Part 2:
The mock trial
LEARNING OUTCOMES AND OBJECTIVES

The Prosecutor v. Alex Azzurro

The trial of Alex Azzurro, introduced in Part 1 of this module, is examined in greater detail here. Alex Azzurro is a rebel militia leader accused of conscripting child soldiers during an internal conflict in 2002 and 2003. If the charge is proved, this constitutes one of the most serious of war crimes.

The purpose of Part 2 of this module is to allow students to explore the process of preparing for and executing a war crimes trial. It will help students to understand some of the complexities of the trial process for war criminals due to the nature of the crimes committed and the parties involved.

TIMINGS: 2 hours

Objectives

• To understand how a trial is conducted, and the different roles, planning techniques and decisions the prosecution and defence teams must consider
• To develop skills in choosing, analysing and using evidence effectively in order to argue and prove points
• To build empathy skills and develop insights into the experiences of child soldiers
• To develop questioning and reasoning skills though participation in a mock trial
• To understand subtleties in evidence and the importance of proving a point
• To reflect on the role of international tribunals in achieving justice for war crimes.
Background information

THE INTERNATIONAL CRIMINAL COURT TRIAL PROCESS

Note for teachers
Most of the material in Part 2 is fictional or adapted, but it has been broadly based on the real-life trial of Thomas Lubanga Dyilo, which began at the International Criminal Court on 26 January 2009. Visit [www.lubangatrial.org](http://www.lubangatrial.org) for more information. Please note that the witness statements do not accurately represent the trial and some additional fictional statements have been added for the purposes of the activity.

Background
This past century has seen some of the worst atrocities in the history of humanity. As a result, states representing the international community met to negotiate and agree on the establishment of an international criminal court to punish gross violations of international humanitarian law (IHL).

The International Criminal Court (ICC) is the first ever permanent and independent court responsible for trying the most serious international crimes. It came into existence in July 2002 under the Rome Statute – a treaty that was signed by 111 countries, which are now subject to the jurisdiction of the ICC (including the UK). This means that crimes that are committed by nationals of these 111 countries, or that occur on their territory, may be investigated by the ICC, subject to the rule of complementarity (see following page). Those crimes of most interest to the ICC are: war crimes, crimes against humanity and genocide.

Ultimately, the ICC is responsible for trying individuals who bear the most responsibility for war crimes, crimes against humanity and genocide. This includes not only those who are directly responsible for committing the crimes but also those who may have helped someone else commit a crime, or aided or abetted them – for example, commanders and superiors who have issued orders.

The ICC seeks to uphold the highest standards of fairness and due process in its attempts to provide justice to thousands of victims, who have suffered from unimaginable crimes. The ICC is currently investigating crimes in countries such as Uganda, the Democratic Republic of the Congo and in the Darfur region of Sudan.
The functions of the ICC

- The ICC has jurisdiction over the most serious crimes of concern to the international community - genocide, crimes against humanity and war crimes. Other crimes would normally be tried through national judicial systems.

- It can only prosecute against crimes committed after 1 July 2002, when it was set up.

- The ICC may exercise jurisdiction (i.e. power) over international crimes only if they were committed on the territory of, or by a citizen of, one of the countries that have signed up to the Rome Statute – the treaty that set up the ICC.

- It is a court of last resort, and is intended to complement, rather than replace, national criminal justice systems. The principle of ‘complementarity’ allows national courts the first opportunity to investigate or prosecute a crime. This ensures that national systems retain jurisdiction, or the power, to try genocide, crimes against humanity and war crimes. However, the ICC can prosecute if:
  > a country is ‘unwilling’ e.g. it is clearly shielding someone from responsibility for ICC crimes
  > a country is genuinely ‘unable’ to carry out judicial proceedings e.g. its legal system has collapsed.

LESSON FLOWCHART

**Exercise 1. Main lines of argument**
Students use supporting materials to help them construct the main lines of argument for either the prosecution or the defence legal teams.

**Exercise 2. Witness Statements**
Students are given a number of witness statements and can decide which ones they will use to best support their case.

**Exercise 3. Enlistment and conscription (optional)**
Students use information provided by the UN Special Representative for Children and Armed Conflict to explore issues around conscription and enlistment.

**Exercise 4. Mock Trial**
Students can use their preparatory work to participate in a mock trial where they take on the roles of judges, prosecution lawyers, defence lawyers and witnesses.
INTRODUCTION

TIMINGS: 5 minutes

In 2009, the International Criminal Court (ICC) opened up a trial in the case of The Prosecutor v. Alex Azzurro. Alex Azzurro is the alleged leader of the Union of Blueland Patriots (UBP) and the commander-in-chief of its military wing, the Patriotic Forces for the Liberation of Blueland (PFLB). He is accused of enlisting and conscripting children under the age of 15, and using them to actively participate in hostilities, from September 2002 to August 2003.

Divide the class into two groups.

Appoint one group to be the legal team for the prosecution and the other to be the legal team for the defence. Give each group copies of 1A Background information. Allow the students to read the information to set the context for the trial. 1B Profile of Alex Azzurro also gives more information about Alex Azzurro. You may wish to re-visit previous exercises to remind students of what constitutes a war crime.

