

SECTION 3: INTERNATIONAL CRIMINAL LAW MOCK HEARING

Overall Objectives

- To provide students with a participatory and experiential learning opportunity.
- To enhance students' understanding of the International Criminal Court (ICC), procedures related to international criminal law and issues involving child soldiers.
- To enhance students' critical-thinking and advocacy skills.

BACKGROUND FOR TEACHERS: RUNNING A MOCK HEARING IN YOUR CLASS

This section provides a brief introduction to mock hearings. It is recommended that teachers refer to OJEN's *Mock Hearing Demonstration Video* and its companion guide, *Making the Case: A Mock Hearing Toolkit*, for additional information on how to run a mock hearing with students. To request free copies, send an email with your mailing address to info@ojen.ca.

WHAT IS A MOCK HEARING?

A student mock hearing is a simulation of a real court or administrative hearing, with students playing the roles of lawyers, witnesses, the accused, court staff, and in some cases, the judge. During mock hearings, students re-enact every step of a real hearing. Depending on the type of hearing this may include: opening the case, examining witnesses, presenting legal arguments, making and responding to objections, making sentencing submissions, mediating, negotiating with opposing counsel and receiving a judgment.

WHY HOLD A MOCK HEARING FOR STUDENTS?

Mock hearings are a great way to bring the law to life for students. Participants develop their advocacy, public speaking, organization, research and reasoning skills. They work as members of a team, developing a theory of a case, and making sure all elements of their case are presented harmoniously. Individually, either as a lawyer presenting arguments or leading evidence, or as a witness giving evidence, they develop personal confidence and self-esteem. And, student participants learn to think on their feet!

Through mock hearings, students experience many different aspects of the justice system and consider different legal and procedural issues. Mock hearings enable students to be part of the adjudication process and learn the fundamentals of courtroom etiquette, the order of a trial and the rules of evidence.

When justice sector representatives get involved, students also benefit from positive interactions with members of the legal profession. The opportunity to discuss different aspects of the judicial process deepens students' understanding and provides positive role modeling and career information. Active engagement with the justice system benefits students' academic progress and establishes a foundation for a lifelong understanding of their role in our democracy.

WHERE DO MOCK HEARINGS TAKE PLACE?

Mock hearings can take place in real courtrooms or in classrooms. Defence counsel, crown attorneys, court clerks and police constables often coach students on their particular roles. Judges and justices of the peace enjoy presiding over mock hearings and offering feedback to students. If you would like to be put in touch with justice sector volunteers in your local region, contact OJEN at info@ojen.ca.

WHO CAN PARTICIPATE IN A MOCK HEARING?

Any size group, including individual school classes, schools, teachers, school boards, community agencies, or committees of justice sector representatives can develop and participate in mock hearings.

This mock hearing scenario was created for ten lawyers and five witnesses. Other roles include judges, the court clerk, court services officer, court artist and members of the press. In some cases, real judges or lawyers can play the role of the presiding judge, and students can take on the roles of the additional two judges (or jury for a modified version). When working with a large group, two or more juries can deliberate and compare their reasoning and verdicts. The flexibility of roles allows the mock hearing to involve the whole class, or be an enrichment activity for a small group.

RUNNING A MOCK HEARING IN YOUR CLASS

Materials

- International Criminal Law Mock Trial Scenario: *The Prosecutor v. Mabo*
- International Criminal Law Mock Trial Role Preparation Package
- International Criminal Law Mock Trial Justice Sector Volunteer Package
- Students need the Scenario and Role Preparation packages. Justice sector volunteers/teachers/organizers need all three packages.

Steps

1. Review all mock hearing materials, as well as OJEN's *Mock Hearing Demonstration Video* and its companion guide, *Making the Case: A Mock Hearing Toolkit*, prior to distributing materials to students. (To request free copies of these resources, send an email with your mailing address to info@ojen.ca.)
2. Distribute and review the mock hearing scenario and role preparation package with students. Spend time discussing any difficult concepts, clarifying students' understanding of the scenario and procedure, and theorizing arguments for each side of the case. Have students select roles, or assign them.
3. Using the role preparation package, review the trial process with students. If time permits, you may want to show students video clips of high school students performing a criminal law mock trial from the *Mock Hearing Demonstration Video*. The video includes a full-length student mock hearing, as well as sections on how to prepare direct and cross examinations. If you have justice sector volunteers assisting, you may invite them in to coach students on the trial process.
4. Once students are familiar with the scenario and role preparation package, divide them by role and have students prepare their particular aspect of the case. You may want to invite justice sector volunteers to coach the student lawyers on developing their theories of the case. Students performing other roles may work individually, or in groups as needed.
5. Allow students one to three classes to prepare their roles and practice their individual parts. Prior to the final mock hearing, review courtroom etiquette (contained in the role preparation package) with students.
6. On the day of the trial, rearrange the classroom to look like a courtroom. Have students argue the case before the assigned judges. Judges should debrief the various issues in the case and provide a sentence, if necessary, at the end of the trial. Teachers can decide if they want to evaluate students on the basis of their performance and/or in conjunction with a written assignment. Certain roles will lend themselves better to each of these. For ideas of assessment options for the various roles, see the following section on *Assessment & Evaluation Strategies for Mock Hearings*.

Discussion Questions after conducting the Trial:

1. Why do you believe Arthur Mabo was found guilty or not guilty? Did you have any doubts about his guilt? What were they?
2. Do you think that the child soldiers like Thomas Gaba and Anna Rutu should also be tried for the crimes they committed? Why or why not?
3. Do you think it is important for victims to be represented by a lawyer during a trial at the International Criminal Court? Why or why not?
4. Do you think children who join rebel armies willingly should be treated differently than children who are forced to join by being abducted?
5. Had you heard about child soldiers before this mock trial? If so, can you tell us about what you knew?
6. Which of the two international legal processes do you think is more effective at protecting children – the International Criminal Court or UN Sanctions under the Convention on the Rights of the Child?
7. Contrast the pros two international law approaches to protecting children – identify the advantages and disadvantages, as well as the differences of each.

ASSESSMENT AND EVALUATION STRATEGIES FOR A MOCK HEARING

Mock hearings provide students with participatory and experiential learning opportunities. Preparation for mock hearings require students to work cooperatively in small groups and produce legal arguments, statements or lines of questioning, as well as conduct oral presentations or interview witnesses.

There are many possibilities for incorporating mock hearing activities into the curriculum and student evaluation. Mock hearings can be used to assess students' understanding, analysis and interpretation of course content and their ability to communicate this knowledge effectively. The following are some examples of curriculum expectations that can be addressed through mock hearings:

- understanding the meaning of texts
- using information and ideas from texts to support opinions
- demonstrating critical-thinking skills
- investigating historical topics and issues
- researching, recording and organizing information
- developing a clear focus for investigations by formulating and asking appropriate questions
- identifying different viewpoints and biases
- public speaking and effective communication
- expressing ideas, opinions and conclusions clearly and articulately
- working collaboratively to achieve group goals
- developing writing skills in argumentative or editorial styles.

Teachers can decide whether they would like to evaluate students on the basis of their performance as a group, or individually. Some teachers have required student teams to submit written summaries of their theory of the case prior to the trial. Individual students may also be required to submit drafts of their opening or closing statements, or questions for examinations of witnesses. On the day of the hearing, students may be assessed on the basis of their performance during the hearing itself. Some of the mock hearing roles lend themselves to written reflections on the course of the trial, or the experience of the student in the role of a juror or witness.

The following are some examples of assessment tools, including a marking scheme, performance sheet, evaluation rubric and performance-rating table that may be used when evaluating mock hearings.



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ASSESSMENT OPTIONS FOR A FULL-CLASS MOCK HEARING

One possible configuration of student roles to involve up to 30 students in a classroom-based mock hearing includes a written assignment appropriate to each role, and similar in length and scope to each of the other roles. Using this model, a teacher could involve a full class in the preparation, presentation and follow-up of a mock hearing.

Role	No. of Roles	Assignment
Lawyers for the Defense	4	Arguments and script for direct and cross-examination
Lawyers for the Prosecution / Victim	6	Arguments and script for direct and cross examination
Witness	3	Reflection on the reliability of recollections and the inclination to favour the desired result
Accused	1	Letter of apology or reflection on experience of a process that could result in incarceration
Victim	1	Victim impact statement or reflection on process that exposes personal information and situations
UN Observer	2+	Observe the trial and prepare a report for the UN High Commissions including recommendations for compliance with the Convention on the Rights of the Child
Court Clerk	1	Research the role of the clerk and the importance of control of exhibits and transcripts to appeals.
Press	2-6	Have one student prepare an article on the trial. Have other students prepare an editorial by assigning perspectives, such as a "law and order agenda" or a "victim's rights agenda" and have students prepare an editorial on the results of the trial.
Judge	1-3	A student, alone or in consultation with a judge or lawyer or other students, can preside over the hearing, decide on a verdict and then write a reflection on the decision making process.
	Total 27+	

MARKING SCHEME FOR JUDGES

Have a volunteer judge or lawyer use this marking scheme to provide feedback on student performance that can be used for assessment. Each of the four areas is worth 25 marks.

1. TRIAL PROCESS AND PROCEDURE

In this area, the judges will be considering the following:

- Did each team member/lawyer observe proper trial procedure (order of case, appropriate objections, appropriate responses to objections, court decorum, entering of exhibits, witnesses, etc.)?
- Did the team members, including witnesses, refrain from unfairly deviating from the scenario?
- Did the team members conduct themselves professionally and civilly, treating opposing counsel and witnesses respectfully? Did the team focus on presenting the case to the judge, rather than engaging in an argument with opposing counsel?

2. DEVELOPMENT AND PRESENTATION OF LEGAL ARGUMENT

In this area, the judges will be considering the following:

- Did the opening and closing statements set out the theory of the case?
- Did the direct examination utilize appropriate, effective, non-leading questions?
- Did the cross-examination questions bring out contradictions and/or weakness in the other case?
- Were the closing statements organized and well-reasoned, and did they summarize the important areas of the evidence and the team's case?

