

How to Conduct Mock Trials and Investigation Simulations Based on Trafficking in Persons Cases

Navigation Tool



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This tool is not a substitute for the “Manual on how to conduct mock trials and investigation simulations in trafficking in persons cases”, which describes and analyzes the issues which arise during every step of the mock trial process.

However, in view of the manual’s length, the following is a bird’s eye view of the stages of a mock trial step by step, in an effort to focus readers on the main stages and issues, and in the hopes that it will enable them to refer to the manual for a fuller discussion of each issue. The last two sections relate to particular topics: international and regional mock trials and how they differ from national trials, and investigation simulations which may precede a mock trial or stand alone.

Bird’s eye view of exercise’s stages (section 3)

The exercise should proceed according to the following stages:

- Planning stage
- Choosing the case
- Theoretical grounding
- Introduction of moderator and role allocation
- Preparation period
- Hearing including verdict
- Debriefing
- Follow – up activities

Planning stage decisions (section 4)

Before engaging in the exercise, there are a number of important preliminary decisions which may need to be made:

- **What kind of mock trial is aimed at? (section 4.1)**

While most mock trials to date have been held among national participants with the main exercise including a hearing, including examination and cross examination of witnesses, it can also be decided on other kinds of mock trials:

- a mock trial preceded by an investigation simulation;
- a simplified mock trial without the hearing of witnesses;
- a mock trial with international or regional participants.
- The decision as to the kind of mock trial aimed at will naturally depend on goals, resources and capacities.

- **Why is it important to check the pertinent laws of evidence and procedure? (section 4.2)**

This will impact on other decisions such as the stages of the mock trial and the types of evidence to be prepared.

- **What kinds and number of participants should be chosen? (section 4.3)**

Beyond the core participants (judges, prosecutors, investigators) what other professionals might be useful? How can gender balance be achieved? Should mixed practitioners be included (in terms of profession; hierarchical level; level of knowledge)? What is the optimal number of participants? Naturally these decisions will also depend on the national, regional or international counterparts, and on the kind of mock trial contemplated.

- **What kind of trainers should be included in the team of trainers? (section 4.4.1)**

Trainers should be drawn from mixed disciplines and experience and be personally flexible and open.

- **What should be the roles of the trainers? (section 4.4.2)**

These roles include: planning the exercise; drafting the agenda; preparing background documents, court documents and evidence; choosing experts to present; moderating and facilitating; constant monitoring and evaluation; mentoring, conferring with each other and local experts; providing

translations if necessary; acting out some roles in the mock trial hearing if this is decided upon.

- **What are the functions and characteristics of the pool of experts? (section 4.5)**

Their **functions** may include the following:

- They can be **consulted** by the trainers team on relevant issues such as national law, practices, patterns, cases and culture, the international framework or familiarity with issues regarding victims;
- They can **present** during the theoretical part of the exercise;
- They can **mentor** participants during the preparation period, along with the team of trainers.

The **qualities necessary** for experts who aid the training team include:

- Familiarity with local legislation, case law and patterns or the international framework;
- Multidisciplinary skills;
- Professional skills in the professions of the participants.
- Survivors can be enlisted.

- **What should the time frame be? (section 4.6)**

Optimally 3-5 days. However the decision will be dependent on resources and capacities.

- **How can an atmosphere of trust be promoted? (section 4.7)**

Since this is a central building block of the exercise, it should be considered beforehand and actions considered to give each participant the feeling that he or she is important to the exercise.

- **Should real or artificial arenas be chosen? (section 4.8)**

Naturally, this will depend on capacities and resources, but trainers need to be aware of the pros and cons of real and artificial arenas as described in this section of the manual.

- **Should the proceedings be filmed? (section 4.9)**

The pros and cons of filming are analyzed in this section of the manual.

- **How should the agenda be used? (section 4.10)**

It should be drafted with the assistance of national/regional/international counterparts, but subject to change according to the needs of participants.

- **Who should prepare the indictment and what should be included in it? (section 4.11)**

Should trainers or those playing the roles of prosecutors prepare the indictment? The pros and cons are described in this section of the manual, as is an analysis of the question if an indictment should contain only trafficking charges or also alternative offences.

- **What pieces of evidence should be prepared? (section 4.12)**

Naturally this will depend on the case and the goals of the learning. However, optimally a variety of evidence should be prepared (witness statements, documentary evidence, physical evidence).



- **What decisions need to be made about the training venue? (section 4.13)**

These decisions might include topics such as the size of the venue; the lighting; the equipment; what professionals are required in order to properly use the equipment; the proximity of the venue to participants' offices.