MAIN LINES OF ARGUMENT

TIMINGS: 15 minutes

This activity will allow the two legal teams to become familiar with and construct their main lines of argument. Give copies of 1C The prosecution, and 1D The defence to each of the legal teams. Ask both teams to read over their main lines of argument and discuss the questions that follow within their group.
Exercise 2

WITNESS STATEMENTS

TIMINGS: 15 minutes

In the previous activity (Main lines of argument), students began to consider the role witnesses would play in the trial. 2A Witness statements gives a selection of witness statements from the trial. Ask the students to read the statements and decide which ones will best support their case.

Encourage the students to discuss ways in which they will use the witness statement when presenting their case. Using these statements and the other information they have, each legal team can build up a picture of how they will present their case. They may also be able to identify areas where they feel they need stronger evidence.

A legal team would also have the opportunity to cross-examine any witness presented by the opposing legal team. The students should therefore examine the statements they felt did not support their case, and develop a set of questions and points they would use to cross-examine those statements, in order to question the validity of any evidence presented by the defence.
During the trial, many different witnesses can be called forward to give evidence. Six months into the trial, the trial judge invited the UN Special Representative for Children and Armed Conflict to appear as an expert witness. The UN Special Representative’s brief, Resource 3A, is important as this is the first case on the recruitment of child soldiers, and it has noted the importance of recognising the reality of children’s circumstances when they are recruited into armed forces.

The activity section of 3A UN Special Representative provides an opportunity for students to consider the reality of the circumstances children involved in armed conflict may find themselves in. Students can work in groups to discuss how the factors listed (poverty, ethnic rivalry etc.) may influence whether a child becomes involved in armed conflict.

The activity also asks students to write a brief imaginary account of the experiences of a child who is involved in the conflict. They can refer to the witness statements or exercises in previous modules of Justice and fairness to give them an idea of writing style. Ask students to share their writing and discuss whether the scenarios fall under conscription or enlistment.

Finally, ask students to reflect on how the UN Special Representative’s brief influenced the ideas they had when developing their case.
Exercise 4

**Mock Trial Activity**

**Timings:** 45 minutes

This activity allows students to consider how evidence, given by witnesses and victims, is presented in the context of a trial. Through developing a role play, based on a lawyer questioning a witness followed by cross-examination, students will be able to use questioning to draw out evidence and highlight specific points. It will also give them an insight into the role questioning plays in this situation, as well as an understanding of what it might feel like for witnesses to be in court.

**4D Mock trial procedure** provides an overview of the procedures followed in a trial. This can be used to introduce the students to the role play, and to help them understand the different roles and the preparation they will undertake for each one. It can be referred to when necessary throughout the activity. Students can choose to take the roles of the judges and defendant as well as the lawyers and witnesses.

**4E Prosecution witness** and **4F Defence witness** are witness statements, which will be used by the prosecution and defence teams respectively. They will use the relevant witness statement to develop a role play of how they might examine each witness. Remind the students that the witness statements will not be read out during the role play. They are a resource to help them prepare. During the role play, they will need to capture as much information as they can through questions and answers.

In their respective legal teams, students should consider the main points they will make, using the evidence given by the witness. They should plan what questions to ask the witness in order to make certain points. Remember that they will need to ensure the witness is at ease, and that the witness will volunteer the information that is important to the points they wish to make. Appoint two people from each legal team to take on the respective roles of witness and lawyer.
Exercise 4

A member of the opposing legal team will then have the opportunity to cross-examine each witness. Appoint one person to do this. Ensure each legal team has a copy of the opposition’s witness statement. They can use this to identify weaknesses and develop relevant questions.

In summary, each legal team needs to prepare:

• an opening statement
• questions for direct examination of their own witness
• questions for cross-examination of the opposition’s witness
• a closing statement.

4G Intervention statements can be used to add complexity to the role play. 4H Victims and civilians (teachers’ resource) provides a range of statements from former child soldiers, observers and victims. The statements can be given to the lawyers to help them develop their arguments, or they can be given to other class members, and new witnesses can be called forward. The teacher may also wish to reintroduce statements from the introductory activities. By making these interventions, the students will understand how lawyers need to be responsive to emerging events, and see how a case relies on a body of evidence, rather than one single piece, to form a clear argument.

Resources

For group use
4G. Intervention statements
4H. Victims and Civilians

Words marked in bold are resources available to the teacher in this lesson pack.
Exercise 4

DE-BRIEF

TIMINGS: 10-15 minutes

Provide an opportunity for students to reflect on the role-play activity, using the questions below. The activities in the role-play have focused on helping students understand the processes involved in seeking justice through international law, rather than proving a particular outcome.

- Did you find it easy to argue your case?
- There are many grey areas in the case e.g. the difference between conscription and enlisting of children. How did this affect the way in which you used the different evidence available to you?
- Working with witnesses is an important part of the trial process. From the insights the role-play activity gave you, what are the key factors prosecution and defence teams need to keep in mind?
- What difficulties can you see arising as the case continues?

The United Nations estimates that there are 30,000 children involved in fighting in the Yellow Territories conflict. Trying to hold one person accountable for the crime of using child soldiers will not, by itself, stop children being recruited to fight. It has to be seen as one effort, among many, to try to halt the practice.

