

Types of Legal Protection for Witnesses in Corruption Cases in the Saudi Law

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Abstracts

In view of the vital role played by the testimony or witness in detecting and combating corruption crimes, the Saudi Arabia issued a new law for the protection of whistleblowers, witnesses, experts and victims, by Royal Decree No. (M/148) dated 8/8/1445 AH, and since there is a potential threat to those who dare to reporting or witnessing the commission of these crimes, the law dealt with the types and forms of protection provided to them, and this research tries to answer a key question, which is: What types of protections does the Saudi law guarantee to witnesses in corruption cases?

This is done by using the descriptive , analytical research methodology, by characterizing and extrapolating the types of protection, and analyzing the texts of the law to identify the types and forms of protection contained therein.

The study reached several results, the most important of which are: the interest of the Saudi regulator in protecting witnesses in this type of cases to provide the necessary guarantees for the protection of human rights, as it enacted a set of security, judicial, functional and social guarantees to protect the witness, and organized a number of new measures, including concealing the witness's identity and personal data, not attending him during the trial, and sufficiency, for example, with recordings without the possibility of discussing him.

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

1. Introduction

Praise be to Allah and enough and prayers and peace be upon the worshipers whom he has chosen.

And then

In many cases, the prosecution or the defense alike need to summon some people to hear their testimony to show the truth, as testimony is one of the most important evidence of proof, and the

importance of testimony in corruption cases in particular increases, as testimony plays an important role in the early detection and prevention of crimes, but this role may accompany witnesses and whistleblowers with several risks, so witnesses need a safe environment, which gives them confidence in justice low, and makes them feel reassured if they submit to testify, which requires Providing a number of guarantees provided by the public authority in the State to protect them from the damage they may suffer as a result of testifying or reporting crimes, and providing the necessary information to detect them, as there may be persons who possess important information about crimes that have already occurred or are planned, but who are reluctant to testify and report them , and this may be due to their low confidence in the ability of public authorities to enforce the law, or to fear of reprisals, which may undoubtedly affect them or their families. 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 full protection in multiple forms for witnesses and whistleblowers, and in response to that, the Saudi Arabia issued a special modern law called: "The law of Protection of Whistleblowers, Witnesses, Experts and Victims", which will be the subject of our study entitled: "Types of legal protection for witnesses in corruption cases in the Saudi law".

Importance of the study:

The research finds its importance in the following:

- 1- The scarcity of statutory (legal) studies about it, due to the recent issuance of the law in 2024.
- 2- Reassuring witnesses and ensuring their protection against certain types of risks that may surround them.

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 subject of types of witness protection in those cases to ensure their rights, by answering a major question: - What types and forms of protection are prescribed for witnesses in the Saudi law?

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

- What are the forms of witness security and legal protection?
- What are the forms of functional and social witness protection?

2. Research Methodology:

In preparing this research, I relied on the descriptive analytical approach, in order to study the organization of the acceptance of the witness in corruption cases within the protection

program in the Saudi law and its obligations, so 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 protection law for whistleblowers, witnesses, experts and victims issued by Royal Decree No. (M/148) dated 8/8/1445 AH.

Research Plan:

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

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

The first requirement: the protection of the witness in security and judicial level.

The second requirement: the protection of the witness functionally and socially.

Conclusion: It contains the most important results

Indexes: list of sources and references.

First Requirement

Security and judicial protection of the witness

The organizer has developed a set of security and judicial guarantees to protect the witness, which we will address by dividing the section into the following branches:

Section I

Witness security protection

There are many forms of security protection for the witness, according to what is stated in the Saudi Witness Protection law, and we will address the most prominent of these forms as follows:

First: Providing physical protection:

One of the forms of security protection for the witness is the provision of physical protection for him and his family members, and this is done by providing escorts for the witness to ensure the safety of his movement from one place to another, where the witness may be exposed to any assault or threat that may affect his life or body (), and it is necessary to prevent this attack and

intervene to defend him through the security force accompanying him (), and in the event that the attack has already occurred, the organizer has stipulated that the government shall bear the cost of his treatment, when the attack is for the reasons that decided to protect him from. The administration of the programme may have recourse against persons who have harmed the witness, at the costs incurred by the State, in accordance with statutory procedures .

Second: Providing Home Protection:

The organizer provided protection of the witness's home , and the protection of the witness's home has several forms, including the presence of fixed security patrols around the residence to protect it, including the provision of the new witness's place of residence with modern technical devices , to monitor the movements of the witness and the movements of passers-by around the residence, and the security authorities are constantly aware of them, even if there is a potential danger that requires dealing with it. It consists in placing alarms in the house, or through a necklace that the witness places around his neck, and is connected to the security services.