3. ORAL ADVOCACY

In this area, the judges will be considering the following:

- Did team members speak clearly and distinctly; could they be heard?
- Did team members keep their presentations within the prescribed time limits?
- Were the team members compelling in their arguments?
- How did students deal with objections or other unexpected developments in the trial?

4. WITNESS PERFORMANCE

In this area, the judges will be considering the following:

- Were the witnesses (including accused, police, etc.) convincing in their testimony, well-prepared for questions and did they answer the questions appropriately?

MOCK HEARING PERFORMANCE SUMMARY SHEET

Preparation and Research	4 (80-100% of the time)	3 (70-79% of the time)	2 (60-69% of the time)	1 (50-59% of the time)
Witness	Statements are fully developed; completely consistent with record, did not deviate from facts, responded well to questions posed to cross-examination and accurately performed.	Statements are fully developed, completely consistent with record and accurately performed.	Statements are undeveloped, inconsistent and inaccurate.	Statements are non-existent and are completely inconsistent (unprepared witness).
Lawyer (all)	Questions are relevant, logical, and clear; questions are properly formed and delivered and bring out important information for side.	Questions are relevant, logical, and clear; questions are properly formed and delivered; lawyer memorizes opening or closing statement.	Questions are irrelevant, illogical and unclear.	Does not have any questions; questions are irrelevant, illogical, unclear.
Lawyer (opening statement)	Provides a clear and concise description of his/her team's side of the case.	Provides a semi-clear and concise description of the case.	Although there is a description of the case, it is unclear.	There is no clear, concise description of the case.

Preparation and Research	4 (80-100% of the time)	3 (70-79% of the time)	2 (60-69% of the time)	1 (50-59% of the time)
Lawyer (direct examination)	Uses questions with straightforward answers; direct questions; brings out key facts of his/her case.	Most of the questions are direct and straightforward; brings out key facts of case.	Half of the questions are direct and straightforward; brings out some of key facts of the case.	Very few of the questions are direct and straightforward; very few of the facts are brought out.
Lawyer (cross-examination)	Brings out contradictions or problems with testimony and weakens other side's case; uses properly phrased questions and exhibits clear understanding of trial procedures; all questions are leading.	Brings out some contradictions of testimony and does not really weaken the other side's case; most questions are clear and most exhibit a clear understanding of trial procedures; most questions are leading.	Brings out few contradictions of testimony and does not weaken the other side's case; some questions are not clear; shows some examples of trial procedures; some questions are leading.	Does not contradict or weaken other side's case; questions are completely unclear; questions are all direct.
Lawyer (closing statement)	Makes an organized and well-reasoned presentation summarizing the important points of the case.	Makes a semi-organized and reasoned presentation summarizing the important points of the case.	Presentation is unorganized and is not well-reasoned; the facts of their side are not really presented.	The presentation is completely unorganized and does not represent their side.
Voice	Easily understandable; consistent use of appropriate voice rate and speed; loud enough for everyone to hear; intonation (tone).	Understandable most of the time; appropriate voice rate in most of the performance; usually loud, has a decent tone.	Not easily understood; delivery needs work.	Is not understandable and does not have appropriate voice.
Eye Contact	Establishes appropriate eye contact for the situation and setting.	Establishes eye contact most of the time.	Very rarely establishes eye contact.	Does not establish eye contact.
Authenticity	Seems very real; excellent use of body and facial expressions; words and gestures match character; well adapted to setting; appropriate costume; did not unfairly deviate from the facts.	Believable character; adequate use of expressions; adapted to setting fairly well.	Needs to be more convincing; unbelievable character; inadequate expressions; has not adapted to setting.	Not in character; no expressions; not adapted to setting.

SAMPLE MOCK TRIAL PERFORMANCE RATING SHEET

In deciding which team has made the best presentation, the following criteria could be used to evaluate each team's performance. For each of the performance standards listed below, the judge rates each team on a scale of 1-5.

Performance Expectations	Crown	Defense
Defense team opening statement: the lawyers provided a clear and concise description of their team's side of the case.		
On direct examination , lawyers utilized questions that required straightforward answers and brought out key information for their side of the case.		
On cross-examination , lawyers were able to bring out contradictions in the testimony and weaken the other side's case.		
Throughout the questioning of witnesses , lawyers utilized properly phrased questions and exhibited a clear understanding of criminal trial procedures, rules of evidence and the applicable law.		
Closing statement: the lawyers made an organized and well-reasoned presentation summarizing the most important points of their team's side of case.		
Performance Standards WITNESSES	WITNESSES	
Witnesses/accused were believable in their characterizations, convincing in their testimony and did not unfairly deviate from the facts in the case.		
Witnesses/accused were well-prepared for answering the questions posed to them under direct examination.		
Witness/accused responded well to questions posed to them under cross-examination.		
OVERALL TEAM PERFORMANCE		
Team members were courteous, observed general courtroom decorum, spoke clearly and distinctly.		
Team members kept their presentations within the prescribed time limits, with all team members involved in the presentation of the case. Objections, if any, were timely and relevant.		
TOTAL SCORE:		

INTERNATIONAL CRIMINAL LAW MOCK TRIAL

THE PROSECUTOR V. MABO

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For each International Criminal Law Mock Trial, there are three packages:

- » International Criminal Law Mock Trial **Scenario**
- » International Criminal Law Mock Trial **Role Preparation Package**
- » International Criminal Law Mock Trial **Justice Sector Volunteer Package**

Students/youth need the scenario and role preparation packages.

Justice sector volunteers/teachers/organizers need all three packages.

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THE PROSECUTOR V. MABO

» Recruitment and conscription of child soldiers



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LIST OF PARTICIPANTS

1. **Arthur Mabo** (the accused)
2. **Thomas Gaba** (former combatant, witness for the accused)
3. **Anna Kabolo** (former child soldier, witness for the prosecutor)
4. **Patrick Bateman** (UN soldier, witness for the prosecutor)
5. **Alia Rutu** (parent of a deceased child soldier, victim, witness for the victim's lawyer)
6. **Prosecutors** (4)
7. **Defence Lawyers** (4)
8. **Victim's Lawyers** (2)
9. **Judges** (3) (The presiding judge could be played by a teacher, a lawyer, or a judge and two students could play the roles of the other two judges.)
10. **UN Observer** (2+) (observes the trial and makes recommendations to the UN High Commissioner on the country's compliance with the Convention on the Rights of the Child)
11. **Court Services Officer** (keeps order in the court) (optional)
12. **Registrar** (assists the judge) (optional)

WHAT HAPPENED?

FACT SCENARIO

The conflict in Shansau is an historic conflict in the northeastern part of the country involving two different ethnic groups, the Kani and the Lago. Tension and fighting between the groups have occurred for many years because of competition for land and power over the region's rich natural resources, and in particular the diamond mines. In 2002, the conflict intensified and the violence escalated when Philippe Troua staged a coup and overturned the government of Shansau. Once Philippe Troua took power and declared himself President of Shansau, he replaced all the ministers of the former government. All those named to power in his government identified themselves as Kani. The Kani were declared the dominant people of Shansau and land belonging to the Lago was taken away to be handed over to the Kani. As a result, many Lagos fled to the neighbouring country of Vilba as refugees. By 2005, a group of refugees had formed the Union of Shansau Patriots, and Arthur Mabo was allegedly its president and the commander-in-chief of its military wing, the Patriotic Forces for the Liberation of Shansau (PFLS). The Patriotic Forces for the Liberation of Shansau were a militia group (a rebel group) whose main goal was to establish dominance through violence against non-Lago people, especially against the Kani.

In 2006, the Patriotic Forces for the Liberation of Shansau returned to Shansau to establish control in the northeastern part of the country, and to reclaim their land, and more specifically, the diamond mines of the region. The conflict was violent and deadly. The PFLS were outnumbered by the Shansau army but sought to remain in control of the region at any cost. The conflict made commanders rich because of the control of mines, and therefore gave them a reason to keep fighting. They motivated their forces by promoting ethnic hatred of the Kani to continue the war.

As the number of rebels and available adults began to decrease, the PFLS resorted to enlisting children from nearby villages to increase their numbers. Children as young as 7 years of age were seen by villagers and UN soldiers carrying automatic weapons and wearing different assortments of military clothing. Rebel camps were teeming with children, both girls and boys ranging from 7 to 17 years of age. The older ones trained the younger ones in tactics of war and in weaponry. Children were seen on the front line of the continuing conflict. They were often the ones who were sent out first during an attack to enable older, more experienced soldiers to stay alive throughout the attack.

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | THE PROSECUTOR V. MABO

FACT SCENARIO

A UN peacekeeping mission was launched in early 2007 to help the Troua government. UN soldiers reported coming face-to-face with armed child soldiers. They also reported that villagers told them about rebel attacks on their villages during which children were taken away and made to commit atrocities against the villagers before being forced into trucks with the rebel leaders. These children were of Kani and Lago ethnicity—the rebels had taken them indiscriminately. Some children who escaped the rebel camps said that they were required to learn to operate automatic weapons and to use them during attacks on villages. The children who were not used as soldiers were used as cooks, porters or slaves. Some girls were given to rebel commanders as their “wives.” Child soldiers who behaved well and followed orders were treated well, and given food and shelter. Those who did not do what they were told were beaten and sometimes killed.

Although it has been reported that Arthur Mabo was rarely seen during these attacks, it is widely known that he remained in command of the rebels throughout the conflict.

In 2008, the UN mission arrested several militia leaders of the PFLS, including commander-in-chief, Arthur Mabo, following the issue of an arrest warrant for him and several others by the International Criminal Court prosecutor. Several other militia leaders of the PFLS are still at large today, including the second-in-command of the PFLS, Charles Yitu.

Arthur Mabo is charged under the Rome Statute on the International Criminal Court with committing three war crimes between June 2006 and April 2008:

1. Conscripting children under the age of 15 years into armed groups;
2. Enlisting children into armed groups, and
3. Using children to participate actively in armed conflict.

THE ACCUSED

ARTHUR MABO

Arthur Mabo grew up in a small village in the northeastern part of Shansau. At 16, he was awarded a position in the youth military training academy. He completed the program when he was 18 and returned to his village to help his mother as his father had recently been killed by a Kani police officer (the same

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | THE PROSECUTOR V. MABO

FACT SCENARIO

officer became the general of Troua's army). He was 25 when he fled his village because of the persecution against people who identified themselves as Lago. He fled to neighbouring Vilba with his mother and two younger brothers.

