Protecting Vulnerable Witnesses: SC

For Prelims: Vulnerable Witness Deposition Centre (VWDC) scheme, Article 21 (Right to Life), Article 141/142 of the Constitution of India.

For Mains: Witness Protection in India, Alternate Dispute Resolution (ADR), Vulnerable Witness Deposition Centre, section 377 IPC, Mental Healthcare Act, 2017

Why in News

Recently, the **Supreme Court (SC) expanded the meaning of vulnerable witnesses** to also include among others sexual assault victims, those with **mental illness** and people with speech or hearing impairment.

- The SC referred to a verdict of **1996** in which it had **passed similar directions**, then in **2004 and in 2017**, when it had asked all the High Courts of the country to adopt the guidelines prepared by the Delhi High Court in 2017 for vulnerable witnesses.

Key Points

- **Vulnerable Witnesses:** Vulnerable witnesses **will not be limited to mean only child witnesses.** It will also include
    - Age-neutral victims of sexual assault.
    - Gender-neutral victims of sexual assault, under **section 377 IPC** (unnatural offences).
    - Witnesses suffering from mental illness as defined in **Mental Healthcare Act, 2017.**
    - Witnesses with threat perception and any speech or hearing impaired individual or person suffering from any other disability.
- **Vulnerable Witness Deposition Centre (VWDC):** The SC directed that all High Court's (HC) adopt and notify a **Vulnerable Witness Deposition Centre (VWDC) scheme** within a period of two months.
    - VWDC will provide a safe and barrier-free environment for recording the evidence of vulnerable witnesses.
    - The SC asked HC's to ensure that there is one VWDC in each district.
    - These VDWC should be established in close proximity to **Alternate Dispute Resolution (ADR) centres.**
- **Sensitising Stakeholders:** The SC also **pointed to the importance of conducting training programs** to manage VWDC and sensitising all stakeholders including members of the bar, bench and staff.
    - The SC urged former **Chief Justice of Jammu and Kashmir HC** Justice Gita Mittal to act as Chairperson of a committee for designing and implementing an **All India VWDC training program.**
    - The SC also directed the Chairperson of the committee to engage with **National and State Legal Services Authorities** to provide an effective interface for schemes of training.
    - It also asked the Union Ministry of Women and Child Development to designate a **nodal**

officer for coordinating logistical support to the Chairperson.

Witness Protection in India

- In 2018, the SC approved the **Witness Protection Scheme 2018** which aimed at enabling a witness to depose fearlessly and truthfully. Under the Judgement, SC held that:
    - Right of witnesses to testify freely in courts is part of **Article 21 (Right to Life).**
    - The scheme will be the law under **Article 141/142 of the Constitution of India.**
    - The bench has also asked all States and UTs to set up vulnerable witness deposition complexes.
- While the **scheme is pending in the Parliament**, the SC had ordered to implement the scheme immediately in all the states and the scheme would be the law of the land.
- The need to protect witnesses has been emphasised by **Law Commission** reports and court judgments for years.
    - The **State of Gujarat v. Anirudh Singh (1997),** 14th Law Commission Report and **Malimath Committee Report** has recommended a witness protection scheme.

Way Forward

- The witnesses are **"eyes and ears of justice"**, and this scheme is a step in the right direction towards the effective justice delivery system of the nation.
- However, until now, **there have been ad hoc steps** such as few dedicated courtrooms for vulnerable witnesses mostly child victims and concealing the identity of witnesses (in cases like anti-terrorism etc) have been unsuccessful to prevent witnesses.
- Hence, legislative measures to **emphasise prohibition against tampering of witnesses** have become the imminent and inevitable need of the day.

Source: IE

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