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ABSTRACTS

1. English

Study Title: Critical analysis of the protection measures of the witness protection in South Africa

This study examines the challenges and effectiveness of witness protection measures within South Africa's Criminal Justice System (CJS). The killing of witnesses, intimidation, harassment, and torture negatively impact the entire justice system. Witnesses play a pivotal role in court proceedings by providing testimony that enables the court to reach just decisions. However, many witnesses remain unprotected, leading to cases being withdrawn or struck from the court roll due to their unavailability. Some witnesses become hostile out of fear or threats, ultimately resulting in the acquittal of the accused. To gain insights into the experiences and challenges faced by witnesses, the researcher conducted face-to-face interviews with 13 participants selected through purposive sampling. Data collection took place in the Free State, within the Mangaung Metropolitan Municipality, at the National Prosecuting Authority (NPA) and the South African Police Service (SAPS). Ethical principles, including informed consent, anonymity, and confidentiality, were strictly adhered to. The findings reveal significant gaps in protecting witnesses outside the formal Witness Protection Programme (WPP). These include inadequate public awareness, strict eligibility criteria, and frequent witness withdrawals due to threats. Participants highlighted that police efforts to safeguard witnesses outside the WPP are insufficient, as resources are primarily allocated to selected serious crimes, leaving many at risk. Additionally, whistle-blowers face considerable dangers due to vague and limited protection measures, while post-trial security remains a critical weakness.

Although participants acknowledged the importance of witness protection, several gaps in its implementation persist. Key concerns include premature exits from the WPP, disproportionate resource allocation favouring serious crimes, inadequate whistle-blower protection, and the absence of post-trial security measures. Strict eligibility criteria leave many witnesses vulnerable, while legislative shortcomings hinder comprehensive protection. Participants emphasised the need for efficient investigations and prosecutions to minimise prolonged protection requirements. The study also identifies inconsistencies in case handling and a lack of awareness among law enforcement regarding witness protection measures. Intimidation remains a primary factor driving witnesses into protection, yet many remain unprotected due to systemic weaknesses. Based on the participants' suggestions, the study recommends the development of a new, coordinated Witness Protection Programme model in South Africa to enhance safety, encourage participation in the justice process, and strengthen public confidence in law enforcement.

Keywords: Witness, witness protection, criminal justice system, witness protection programme, whistle-blower, justice, fair trial

2. Afrikaans

Studietitel: Kritiese analise van die beskermingsmaatreëls van die getuiebeskerming in Suid-Afrika

Hierdie studie ondersoek die uitdagings en effektiwiteit van getuiebeskermingsmaatreëls binne Suid-Afrika se Strafreghstelsel (SRS). Die doodmaak van getuies, intimidasie, teistering en marteling het 'n negatiewe impak op die hele regstelsel. Getuies speel 'n deurslaggewende rol in hofverrigtinge deur getuieenis te lewer wat die hof in staat stel om regverdige besluite te neem. Baie getuies bly egter onbeskermd, wat daartoe lei dat sake onttrek of van die hofrol geskrap word weens hul onbeskikbaarheid. Sommige getuies word vyandig uit vrees of dreigemente, wat uiteindelik lei tot die vryspraak van die beskuldigde. Om insigte te verkry in die ervarings en uitdagings wat getuies ervaar, het die navorser persoonlike onderhoude gevoer met 13 deelnemers wat deur doelgerigte steekproefneming gekies is. Data-insameling het in die Vrystaat, binne die Mangaung Metropolitaanse Munisipaliteit, by die Nasionale Vervolgingsgesag (NVG) en die Suid-Afrikaanse Polisie (SAPD) plaasgevind. Etiese beginsels, insluitend ingeligte toestemming, anonimiteit en vertroulikheid, is streng nagekom. Die bevindinge onthul beduidende leemtes in die beskerming van getuies buite die formele Getuiebeskermingsprogram (GBP). Dit sluit in onvoldoende openbare bewustheid, streng toelatingskriteria en gereelde getuie-onttrekkings weens dreigemente. Deelnemers het beklemtoon dat polisiepogings om getuies buite die GBP te beskerm onvoldoende is, aangesien hulpbronne hoofsaaklik aan uitgesoekte ernstige misdade toegewys word, wat baie in gevaar laat. Daarbenewens staan klokkenluiders aansienlike gevare in die gesig as gevolg van vae en beperkte beskermingsmaatreëls, terwyl sekuriteit na die verhoor 'n kritieke swaakteit bly.