- Do you think that bringing individuals such as Azzurro to trial for his alleged actions may help deter others from committing similar crimes?
- How does justice through law support other actions to end the use of child soldiers? Students may want to research other actions taken by organisations working on behalf of child soldiers.
Exercise 4

If students want to develop their learning further, the following websites may be useful:

Up-to-date information on the Lubanga trial:
www.lubangatrial.org

Work with child soldiers:
Sierra Leone Red Cross Child Advocacy and Rehabilitation (CAR) Programme
http://redcross.org.uk/standard.asp?id=86537

Coalition to Stop the Use of Child Soldiers
www.child-soldiers.org

War Child International
www.warchild.org

Allen & Overy LLP and the British Red Cross do not endorse the content or views expressed in the third party websites mentioned above or elsewhere in this resource and neither Allen & Overy LLP nor the British Red Cross accept any responsibility or liability in relation to the accuracy or completeness of the information provided in these sites. The website addresses mentioned above are provided as suggestions only.
In 2009, the International Criminal Court (ICC) opened a trial in the case of the Prosecutor v. Alex Azzurro. Alex Azzurro is the alleged leader of the Union of Blueland Patriots (UBP) and the commander-in-chief of its military wing, the Patriotic Forces for the Liberation of Blueland (PFLB). He is accused of enlisting and conscripting children under the age of 15 and using them to actively participate in hostilities, from September 2002 to August 2003.

The case has entered the Trials Chamber and you, as a class, will enact the trial proceedings. If conducted in a real trial setting, you would need, in addition to the main characters of judges, prosecution, defendant and defence lawyers, ushers and court clerks as well. However this exercise is designed to be conducted in a classroom and, therefore, the focus will be on the main characters.

The main roles to be enacted are:

1. **Panel of judges**
   there will be three as you can see from the ICC trial flowchart.

2. **One defendant (the accused)**
   Alex Azzurro.

3. **At least two witnesses**
   one for the prosecution and one for the defence.
   (You may wish to have two witnesses for each).

4. **One lawyer for the prosecution**
   the ICC Prosecutor.

5. **One defence lawyer**
   lawyer for the defendant.

**Total = a minimum of eight roles.**

**Note:**

Although this is a criminal trial, it is not conducted in the same manner as a criminal trial in an English Crown Court i.e. as a trial by jury. The Rome Treaty does not provide for the right to a trial by jury and, therefore, ICC trials are conducted without one.

One witness statement has been prepared for the prosecution and one for the defence. You may wish to ask the class to prepare a second witness statement for each side using the intervention statements in the resource section of this module.

4H Victims and civilians.
Exercise 4: teacher resource

Procedure of the mock trial

1. The class should be arranged according to the ICC court room set-up provided as 4C The ICC courtroom. Everyone, except the panel of judges, should already be seated.

   **Note:**
   The defendant should be seated where everyone can see him. He will normally sit through the trial quietly and watch the proceedings.

2. **Judges enter the room.** Everyone stands up. Then one of the judges asks everyone to be seated. All sit down (including the judges).

3. One of the judges will ask both lawyers if they are ready to begin.

4. **Opening statement by the ICC Prosecutor,** who presents an outline or summary of their side of the case, and the main issues and arguments to be dealt with. This statement is not meant to be argumentative but a general laying out of the facts. It is always given in the future tense.

5. **Opening statement by the Defence,** who presents an outline or summary of the defendant’s side of the case, and the main issues and arguments to be dealt with. This statement is not meant to be argumentative but a general laying out of the facts. It is always given in the future tense.

6. **First prosecution witness** is called: the ICC Prosecutor carries out the first questioning of the witness. It is called a direct examination. Questions are usually open-ended at this stage allowing the witness to state everything he/she knows about the situation.

7. **First prosecution witness:** the defence lawyer carries out the cross-examination of the witness. This usually involves the defence lawyer asking the witness leading questions to draw out information that will help to make the defendant’s case stronger by casting doubt on the witness’ testimony. Therefore, any inconsistencies in the facts or the witness’ prejudices may be highlighted during the cross-examination. Leading questions will usually require a YES/NO answer and are designed so that they don’t allow the witness to add anything more to their answer.

*Continued on Page 14*
Exercise 4: teacher resource

Procedure of the mock trial

8. **First defence witness is called: the defence lawyer** carries out the first questioning of the defence witness. It is called a direct examination. Questions are usually open-ended at this stage, allowing the witness to state everything he/she knows about the situation.

9. **First defence witness: the ICC Prosecutor** carries out the cross-examination. This usually involves the ICC Prosecutor asking the witness leading questions to draw out information that will help to make the prosecution case stronger by casting doubt on the witness’ testimony. Therefore, any inconsistencies in the facts or the witness’ prejudices may be highlighted during the cross-examination. Leading questions will usually require a YES/NO answer and are designed so that they don’t allow the witness to add anything more to their answer.

**Note:**
There can be another round of direct examination and cross-examination of the witness at this stage, but for the purposes of this exercise, one round of questioning per witness is enough. It is expected that all legal teams will have researched and prepared their cases adequately in advance and will be able to ask sufficient questions of the witness. Repeat steps 6-7 for the second prosecution witness if available.

10. **Closing statement by the prosecution** - the **ICC Prosecutor** presents a summary of the case. This will usually cover the testimony heard, the facts drawn from the presented evidence brought before the court that supports their case, and the supporting legal arguments made. This statement is persuasive and argumentative in nature. In the end, the **ICC Prosecutor** will plead to the judges for a favourable judgment for the prosecution. It is always stated in the past tense.

**Note:**
There can be another round of direct examination and cross-examination of the witness at this stage, but for the purposes of this exercise, one round of questioning per witness is enough. It is expected that all legal teams will have researched and prepared their cases adequately in advance and will be able to ask sufficient questions of the witness. Repeat step 8-9 for the second defence witness if available.