How should the case for the mock trial be chosen? (section 5)

- Should an actual, fictitious or composite case be chosen?
- Should a national or regional case be preferred?
- What should the level of complexity be?
- How much detail would be useful?
- What key issues should be included? (elements of the crime; typical evidential issues; issues of importance locally; good practices).
- Should the case have theoretical importance?
- Should the case rely on a local pattern?
- Should the case include transnational elements?
- Should well-known cases be avoided?

Theoretical grounding (section 6)

Before the actual mock trial hearing, there should be a number of short theoretical presentations in order to provide participants with the theoretical grounding they need to conduct the case and to make sure all participants are on the same page. The following are important questions that arise during this stage:

- **Which topics should be covered? (section 6.1)**

While this will depend on the case chosen, there are several core issues that need to be addressed and for example: elements of the crime; the difference between child and adult trafficking; how to address the victim's consent; typical evidential issues; victim protection including non-criminalization;

the balance between victim protection and the defendant's rights; sentencing guidelines. In addition, other topics may be chosen if they are of importance in the local context.

- **Which sources should be used? (section 6.2)**

National sources should be focused on by the side of key international sources.

- **Which methodology should be used? (section 6.3)**

It should be based on adult learning principles: interactive; focused on problem solving; a combination of practice and reflection; encouraging collaboration; making use of participants' experience; accommodating a variety of learning styles.

- **Which tools can be used? (section 6.4)**

Among the possibilities:

- short lectures interspersed with group work;
- a number of presenters, some with hands on experience and some with local expertise;
- films;
- drills;
- case studies;
- role plays;
- tablets equipped with information and questions;
- e-learning modules;
- packs of cards with controversial statements and pictures as a springboard for discussion;
- points of debate to elicit brainstorming on controversial topics and to encourage collaboration among participants.

Cultural considerations should be taken into account in assessing which tools may be seen as demeaning or unwelcome.

- **What are the special issues which arise in regard to case studies; role plays; tablets; pack of card tool, points of debate tool? (sections 6.4.3 – 6.4.6)**

Each of these tools is analyzed separately in terms of issues, modes of implementation and pros and cons.

- **What should the trainers' roles be? (section 6.5)**

They should act like conductors of an orchestra rather than those who perform, guiding, listening, interposing at key points.

- **What should the role of other presenters be? (section 6.6)**

They should be non – didactic, representing a mix of disciplines and expertise, encouraging group work and discussion. If **survivors** are used, their role includes giving participants first - hand experience with how victims feel.

Moderator's introduction and role allocation (section 7)

Before the hearing commences, the moderator will need to introduce the exercise so that participants understand what is to happen at every stage and what will be expected of each role player. After the introduction, roles need to be allocated among participants and relevant materials need to be distributed to allow them to prepare for the hearing. The following questions arise:

- **What should the moderator include in his or her introduction? (section 7.1)**

The core parts of the exercise should be explained including: stages of the exercise; the roles to be assumed; the rules governing the exercise including the time frame.

- **How should roles be allocated? (section 7.2.4)**

Should they be assigned? Allocated randomly? Allocated by means of volunteering? What are the pros and cons of each alternative?

- **Which roles should be allocated? (section 7.2.1)**

The core roles are prosecutors, defence counsels and judges but other roles may be allocated.

- **Who should play the roles of witnesses, victims and defendants? (section 7.2.5)**

The alternatives are: **participants, trainers or actors**, and in the case of the victim role – perhaps a **survivor**. The pros and cons of each alternative are analyzed. The decisions may also be influenced by the goal of having every participant play an active role.

- **How can we ensure that each participant is given an active role? (section 7.2.2)**

The options include allocating roles to “professional observers”; allowing participants to play the roles of witnesses, victims and defendants; or allowing the creation of benches of judges and teams of prosecution and defense counsels.

- **What special issues arise in regard to those who play the roles of judge, professional observers, witnesses, victims, defendants? (section 7.2.3)**

The manual describes various particular issues which arise in regard to these roles.

- **What special issues arise in the case of judge participants acting out roles in a mock trial? (section 7.2.7)**

Their willingness to participate may be affected by their organizational climate which may require changes in role allocations.

- **Should participants switch roles or play their real life roles? (section 7.2.6)**

Pros and cons are analyzed.

- **What materials should be provided at this stage? (section 7.3)**

- **Ground rules** are crucial so that the procedures and rules are clear and to allow the participants to refer to them during the course of the trial (with or without role descriptions). One of the most important rules is to prohibit procedural and evidential objections and pleas in order to focus the learning on substantive issues related to trafficking cases;

- **Separate role descriptions for each role player** so as to ensure the conciseness of the ground rules;

- **Background documents** like a case scenario, a list of roles and evidence, a list of resources;
- **Court documents and evidence** generally including indictments, statements by victims, defendants and witnesses, documentary and physical evidence;
- **Relevant selected theoretical sources**, so that participants can refer to cases in their oral arguments and verdict.

