

ISSN :2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 6

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 5 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA
INTERNATIONAL JOURNAL
FOR LEGAL RESEARCH & ANALYSIS

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board

ANALYSIS



Dr. Namita Jain

Head & Associate Professor



School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



INTERNATIONAL JOURNAL

Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Quarterly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench.

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.



IJLRA
INTERNATIONAL JOURNAL
FOR LEGAL RESEARCH & ANALYSIS

PARADIGM OF PROTECTION BY BESTOWED REGIME

Authored by - Roopa. P

Abstract

Protection is informally called VIP protection and it is generally provided to an individual or to his family holding a position of consequence either in government or in the civil society such as celebrities or sportsman. The protection group has been nowhere defined under Indian statute but whereas specific guidelines to be adhered to the protection group under Special Protection Group (Amendment) Act, 2019 which has been covered in this article and type of protection to be provided to the person required on the basis of the threat level is provided under blue book covered as well in the present article. The present paper strives to explain its readers the concept of protection groups, the different types of security and its jurisprudential aspect.

IJLRA
INTERNATIONAL JOURNAL
FOR LEGAL RESEARCH & ANALYSIS

Introduction

Our congresspersons are at the frontline of our democratic country's defense. It is conventional that menaces or threats are shed loaded towards high profile senator. And accordingly, a complete security management is bestowed by India alongside with Special Protection Group, National Security Guard, Indo-Tibetan Border Police, Central Reserve Police Force, Central Industrial Security Force and police. In this article firstly, the aforementioned model of defense accessible in India as to which security is strict and whence and why the level differs altogether when compared is canvassed. Secondly, the management of the protection provided by regime and basis of the standard of defense depending upon the threat to the individual is discussed.

The abovesaid guidelines about what level of protection a person should be given and what should be in that protection exist in only two places, first Bluebook and second Yellow Book. Therefore, the present article will discuss the presiding subject matter gradually.

Hierarchy Of Security

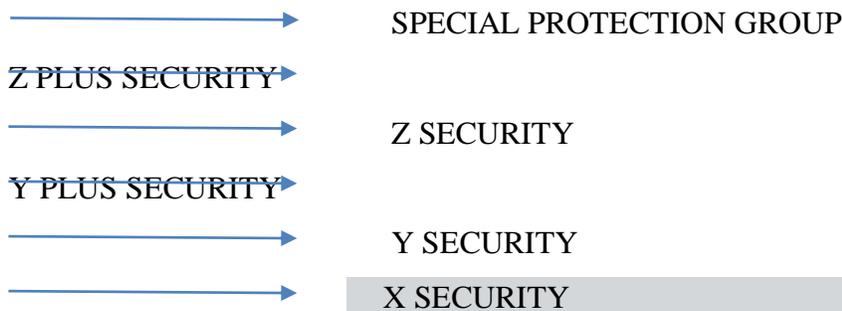
In India, the protection groups or security management by NSG, ITBP, CRPF, CISF and police are provided to recognized individuals holding high risk threats such as prime minister, ministers, politicians, judges, celebrity and so on. Distinct individuals are provided with different kinds of security according to the level of requirement decided by Ministry of Home Affairs (Herein after referred to as MHA) of India in consultation with intelligence agencies and Research and Analysis Wing (Herein after referred to as RAW). Certain individuals for instance Union Ministers, State CMs and Judges of Supreme Court and High Courts, are provided positional/statutory security cover to facilitate bold and impartial decision making.

The guidelines regarding level of protection and Security arrangements for President of India, Vice President of India and Prime Minister of India are made in accordance with their respective Blue Books issued by Ministry of Home Affairs and the Special Protection Group (Amendment) Act, 2019 (Herein after referred to as The Act).

Whereas Security arrangements for other political personalities are made as per the guidelines laid down in the 'Yellow Book' titled Security arrangement for the protection of individuals.