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Exercise 4: teachers resource

Procedure of the mock trial

11. Closing statement by the defence – the defence lawyer presents a summary of the case. S/he will state how the evidence presented in court does not support the claim against the defendant and should therefore be disregarded, as well as highlighting any facts that are favourable to the defendant’s case. S/he will also plead in the end for a favourable verdict for the defendant. It is presented in the past tense.

12. JUDGMENT - Decision of the judges – at this stage, the judges can take some time to consult each other and come to a decision. They will then announce their decision. The accused is either convicted (proved guilty) or acquitted (proved innocent). If proved guilty, sentences may be given for up to 30 years’ imprisonment to life imprisonment, depending on the gravity of the crimes committed.

13. APPEAL The judges’ decision can be appealed by any of the parties involved (the accused, the Prosecutor or the country involved), and is considered in the Appeals Chamber. It is possible that a conviction or sentence may be revised by the Appeals Chamber in certain circumstances, such as if new evidence is discovered or it is found that crucial evidence used during the trial was, in fact, false.

Note:
For the purposes of this mock trial, you will not need to look into the appeal process. The trial activity will end with the judgment being issued by the panel of judges.
One of the major breakthroughs that the International Criminal Court (ICC) has introduced into international criminal law is the participation of victims in criminal trial proceedings. The Rome Statute (the treaty that created the ICC) allows victims to participate in all stages of a criminal trial in the ICC. It is thought that this will help the ICC uphold the highest levels of fairness and justice in carrying out its duties.

However, it is important to realise that victims have a different role to witnesses in ICC trial proceedings. To help you better understand the role of victims in an ICC trial, this activity will provide you with an additional layer of background information and facts (related to the mock trial from the main activity in Part 2) so that you can incorporate this and get a fuller picture of a real ICC trial.

Role of victims in ICC trials

Participation by victims is voluntary during ICC trials. Victims usually apply to participate so that they can communicate to the court their own interests and concerns. These concerns may not be related to either the prosecution or defence sides of the trial. As a result, it is up to the victims to decide what they want to say. Victims can participate at any stage of the trial when allowed by the judges. They have the right to appoint a lawyer to represent them and do not have to appear in person.

According to the ICC, there can be two types of victims, who are eligible for participation in ICC proceedings:

- Individuals who have suffered harm directly as a result of one of the crimes that the ICC has the power to act upon. Victims can be anyone, including children, the elderly and the disabled. Victims can also be people who have been harmed as a result of a crime committed against someone else. This can include family members of people who have been harmed.

- Institutions, where they own property that is used for religious, educational, cultural, historical or humanitarian purposes, which have been harmed due to a crime that the ICC has power to act upon.
Mock trial extension

INTRODUCTION OF VICTIM PARTICIPATION IN THE MOCK TRIAL

Note:
For the purposes of this exercise, a victim’s statement will be used instead of someone enacting the role of a victim.

WHAT IS REQUIRED: One lawyer to represent the victim in the case.

How to introduce a victim into the mock trial:

1. **After step 5 in the mock trial** - Opening statement by victim’s lawyer. Judges will, at this stage, allow the victim’s lawyer to step in and represent the victim by summarising their case.

2. **After step 7 in the mock trial** - Intervention by victim’s lawyer – for this exercise, the judges will allow the questioning of the witness by the victim’s lawyer.

3. **After step 9 in the mock trial** - Intervention by victim’s lawyer – the judges will allow the questioning of the witness by the victim’s lawyer.

4. **After step 11 in the mock trial**
   
   **Closing statement by victim’s lawyer**
   
   Judges will, at this stage, allow the victim’s lawyer to step in and represent the victim by summarising their case, and highlighting any evidence and facts heard during the trial that strengthens the victim’s case. The victim’s lawyer will ask the judges to consider favourably the case of the victim and grant them suitable compensation for their losses that have been incurred directly as a result of the case under trial.
Mock trial extension

Reparations decision
Victims may then be awarded compensation at the final judgment stage of the main trial. This is called the reparations decision. In the mock trial, this decision by the judges, as to whether or not any compensation should be given to the victims, and if so, how much, will be given out after the main judgment for the trial.

Note:
Just like other parties, victims can appeal against the reparations decision if they feel that the decision does not adequately reflect their losses or situation.

Discussion questions
• Why do you think victims are entitled to be represented by a lawyer?

• Victims are free to choose their own legal representative but they must have at least ten years’ experience as a criminal lawyer, judge or prosecutor, and be fluent in English or French (the court’s working languages). Why do you think these criteria are important?

• What challenges of victim participation were highlighted in the course of the trial?

• Did you think that the participation of victims changed the course of the trial? Why or why not?
PART 2 EXERCISE 1
For group use

1A. Background information
1B. Profile of Alex Azzurro
1C. The prosecution
1D. The defence
2A. Witness statements
3A. UN Special Representative
4A. A case for the ICC
4B. ICC trial
4C. The ICC Courtroom
4D. Mock trial procedure
4E. Prosecution witness
4F. Defence witness
4G. Intervention statements
4H. Victims and civilians
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<td>Exercise 3. Enlistment and conscription (optional)</td>
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<td>Exercise 4. Mock Trial</td>
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1A. Background information

BACKGROUND INFORMATION

The Alex Azzurro trial focuses on the conflict in the Yellow Territories. Tensions and fighting between Redland and Blueland have occurred for many years because of competition for land. In recent years, instability throughout the region has intensified, particularly with the rise of a number of militia groups on both sides. Militia groups are military forces of armed citizens, who are not part of the Government’s armed forces.