Alhoewel deelnemers die belangrikheid van getuiebeskerming erken het, bly verskeie leemtes in die implementering daarvan voortbestaan. Belangrike bekommernisse sluit in voortydige uittredes uit die GBP, oneweredige toewysing van hulpbronne ten gunste van ernstige misdade, onvoldoende klokkenluiderbeskerming en die afwesigheid van sekuriteitsmaatreëls na die verhoor. Streng toelatingskriteria laat baie getuies kwesbaar, terwyl wetgewende tekortkominge omvattende beskerming belemmer. Deelnemers het die behoefte beklemtoon vir doeltreffende ondersoeke en vervolgings om langdurige beskermingsvereistes te verminder. Die studie identifiseer ook teenstrydighede in saakhantering en 'n gebrek aan bewustheid onder wetstoepassing rakende getuiebeskermingsmaatreëls. Intimidasie bly 'n primêre faktor wat getuies in beskerming dryf, maar baie bly onbeskermd weens sistemiese swakhede. Op grond van die deelnemers se voorstelle beveel die studie die ontwikkeling van 'n nuwe, gekoördineerde Getuiebeskermingsprogrammodel in Suid-Afrika aan om veiligheid te verbeter, deelname aan die regsproses aan te moedig en die publiek se vertroue in wetstoepassing te versterk.

Sleutelwoorde: Getuie, getuiebeskerming, strafregstelsel, getuiebeskermingsprogram, klokkenluider, geregtigheid, regverdige verhoor

3. Isizulu

Isihloko Socwaningo: Ukuhlaziywa okujulile kwezinyathelo zokuvikela ubufakazi eNingizimu Afrika

Lolu cwaningo luhlola izinselelo kanye nokusebenza kwezinyathelo zokuvikela ofakazi ngaphakathi koHlelo Lobulungiswa Bobugebengu (Criminal Justice System - CJS) eNingizimu Afrika. Ukubulawa kofakazi, ukwesatshiswa, ukuhlukunyezwa kanye nokushushiswa kunomthelela omubi ohlelweni lonke lobulungiswa. Ofakazi banendima ebalulekile ezinqumweni zomthetho ngokunikeza ubufakazi obenza inkantolo ikwazi ukuthatha izinqumo ezinobulungiswa. Kodwa-ke, ofakazi abaningi basahlala bengavikelekile, okuholela ekutheni amacala ahoxiswe noma akhishwe ohlwini lwamakhotho ngenxa yokungatholakali kwabo. Abanye ofakazi baba nobutha ngenxa yokwesaba noma izinsongo, okugcina kuholela ekukhululweni kwabamangalelwa. Ukuze kutholakale ukuqonda okujulile mayelana nokuhlangenwe nakho nezinselelo ezibhekene nofakazi, umcwaningi wenze izingxoxo zobuso nobuso nabahlanganyeli abayi-13 abakhethwe ngokusebenzisa indlela yokukhetha abantu abathile (purposive sampling). Ukuqoqwa kwedatha kwenzeka eFreyistata, ngaphakathi koMkhandlu Wendawo waseMangaung, eHhovisi likaZwelonke Lokuqondisa Amacala (National Prosecuting Authority - NPA) kanye naseMbutshweni Wamaphoyisa aseNingizimu Afrika (South African Police Service - SAPS). Izimiso zokuziphatha, ezihlanganisa imvume enolwazi, ukungaziwa kanye nokugcinwa kuyimfihlo, zigcinwe ngokuqinile. Okutholakele kuveza izikhala ezinkulu ekuvikelweni kofakazi ngaphandle koHlelo Olusemthethweni Lokuvikela Ofakazi (Witness Protection Programme - WPP). Lokhu kuhlanganisa ukuntuleka kokwaziswa komphakathi okwanele, imigomo eqinile yokufaneleka kanye nokuhoxiswa njalo kofakazi ngenxa yezinsongo. Abahlanganyeli bagcizelele ukuthi imizamo yamaphoyisa yokuvikela ofakazi ngaphandle kwe-WPP ayanele, njengoba izinsiza kusebenza zabelwa kakhulu amacala akhethiwe abucayi, okushiya abaningi besengozini. Ukwengeza, abantu abadallula izinto ezingalungile (whistle-blowers) babhekana nezingozi ezinkulu ngenxa yezinyathelo zokuvikela ezingacacile nezilinganiselwe, kuyilapho ukuphepha ngemuva kokuqulwa kwecala kuhlala kuyinkinga enkulu.