The security arrangements for said individuals are made after careful assessment by MHA of their threat cognizance emanating from terrorists /militant/fundamentalist outfits and organized criminal gangs. The degree of threat varies from individual to individual, depending on factors, such as nature of activities, status, and likely gains for the terrorists, etc.

Correspondingly, 6 tier categorized security is provided on the basis of gravity of the threat.



1. SPECIAL PROTECTION GROUP

The *Special Protection Group (SPG)* is an elite force raised in 1985 after the assassination of former Indian prime minister Indira Gandhi with the intention to provide proximate security cover to the Prime Minister and their immediate family members residing at the residence allotted. According to *The Act*, protection is provided only to the PM and his immediate family members residing with him at his official residence. And also, former Prime Ministers are eligible for an extension of their protection for up to five years after leaving office, subject to a threat assessment by the Intelligence Bureau. Due to this former Prime Minister Manmohan Singh, Heeraben Modi and Jashodaben Modi, the mother and estranged wife, respectively, of incumbent Prime Minister Narendra Modi, lost SPG protection. They were instead accorded different levels of security ranging from Z+ to Y by the Ministry of Home Affairs. The Director of SPG is assisted by number of Deputy Directors, Assistant Directors, Joint Assistant Directors¹ Members of the SPG are barred by the SPG Act from contact with the media or from publishing or collaborating in the publication of "any book, letter or other document" related to their work, including upon retirement from government service.

¹[The Gazette of India](#) (PDF). 9 December 2019. Retrieved 12 December 2020

2. Z PLUS SECURITY

Z Plus protection is the second-highest protection in India after SPG security. Predominantly, 'Z+' security is provided by the Government on the basis of threat assessment by Central Security Agency and is subject to periodic review. According to March 2021, the central government has a list of around 40 VIPs who are enjoying Z+ security². However further details of the protectees regarding the same are exempted under section 24(1)³ and 8(1)(g)⁴ of the Right to information Act 2005 and hence cannot be disclosed. According to "Data on Police Organizations" published by Bureau of Police Research & Development, the police-public ratio (per lakh of population) in the country as on 01.01.2016 is 180.59. Based on periodic review, the security cover is continued, withdrawn, or modified. Hence the number of protectees is not static and varies over time. As on date, the number of threats based protectees in the Central list in Z PLUS SECURITY is 26⁵. Accordingly, 14 'Z+' category protectees have been provided with NSG mobile security cover. NSG has deployed 551 security personnel for the protection of these protectees. Also, there are special instructions for security of the President, the Vice President and the Prime Minister, which are contained in their respective Blue Books issued by Ministry of Home Affairs.

3. Z SECURITY

Z category protectees are given armed static guards to cover their place of stay. The strength can vary from 2 to 8 guards depending upon the threat and place of stay. However, there are few exceptions made in public interest.

In case of *Rajinder Saini vs State of Punjab and Ors*⁶ Paramjeet Singh, J. held that just to show their might, seeking security cannot be provided merely on the asking.

Similarly, in *Randeep Singh Surjewala vs Union of India and Others*⁷ high court denied inclusion of Surjewala's name as a categorized protectee in the Central list in Delhi as there

²<https://www.mha.gov.in/MHA1/Par2017/pdfs/par2021-pdfs/LS-09032021/2327.pdf>

³The Right to information Act 2005 section 24(1): Act not to apply to certain organizations: Nothing contained in this Act shall apply to the intelligence and security organizations specified in the Second Schedule, being organizations established by the Central Government or any information furnished by such organizations to that Government:

⁴ The Right to information Act 2005 section 8(1)(g): information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

⁵<https://pib.gov.in/PressReleasePage.aspx?PRID=1487512>

⁶*Rajinder Saini vs State of Punjab and Ors* on 16 September, 2015

⁷*Randeep Singh Surjewala vs Union of India and Others* on 10 March, 2017

was no specific input of threat to him, either from any terrorist or militant outfit or fundamentalist groups.