As the Yellow Territories is rich in minerals, especially gold, opposing militias have fought to control mining. The conflict made commanders rich and gave them a reason to keep fighting. They rallied their forces and people with ethnic hatred in order to continue the profitable war. There were horrific massacres of civilians in 2002. UN peacekeepers intervened in 2003 and increased their numbers in the Yellow Territories at the beginning of 2004. Violence in the Yellow Territories has continued, most recently in late 2008. The conflict is believed to have caused at least 50,000 deaths and displaced hundreds of thousands of civilians.

Alex Azzurro was allegedly the president of the Union of Blueland Patriots (UBP) from 2000, and from 2002, was alleged to have served as commander-in-chief of its former military wing, the Patriotic Forces for the Liberation of Blueland (PFLB). The Union of Blueland Patriot’s goal was to establish dominance in the Yellow Territories through violence against non-Blueland people – especially militias and civilians of Redland ethnic origin.

In March 2005, the UN arrested several militia leaders, including Alex Azzurro. Azzurro is accused of conscripting child soldiers to further the conflict in the Yellow Territories during 2002 and 2003. If proved, this constitutes a war crime, one of the most serious of international crimes. Because he was suspected of committing war crimes during the conflict, Azzurro was transferred from Blueland to the ICC in The Hague, in the Netherlands, in March 2006. Azzurro is charged with committing three war crimes between July 2002 and December 2003. They are:

- conscripting children under the age of 15 into armed groups
- enlisting children into armed groups
- using children to actively participate in armed conflict.

Azzurro is charged with responsibility for these crimes because of his alleged position as leader of both the political group, the UBP, and its former military wing, the PFLB.

The prosecutor charges that Azzurro exercised authority over these organisations, including the adoption and implementation of their policies, among which were the conscription, enlistment and use of child soldiers. The defence will contest these claims, arguing that Azzurro was a political leader and played no active role in the creation of the military wing.
1B. Profile of Alex Azzurro

NAME: Alex Azzurro
NATIONALITY: BLUELAND
DATE OF BIRTH: 29 DECEMBER 1960
PLACE OF BIRTH: JENA, PROVINCE OF TURUM, BLUELAND
EDUCATION: UNIVERSITY OF JAUNE, BA IN PSYCHOLOGY

Biography:

Alex Azzurro was born on 29 December 1960 in Jena, in the Turum Province of north-west Blueland. He studied at the University of Jaune and has a degree in Psychology. Azzurro was politically active during his undergraduate degree. After serving in junior local government positions, he joined the Blueland military, rising up in the military ranks as the conflict in the Yellow Territories intensified.

Azzurro was a military commander and “minister of defence” in the Blueland Rally for Democracy-Liberation Movement (BRD-LM). In early 2001, he split from the group and founded a rebel group, the Union of Blueland Patriots (UBP), becoming its President later that year and founding its military wing, the Patriotic Forces for the Liberation of Blueland (PFLB).

Under Azzurro’s leadership, the UBP became one of the main parties in the Yellow Territories conflict. Over the last decade, UBP has maintained a strong presence in north-west Blueland, consolidating control of large areas and preventing Redland acts of aggression in the area. Alex Azzurro was arrested on 13 June 2002 while on a mission to Jaune but he was released ten weeks later in exchange for a kidnapped Redland government minister.

Between 18 February and 3 March 2003, the UBP is reported to have destroyed 26 villages in one area, forcing 60,000 people to flee their homes. Human rights’ organisations claim that, at one point, Azzurro had 3,000 child soldiers between the ages of 8 and 15. He reportedly ordered every family in the area under his control to help the war effort by donating something: money, a cow or a child to join his militia.

Alex Azzurro was arrested on 19 March 2005 in connection with the killing of nine United Nations peacekeepers.
In this exercise, you will play the role of the prosecution in the trial of Alex Azzurro. The information on your card will help you construct your arguments for the trial. Read over the main lines of your argument and discuss the questions that follow.

The prosecution

The main lines of your argument will be:

- Azzurro was the overall leader of the Union of Blueland Patriots (UBP) and the leader of the Patriotic Forces for Liberation of Blueland (PFLB), which used child soldiers in inter-ethnic fighting in the Yellow Territories conflict. He oversaw the conduct of military affairs and appointed senior officers within the PFLB, secured financing for the UBP and PFLB, and negotiated the provision of their weapons and other military equipment.

- Azzurro personally took part in recruiting child soldiers, having them trained and using them in armed conflict. He visited PFLB military training camps. The PFLB used hundreds of young children, some as young as 11 years old, to kill, pillage and rape.

Presenting your case

To help you present your case, consider the following:

- What do you see as the key points you will need to argue?
- What do you think will be the difficulties in presenting your case?
- What different types of evidence will you use to argue your case?

Witnesses

Witnesses will play an important part in this trial. Consider the following:

- What challenges might you as a legal team, and the witnesses face in participating in this trial?
- What witnesses will you call forward? Do you want to represent a range of different people?
- How will you ensure witness statements are accurate and consistent when giving testimony?
- How will you prepare witnesses for their part in the trial?
In this exercise, you will play the role of the prosecution in the trial of Alex Azzurro. The information on your card will help you construct your arguments for the trial. Read over the main lines of your argument and discuss the questions that follow.