Arthur was resentful that Troua's government and his supporters had robbed him and his family of their land in Shansau. This land was rich in minerals and he had planned to continue working and exploiting it to give his family a better life. Arthur also sought to get revenge for his father's murder. He, along with several other men, met regularly in their refugee camp to discuss the issue and ways to return home to Shansau.

Eventually, the men who met regularly founded the Union of Shansau Patriots. Arthur was given the position of commander-in-chief of the Patriotic Forces for the Liberation of Shansau because of his military training when he was a youth, and his desire to lead rebel troops back into Shansau to abolish Troua's government. Arthur took his position seriously and quickly assembled and trained his army of rebels, highly motivated young men who shared his goal of returning home to Shansau and giving back the land to the Lago minority.

In 2006, Arthur led his army back over the mountains separating Vilba from Shansau. All the rebels had a common goal, to rid their land of the Kani people. They were to start in the northeastern part of the country and move into the capital. The PFLS were largely outnumbered by Troua's government army, and many were killed. Arthur vowed not to stop the offensive at any cost until the PFLS toppled the Troua government. Arthur remained in charge of the PFLS until his arrest in 2008.

THE ACCUSED'S WITNESSES

THOMAS GABO

Thomas was a soldier in the PFLS for many years. He credits the PFLS and Arthur Mabo in particular, for helping his people to regain their dignity and learn to fight for their rights. He acknowledges that in times of war there are unpleasant acts, but maintains that the PFLS did not commit atrocities, and certainly did not conduct itself differently from the Shansau army.

He learned discipline and leadership in the PFLS and saw firsthand that villagers, including parents and children, relied on the PFLS to provide basic necessities and protection. Thomas progressed into positions of leadership over small PFLS forces.

THE PROSECUTOR'S WITNESSES

ANNA KABOLO

Anna Kabolo was 10 years old when the rebels came to her village. They came in the early morning and attacked the school where she was a student. She recalls how they came in with their guns and shot anyone who tried to run away. She tried to hide under her desk but was not successful because a rebel saw her and took her back to his truck. He told her not to be scared, that she would be well-cared-for if she listened to him. Anna did not want to be killed, so she followed the rebel who held her tightly by the wrist. Anna was put into the back of a large truck with some of her fellow classmates, and taken far away from her village to the rebel camp.

At the camp, Anna quickly understood that misbehaving or running away would only bring a beating or get her killed. Anna listened to the rebels and did as she was asked because she was too afraid to do otherwise. During her first month at the camp, she was a slave to the soldiers. She became a slave for the higher-in-command while continuing to be trained to operate an AK-47. As Anna was quite small, only 10 years old, when she was taken from her village, the rebels used her mainly as a slave in the first year she was with them. She became the camp leader's favourite slave and was given a bigger shelter and more food when he was happy. When Arthur Mabo, the rebel's commander-in-chief came to the camp, it was Anna who brought him food, washed his clothes and did what was asked of her. She clearly remembers him as he once pointed a gun at her for dropping his drink right in front of him.

After a year at the camp, the commanders decided she had grown sufficiently (she was now 11 years old) and could handle her weapon well enough to be sent into combat. Anna remembers the early morning raids that they conducted on villages. She was usually sent with the younger children first because they were small enough to hide in the bushes nearest to the village and start attacking from there. On her first attack, she was given something which the soldiers called "Bubbles." She had heard of bubbles, and thought that bubbles gave courage and strength but did not know what they were. It is only now that she is no longer with the rebels that she understands that she was given a drug called amphetamine to numb her senses while she was carrying out vicious attacks on villagers.

Anna was caught by a UN soldier almost two years after being taken by the PFLS. By that time, Anne was 12 years old, almost 13. She was taken to a UN site, and then transferred to a rehabilitation centre for other children like herself, former child soldiers.

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PATRICK BATEMAN

Patrick Bateman is a UN soldier. He has been a soldier with the Canadian Armed Forces since he was 20 years old. He has been deployed with peacekeeping missions several times during his career. His deployment to Shansau is his first peacekeeping mission in the region. He was previously stationed in Bosnia.

Patrick is married and has two children at home. His children are now young teenagers.

Prior to arriving in Shansau, Patrick was briefed on the possibility of encountering child soldiers fighting with the PFLS. He was trained to deal with the threat they pose to the UN peacekeeping troops and the residents of Shansau.

Upon his arrival to Shansau in 2007, Patrick was stationed in the capital city. After six months, he was deployed to the northeastern part of the country where most of the violence was occurring between Shansau's government army and the PFLS rebel soldiers. In the northeastern part of the country, Patrick was taken with his commanding officer to a PFLS camp to attempt negotiations with PFLS commanding officers. Arthur Mabo was not present during this meeting. However, Patrick observed several children working at the camp. These children were armed and acted as soldiers. They wore various versions of army uniforms but yet some had sandals on their feet, or wore coloured t-shirts. Patrick observed a child no older than 7 years of age holding an AK-47 at the gate of the compound.

Within a month of his visit to the PFLS camp, violence was escalating and Patrick was called upon with his unit to protect a village. He took his position and during the battle with PFLS soldiers, Patrick observed between 40 to 50 children fighting with automatic weapons and machetes. The UN soldiers were confronted by these children and had to react in response. Patrick was able to stop one child, Anna, without harming her. He restrained and disarmed her and took her away from the fighting. The UN soldiers captured several of these children during this particular battle. When the PFLS retreated into the mountains, the captured children were taken to the UN camp and then on to a larger city in the northeast to a rehabilitation centre run by a non-governmental organization specializing in the rehabilitation of child soldiers.

Prior to his return to Canada, Patrick was able to meet Anna at the rehabilitation camp. He spoke to her briefly. She shared her story with him. She told him about being a slave and about her brief interactions with Arthur Mabo.

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Patrick returned to Canada in 2008. He has since sought psychological help to deal with the trauma of having to fight against children. He says he cannot erase the sight of 7-year-olds holding and shooting weapons. He also has difficulty coming to terms with the idea that he had to fire back on some occasions. He has been able to maintain contact with Anna, the child soldier he captured but ultimately saved.

FACT SCENARIO

THE VICTIM

ALIA RUTU

Alia Rutu has lived in a village in the northeastern part of Shansau all her life. She and her husband own a small parcel of land which they farm. They live off the land and sell any extra harvest in the local market. This gives them just enough income to buy other essentials for their family. Alia had five children. Her two eldest boys were taken away from her when the PFLS raided her village at dawn on November 15, 2006. On that day, Ismael was 9 years old and Emmanuel was 13 years old. Alia and her husband are both of the Kani ethnicity. Although they support the Troua government, they have not done so openly and did not condone his troops' acts of violence against the Lago minority of the region.

On the morning of November 15, 2006, Alia was awoken by loud shouts and pleas for help. She looked out her front door to see half her small village on fire and rebels running in between the neighbouring huts and houses. She quickly told her children to run away in the field and to keep running until they reached the river. She and her husband would join them with the baby. Her husband made her hide with their baby girl while he tried to protect their house. The rebels set fire to their house and murdered her husband, simply because he had the traits of a Kani. From her hiding spot, she could see the field and saw a rebel catch and take away her eldest boy in a truck along with several other young boys from the village. She has never seen him again.

After the attack, Alia Rutu was able to make her way from her hiding spot to the river where she found her two youngest girls, hidden under a bush. The girls had lost sight of their older brother and Alia was unable to find him after several days of searching the riverside. Village elders predicted several more attacks, so Alia and her three girls followed other survivors and fled into the mountains.

In 2009, when the UN peacekeeping mission was successful in stopping the conflict and the violence, Alia returned to her village and was reunited with the younger of her two boys, Ismael. Ismael was 12 years old when he was reunited

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | THE PROSECUTOR V. MABO

FACT SCENARIO

with his mother. He was able to explain to her that he had joined the rebels after two weeks in the wild because they promised him food and shelter. He was 9 years old at the time and was easily convinced that joining the soldiers would be the way to find his older brother, Emmanuel, and the only way to survive. Ismael told her that he saw his brother at the rebel camp but that he was not allowed to talk to him because his brother was in what the rebels called "advanced training." The soldiers told him that if he trained well and learned quickly, he would be allowed to join his brother. Ismael was not sufficiently trained for the first offensive. Unfortunately, his brother Emmanuel did participate, and was killed. Ismael never again saw his 13-year-old brother. It was at this point that he did all that he could to escape the rebels and return home to Alia and his sisters.

Alia believes what her youngest son, Ismael, has told her about her eldest son's death in combat as a child soldier. She witnessed firsthand his abduction at the hands of the rebels of the PFLS. That horrible morning, she also saw several rebels who looked no older than 12 years of age.

Issues:

- Is Arthur Mabo guilty of having conscripted children under the age of 15 years into armed groups?
- Is Arthur Mabo guilty of having enlisted children into armed groups?
- Is Arthur Mabo guilty of having used children to participate actively in armed conflict?
- If so, what is the appropriate sentence?

THE LAW

WHAT IS A WAR CRIME?

There exists a body of international law (customs and treaties), which regulates armed conflicts. These laws seek to safeguard “protected persons” who are not involved in the conflict, including civilians, injured soldiers and prisoners of war. These persons must be protected from the violence of war. They should not be killed, tortured, raped or abused any other way.

A number of international law documents set out the rights and protections people are entitled to in times of armed conflict. Each applies in a different context. The Rome Statute creates the international Criminal Court and sets out the grounds on which an individual can be prosecuted for committing war crimes.

The Convention on the Rights of the Child and the International Labour Organization apply to the action of governments, not individuals. They can be used when the world community wants to condemn the actions of a country.

LEGISLATION TO BE RELIED ON WHEN PROSECUTING ARTHUR MABO

HOW TO USE INTERNATIONAL LEGISLATION WHEN ARGUING THE TRIAL

The Prosecutor and the Victim's lawyer will argue that the actions of Arthur Mabo are violations of the Rome Statute (below). They will try to highlight the facts that prove the elements of the war crimes. The Defence counsel will find contradictions of gaps in the evidence that raise a reasonable doubt about the events, or show that another version of the events is plausible.