The preparation period (section 8)

This is a crucial period during which participants prepare the case: study the background documents, the court documents, evidence and theoretical materials carefully and those in the roles of prosecutors and defense counsels prepare witnesses and strategies. The success of the hearing is dependent on how well participants prepare for it during this stage. The following issues arise regarding this period:

- **What are the tasks of the different role-players during this stage? (section 8.1)**

There are tasks incumbent on all participants, and particular tasks obligatory for certain participants: judges; prosecutors; defense counsels; witnesses, victims, defendants (if these roles are assumed by participants); expert witnesses (if this role is present); professional observers (if it has been decided to allocate this role); victim counsels (in jurisdictions which have legislated this function).

- **In what physical milieu should participants prepare? (section 8.2)**

It is crucial that the various teams (prosecution, judges, defense counsels) be afforded privacy. The same goes for the witnesses. This can be done by having them in separate rooms or in separate parts of a large room.

- **What should the time frame be? (section 8.3)**

Optimally 2 and a half to 3 hours, but there have been successful mock trials where less time was allocated. The minimum should be 2 hours.

- **What assistance should be provided for participants during this stage? (section 8.4)**

Mentors should be on the site at all times to offer assistance and answer questions. The manual analyzes the roles of such mentors and who should fulfill these roles.

The Hearing (section 9)

- **What are the stages of the hearing? (sections 9.2, 9.3 and 9.4)**

This is dependent on the kind of mock trial: Full or simplified? Common law or civil law system? The stages of a common law trial and a simplified trial are described in sections 9.2 and 9.4 of the manual respectively, and may fit some civil law systems. As to other kinds of civil law systems, section 9.3 of the manual describes various options which may fit their procedures.

- **What are role players expected to do during this stage? (sections 9.5.2 and 9.5.3)**

This is dependent on the kind of mock trial being held. **Section 9.5.2** of the manual describes what each role player needs to do in a common law hearing and **section 9.5.3** describes this in regard to a simplified mock trial. Civil law systems vary widely and the mock trial procedures can be adapted to them in ways described in **section 9.3** of the manual which will impact on what is expected from the role – players.

- **What should the time frame be? (section 9.6)**

Optimally the time frame should be 3 and a half to 4 hours, though successful mock trials have been held for shorter durations.

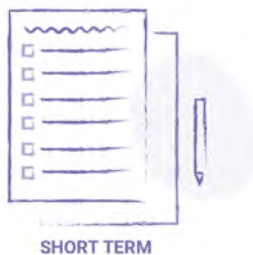
The debriefing (section 10)

- **Time frame:** At least one hour.
- **Why is it important? (section 10.1)** It enables both participants and trainers to crystallize learning, provide closure, allow for future improvements.
- **How can trainers encourage free and open discussion? (section 10.2)** The manual provides several suggestions.
- **Should films of the proceedings be used during the debriefing? (section 10.3)** The pros and cons are enumerated and analyzed.
- **Why is a trainer written evaluation of the debriefing important? (section 10.5)** This ensures that the lessons of the debriefing are not lost and that future mock trials can profit from the lessons of the one at hand.

Follow-up activities after the exercise (section 11)

The mock trial does not end with the debriefing, but rather requires short term and long term follow-up activities:

- **Short term** - such as asking participants to fill out a post-training questionnaire; a written evaluation by trainers including recommendations.
- **Long term** - such as identifying legislative and other gaps by means of the exercise and striving to continue the positive momentum by continuing to engage with participants.



International and regional mock trials (section 12)

While most of the procedures and issues described in sections I – IX of this document can be applied to international and regional mock trials, they do present some special challenges:

- **Central issues (section 12.1)**
 - **Planning decisions:** These may require more coordination meetings among trainers than is the case in national mock trials.
 - **Choosing the case:** This may entail placing more emphasis on regional issues and patterns and relying on cases in regional courts when conducting regional trials and relying on international cases, which reflect important issues in most States in international mock trials.
 - **Preparation and distribution of a unified law:** Such exercises require the preparation and distribution of a unified law by trainers, in view of the fact that each State may have a different trafficking law.
 - **Topics during theoretical part of exercise:** These may need to include regional patterns and issues in a regional trial and internationally important issues in an international mock trial such as trafficking for labour exploitation.
 - **Sources:** A regional exercise may rely in particular on regional sources including rulings in regional courts; an international exercise may rely on a wider array of international sources than a national trial and may include discussions based on

various participating States' legislation and case law.