The defence

The main lines of your argument will be:

- Azzurro was not part of a ‘common plan’ to recruit children to be part of the military wing of his political party. The military wing was in fact controlled by others, and the Union of Blueland Patriots (UBP) did not have a policy of recruiting child soldiers.
- During the few months where he did have responsibilities for the military wing, Azzurro did all he could to demobilise the children who were in the Patriotic Forces for the Liberation of Blueland (PFLB).

Presenting your case

To help you present your case, consider the following:

- What do you see as the key points you will need to argue?
- What do you think will be the difficulties in presenting your case?
- What different types of evidence will you use to argue your case?

Witnesses

Witnesses will play an important part in this trial. Consider the following:

- What challenges might you as a legal team, and the witnesses face in participating in this trial?
- What witnesses will you call forward? Do you want to represent a range of different people?
- How will you ensure witness statements are accurate and consistent when giving testimony?
- How will you prepare witnesses for their part in the trial?
Choose which statements best support your case.

For the statements that you intend to use in presenting your case, outline the specific points that you will make by using this statement. What does it prove? What points will you pick out as being particularly important?

You will have the opportunity to cross-examine the statements that the opposing legal team uses. For those statements, develop a set of questions and points that you will make during cross-examination.

When my country was at war, I just knew I had to do something. I have always been tall for my age and I was known in my school as being one of the strongest guys, so I thought taking part in the war would make me a hero... and it would be fun.

We had nothing to do, so we went with the soldiers. I was not enlisted by force, and I wish to confirm that.
I was kidnapped on my way to school one morning. There were many of us at the camp and we were told to run races and practise using very heavy weapons. It was exhausting as we weren’t given enough food and the guns were too heavy for me to carry. But if any of us complained or cried or just couldn’t use those weapons properly, they would be thrown in a deep hole in the ground. The top of the hole was then covered with a metal sheet and they would feed the kid only once per day. It was a terrible punishment as it was summer and the hole would get very hot because of the metal.

My friends and I were asked if we would like to join the army and we accepted, so we weren’t forced and I wish to confirm that at Azzurro’s trial, if I am able to participate.
2A. Witness statements

The girls had to do all the housework type of jobs and at night the older officers would do bad things with them and they would cry loudly. Some of the girls were my cousins or friends from school and we younger boys were asked to stand guard at the entrance of the tent so that no one would come in. I felt really sad that I could do nothing for them.

I looked at my commander as my superior, but also as my family.

Because I was not good with the guns, I had to act as an armed bodyguard for Azzurro’s house. I didn’t really get to sleep for more than two hours a day because the security team had to look after his house all the time.
Enlistment and conscription

Alex Azzurro has pleaded not guilty to war crimes charges of ‘conscripting or enlisting children under the age of fifteen years into the armed forces, or using them actively to participate in hostilities’.

Six months into the trial, the UN Special Representative for Children and Armed Conflict appeared at the trial judge’s request as an expert witness. Her brief focused on the definition of and distinction between conscripting and enlisting children. She referred to another international criminal court, the Special Court for Sierra Leone, to draw attention to what may be considered ‘conscription’ and ‘enlistment’ in contemporary forms of warfare, such as the Yellow Territories conflict.

UN SPECIAL REPRESENTATIVE’S BRIEF

Conscription

• Conscription refers to compulsory entry into the armed forces.
• It may include coercive acts such as ‘abductions and forced recruitment by an armed group against children’.

Entitlement

• Enlistment refers to the generally voluntary act of joining armed forces by enrolment, typically on the ‘list’ of a military body or by engagement, indicating membership of the forces
• It may include accepting and enrolling individuals when they volunteer to join an armed force. Children can be ‘enlisted’ through more ‘informal means’ which may not involve an actual list.

Activity A:

It is often hard to tell the difference between a child who is conscripted, and one who enlists. The following factors may influence whether a child becomes involved in armed conflict:

• poverty
• ethnic rivalry
• ideological motivation
• peer pressure
• survival e.g. if you have lost your family and there is no one left to care for you.

Can these factors lead neatly to either ‘conscription’ or ‘enlistment’? Explore this by writing an imaginary account or witness statement of the experience of a young person who has become involved in armed conflict. Students can then share their writing with peers, and discuss whether the scenarios fall under conscription or enlistment.

Activity B:

Reflect back to the Introductory Exercise when you thought about the main lines of your argument. Imagine that it is six months into the trial and you must now consider the brief of the UN Special Representative when presenting your case. Discuss the following with your group:

• Does it impact the main lines of argument you will use?
• Can you use the witness statements to as great effect as you had originally planned?
• Can you use the perspectives of these participants to challenge the evidence given by the other legal team?
4A. A case for the ICC

HOW A CASE TRAVELS THROUGH THE ICC

Office of the Prosecutor

Pre-Trial Chamber

Trial Chamber | Three judges

Appeals Chamber | Five judges
4B. ICC trial

Steps in an International Criminal Court trial

1. The Prosecutor

Situations involving serious crimes are reported to the Prosecutor at the ICC. There are two main ways in which serious crimes can be referred to the ICC.

(a).

Via parties directly associated with the ICC including:
- state parties (countries that are subject to the jurisdiction of the ICC)

Either of the above can refer a grave or serious crime to the Prosecutor of the ICC. The Prosecutor assesses the information provided, and decides whether or not there is sufficient evidence to proceed further and begin an investigation into the situation.