Article 8, Section 2b and 2e make it possible for the prosecutor to refer to other international law to help the court interpret the law or to explain the type of actions that are condemned by international law. Therefore, the prosecution or the victim's lawyer could also refer to the CRC and the ILO for supporting arguments.

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

Article 5: Crimes within the jurisdiction of the Court

1. The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:

- a. The crime of genocide;
- b. Crimes against humanity;
- c. War crimes;
- d. The crime of aggression.

Article 8: War crimes

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

2. For the purpose of this Statute, "war crimes" means:

- a. Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
 - i. Wilful killing;
 - ii. Torture or inhuman treatment, including biological experiments;
 - iii. Wilfully causing great suffering, or serious injury to body or health;
 - iv. Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
 - v. Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
 - vi. Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
 - vii. Unlawful deportation or transfer or unlawful confinement;
 - viii. Taking of hostages.

2(b). Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

xxvi. Conscripting or enlisting children under the age of 15 years into the national armed forces or using them to participate actively in hostilities.

2(e). Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

vii. Conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities.

CONVENTION ON THE RIGHTS OF THE CHILD

Article 37

States Parties shall ensure that:

- a. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age;
- b. No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- c. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | THE PROSECUTOR V. MABO

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of 15 years into their armed forces. In recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

THE LAW

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 4

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.

2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

3. The application of the present article shall not affect the legal status of any party to an armed conflict.

INTERNATIONAL LABOUR ORGANISATION -
C182 WORST FORMS OF CHILD LABOUR CONVENTION, 1999**Article 1**

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2

For the purposes of this Convention, the term “child” shall apply to all persons under the age of 18.

Article 3

For the purposes of this Convention, the term “the worst forms of child labour” comprises:

- a. all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b. work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

THE LAW

COMMAND RESPONSIBILITY

In International Law and International Humanitarian Law it is generally accepted that a commander is responsible for the actions of his subordinates. It is a commander's duty to ensure that his subordinates act in a civilised manner and according to the laws of war during an armed conflict. Command responsibility means that a commander is responsible for the acts committed by his subordinates under his command. A commander is responsible for the crimes that he orders his subordinates to commit but also for the crimes that his subordinates commit and that he did not act to prevent or to stop. If a commander knew or could have reasonably known that his subordinates were committing war crimes or crimes against humanity, he can be held responsible for their actions (their crimes).

Article 28 of the Rome Statute of the International Criminal Court recognizes the doctrine of command responsibility. A military commander will be individually responsible for crimes committed by his forces (subordinates) under his effective command and control if he either knew or should have known in the circumstances at the time that his forces were committing or were about to commit such crimes.

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In the case of recruiting, enlisting and using child soldiers in armed conflict, a commander can be held individually responsible for these crimes if he ordered his troops to conscript, recruit, enlist, use children as active participants in the armed conflict and can also be held individually responsible if he knew or should have known that his forces (or subordinates) were conscripting, recruiting, enlisting, using children under the age of 15 years old to actively participate in armed conflict.

THE LAW

TIME CHART FOR MOCK TRIAL

1. Registrar calls to order, calls case and counsel introduces themselves	1 min
2. Prosecutor's opening statement	2 mins
3. Defense's opening statement	2 mins
4. Victim's Counsel's opening statement	2 mins
Prosecutor's Case	
5. Prosecutor's direct examination of Prosecutor's first witness	3 mins
6. Defense's cross-examination of Prosecutor's first witness	3 mins
7. Victim's Counsel's cross-examination of Prosecutor's first witness	1.5 mins
8. Prosecutor's direct examination of Prosecutor's second witness	3 mins
9. Defense's cross-examination of Prosecutor's second witness	3 mins
10. Victim's Counsel's cross-examination of Prosecutor's second witness	1.5 mins
Defense's Case	
11. Defense's direct examination of accused	3 mins
12. Prosecutor's cross-examination of accused	3 mins
13. Victim's Counsel's cross-examination of accused	1.5 mins
14. Defense's direct examination of witness for the accused	3 mins
15. Prosecutor's cross-examination of witness for the accused	3 mins
16. Victim's Counsel's cross-examination of witness for the accused	1.5 mins
Victim's Counsel's Case	
17. Victim's Counsel's direct examination of Victim's Counsel's witness	3 mins
18. Prosecutor's cross-examination of witness	3 mins
19. Defense's cross-examination of witness	3 mins
Closing Arguments	
20. Prosecutor's closing arguments	2 mins
21. Defense's closing arguments	2 mins
22. Victim's Counsel's closing arguments	2 mins
23. Judges deliberate and render verdict	2-10 mins
24. Presiding judge gives feedback and discusses International Criminal Trial process, etc.	

ARTHUR MABO, ACCUSED**Your background:**

- You were the commander-in-chief of the Patriotic Forces for the Liberation of Shansau (PFLS) until your arrest.
- You are 34 years old.
- You identify yourself as a Lago.

Your version of what happened:

- Your native country, Shansau, was taken over by Philippe Troua in 2002. His troops then terrorized the Lago ethnic minority. Shortly after the beginning of this new government, your father was killed by a police officer simply because he was a Lago and not a Kani. This police officer has since become a general of the government army.
- You, your mother and your two brothers left Shansau shortly after your father's death to escape the conflict. You relocated to a refugee camp in the neighbouring country, Vilba. You were devastated to leave your home and to have lost your father.
- In the refugee camp, you met several other men and youth who thought like you and who wanted to return to Shansau to reclaim their land. There was nothing for you to do in the refugee camp except survive.
- You wanted to go back to the northeast of Shansau to reclaim your family's land, which was rich in minerals. There, you would be able to work and take care of your mother and younger brothers.
- Along with a group of refugees in Vilba, you founded the Union of Shansau Patriots.

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ARTHUR MABO, ACCUSED

You became its president and, more importantly, you were named the commander-in-chief of the Patriotic Forces for the Liberation of Shansau. The PFLS's main goal was to reclaim the land belonging to the Lago, and to establish independence of the northeastern part of Shansau.

- In 2006, you led the PFLS's army back into Shansau. Your troops were severely outnumbered by the army of Shansau, composed mainly of Kanis. They used violent tactics to reduce your army as much as possible. You vowed never to stop until you had reclaimed the land that was rightfully yours.
- You deny having actively recruited or enlisted children in the ranks of the PFLS. The children that were around the camp were Lago children who sought the protection of the PFLS. Their parents sent them to the camps for protection and for food. Some children may also have identified themselves as Kani but they were also at the camp for protection and shelter.
- You deny having given orders to your army to kidnap children to later be used as soldiers for the PFLS.
- You deny having set up a training camp for child soldiers.
- As the commander-in-chief of the PFLS, you were usually away from the training camp attending strategic planning meetings. You usually left your second-in-command, Charles Yitu, in charge of the camps. He may have disobeyed you and given an order to kidnap children and to train them as soldiers.

WITNESS
INFORMATION

THOMAS GABA, FORMER COMBATANT (WITNESS FOR THE ACCUSED)

Your background:

- You are a former combatant with the Patriotic Forces for the Liberation of Shansau (PFLS)
- You are 17 years old.
- You identify yourself as a Lago.
- You have always lived in the northeastern part of Shansau.

Your version of what happened:

- When you were 14 years old, the PFLS came into Shansau from the neighbouring country, Vilba. You did not know much about the PFLS but you knew that they wanted to reclaim land in the northeastern part of Shansau, where you lived.
- You lived in a very small village with your parents. Your father identifies himself as a Lago and your mother identifies herself as a Kani. They chose to remain in Shansau when the Troua government came into power even though they lost their land. They stayed on as hired help for a rich Kani who settled in the northeastern part of Shansau to exploit a diamond mine. Your family is very poor. The Kani landowner gave your parents just enough food to survive. You all had to work in the diamond mines.
- When the PFLS came back to Shansau, your father believed it would be a good thing. He quickly realized, however, that the PFLS was going to reclaim land through a violent and deadly conflict. He did not join them.
- You saw them walking by on a few occasions. You saw young men who were not hungry and who could hold their heads up high. They were not slaves to Kani landowners. When they invaded your

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THOMAS GABA, FORMER COMBATANT (WITNESS FOR THE ACCUSED)

village, they attacked all Kanis in sight. One soldier caught you as you tried to hide. Once you told him you were a Lago, he told you you could join them and that they would feed you and provide you with shelter. He told you you would never again have to work as a slave for a Kani landowner. You followed him back to the PFLS training camp. You were 14 years old when this happened.

- At the training camp, you stayed along with 20 other boys, some younger, some older. You were told the rules of the camp. You were all introduced to Arthur Mabo, the PFLS' commander in chief. He told you that if you obeyed, you would be given protection.
- After a week of training, you were given an extra portion at dinner because you had performed your tasks the fastest amongst the new trainees. You understood that to get ahead, you had to be good.
- After a few months of cooking and cleaning in the camp, many of the younger boys at the camp followed you around and did what you asked of them. Eventually, a soldier asked you your age. You decided to lie and to say you were 18 years old (even though you were only 14) because you wanted to be treated as one of the adults at the camp. The soldiers believed you because so many of the younger ones looked up to you. He gave you a mission, and told you that if you could accomplish this mission, you would become his assistant. As his assistant, it was your duty to manage the other children living and helping out in camp, including beating anyone who did not obey. You did not like doing this, but you understood that obedience was the way life worked in the PFLS camp.
- By the time you were 16 years old (and everyone at camp thought you were 20 years old), you had become a lieutenant in the PFLS and took command of a small troop. You were responsible for many raids on villages in the northeastern part of Shansau. You had become an expert of sneak attacks at dawn on unsuspecting villagers. You were very good at handling your weapon quickly. One of your tasks was to round up as many youth as you could find.
- You received your orders from your superior who received his orders from the second-in-command of the PFLS, Charles Yitu.
- Overall you are proud of your involvement with the PFLS and of its accomplishments to protect the Lago culture and people. You are relieved that the fighting has died down and hope that your country will return to a peaceful state. You have learned many leadership skills and credit the people in charge of the PFLS with helping to raise you into maturity and become a man who can hold his head high.