- **Moderator's introduction:** This should include a description of the differences between civil and common law legal systems if participants are from these different systems, and a clear description of how the hearing will be conducted despite these differences.
- **Ground rules:** Clarity is of the essence, since trainers will not be able to rely on participants' prior familiarity with the criminal procedures which may differ among participating States.
- **Subsidiary issues (section 12.2)**
 - **Choosing participants:** Trainers may need to decide if to include participants from different legal systems or not, if the choice is theirs.
 - **Choosing training team:** In a regional trial, regional experts should be included and in an international trial, it should be considered to include trainers from different legal systems and States so as to convey to participants the differences between them.
 - **How the preparation period may differ:** When participants are from different States, it may be useful to include mentors from various legal systems and States so as to better answer the questions of participants on the procedure of the mock trial hearing and how it may differ from their own.

Investigation simulations (section 13)

- **Connection with mock trials (section 13.1)**

Investigation simulations may precede a mock trial or be held independently of one.

- **Core characteristics (section 13.2)**

Closely resemble those of mock trial exercises with the following different emphases:

- Investigation simulations place emphasis on improving participants' skills in investigating and prosecuting trafficking cases;
- The training team should include members with experience in investigations and drafting indictments;
- Core participants should be investigators and prosecutors;
- While there should be a theoretical and practical part, the emphasis should be on the practical;
- An evolving investigation should be standard practice with each lead or piece of evidence leading to the next;
- A variety of evidence gathering techniques should be used;
- The investigation may be sparked by a lead, a piece of evidence or a case scenario;
- Participants should be assigned concrete tasks including formulating investigation and victim protection strategies and investigative and victim protection actions during every successive stage of the simulation;
- Constant monitoring and evaluation is necessary.

- **The varied tasks of trainers (section 13.3)**

These include meticulous planning, preparation and action before the exercise, during it and after it. Details can be found in section 13.3.

- **The theoretical part of the exercise (section 13.4)**

- Brevity: It should be brief in comparison to the practical part and may precede the simulation itself. Alternatively, each presentation may precede the practical part of the investigation which is most relevant to it.

- **Topics** may resemble those in the theoretical part of a mock trial, with additions on investigation methodologies; evidence gathering techniques including special investigation techniques if relevant; guidelines on interviewing victims.
- **Materials distributed** should be limited in the interests of emphasis on the practical part of the exercise.

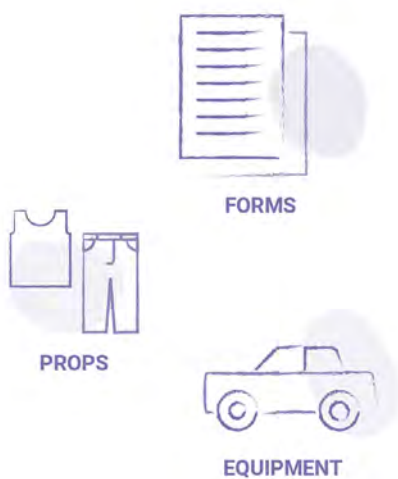
- **The practical part of the exercise (section 13.5)**

Stages: (section 13.5.1):

- Introducing basic rules
- Dividing participants into groups
- Sparking the investigation by means of a lead, a piece of evidence or a case scenario
- Initial formulation of investigation and victim protection strategies
- Initial evidence gathering
- Evolving investigation technique – where participants decide on investigative and victim protection strategies and actions as each progressive piece of evidence is introduced. Such actions may include interviews of witnesses; site visits; seizures; seeking expert opinions; ensuring the victim’s safety).
- Debriefing at various stages of exercise
- Preparation of indictment

Tools: (section 13.5.2):

Forms, props and equipment are analyzed.



- **Issues which may arise (section 13.6):**

- Optimal number of participants
- Number of trainer/supervisors
- Should additional participants beyond investigators and prosecutors be included?
- Which language should be used?
- Should participants play their own roles or switch roles?
- How should the investigation be sparked? (lead, piece of evidence, case scenario?)
- Who should play the roles of witnesses, victims and suspects?
- The role of the prosecutor
- The advantages of an evolving investigation
- Should participants be permitted to initiate evidence not prepared by trainers?
- Who should prepare the indictment and what should it include?
- Which arenas/venues should be used? (How large? What characteristics are important? Are real or artificial arenas to be preferred?)
- Questions regarding dividing participants into groups (should each group perform the same tasks? Different tasks? Should participants of different professions be parts of the same groups?)
- Should interviewing of witnesses be a mandatory part of the exercise?
- Should practicing international cooperation be mandatory?
- What special investigative techniques should be used?
- How to handle downtimes during the exercise.

- **A concrete example of a particular investigation simulation in Tunisia (section 13.7)**

Describing the stages and techniques in detail. This section gives the reader a better idea of how an actual investigation simulation is conducted, including both the theoretical and practical parts of the exercise.

- **The advantages and disadvantages of the exercise (section 13.8)**



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