Nakuba abahlanganyeli bekuvumile ukubaluleka kokuvikelwa kofakazi, kusaqhubeka kunezikhala eziningana ekusetshenzisweni kwako. Izinto ezibalulekile ezikhathazayo zihlanganisa ukuphuma ngaphambi kwesikhathi ohlelweni lwe-WPP, ukwabiwa kwezinsiza kusebenza ngokungalingani okuthanda amacala abucayi, ukuvikelwa okunganele kwabantu abadallula izinto ezingalungile kanye nokungabikho kwezinyathelo zokuphepha ngemuva kokuqulwa kwecala. Imigomo eqinile yokufaneleka ishiya ofakazi abaningi besengozini, kuyilapho ukushiyeka kwezomthetho kuvimbela ukuvikelwa okuphelele. Abahlanganyeli bagcizelele isidingo sokuphenywa okusebenzayo kanye nokushushiswa ukuze kuncishiswe izidingo zokuvikela eziphindaphindwayo. Lolu cwaningo luphinde lwaveza ukungaguquguquki ekuphathweni kwamacala kanye nokuntuleka kolwazi phakathi kwabasebenzi bomthetho mayelana nezinyathelo zokuvikela ofakazi. Ukwesatshiswa kuhlala kuyimbangela eyinhloko yokugqugqezela ofakazi ukuthi bavikelwe, kodwa abaningi basahlala bengavikelekile ngenxa yobuthakathaka obusehlelweni. Ngokusekelwe kuziphakamiso zabahlanganyeli, lolu cwaningo luncoma ukuthuthukiswa kwemodeli entsha ehleliwe yoHlelo Lokuvikela Ofakazi eNingizimu

Afrika ukuze kuthuthukiswe ukuphepha, kukhuthazwe ukubamba iqhaza enqubweni yobulungiswa futhi kuqiniseke ukuzethemba komphakathi embuthweni wamaphoyisa.

Amagama angukhiye: Ufakazi, ukuvikelwa kofakazi, uhlelo lobulungiswa bobugebengu, uhlelo lokuvikela ofakazi, umuntu odalula izinto ezingalungile, ubulungiswa, ukuqulwa kwecala okufanele

4. Xhosa

Isihloko soPhando: Uhlalutyo olunzulu lwamanyathelo okhuselo lokukhuselwa kwamangqina eMzantsi Afrika