ANNA KABOLO, FORMER CHILD SOLDIER (PROSECUTOR'S FIRST WITNESS)

Your background:

- You are 13 years old.
- You are a former child soldier with the Patriotic Forces for the Liberation of Shansau (PFLS).
- You identify yourself as Kani.

Your version of what happened:

- You lived in a small village in northeastern Shansau all of your life until you were taken by the PFLS soldiers when you were 10 years old.
- Your parents are both Kani and own a large parcel of land where they raise cattle. Your family has owned this land for many generations.
- When the PFLS came into Shansau, your parents became very nervous and afraid. You could only go out of the house to go to the school which was down the road. At night, you hid in the cellar because your parents had heard of children being abducted by the PFLS.
- The day you were taken, you were at school when gunshots rang out in the school yard. You and your friends hid under your desks. When the soldiers came in, they killed your school teacher and any students who tried to run away. Those who remained were thrown into the back of several pickup trucks full of soldiers. The truck drove away very quickly down the road, but you were able to see that your house was on fire. You could not see your mother or father. You do not know what happened to them; you have never seen them again.

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ANNA KABOLO, FORMER CHILD SOLDIER (PROSECUTOR'S FIRST WITNESS)

- When you arrived at the camp, you were kept with all the other young children (you were only 10 years old at the time). For the first year at camp, you did manual labour, you cleaned, you cooked, you did whatever the soldiers told you to do. You understood that if you did not do what they asked you to do, you would be beaten or killed. You have seen it happen to other slaves who disobeyed or tried to escape.
- After a year as a slave, you were given a private hut because you were the leader's favourite slave. Sometimes, when he was in a good mood, he would bring extra food when he came to see you.
- You met Arthur Mabo when you were the slave who was chosen to serve him his food, wash his clothes and tend to him when he came to the camp. You are very afraid of him, but it was a big honour to serve 'the Leader' or 'Commander Mabo' as he was called in camp. The first time you brought him food, you were so nervous that you dropped his drink in front of him. He reacted violently and pointed his AK-47 at you. You were certain he would shoot, but a soldier whispered something to him and he put his gun down and shooed you away.
- One day, when you were 11 and a half years old, the senior leaders told you would become a soldier like them. They had trained you since your arrival to handle a weapon, and in the tactics of war.
- From that day on, you joined other child soldiers on early morning raids in surrounding villages. You and other smaller children were good at hiding in the bush and shooting the villagers.
- You were given something called "Bubbles" which gave you strength and courage. Prior to most raids, you would take "Bubbles" and could carry out vicious attacks on villagers without feeling guilty or nauseous. You understand now that you are rehabilitated that "Bubbles" was actually a drug called amphetamine which numbed your senses. It took a long time for you to stop craving "Bubbles."
- When you were 12 years old, approximately two years after you were taken by the PFLS, you went on a raid with your unit. This one was different because you were caught by a soldier with a blue helmet. He restrained you and took away your AK-47 and your knife and put you in a truck. He brought you to the UN camp. You were treated nicely there. You were given food, clean clothes

WITNESS
INFORMATION

ANNA KABOLO, FORMER CHILD SOLDIER (PROSECUTOR'S FIRST WITNESS)

and a nice bed. You then went to a larger city to another centre where people helped you to understand what had happened.

- You no longer crave "Bubbles" but you still get very angry sometimes. You are mad that the soldiers made you take drugs and made you kill innocent people. You are sad that you have not seen your parents since that day, and you think that if they are alive, they may never want to see you because of the crimes you have committed.

WITNESS
INFORMATION

PATRICK BATEMAN, UN SOLDIER (PROSECUTOR'S SECOND WITNESS)

Your background:

- Your name is Patrick Bateman.
- You are 42 years old.
- You have been a soldier with the Canadian Armed Forces since you were 20 years old.
- Your deployment to Shanau was your first peacekeeping mission in the region.
- You are married and you have two children who are now young teenagers.

Your version of what happened:

- You are a lieutenant[c2] with the Canadian Armed Forces and have often acted as part of UN missions. You were stationed in Bosnia for several years prior to being relocated to Shansau as part of the newest UN peacekeeping mission.
- Prior to being relocated to Shansau, you received training and attended several briefing sessions on the situation in that country. You were told that there was a significant possibility of encountering child soldiers fighting with the PFLS. You were trained to deal with the specific threats posed by child soldiers. You understood that these young soldiers were both a threat to the peacekeeping mission, and to the residents of Shansau.
- You arrived in Shansau in 2007. You were stationed in the capital city. After six months there, you were deployed to the northeastern part of the country where most of the violence was occurring, and where the conflict was not resolved.

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PATRICK BATEMAN, UN SOLDIER (PROSECUTOR'S SECOND WITNESS)

- After your arrival in the northeastern part of the country, you were asked to join your commanding officer in negotiations with the PFLS at their camp. You met with PFLS commanding officers, but you did not meet Arthur Mabo, nor did you ever see him.
- When you arrived at the PFLS camp, you saw several children working there. Some carried weapons and acted as soldiers. They wore all sorts of army uniforms; some had the jackets, some had camouflage pants, while others walked around in their sandals and coloured t-shirts. You saw at least one child who looked to be no older than 7 years of age. He was carrying an AK-47 and acted as the compound guard. You have never forgotten him. He looked fierce yet scared.
- Within a month of this visit, the violence in the northeast escalated and your unit was called upon to protect a village which was the intended target of upcoming raids by the PFLS.
- When the raid occurred, you observed between 40 to 50 children fighting with automatic weapons and machetes. These children were not playing; they were at war and used their weapons to kill. You and the other UN soldiers had to react in consequence.
- You managed to surprise one girl soldier who hesitated for a moment too long. You reacted faster and took her weapon out of her hands. As she tried to take it back, she fell. This gave you the chance to restrain her, and take her out of harm's way.
- Your fellow soldiers captured other children during this battle, too. Your unit was successful in pushing back the PFLS. When they retreated back to the mountains, you and other soldiers brought the children to the UN camp.
- You understand that they were taken from the UN camp and brought to a rehabilitation centre run by a non-governmental organization specializing in the rehabilitation of child soldiers. Several of the children who were sent there were very aggressive and unhappy. They had glassy eyes and showed clear signs of withdrawal from whichever drugs they had been given to fight.
- Prior to the end of your tour of duty, you were able to meet Anna at the rehabilitation camp. You spoke to her briefly. She told you her story and explained that she had been a slave at the PFLS camp. She also told you that

WITNESS
INFORMATION

PATRICK BATEMAN, UN SOLDIER (PROSECUTOR'S SECOND WITNESS)

she had met the accused, Arthur Mabo, though she called him 'the Leader' and didn't know his name.

- You returned to Canada in 2008. Since then, you have met with a psychologist to help you deal with the trauma of having to fight against children. You cannot erase the sight or the memory of children as young as 7 years of age holding and shooting their weapons at villagers and UN soldiers. You've also had a lot of difficulty accepting that you had to fire back on PFLS soldiers, including child soldiers, to defend villagers.
- You know that you have at least been able to help Anna, the child soldier you were able to save.

WITNESS
INFORMATION

ALIA RUTU, PARENT OF DECEASED CHILD SOLDIER (VICTIM'S COUNSEL'S WITNESS)

Your background:

- Your name is Alia Rutu.
- You are the mother of five children. Your eldest son was killed when he was 13 years old. Your other son was abducted, but managed to escape from the PFLS camp.
- You and your husband are both Kani farmers living in the northeastern part of Shansau.

Your version of what happened:

- You and your husband have lived in the northeastern part of Shansau for all of your lives. Together, you own a small parcel of land which you farm. You live off the land and you sell any extra harvest at the local market. This gave you enough money to send your children to the local school.
- You and your family are Kani and you support the Troua government. However, you do not condone the government army's acts of violence against the Lago minority of the region. You believe that the Lago and the Kani can live on the same land together.
- You had five children, two boys and three girls: Emmanuel, Ismael, Gemma, Sofia and Mona.
- On November 15, 2006, your farm and the neighbouring village were attacked at dawn. You were awoken by shouts, gunshots and pleas for help. You looked out your front door and saw that almost half the village had been set on fire. PFLS rebels were running from one hut to the next with their weapons held high. You knew they would come in a minute or two so you told your children to run away in the fields and to keep running until

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ALIA RUTU, PARENT OF DECEASED CHILD SOLDIER (VICTIM'S COUNSEL'S WITNESS)

they reached the river. You told them you would come get them there.

- Your husband quickly told you to hide with your baby daughter, Mona, in the small chicken coop. He attempted to protect your house and to explain to the Lago that he was not against them. They did not listen. They shot him and set fire to your house. You heard them shout that they would kill all the Kanis.
- From your hiding spot in the chicken coop, you could see the field. You saw one rebel catch your eldest son, Emmanuel (13 years old) who had turned back toward the house when he heard the gunshot that killed your husband, his father. The rebels did not kill him; they took him away and shoved him in a truck with several other young boys from the village. This was the last time you saw Emmanuel.
- When the rebels left, you made your way silently through the fields and to the river where you found your two other daughters hiding in a bush. You looked in vain for your other son, Ismael (9 years old).
- The village elders told you it was not safe to return to the village; the rebels would be back. You decided to flee with your three girls into the mountains.
- Three years later, when the UN peacekeeping mission was successful in reestablishing peace in Shansau, you returned to your village and your land. There, you found Ismael living with your elderly neighbour. He had been back for approximately three months. Ismael was 12 years old by the time he had returned to the village.
- Ismael explained to you that after the raid, he had lived in the wild for close to two weeks. He had then met two PFLS rebels who had promised him food and shelter if he followed them back to their camp. Although he was afraid of them, he was so hungry that he went with them. He was 9 years old at that time, and so was easily convinced by the rebels. He also thought this was the way to find Emmanuel.
- Once at the camp, he was given a little bit of food and was tied to five other small soldier boys; all new recruits like him. When he first saw Emmanuel, he wasn't tied so he ran toward him but was stopped by a soldier who told him if he went to his brother, he would shoot him. The soldier then told him that Emmanuel was in "advanced training" and that he could not be disturbed. The soldier also promised him that if he trained well, he would be allowed to join his brother.

