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## Need for witness protection

IT is timely that the Government is considering drafting a law to protect eyewitnesses to crimes for, fear of retaliation or of being threatened has resulted in many criminals going scot-free. Indeed, it is a practical proposal as successful law enforcement is largely dependent on both the willingness and availability of individuals to provide information or to give evidence. As Prime Minister Datuk Seri Dr Mahathir Mohamad says, some witnesses had been threatened and action taken against them for acting as witnesses in certain cases. He cited several examples of unresolved murders including that of Lunas State Assemblyman Dr Joe Fernandez who was gunned down in broad daylight in Penang last year. The reluctance of eyewitnesses to help police in investigations stems not so much from apathy as the fear of being threatened with dire consequences if they testify in court. Furthermore, the bother of going through the necessary procedures in the eyes of the witness and the psychological trauma the individual may undergo keeps him from coming forward with information. In his mind, he is not legally or duty-bound to volunteer to do so but jurisprudentially, he is morally bound to do so.

Although there is general protection for witnesses under the law, the individual must be confident enough that his rights and safety will be protected, otherwise it will be difficult for him to volunteer to take to the witness stand. The police must also act firmly against criminal intimidation so that the course of justice will not be impeded. If need be, regulations in this respect will have to be reviewed to ensure the penalty is deterrent enough. We do not want a society which deteriorates to a situation where individuals see not and hear not.

The police may want a survey done, if it is not already in place, on the actual reasons for eyewitnesses not coming forward with information before drafting the regulations on protection. Traditional witness protection focuses on the safety of the witness. The possible areas of protection the law can look into can range from counselling the witness to completely change his identity and his place of residence after testifying in court, and the restoring of former identities as well. Though this is done in other countries, the practicality of such a proposal in Malaysia may be constrained by geographical factors.

Another protection possibility is to put the witness in a room next to the court or have a screen placed in front of the witness who is testifying and who is still in view of the presiding judge. Even though this is practised in some countries, they will have to be examined for their practicality here. The core reason for the cover of anonymity is the promise held out to an eyewitness and his family about the availability and level of protection. The proposed protection can only be done professionally and accountably if the needs of law enforcement are balanced with the needs of the witness.

It must be remembered that a credible witness has an important bearing on the outcome of a case for elementary deduction alone is not enough in solving it. As such, public co-operation is essential in helping to combat crime. The police will have to continue to earn and maintain the mutual respect of the public and, hopefully, such faith will go some way in helping to clear the backlog of unsolved cases.

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