Olu phononongo lujonga imingeni kunye nokusebenza kwamanyathelo okhuselo lwamangqina ngaphakathi kweNkqubo yoBulungisa boLwaphulo-mthetho (Criminal Justice System - CJS) eMzantsi Afrika. Ukubulawa kwamangqina, ukoyikiswa, ukuxhatshazwa kunye nokuthuthunjiswa kuchaphazela kakubi yonke inkqubo yobulungisa. Amangqina adlala indima ebalulekileyo kwiinkqubo zamatyala ngokunikeza ubungqina obwenza ukuba inkundla ikwazi ukwenza izigqibo ezibubulungisa. Nangona kunjalo, amangqina amaninzi asahlala engakhuselekanga, nto leyo ekhokelela ekubeni amatyala arhoxiswe okanye acinywe kuluhlu lwamatyala ngenxa yokungabikho kwawo. Amanye amangqina aba nobutshaba ngenxa yokoyika okanye izoyikiso, ekugqibeleni oku kukhokelela ekukhululweni kwabamangalelwa. Ukuze kufunyanwe ukuqonda okunzulu malunga namava kunye neningeni ejongene namangqina, umphandi wenze udliwanondlebe lobuso ngobuso nabathathi-nxaxheba abali-13 abakhethwe kusetyenziswa indlela yokukhetha abantu abathile (purposive sampling). Ukuqokelelwa kwedatha kwenzeka eFreyistata, ngaphakathi koMasipala weMetropolitan waseMangaung, kwiZiko leSizwe lokuTshutshisa (National Prosecuting Authority - NPA) kunye neNkonzo yamaPolisa aseMzantsi Afrika (South African Police Service - SAPS). Imigaqo yokuziphatha, ebandakanya imvume enolwazi, ukungaziwa kunye nokugcinwa kuyimfihlo, igcinwe ngokuqinileyo. Iziphumo zityhila izikhewu ezibalulekileyo ekukhuseleni amangqina ngaphandle kweNkqubo eSemi esemthethweni yoKhuselo lwamaNgqina (Witness Protection Programme - WPP). Oku kubandakanya ukungabikho kolwazi loluntu olwaneleyo, imigaqo engqongqo yokufaneleka kunye nokurhoxiswa kwamangqina rhoqo ngenxa yezoyikiso. Abathathi-nxaxheba bagxininise ukuba iinzame zamapolisa zokukhusela amangqina ngaphandle kwe-WPP azanele, njengoko izixhobo zabelwa kakhulu kumatyala akhethiweyo anzima, nto leyo eshiya abaninzi besengozini. Ukongeza, abantu abadlula izinto ezingalunganga (whistle-blowers) bajongana neengozi ezinkulu ngenxa yamanyathelo okhuselo angacacanga nathintelweyo, ngelixa ukhuseleko emva kokuqulwa kwetyala luhlala luyingxaki enkulu.

Nangona abathathi-nxaxheba bekuvumile ukubaluleka kokhuseleko lwamangqina, kusaqhubeka kukho izikhewu ezininzi ekusetyenzisweni kwalo. Izinto ezibalulekileyo ezikhathazayo ziquka ukuphuma ngaphambi kwexesha kwinkqubo ye-WPP, ukwabiwa kwezixhobo ngokungalingani okuthanda amatyala anzima, ukhuselo olungonelanga lwabantu abadlula izinto ezingalunganga kunye nokungabikho kwamanyathelo okhuseleko emva kokuqulwa kwetyala. Imigaqo engqongqo yokufaneleka ishiya amangqina amaninzi esengozini, ngelixa ukushiyeka komthetho kuthintela ukhuselo olupheleleyo. Abathathi-nxaxheba bagxininise isidingo sokuphandwa

okusebenzayo kunye nokutshutshiswa ukuze kuncitshiswe iimfuno zokhuselo eziphindaphindwayo. Olu phononongo lukwaveze ukungaguquguquki ekuphathweni kwamatyala kunye nokungabikho kolwazi phakathi kwabasebenzi bomthetho malunga namanyathelo okhuselo lwamangqina. Ukoyikiswa kuhlala kuyimbangela eyinhloko yokugqugquzela amangqina ukuba akhuselwe, kodwa amaninzi asahlala engakhuselekanga ngenxa yobuthathaka obusehlelweni. Ngokusekelwe kwizindululo zabathathi-nxaxheba, olu phononongo luncoma ukuthuthukiswa kwemodeli entsha ehleliweyo yeNkqubo yoKhuselo lwamaNgqina eMzantsi Afrika ukuze kuphuculwe ukhuseleko, kukhuthazwe ukuthatha inxaxheba kwinkqubo yobulungisa kwaye kuqiniswe ukuzithemba koluntu embuthweni wamapolisa.

Amagama angundoqo: Inggina, ukhuselo lwengqina, inkqubo yobulungisa bolwaphulo-mthetho, inkqubo yokhuseleko lwengqina, umntu odalula izinto ezingalunganga, ubulungisa, ukuqulwa kwetyala okufaneleyo