WITNESS
INFORMATION

ALIA RUTU, PARENT OF DECEASED CHILD SOLDIER (VICTIM'S COUNSEL'S WITNESS)

- Ismael, who was only 9 years old, was not sufficiently trained to join Emmanuel and the other child soldiers on their first offensive. Emmanuel did not look at Ismael before he left; he had glassy eyes and stared straight ahead. Ismael never saw his brother again; an older soldier told him that Emmanuel was killed.
- Ismael decided he did not want to be killed like his brother; he waited and planned his escape. He miraculously was able to return to his village.
- You (Alia) believe what your son Ismael told you. You believe that your son, Emmanuel was killed in combat as a child soldier when he was 13 years old. You witnessed his abduction at the hands of the PFLS rebels. That horrible morning, you also saw several rebels who looked no older than 12 years of age.

WITNESS
INFORMATION

JUDGING CHART

If the roles of the judges are not being played by justice sector volunteers, the following chart will help to organize and render a decision. Additional information on preparing for the role of the judge is available in the Role Preparation Package.

ISSUE	SUMMARY/FINDING
What did the accused, Arthur Mabo, say about his knowledge of children within the camp of the PFLS?	The accused, Arthur Mabo, testified that...
What did the witness, Anna Kabolo, say about being a child soldier at the PFLS camp?	The prosecutor's witness, Anna Kabolo, testified that...
What did the witness, Patrick Bateman, say about Arthur Mabo and about the children at the PFLS camp?	The prosecutor's witness, Patrick Bateman, testified that...
What did the witness, Thomas Gaba, say about being at the PFLS?	The witness for the accused, Thomas Gaba, testified that...
Who do you believe? Why? What is your finding as to Arthur Mabo's knowledge about the children in the PFLS camp?	I prefer the evidence of the prosecutor/defence... I find that the accused...

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | THE PROSECUTOR V. MABO

ISSUE	SUMMARY/FINDING
What did the accused, Arthur Mabo, say about ordering soldiers to recruit children into the PFLS?	The accused, Arthur Mabo, testified that...
What did the witness, Anna Kabolo, say about how she got to the PFLS camp?	The prosecutor's witness, Anna Kabolo, testified that...
What did the witness, Thomas Gaba, say about how he go to the PFLS camp?	The witness for the accused, Thomas Gaba, testified that...
What did the witness, Alia Rutu, say about how her boys got to the PFLS camp?	The witness, Alia Rutu, testified that...
Who do you believe? Why? What is your finding as to Arthur Mabo's knowledge about the recruitment of children in the PFLS?	I prefer the evidence of the prosecutor/defence... I find that the accused...

JUDGING
CHART

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | THE PROSECUTOR V. MABO

ISSUE	SUMMARY/FINDING
What did the accused, Arthur Mabo, say about the role of children with the PFLS?	The accused, Arthur Mabo, testified that...
What did the witness, Anna Kabolo, say about her role as a child soldier with the PFLS?	The prosecutor's witness, Anna Kabolo, testified that...
What did the witness, Thomas Gaba, say about his role with the PFLS?	The witness for the accused, Thomas Gaba, testified that...
What did the witness, Alia Rutu, say about how her boys' roles with the PFLS?	The witness, Alia Rutu, testified that...
What did the witness, Patrick Bateman, say about children's participation in the armed conflict?	The witness, Patrick Bateman, testified that...
<p>Who do you believe?</p> <p>Why?</p> <p>What is your finding as to Arthur Mabo's knowledge about the children being used to actively participate in the armed conflict of the PFLS?</p>	<p>I prefer the evidence of the prosecutor/defence...</p> <p>I find that the accused...</p>

JUDGING
CHART

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | THE PROSECUTOR V. MABO

ISSUE	SUMMARY/FINDING
<p>Who do you believe?</p> <p>Why?</p> <p>Do you believe Arthur Mabo's on one accusation but the prosecutor's witnesses on another?</p>	<p>I prefer the evidence of the prosecutor/defence...</p>
<p>What are your findings on the accusations of conscripting children under the age of 15 years of age to be part of the PFLS?</p>	<p>I find that the accused, Arthur Mabo, is guilty/not guilty...</p>
<p>What are your findings on the accusations of enlisting children into armed groups (the PFLS)?</p>	<p>I find that the accused, Arthur Mabo, is guilty/not guilty...</p>
<p>What are your findings on the accusations of using children to actively participate in armed conflict?</p>	<p>I find that the accused, Arthur Mabo, is guilty/not guilty...</p>

JUDGING
CHART

INTERNATIONAL CRIMINAL LAW MOCK TRIAL

ROLE PREPARATION

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For each International Criminal Law Mock Trial, there are three packages:

- » **International Criminal Law Mock Trial Scenario**
- » **International Criminal Law Mock Trial Role Preparation Package**
- » **International Criminal Law Mock Trial Justice Sector Volunteer Package**

Students/youth need the scenario and role preparation packages.

Justice sector volunteers/teachers/organizers need all three packages.



GENERAL INFORMATION ABOUT INTERNATIONAL CRIMINAL COURT TRIALS

This mock trial is designed to help you learn more about international criminal law, the Convention on the Rights of the Child and the International Criminal Court (ICC).

WHAT IS THE INTERNATIONAL CRIMINAL COURT?

The ICC is the first permanent treaty-based court established to help end impunity for those who commit the most serious crimes of concern to the international community. The court focuses on crimes such as **genocide, war crimes** and **crimes against humanity**.

The ICC was created and is governed by an international treaty called the **Rome Statute**. It entered into force on July 1, 2002 when at least 60 states signed and ratified the treaty. Countries that recognize the ICC by signing the treaty accept its jurisdiction over its territory and its citizens.

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | ROLE PREPARATION

GENERAL INFORMATION
ABOUT INTERNATIONAL
CRIMINAL COURT TRIALS

The ICC has jurisdiction over individuals accused of committing the most serious crimes such as genocide, war crimes, crimes against humanity and aggression. This includes those directly responsible for committing the crimes, as well as others who are responsible for the crimes by aiding and abetting or otherwise assisting in the commission of a crime. The latter group includes military commanders or other superiors whose responsibility is defined in the Rome Statute. For example, a military commander who ordered his troops to kill all prisoners of war in their control could be tried for war crimes.

The **Rome Statute** is the treaty that establishes the International Criminal Court. Entered into force on 1 July 2002, the Statute establishes, among other things, the Court's functions, jurisdiction, and structure. As of 1 August 2011, 115 states are parties to it.

The ICC does not have a universal jurisdiction. It may only exercise jurisdiction if:

- The accused is a national of a state party to the Rome Statute or a state otherwise accepting the jurisdiction of the ICC;
- The crime took place on the territory of a state party to the statute or a state otherwise accepting the jurisdiction of the ICC; or
- The United Nations Security Council has referred the situation to the ICC's Prosecutor, irrespective of the nationality of the accused or the location of the crime. (An example of this is the situation in Sudan, which was referred to the Prosecutor and resulted in an arrest warrant being issued for the President of Sudan, Omar Al-Bashir.)

The ICC's jurisdiction is limited to events taking place after July 1, 2002.

Genocide is the deliberate killing of a large group of people, especially those of a particular ethnic group or nation.

HOW DOES THE ICC WORK?

States which are a party to the Rome Statute or the United Nations Security Council may refer situations of crimes which occurred within the ICC's jurisdiction to the Court's Prosecutor. The Prosecutor evaluates the available information and commences an investigation if it is determined there is a reasonable basis to do so.

The Prosecutor also has the power to begin an investigation on his/her own initiative. In doing so, the Prosecutor receives and analyzes information submitted

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | ROLE PREPARATION

GENERAL INFORMATION
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by a variety of reliable sources. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he/she will ask the Court's Pre-Trial Chamber to authorize the investigation.

The Prosecutor's investigations cover all facts and evidence relevant to the assessment of criminal responsibility. The Prosecutor investigates incriminating and exonerating circumstances equally, and fully respects the rights of the accused.

The ICC's Pre-Trial Chamber is responsible for the judicial aspects of the proceedings. Among its functions, the Pre-Trial Chamber, on the request of the Prosecutor, may issue a warrant of arrest or a summons to appear before the ICC if there are reasonable grounds to believe an individual has committed a crime within the jurisdiction of the Court. Once a wanted person has been arrested and surrendered to, or voluntarily appears before the ICC, the Pre-Trial Chamber holds a hearing to confirm the charges which will be the basis of the trial.

Following these steps, the case is assigned to a Trial Chamber composed of three judges. The Trial Chamber is where the accused's trial will occur. The Trial Chamber is responsible for conducting fair and speedy proceedings while fully respecting all of the accused's rights. The accused is presumed innocent until proven guilty by the Prosecutor beyond a reasonable doubt. The accused has a right to defend himself, or to be represented by a counsel of his choice.

Unlike a Canadian criminal proceeding, victims are allowed to participate in ICC proceedings directly or through their lawyers. The ICC gives victims the right to participate and the right to request reparations. This means that the victims may be witnesses but may also present their own views and concerns at all stages of the trial. Victims who appear as witnesses before the ICC will receive support and protection.

When the trial is completed, the three judges of the Trial Chamber will give their decision, acquitting or convicting the accused. There are no juries at the ICC. If the accused is convicted (found guilty), the three judges of the Trial Chamber will

A **war crime** is an action carried out during an act of war that violates accepted international rules of war.

Crimes against humanity are particularly serious offenses that constitute an attack on human dignity or a grave humiliation or degradation of one or more human beings. Crimes against humanity are not isolated or sporadic events but are either part of a government policy or are a wide practice of atrocities condoned or tolerated by government or another similar authority.

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issue a sentence of up to 30 years or, when justified by the extreme gravity of the crime, life imprisonment. The judges can also order reparations for the victims.

The ICC also has an Appeals Chamber composed of five judges. The Appeals Chamber hears all appeals from the Prosecutor, the accused or the victim's counsel. The rules pertaining to appeals are specified in the Rome Statute.