Third: Change of Residence of the Witness:

One of the most important measures to protect the witness from the danger of assault is to change his place of residence to another place of residence where he is safe for his life and the lives of his family members, for a period of time that may be temporary or permanent, depending on the case. The text is general in saying: "Change his place of residence temporarily or permanently, and provide appropriate alternatives, including his transfer to another region or city within the Kingdom, as the case may be", and this may be due to the organizer's keenness to deal with each case separately and according to its circumstances and circumstances.

Fourth: Changing his phone numbers:

One of the security measures adopted by the Saudi regulator for the protection of the witness is the measure to change the telephone numbers of the witness , so that criminals or their families cannot reach, influence and intimidate the witness.), as a new mobile number, bearing in mind that this number is confidential and is shared by the witness with third parties, his family members only for the desired purpose, which is not to reveal the whereabouts and identity of the witness .

Section II

Judicial protection

There are many forms of judicial protection prescribed for the witness, starting with legal protection during the investigation and legal protection during the trial, to the extent of hiding the name of the witness from the judicial judgment instrument, and this is what we will address below:

First: Confidentiality of the interrogation with the witness:

The general rule in a criminal investigation is that it should be confidential to the public and publicly to the accused and the litigants; this means that the public does not attend these investigations or see their records, and the media are prohibited from publishing these

investigations. Therefore, we saw that the Saudi regulator decided on several matters to protect the witness within the framework of the confidentiality of investigations, which are represented in the text of Article (2) of the Law for the Protection of Whistleblowers, Witnesses, Experts and Victims that: "The control, seizure and investigation authorities in crimes covered by the provisions of the Law shall do the following:

1. Conceal, when necessary or at the request of the whistleblower, witness, expert or victim, in its correspondence, minutes and all documents, the identity and address of each of them in such a way as to prevent identification.
2. Cooperating with the court to ensure that witnesses testify without influence or delay."

Extrapolating from the text, it becomes clear that the organizer is providing an exceptional guarantee of concealment of the witness's identity in the minutes and documents of the investigations, contrary to the general rules that require that all the statements and statements of witnesses be recorded in the records.

Second: Precautions during the trial:

The principle is also stipulated in the Saudi Law of Criminal Procedure that testimony must be given in the Judicial Council and that all the witness's statements must be proved, but the organizer has developed special measures for the protection of witnesses that may violate the general principle and are an exception to it to protect the witness from any danger that may befall him, with a view to providing a degree of reassurance and safety, so that the witness can testify without feeling any fear or threat.

1- Protection of the witness while attending the court: The court shall take such special measures as it deems appropriate during the litigation proceedings to protect the witness in the event that there is reason to believe that he may be at risk, including: preventing the witness from being seen while he is present at the court to testify, while entering the court, or while leaving the court, and using means of technology such as audio-visual communication to listen to testimony remotely, and may, if necessary, use audio and video change technology to protect those covered by the law .

2- Separation of the witness from the accused and his lawyer: The court may, if necessary, hear the testimony of witnesses and discuss experts in any of the crimes covered by the provisions of the Law independently of the accused and his lawyer, and inform the accused or his lawyer of the contents of the testimony and the expert report without revealing the identity of the person who gave them. The regulation specifies the cases in which the provisions of this paragraph must be applied, and in this context audio visual communication technology can be used, so that the witness's testimony is transmitted through what is known as the closed-circuit television low, where the witness In a different room from the hearing room and his testimony is transmitted after the distortion of sound and image (), the Saudi regulator mentioned this procedure when it stipulated that: "Coordination with the relevant authorities to provide information regarding the crime under protection using electronic media, while changing his voice and concealing his facial features".

3- Concealment of the name of the witness from the instrument of the judicial ruling: The court may, if necessary, conceal the names of witnesses in the instrument of the judicial ruling, but if the court considers that the disclosure of the identity of the protected person is necessary for the exercise of the right of defence and the testimony of the witness or the expert's statement is the only means of proof in the case, it may authorize the disclosure of his identity, provided that the necessary types of protection provided for in article IV of the Statute are provided .

Third: Not to file criminal proceedings against the witness:

The organizer prohibits the initiation of criminal proceedings against the witness except in one case only, which is that the witness's testimony is proven to have falsified his testimony, in which case only criminal proceedings are instituted against him . Criminal proceedings .