(b).

By the Prosecutor of the ICC directly if the Prosecutor feels he or she has received sufficient information about a situation involving one or more serious crimes, they can start an investigation, subject to permission from the Pre-Trial Chamber. The Prosecutor can get information from several reliable sources for this purpose. These may include:
- national or international militaries or governments
- private individuals
- human rights’ organisations and non-governmental organisations (NGOs)
- media reports.

2. The Pre-Trial Chamber

The Pre-Trial Chamber grants permission to start an investigation. If the Prosecutor feels that there is enough reason to proceed with a situation, they will refer it to the Pre-Trial Chamber for permission to start an investigation.

3. Investigation phase

The Prosecutor will investigate all facts and evidence received in order to determine whether criminal charges should be made. At this stage, all evidence for and against the accused is considered in order to make a fair judgment. The rights of the accused are fully respected throughout the investigation phase.

4. Arrest warrant is issued

The Pre-Trial Chamber may decide to issue an arrest warrant or summons if it feels that the accused has committed a crime that the ICC can hear and make a judgment on.

Continued on Page XX
4B. ICC trial

5. Confirmation of charges
Once the accused appears before the ICC, the Pre-Trial Chamber holds a hearing to confirm to the accused that the charges made against them will be heard in a trial.

6. Case is assigned to a Trial Chamber.
The Trial Chamber is made up of three judges and is where the main trial will be heard. It is the responsibility of the Trial Chamber to ensure that the trial is conducted in a fair manner and that the rights of the accused are fully respected, including that the accused is considered innocent until proven guilty.

7. Trial proceedings in the Trial Chamber.
The prosecution and the defence sides both present their case and cross-examine witnesses. The accused can either conduct their defence themselves or through lawyers they have chosen. Uniquely, the ICC also allows victims to participate either directly or through legal representatives.

8. Decision of the Trial Chamber.
At the end of the trial, the accused is either convicted (proved guilty) or acquitted (proved innocent). If proved guilty, sentences can be given of up to 30 years’ imprisonment, or in very serious cases, life imprisonment. Victims may also be awarded compensation in the final judgment.

9. Appealing the decision in the Appeals Chamber.
The Appeals Chamber consists of five judges. Following the final judgment on the case, the decision made by the Trial Chamber can be appealed by either the accused or the Prosecutor. The victims or other people affected can also appeal the compensation order made by the Trial Chamber.

Note:
At all phases above, any decision made by the ICC can be appealed by any of the parties involved (the accused, the Prosecutor or the country involved).
4C. The ICC Courtroom

The ICC Judges

Representatives of States

Legal representatives of the Victims

Witness giving evidence

The Accused and lawyers for the Accused

Lawyers for the Prosecution

The Public Gallery
1. **Opening statement by the prosecution**
   Present an outline or summary of your side of the case, and the main issues and arguments you will deal with. This statement is not meant to be argumentative but a general laying out of the facts. The statement is always spoken in the future tense.

2. **Opening statement by the defence**
   Present an outline or summary of your side of the case, and the main issues and arguments you will deal with. This statement is not meant to be argumentative but a general laying out of the facts. The statement is always spoken in the future tense.

3. **First prosecution witness – prosecution direct examination**
   The prosecution’s first questioning of its witness. Questions are open-ended at this stage.

4. **First prosecution witness – defence cross-examination**
   The defence’s cross-examination of the witness. This usually involves the defence lawyer asking leading questions of the witness to gain information.

   **Repeat steps 3-4 for all prosecution witnesses**

5. **First defence witness – defence direct examination**
   The defence’s first questioning of the witness. Questions are usually open-ended at this stage.

6. **First defence witness – prosecution cross-examination**
   The prosecution’s cross-examination of the witness. This usually involves the prosecution lawyer asking leading questions of the witness to gain information.

   **Repeat steps 5-6 for all defence witnesses**

7. **Closing statement by the prosecution**
   The prosecution lawyer presents a summary of the case. This will usually cover the testimony heard, facts from evidence brought before the court and the legal arguments made. This statement is persuasive and argumentative in nature, and is always spoken in the past tense.

8. **Closing statement by the defence**
   The defence lawyer presents a summary of the case. This will usually cover the testimony heard, facts from evidence brought before the court and the legal arguments made. This statement is persuasive and argumentative in nature, and is always spoken in the past tense.
A former child soldier today described a meeting that Alex Azzurro attended with the top commanders of the military wing of the Union of Blueland Patriots (UBP).

‘Witness 247’ told the court that he was grabbed from his school by soldiers led by Anthony Ceka and forcefully conscripted into the Patriotic Forces for the Liberation of Blueland (PFLB), the UBP’s armed wing. He went on to serve as a bodyguard to Mr. Ceka, the man who, according to prosecutors at the International Criminal Court (ICC), was the chief of staff of the group.

Testifying with voice and face distortion to protect his identity, ‘Witness 247’ told the trial that all through his time with the UBP, he only saw Mr. Azzurro twice. The first time was at a meeting Mr. Azzurro had with the group’s military commanders. The second time was when the witness was directed by Mr. Ceka to be part of Mr. Azzurro’s escort team to the town of Jaune.

