Protection Programme

Section II: Obligations of the Protected Person

Conclusion: It contains the most important results

Indexes: list of sources and references.

Section I

Regulation of the admission of the witness to the protection program

Referring to the provisions of the Saudi law, we find that it includes two ways for the witness to be subject to protection in accordance with the program for the protection of whistleblowers, witnesses, experts and victims , the first through the witness's submission of a reasoned request, and the second through the Public Prosecutor without a request or even prior approval from the witness, which we will discuss in this section as follows:

First: Witness Request for Protection:

Article (7) of the Law on the Protection of Whistleblowers, Witnesses, Experts and Victims stipulates that: " The whistleblower, witness, expert or victim shall not be accepted in the program unless the acceptance is based on the following:

- 1- A reasoned request from any of them to provide protection.
- 2- Recommended by the regulatory authority, the control authority, the evidentiary body, the investigation authority or the court based on the available information on the justifications for providing protection."

It is clear from this text that the organizer allowed the witness, whenever he felt a danger that might befall him, to apply for coverage under the protection of the programme.

The first is that it is justified, and the second is that it will be accompanied by a recommendation from the relevant authorities (which is numbered in the aforementioned article), confirming in the recommendation that there is a need to subject the witness to the protection program according to the information available to them.

The regulator identified several factors that should be taken into account when considering the application for protection:

- Appropriateness of including the person sought for protection in the program, including criminal history , if any, and psychological assessment.
- The nature of the danger threatening the security of the person sought to be protected.
- The type and gravity of the offence related to the crime related to the application for protection.
- The ability of the person sought to be protected and his relatives to adapt to the protection program prescribed for him.
- Alternative solutions to protect the person sought without acceptance of the program.
- Other factors that the program management deems appropriate to consider on a case-by-case basis as determined by the regulation.

In the event that the application for protection is approved, the program administration shall determine the necessary protection procedures and mechanisms and their duration, including the applicant and the person whose protection is sought, and in the event that the application is rejected, the program administration shall notify the applicant and the person whose protection

is requested to be rejected within threedays from the date of submitting the application, and The refusal shall be in writing with reasons, and the entity submitting the application for protection or the person requested to protect may appeal directly to the Attorney General against the decision to refuse to provide protection or approve it partially or insufficiently or amend it within ten days from the date of knowledge of the decision, and the Attorney General shall decide on the grievance within ten days from the date of its submission, and his decision in this regard shall be Final and not subject to appeal before any judicial authority .

Second: The Attorney General's decision to include the witness in the protection program:

The Saudi regulator did not provide for only one mechanism for the witness to enjoy the protection prescribed in accordance with the law, but rather stipulated two mechanisms, the first is the witness's submission of a request to the concerned authorities, and the second is a direct decision by the Attorney General, to subject the witness if he believes that he is exposed to a risk to the protection program, so the Saudi regulator stipulated in Article (8) of the Law for the Protection of Whistleblowers, Witnesses, Experts and Victims that: "The Public Prosecutor may, if there is reason to believe that the whistleblower, witness, expert or victim may be exposed to imminent danger by providing him with protection without his consent for a period not exceeding 30 days.

Extrapolating from this text, we find several controls for the witness to enjoy protection according to this mechanism, as follows:

- The Public Prosecutor's decision does not require that the witness be actually in danger, but that the possibility that he is at risk is sufficient to issue a decision to subject him to the protection program.
- Witness consent is not required to undergo the program.
- The term of protection is not more than 30 days.
- The Attorney General may, if necessary, increase this period.
- The Attorney General shall exercise his discretionary power, or his deputy, in accordance with the provisions of the Law, which is absolute and not subject to judicial oversight.

Section II

Obligations of the protected person

In the event that the request for protection is approved, the program administration determines the obligations that the (protected) witness must fulfill, in order to preserve him and to achieve the ultimate in his submission to the program, and the organizer has developed a text indicating the limits of the witness's obligations, provided that it includes the following :

- Procedures for adhering to the types of protection provided.
- The method of submitting any information or evidence requested by him to the investigation or trial authority in relation to the protected crime.

- Cooperate - to the extent possible - with all requests requested by the Security Department under the provisions of the Law and Regulations.
- Refrain from activities that may harm him or the security of the security department.

We conclude from this a number of obligations to which the witness is bound, as follows:

First: Commitment to the types of protection provided and their procedures:

The protected witness must fully comply with the protection measures provided to him, and if the protection provided to him is to hide his personal data, and everything that indicates his identity at all times, he must abide by those procedures, and not take any action that would violate this, and disclose or disclose his personal data, as this may lead to his exposure to danger.

Second: Commitment to the method of presenting his testimony:

Pursuant to the provisions of article ninety-five of the Law of Criminal Procedure, the investigator must hear the statements of witnesses whose statements the litigants request to be heard, unless he deems it useless to hear them, and he may hear the statements of witnesses he deems necessary to hear about the facts leading to the establishment of the crime and its circumstances. and attributing it to the accused or acquitting him of it. The investigator must ask each witness to indicate his name, surname, age, profession, nationality, place of residence and relationship with the accused, the victim and the private defendant. or cramming, or adding ().

As an exception, and within the framework of the protection of the protected witness, the organizer established special procedures for hearing the testimony of the protected witness, obliging the witness not to violate those procedures for his protection, including by allowing the court to hear witnesses separately from the accused and his lawyer .

Third: Refrain from activities that may harm it or the security of the security administration:

There is no doubt that the protection of the witness does not depend only on concealing his identity and identity from the accused, but it may be necessary to change his place of residence temporarily or permanently, and to provide appropriate alternatives, including his transfer to another city within the Kingdom . without reference to the competent security department.

3. Conclusion:

First: Results:

- Protection is approved within the program of witness protection in corruption cases according to the Saudi law through one of these two ways:
 - Through the witness submitting a reasoned request according to a certain procedure.
 - Through the Attorney General – or his authorized representative – without a request or even prior approval from the witness, when necessary.
- The law sets out the limits of the witness's obligations, if the request for protection is approved.

- The development of Saudi regulation in corruption cases and the application of the necessary guarantees to ensure the protection of human rights..

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