All proceedings at the ICC are filmed and can be watched on their website, <http://www.icc-cpi.int>

TIME CHART FOR MOCK TRIAL

1. Registrar calls to order, calls case and counsel introduces themselves	1 min
2. Prosecutor's opening statement	2 mins
3. Defense's opening statement	2 mins
4. Victim's Counsel's opening statement	2 mins
Prosecutor's Case	
5. Prosecutor's direct examination of Prosecutor's first witness	3 mins
6. Defense's cross-examination of Prosecutor's first witness	3 mins
7. Victim's Counsel's cross-examination of Prosecutor's first witness	1.5 mins
8. Prosecutor's direct examination of Prosecutor's second witness	3 mins
9. Defense's cross-examination of Prosecutor's second witness	3 mins
10. Victim's Counsel's cross-examination of Prosecutor's second witness	1.5 mins
Defense's Case	
11. Defense's direct examination of accused	3 mins
12. Prosecutor's cross-examination of accused	3 mins
13. Victim's Counsel's cross-examination of accused	1.5 mins
14. Defense's direct examination of witness for the accused	3 mins
15. Prosecutor's cross-examination of witness for the accused	3 mins
16. Victim's Counsel's cross-examination of witness for the accused	1.5 mins
Victim's Counsel's Case	
17. Victim's Counsel's direct examination of Victim's Counsel's witness	3 mins
18. Prosecutor's cross-examination of witness	3 mins
19. Defense's cross-examination of witness	3 mins
Closing Arguments	
20. Prosecutor's closing arguments	2 mins
21. Defense's closing arguments	2 mins
22. Victim's Counsel's closing arguments	2 mins
23. Judges deliberate and render verdict	2-10 mins
24. Presiding judge gives feedback and discusses International Criminal Trial process, etc.	

COURTROOM ETIQUETTE AND PROTOCOL

The courtroom is a formal setting, and there are some specific etiquette rules to follow that may not be familiar to you. Here are some pointers:

- You must show respect for the judges and the other people in the room.
- When the judges enter, all counsel, and everyone else in the courtroom must stand up. Counsel then bow to the judges. Sit down when the registrar instructs everyone to do so.
- At the beginning of the trial, the judges may tell you how s/he wants to be addressed. Usually judges are addressed as "Your honour." The presiding judge should be addressed as "Madam President" or "Mister President."
- When facing the judges, the defense usually sits at the table to the left, and the prosecutor sits at the table to the right.
- Before addressing the judges, wait until the judges seem ready to proceed. The presiding judge may nod or may say that you can proceed. If you are not sure, ask the judges if you may proceed. Make sure to introduce yourself. You should also stand every time you are addressing or being addressed by the judges.
- If it is not your turn to address the judges, pay attention to what is happening. Take notes that you can use during closing submissions.
- During the trial, if you need to talk with your co-counsels, write a note. Do not talk to each other while a witness is giving evidence, or one of the judges is speaking. Refer to your co-counsel as "my colleague" or "my co-counsel."
- Refer to the opposing counsel as "my friend" (Canadian terminology) or "my learned friend" (British terminology) or "counsel for (add position of name of the client)."
- If one of the judges asks you a question, take your time to think about it before replying. If you do not hear the question, or are confused by it, ask the judge to repeat or restate the question. If you do not know the answer, say so. Once a question has been answered, pick up from where you were before the question.
- Do not interrupt the judges, and if a judge interrupts you, stop immediately and wait until he/she is finished before replying. Never interrupt or object while one of the opposing counsels is addressing the judges. Wait until you are specifically asked by the presiding judge to respond to a point argued by the opposing counsel.

REMEMBER TO:

- » Speak clearly
- » Use an appropriate volume
- » Try not to say "um", "ah" or "okay"
- » Do not go too fast

ROLE PREPARATION FOR PROSECUTION, DEFENSE AND VICTIM'S LAWYERS

As a prosecutor, you represent the public.

As a defense lawyer, you represent the accused.

As a victim's lawyer, you represent the victims of the alleged crimes and/or their families.

Unlike trials in Canada, where there is only a prosecution and a defence, the ICC also allows for the victim to have their own lawyer. The prosecutor might ask the questions needed to prove the overall case, while the Victim's Lawyer is only focused on the factual elements relating to his or her client. These lawyers are trying to prove similar, but not identical cases. The Victim's Lawyer will listen to the questions and then only ask those additional questions which focus on the facts relating to his or her client.

The Victim's Counsel needs to show how his client was a victim and suffered harm by the conduct of the accused. Counsel is allowed to introduce evidence that the prosecutor has not introduced to the court if it will assist the judges in establishing the truth. The Victim's Counsel has to explain to the judges why his witness' testimony is important and should be heard. Counsel must show that the testimony will be an important contribution in ascertaining the truth. Victim's Counsel is not allowed to ask questions to witnesses if it will only serve to repeat what the prosecutor has already done. Unlike a prosecutor, the victim's counsel can ask the victim he represents to express his or her views and concerns. He cannot ask this question of any other witness but his own. The Victim's Counsel should be asking questions that let's the victim explain his or her loss or damage, for example, he could ask: How has the loss of your son impacted your life? How did the abduction/recruitment of both your sons affect you and your family?

During the trial, the prosecution, the defense and the victim's lawyers:

- Present opening statements
- Conduct direct examinations of their own witnesses
- Conduct cross-examinations of the other side's witnesses
- Make closing submissions

The prosecutor will make his/her opening statement and call his/her witnesses first. Each of the prosecutor's witness will be cross-examined by the defense's counsel and the victim's counsel.

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When the prosecutor is finished, the defense counsel goes next with his/her opening statement, and calls his/her witnesses. After that, the victim's counsel can call his/her witnesses.

The defense gives its closing arguments first. The prosecutor goes last.

Usually, the judges will decide at what stage the victim's lawyer can present the views and concerns of the victims, and in what manner he or she may do so.

HOW TO PREPARE FOR OPENING STATEMENTS

- Become familiar with your witnesses' fact sheets.
- Select which facts should be included in the opening statement. Include the central facts of your case that are not likely to be challenged by the other side.
- Stick to the facts! The facts are what will paint the picture for the judges.
- Check with the lawyer writing the closing submissions for your side, to make sure that both the opening and closing arguments are very similar and present the same theory of the case.
- When giving the opening statements, try to speak in short, clear sentences. Be brief and to the point.
- Have notes handy to refresh your memory.

WHAT IS A DIRECT EXAMINATION?

Direct examination is when one side puts a witness in the witness box to give evidence to support its case.

The purpose of a direct examination is to have the witness tell the judges, in a clear and logical way, what the witness observed.

HOW TO PREPARE FOR DIRECT EXAMINATION:

- Write down all the things that your side is trying to prove.
- Read the witness' testimony carefully, several times over.
- Make a list of all the facts in the witness' testimony that help your case.
- Put a star beside the most important facts that you must make sure that your witness talks about. For example an important fact for the Applicant might be that your witness saw the event at issue first-hand.
- Create questions to ask the witness that will help the witness tell a story:

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | ROLE PREPARATION

- Start with questions that will let the witness tell the judges who s/he is; for example: What is your name? What do you do? How long have you worked in that job?
- Move to the events in question; for example: What were you doing on the night in question? Where were you? When did you first hear there was a problem?
- Move to more specific questions; for example: What did you see? What did you do after that happened?
- *"Why don't you have a good relationship with your child?"*

- Remember to keep your questions short and to use simple language. It is helpful to remember that your questions should start with *who, what, where, how, why* or *when*.
- It is important not to ask leading questions. A leading question is one which suggests an answer, or puts words in the witness's mouth.
- An example of a leading question is: "Was the man six feet tall and about 25 years old?" Instead you might say: "Please describe what the man looked like." Or ask: "How old was he? And how tall?"

WHAT IS CROSS-EXAMINATION?

Cross-examination is when the counsel for the other side gets to ask your witness questions.

There are two basic approaches to cross-examinations:

1. To get favourable testimony. This involves getting the witness to agree to facts that support your case.
2. To discredit the witness. This approach is used so the judge will minimize or disregard evidence or comments that do not support your case.

HOW TO PREPARE FOR CROSS-EXAMINATION

- Make a list of all the facts in the witness's testimony that hurt your case.
- If there are a lot of facts that don't help your case, can you find a way to challenge the witness's credibility? For example, can you show that the witness made a mistake, or has a reason for not telling the truth?
- Put a star beside the facts you must make the witness talk about.

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- Write short leading questions that move towards the key points you want to make.
- Try to build toward the point you want to make by asking your short leading questions. Keep in mind that you want to paint a picture.
- Depending on what the witnesses say, you might need to come up with different questions on the spot during the trial.
- Your questions should get the witness to answer with a yes or a no. For example, if you want the witness to tell the court that it was dark outside, you would ask: "It was dark outside that night wasn't it?"

HOW TO PREPARE CLOSING SUBMISSIONS

- Write down your key arguments and summarize the important facts you want to stick in the judge's mind.
- When delivering the closing submission, try to speak in short, clear sentences. Be brief and to the point.
- Only summarize evidence that actually was given at the trial. You cannot introduce new evidence during the closing statement. This may mean you have to rewrite your closing submission on the spot during the trial.
- Where a witness for the other side admitted something important to your case, point that out.
- Check with the lawyer writing the opening statement for your side to make sure that both the opening and the closing statements are similar, and present the same theory of the case.

ROLE PREPARATION FOR UN OBSERVER

The UN Observer makes recommendation to the UN Office of the High Commissioner for Human Rights (OHCHR) about how to improve the situation for children in this country. These recommendations can be about the actions of the state and can include recommendations about future treatment of children.

As UN Observer, pay special attention to the evidence in the trial listening for facts relating to the actions of the country, or problems that might be solved by the country, now that the armed conflict is over.

These recommendations should not include the prosecution of the individual war criminal. However, if you are unsatisfied with the result of the trial at the ICC, you might make recommendations to address these acts in other ways. These

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | ROLE PREPARATION

recommendations will not rely on the Rome Statute, but can use the other pieces of legislation.

In particular, the Convention on the Rights of the Child and the International Labour Organization can be referred when making recommendations.

An example of a recommendation would be:

Establish a registry so that child soldiers can be reunited with their families.