Second Requirement

Social and functional witness protection

The protection of the witness in the Saudi law does not stop at security and legal protection only, but extends to include other types of protection, represented in social and functional protection, and social protection is done through the provision of assistance, social and financial services and psychological support, for the witness and his family members, and everything related to moving to the new place of residence, while functional protection, is carried out through measures taken with the aim of ensuring that no harm is caused to the witness at the job or work level as a result of reporting the incident of corruption, through protecting him from any administrative decision that changes his legal or administrative status or reduces rights, or any procedure that leads to abuse in treatment, status, reputation or discrimination, and to clarify the forms of this protection, we hold the following two branches:

Section I

Social protection

First: Providing psychological and social counseling to the witness:

In view of the importance of the validity of the testimony, attention must be paid to the capacity of the person who performs it, which is the witness, and attention to the mental capacity of the witness seems to be the most prominent, but the psychological competence of the witness is also of great importance and may have a significant impact on his testimony , as the witness may be subjected to a kind of psychological coercion , or the witness may suffer a state of panic and fear for himself and his family members, in which he needs psychological assistance to face the state of fear or psychological pressure to which the witness is exposed. It is worth noting that the Saudi regulator has taken into account the psychological capacity of the witness, as Article (168) of the Saudi Law of Criminal Procedure is a purely psychological article, as it stipulates that many psychological aspects of the witness are taken into account, including the provision that the testimony of each witness should be heard separately, taking into account the psychological aspect of the witness who has fear In confirmation of this, the organizer stipulates in the law for the protection of whistleblowers, witnesses, experts and victims that the management of the

programme shall be responsible for the provision of psychological support and counselling to the witness and his family members, by qualified specialists in the field of psychiatry .

Second: Providing financial assistance to the witness:

As a precautionary measure deemed by the security authorities, the witness may be forced to leave his work and source of income and move to a safe place where his life and the lives of his family members are safe, causing him serious material damage . Protection in hindering their earning capacity , however, does not stipulate the duration or end of such assistance, which may be provided for in the executive regulations of the law.

Section II

Functional protection

First: Protection of the witness from arbitrary job procedures:

When the witness undergoes the protection program, he may be forced to interrupt his work or be absent from it as a precautionary measure, which is done under the guidance of the security authorities in order to preserve him from any threat or assault, and therefore we see that the Saudi regulator has intervened legislatively by stipulating the prohibition of taking any of the functional procedures, against the protected person, provided that these procedures are related to the reasons for which the protection was decided, and he has enumerated these procedures by stipulating (Any of the following functional actions against the protected person is prohibited if they relate to the grounds for which the protection was decided:

A- Termination of the employment relationship.

Any decision that changes his legal or administrative status and results in the reduction of his rights, depriving him of them, or distorting his status or reputation.

(c) Any arbitrary professional action, action or disciplinary sanction."

It is clear from the text that the organizer ensures that the witness is fully functionally protected, starting with protecting him from terminating his employment relationship, whether by dismissal or termination of the contract, through protecting him from administrative decisions that may affect his legal or administrative status, such as transfer to another entity or department other than the one in which he works, or imposing an administrative penalty on him. Any such proceedings against the witness, if those proceedings relate to the grounds for which protection was decided.

In order to ensure the protection of the witness functionally, the organizer also prohibited any arbitrary employment procedure or disciplinary action brought by the administration against the witness for reasons for which protection was decided.

However, a functional action may be issued against the witness, and he becomes aware of it until after it is issued, in which case the organizer obliges the management of the programme, if it receives evidence that any of the functional procedures referred to in paragraph (1) of this article has occurred, to take the necessary measures to redress the protected person in coordination with

the concerned authorities, in order to ensure that the damage is remedied and that such decisions are canceled.

With regard to the burden of proof, if the protected person files a complaint before the legally competent authority for one of the functional procedures referred to in the preceding paragraph, the regulator stipulates that the burden of proof falls on the entity taking the action to prove that the action was taken for a legitimate reason, and has nothing to do with the grounds for which the protection was decided.

Second: Removal of the witness from his place of work:

The change of the witness's place of residence, especially if it is permanent, is considered a resettlement of him in a new place, which may necessitate changing the place of work, so it does not stop at changing the witness's place of residence, whether temporarily or permanently, but may lead to the transfer of the witness from his work, and the competent authorities in this case must provide appropriate alternatives, so they search for the witness for work in his new place of residence, commensurate with his scientific qualification, and his scientific and practical abilities (), taking into account that the new work does not detract from its status or income, as confirmed by the organizer in the law for the protection of whistleblowers, witnesses, experts and victims , as it is not envisaged that the result of the witness's cooperation in detecting corruption and providing aid and assistance to the security authorities, would detract from his capabilities, whether material or moral.

3. Key findings:

- The law enacted a set of security, judicial, functional and social guarantees to protect the witness, as well as some of the new measures, including concealing the witness's identity and personal data, not being present during the trial, and sufficiency, for example, with recordings without the possibility of discussing it.
- The Saudi regulator's interest in protecting witnesses in this type of cases to provide the necessary guarantees for the protection of human rights.

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