



The Use of Protective Measures in Human Trafficking Cases: A Comparative Analysis

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The Project:

This project will analyze and compare the approaches of the U.S., Ireland, and the Netherlands towards the use of protective measures¹ in human trafficking cases. In doing so, I will examine domestic law and procedural rules, court transcripts, as well as any available data regarding the frequency and nature of protective measure utilization within these three jurisdictions. In addition, I will conduct qualitative, semi-structured interviews with American, Irish, and Dutch judges who preside over human trafficking cases in order to explore their approaches and decision-making processes regarding the use of protective measures in these cases.

A large study from the UK found that the use of special measures, including allowing testimony to be provided via video recording or live television link, closing the courtroom to the public, screening off the witness from the defendant, and providing communication aids, is associated with lower levels of anxiety and distress, believing that the criminal justice system meets victims' needs, and heightened satisfaction with the criminal justice system among vulnerable and intimidated witnesses.² Approximately one-third of study participants who had used special measures reported that they would not have been willing and able to give evidence if these measures had not been available to them.³ This study highlights the importance of protective measures as a tool to enable vulnerable and intimidated individuals to participate in the criminal justice process.

Notably, my doctoral research in the Netherlands found significant variation among trafficking victims' views with respect to the use of protective measures, which highlights the importance of consulting with the victims themselves rather than making assumptions about their needs and preferences regarding the use of protective measures in their cases. For example, participants were divided about whether or not they wanted the defendant to be present while they gave testimony and whether they preferred to testify in a courtroom or via video link. By analyzing and comparing the availability of various protective measures and how decisions to use them are made across jurisdictions, we can better understand cultural similarities and differences in the treatment of victims within the criminal justice process (including their level of agency), how victims' and defendants' rights are balanced, as well as factors impacting victim participation rates.

¹ Also known as "special measures."

² BECKY HAMLYN, ANDREW PHELPS, JENNY TURTLE & GHAZALA SATTAR, HOME OFFICE RESEARCH STUDY 283, ARE SPECIAL MEASURES WORKING? EVIDENCE FROM SURVEYS OF VULNERABLE AND INTIMIDATED WITNESSES, XIV-XV, 2-3, 112-13 (2004).

³ *Id.* at xiii, 112.