Subsequently in case of [*Ramveer Upadhyay vs. R.M. Srivastava and others*](#)⁸ the 'Z' category security of a minister in the state government of UP was downgraded after he ceased to be a minister. The Supreme Court observed that irrespective of a reference to ordinary citizens in the Yellow Book, they hardly ever got such security irrespective of the threat perception or imminent danger. The honorable supreme court said, "Before the Supreme Court a minister and an ordinary person under Article 21 are the same". But the court left it to the appropriate authorities to assess the threat perception. Also, he was asked to pay 10% of the cost of a policeman out of the two assigned to him. In 2013, Mukesh Ambani was provided 'Z' category security at a cost of about Rs 15 lakh per month.

4. Y PLUS SECURITY

The Y+ security cover constitutes the third rung of a multi-level framework that oversees the assignment of protection to people who are believed to be facing a certain level of threat. Under the Y+ security cover, five personnel — a CRPF commander and four constables — are stationed at a protectee's residence. Six personal security officers (PSOs) are deployed with the protectee on a rotational basis in three shifts. This means that two PSOs are with the protectee at all times, a source in the Ministry of Home Affairs.

5. Y and X SECURITY

These are the basic level of security provided for required individual according to procedure followed in yellow book. Usually under X category, security cover of 2 personal security officer(PSO) without commandos are provided. Whereas, in Y category ununiformed armed guard at ratio of 1:6 at residence of individual to cover the house around the clock is provided. Also, additional security is provided during sunrise and sunset. Here 2 PSOs are equipped with stengun and 9 M.M. pistol.

⁸[*Ramveer Upadhyay vs. R.M. Srivastava and others*](#) June 52013

Guidelines For The Protection Group

Prior to 1981, the security of the Prime Minister at their official residence was the responsibility of the Special Security District of the Delhi Police, overseen by an officer of the rank of Deputy Commissioner of Police (Herein after DCP). After the assassination of Prime Minister Indira Gandhi by two of her Delhi Police security personnel in October 1984, a review was undertaken by *Birbal Nath Committee* on 18 February 1985 and a recommendation raising of an independent agency for prime ministerial protection, known as the Special Protection Unit (SPU) was submitted. On 30 March 1985, the President of India, by executive order, created 819 posts for the unit within the Cabinet Secretariat. The name of the unit was re-christened *Special Protection Group (Herein after SPG)*, led by a director who would be an Indian Police Service officer with the rank of Inspector General of Police. Furthermore, the SPG operated under the authority of its constituting executive order for three years without legislation, from April 1985 to June 1988. Subsequently, the same year the Rajiv Gandhi Government passed the Special Protection Group Act (SPG Act) to codify the order's provisions.

On 27 November 2019, the Parliament of India passed the Special Protection Group (Amendment Act), 2019 which limited SPG protection only to the PM and his immediate family members residing with him at his official residence.

According to the Special Protection Group (Amendment Act), 2019 there are 18 sections to provide for the constitution and regulation of an armed force of the Union for providing proximate security to the Prime Minister of India.