The OHCHR publishes reports made about all of its member countries. You can see a sample of a report at: <http://www.ohchr.org>

After the trial, prepare your recommendations in a 1–2 page report that summarizes the events, identifies the relevant articles you think are most relevant and includes your specific recommendations.

ROLE PREPARATION FOR JUDGE

As ONE of the JUDGES:

- You are one of the decision-makers at the International Criminal Court.
- You will listen to the parties and may ask them questions at any time during the trial.
- You may also ask the witnesses questions at any time during the trial.
- You are a referee. The presiding judge is in charge of the trial.
- If a counsel objects to a question by another counsel, decide whether or not the witness must answer the question.
- At the end of the trial, summarize what the law and evidence is relating to the case.
- You will make a final decision with the other two judges about the application by announcing the decision at the end of the trial.

You should summarize the evidence and make factual determinations. The chart included in the scenario package will help you to organize your decision.

ROLE PREPARATION FOR THE REGISTRAR

Your role is to help the judges to make sure that the trial runs smoothly. You will:

- Open the court
- Read the charge to the accused and ask him to plead guilty or not guilty
- Swear in the witnesses
- Close the courts.

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | ROLE PREPARATION

HOW TO OPEN THE COURT:

When all participants are in their places, you will bring in the judges and say:
"Order in the court. All rise please."

After the judges have entered and sat down, you say:
"Court is now in session. Please be seated."

HOW TO READ THE CHARGES:

To prepare this section, please refer to the scenario for the mock trial you are participating in. Insert the particulars of the accused and charge(s) from the information into the script below.

Stand and say:

"[Name of accused], how do you plead to this charge? Guilty or not guilty?"

If there is more than one charge, add the following for each charge:

"[Name of accused], how do you plead to this charge? Guilty or not guilty?"

HOW TO SWEAR IN WITNESSES:

Before a witness gives his/her testimony, you will swear them in by saying:

"Will you please state your name for the court? Please spell your first and last name."

"Do you solemnly affirm that the evidence you are about to give, shall be the truth, the whole truth and nothing but the truth?"

HOW TO CLOSE THE COURT:

After the judges have deliberated and given their verdict, the court is closed and you will say:

"All rise please. Court is adjourned for the day."

ROLE PREPARATION FOR THE COURT SERVICES OFFICER

Your role is to:

- Bring the accused into the courtroom
- Help the judges in keeping order in the courtroom
- Making sure the accused is not threatened during the trial.

INTERNATIONAL CRIMINAL LAW MOCK TRIAL | ROLE PREPARATION

You can prepare for your role by reviewing the background documents and understanding what will happen during the trial.

The judges will expect you to escort anyone who becomes too loud or is not behaving out of the courtroom.

ROLE PREPARATION FOR MEMBERS OF THE PRESS

Many instances of international atrocities only receive public attention because reporters take risks to expose the war crimes and other abuses in another country. This is dangerous and difficult work. When a war crime finally results in a trial, there is often considerable media attention, both internationally, and in the country where the events took place. There will usually be opposing views and people who argue that the prosecution of one individual is unfair.

You are covering this trial for a reputable international newspaper. Consider how to report on the case in a balanced way that informs readers without being biased.

Things for you to think about reporting on:

- What is the name of the case?
- Who are the people involved?
- Why is a trial taking place?
- What crime(s) is the accused charged with?
- What are the key facts?
- What is the outcome/decision?
- Is there anything you want to ask the prosecution, defense lawyers or the victim's lawyers after the trial is completed?
- Are there any other things you want to say in general in your article about the particular types of charges?
- Did you have a position about the facts before the trial began? Has your position changed after hearing the trial? How so?
- Is there anything the public needs to know about this trial?
- Why is this trial of international importance?

INTERNATIONAL CRIMINAL LAW MOCK TRIAL JUSTICE SECTOR VOLUNTEER

THIS PACKAGE CONTAINS:	PAGE
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For this OJEN mock trial, there are three packages:

- » OJEN International Criminal Court Mock Trial Scenario
- » OJEN International Criminal Court Mock Trial Role Preparation Package
- » OJEN International Criminal Court Mock Trial Justice Sector Volunteer Package

Students need the **Scenario** and **Role Preparation** packages.

Justice sector volunteers/teachers/organizers need all three packages.



PURPOSE OF A MOCK TRIAL

The purpose of a mock trial is to:

- Help students better understand how the justice system works;
- Provide students with a participatory learning experience;
- Empower students by encouraging them to have a sense of ownership over the justice system;
- Develop self-esteem and public speaking skills; and
- Encourage students to consider careers in the justice system.

Thank you for volunteering to assist with a student mock trial. Your time and enthusiasm will greatly enhance the learning process.

TIME CHART FOR MOCK TRIAL

TIME CHART	1. Registrar calls to order, calls case and counsel introduces themselves	1 min
	2. Prosecutor's opening statement	2 mins
	3. Defense's opening statement	2 mins
	4. Victim's Counsel's opening statement	2 mins
	Prosecutor's Case	
	5. Prosecutor's direct examination of Prosecutor's first witness	3 mins
	6. Defense's cross-examination of Prosecutor's first witness	3 mins
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	12. Prosecutor's cross-examination of accused	3 mins
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	14. Defense's direct examination of witness for the accused	3 mins
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	16. Victim's Counsel's cross-examination of witness for the accused	1.5 mins
	Victim's Counsel's Case	
	17. Victim's Counsel's direct examination of Victim's Counsel's witness	3 mins
	18. Prosecutor's cross-examination of witness	3 mins
	19. Defense's cross-examination of witness	3 mins
	Closing Arguments	
	20. Prosecutor's closing arguments	2 mins
	21. Defense's closing arguments	2 mins
	22. Victim's Counsel's closing arguments	2 mins
	23. Judges deliberate and render verdict	2-10 mins
	24. Presiding judge gives feedback and discusses International Criminal Trial process, etc.	

LAWYER COACHES: PREPARING YOUTH FOR A MOCK TRIAL

The role of a coach in a mock trial is to prepare the participants so that they feel confident in their roles and understand the material. Coaches are not expected to produce polished young counsel, but to encourage enthusiasm and a sense of fun (this might be the first positive experience with the justice system for some participants). Trials that are overly competitive can be less rewarding experiences for students.

Although most of the coaches' time will be spent preparing counsel and perhaps witnesses, the time and efforts of coaches also have a mentoring element, as students benefit from the attention and interest paid to their lives. Simply spending the time engaging with students, regardless of their level of participation in the mock trial, is a valuable part of the experience.

KEEP IN MIND:

- Students may need coaching on proper trial etiquette and procedure (such as when to stand up, how to refer to the opposing counsel, etc.).
- For most secondary school mock trials, students will be part of either a Law or Civics course. To find out more about these courses, and the particular aspects of the justice system that students are studying, refer to the OJEN website, www.ojen.ca.
- Participants may have a wide range of education and literacy levels.
- Students may or may not be working with the material outside of the scheduled coaching sessions; confirm this by speaking with their teacher or the mock trial coordinator.
- Prompting from coaches is not permissible during most tournaments and mock trials. Students (especially those playing the part of the counsels) may become confused, shy or stuck on certain points, and you may need to help them with strategies for collecting themselves and continuing with their roles without your help during a tournament or trial.

SUGGESTIONS FOR COACHING A MOCK HEARING:

- Review all material beforehand, and assess what your team is attempting to accomplish during the trial.
- If you are working with either the Defence counsel, the Victim's counsel or the Prosecutor, begin by outlining the legal issue at play to help your group understand what they are trying to prove or defend at the trial. Review the strengths and weaknesses of your case.
- Help the group to come up with a general theory and strategy.
- Discuss opening and closing submissions by pointing out what information is critical to their party's argument.
- Come prepared to discuss all of the basic points that students will need to make in their examination in chief and cross examination.
- Keep their examination of witnesses short and focused on key points.
- Assist students in coming up with questions for witnesses.
- Help students to feel comfortable with how the trial process works.

MOCK TRIAL JUDGES: JUDGING A MOCK TRIAL

Thank you for volunteering to assist with a student mock trial. Your time and enthusiasm will greatly enhance the learning process.

The role of a judge in a mock trial is to preside over the trial and make a decision on the particular case being heard. Some teachers will provide the volunteer judge with a chart to record comments. This chart may be used when marks are assigned. In many mock trials, judges are also asked to give comments to each of the lawyers and witnesses after the trial (positive feedback and constructive criticism).

You will act as the presiding judge in this mock trial. Remember that the two other judges sitting alongside you will likely be students. You may need to guide them in their critical thinking process of the case they've just heard before rendering your verdict.

Remember that for many students, the opportunity to plead a matter before a real judge (or a lawyer sitting as a judge), will be a momentous and perhaps intimidating experience. Focus on the educational and participatory aspects of the exercise.

KEEP IN MIND:

- Students may need reminding about proper trial etiquette and procedure (such as when to stand up, how to refer to the opposing counsel, etc.).
- For most secondary school mock trials, students will be part of either a Law or Civics course. To find out more about these courses, and the particular aspects of the justice system that students are studying, refer to the OJEN website, www.ojen.ca.
- There may be a wide range in the education and literacy levels of the participants.
- Note that students are expecting a verdict! They want to know who 'won' the case.

SUGGESTIONS FOR JUDGING A MOCK HEARING:

- Be familiar with the facts of the case.
- Do not worry if students make mistakes. They may not understand some of the more complex issues relating to the legislation.
- Feel free to intervene and help with examinations or procedure.
- Try to keep students to the time restrictions as much as possible.
- Remind students to speak up or slow down.
- If you will be giving feedback to the students at the end of the trial, take note of each participant's name so that you can individualize your comments.

PREPARE FOR THE HEARING BY:

- Reading the information provided.
- Reading any trial/tournament rules, and find out the answers to issues such as:
 - Are students permitted to confer with their coaches during the trial?
 - If the opposing team deviates from the fact pattern, should students object during the trial?
 - If students go over time in a competitive event, are points deducted?

A sample **marking scheme for judges, mock trial rubric** and **mock trial performance rating sheet** may be found in the OJEN resource, *Making the Case: Mock Trial Toolkit*, available on the OJEN website: www.ojen.ca