Examining The Provisions Of The Special Protection Group (Amendment Act),

2019

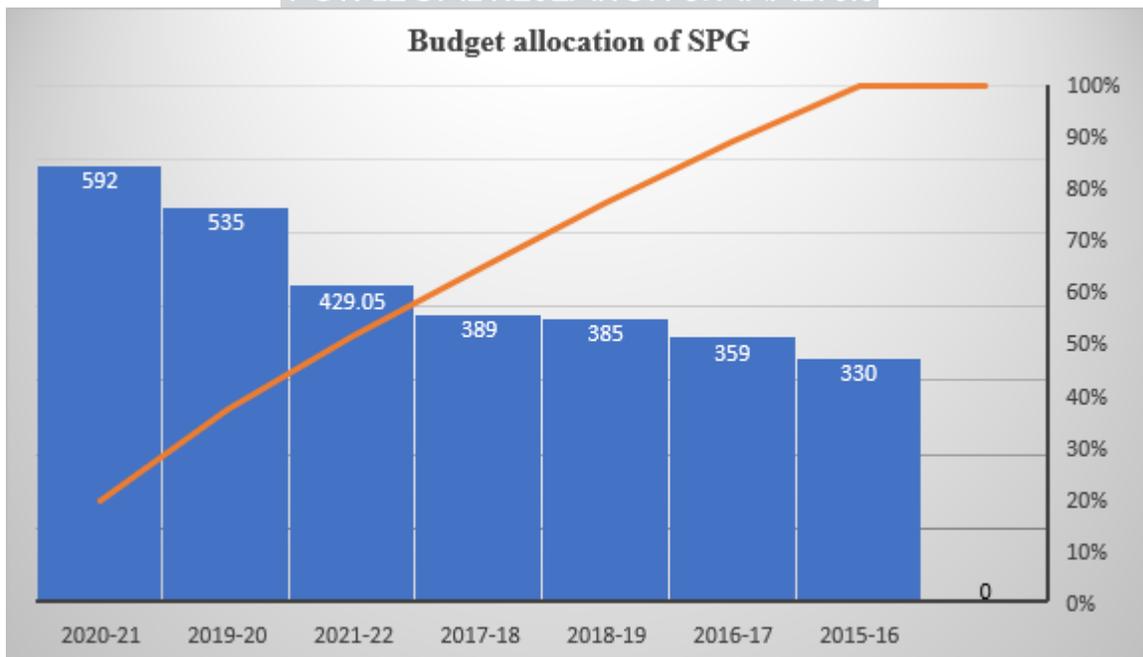
- Pursuant to section 4 of The Act SPG shall be provided only to the Prime Minister and his immediate family members residing with him at his official residence and to any former Prime Minister and such members of his immediate family as are residing with him at the residence allotted to him, for a period of five years from the date he ceases to hold the office of Prime Minister.
- As per section 5 of The Act the general superintendence, direction, and control of the Special Protection Group vests in and exercised by the Central Government while the

command and supervision of the SPG vests in the Director of the Group, appointed by the Centre.

- In accordance with section 6, 7, 8 and section 9 of The Act every person of the group shall have the liability to serve in and outside the territory of India and be consistently on active duty. Furthermore, no member of the Group shall be at liberty to resign or withdraw from the post unless except with the previous permission in writing and shall hold office during the pleasure of the President.
- Pursuant to section 10 and 11 The SPG members cannot neither be form or be part of any associations, be it political, religious, or recreational nor participate, address a meeting, or take part in demonstrations. Also, cannot communicate with the press or in any form involved in the publication of a book, letter, or other documents except for literary, artistic, or scientific publication. Further the prescribed authority may terminate the appointment of any member of the Group in the public interest.
- In consonance from section 12 to section 18 is with respect to powers and duties to be conferred and power to make rules by Central Government.

Government's Official Position On Security Expenses

FOR LEGAL RESEARCH & ANALYSIS



The elite Special Protection Group (SPG) has got a substantial hike in allocation in the budget over 7 years and will spend the most ever on capital expenditure in the coming financial year to shore up the security paraphernalia. The allocation of Rs. 429 crores⁹ to the SPG in 2021-22 is an almost 28% of decline over last year(2020-21) allocation of Rs. 592 crores.

CONCLUSION

In short, there are a total of six genus of guards to protect the leading lights. Nonetheless, in India most of the VIPs are mostly provided with X and Y security. Where the rest of the security levels are provided to the law makers of the country. At the same time, despite the strict guidelines set by the government paradoxically there are certain drawbacks or failures of the protection towards the legislator due to the lack of background search of the security provider or due to lack of confidentiality and leakage of data of the protocols prepared. Furthermore, a similar system is observed in respective State Government.

IJLRA
INTERNATIONAL JOURNAL
FOR LEGAL RESEARCH & ANALYSIS

⁹<https://www.indiabudget.gov.in/doc/eb/sbe50.pdf>