The prosecuting attorney asked the witness to name some of the people who attended the commanders’ meeting that he said took place at a UBP military camp. The witness said that besides Mr. Ceka and Mr. Azzurro, other commanders at that meeting included Simon Lushi, and others he identified as ‘Commander Patrick’ and ‘Commander Ruz’. The ICC has an arrest warrant out for Mr. Lushi, who was reportedly the deputy chief of staff of the PFLB. He remains at large in Blueland.

The witness said he and other soldiers – many of them also child soldiers – stood guard outside a big house in Jaune where the commanders were meeting. He stated that he did not know whose house it was, and that he could not tell who had called the meeting.

“Did you see Mr. Azzurro after the meeting?” asked the prosecution.

The witness replied: “After the meeting, I saw him when he came out of the house. Ceka said that we had no ammunition left and we received authorisation to fetch ammunition from the house where they were having their discussions.”

The witness said he trained at three camps, was deployed and fought in many areas but he never saw Mr. Azzurro in any of those places.
ACTIVITY

The prosecution team will use this witness statement to develop a role play of how they might examine the witness, before taking part in a mock trial. Resource 7 gives you more information on the procedure that a trial follows.

As a group, plan what questions you will ask the witness in order to make certain points. Remember that you will need to ensure the witness is at ease, and that they will volunteer the information that is important to the points you wish to make. You can do this through questioning them. Two people from each legal team will take on the respective roles of witness and lawyer. A member of your legal team will then have the opportunity to cross-examine the other team’s witness. Appoint one person to do this. In preparing for this, your team will need to identify weaknesses in the information in the opposition’s witness statement.

Remember that the witness statements will not be read out during the role play. They are a resource to help you prepare. It will be your job to obtain the information and make it relevant to the points of the case you are arguing.

You will have to prepare:

• an opening statement
• questions for direct examination of your own witness
• questions for cross-examination of the opposition witness
• a closing statement.
Statement – defence witness

A defence witness today told court that the Union of Blueland Patriots (UBP) – the group Alex Azzurro is alleged to have led – did not conscript any children. Instead, children who had no parents, and others who saw that some soldiers regularly extorted money from civilians, voluntarily joined the group.

Claude Django, the 20-year-old defence witness said that UBP recruits who did not cope with the conditions in training camps were free to quit the group and return to their homes.

The prosecution asked him how he knew this and he responded that those who served in UBP had told him. Django himself did not serve in UBP. But when he first appeared in court yesterday, he said a man known as Dudu took him and other boys to a meeting in the Blueland town of Jena, where it was claimed they were former child soldiers.

In court today, Django dismissed claims that UBP conscripted children, arguing that the children in UBP were mainly former street children who enlisted although there were also some who abandoned school to join the group when they saw soldiers of their age extorting money from civilians.

“No one was forced into becoming a child soldier. They were street children who, in view of their situation, saw other children who were soldiers carrying weapons and as a result went to enlist,” he said. He added: “I cannot say it was Alex [Azzurro] who went through town asking children to become child soldiers. It was the children themselves who wanted of their own choice, to become child soldiers.”

The prosecution asked him whether he knew Azzurro, and he answered that he did. When asked how he knew him, Django replied that during the war, Azzurro had become important because he was the leader of the UBP.

“Because of the war, Alex [Azzurro] became someone very important. Previously, he would sell beans at the warehouse, as a tradesman. So I came to know him as a salesman,” said Django.
ACTIVITY

The defence team will use this witness statement to develop a role play of how they might examine each witness, before taking part in a mock trial. Resource 7 gives information on the procedure that a trial follows.

As a group, plan what questions you will ask the witness in order to make certain points. Remember that you will need to ensure the witness is at ease, and that they will volunteer information that is important to the points you wish to make. You can do this through questioning them. Two people from each legal team will take on the respective roles of witness and lawyer. A member of your legal team will then have the opportunity to cross-examine the other team’s witness. Appoint one person to do this. In preparing for this, your team will need to identify weaknesses in the information in the opposition’s witness statement.

Remember that the witness statements will not be read out during the role play. They are a resource to help you prepare. It will be your job to obtain the information and make it relevant to the points of the case you are arguing.

You will have to prepare:

- an opening statement
- questions for direct examination of their own witness
- questions for cross-examination of the opposition witness
- a closing statement.
Witness statements

Some of the prosecution witnesses said in open session that they often saw Alex Azzurro at training camps, or that there were child soldiers in his compound. Nonetheless, a great number of witnesses who testified in public session did not link Mr. Azzurro directly to the military command. Instead, most of them identified Mr. Simon Lushi and Mr. Anthony Ceka as the men who were in charge of military issues.

A witness told court that UBP soldiers used to extort money from civilians at roadblocks. Sometimes the soldiers were sent by their commanders to get money from civilians but they never handed over all the collections to their superiors. Other times, the soldiers went out at night on their own initiative and hassled money out of civilians, he added.

On his first day of testimony yesterday, the witness said he underwent training at three UBP camps and fought in many areas but he never saw Mr. Azzurro in any of those places. He stated that during his time with the group, he only saw Mr. Azzurro twice – once when he was ordered to be part of Mr. Azzurro's escort team and on another occasion when Mr. Azzurro attended a meeting with the top commanders of the armed militia of the UBP.

One former child soldier described how he was punished by being locked in a trench for over a week, and was fed only once a day. Another witness told the court that child soldiers were forced to kill and mutilate victims, and were beaten by multiple commanders at one time. Other witnesses described being subjected to horrifying living conditions while with the UBP.

The emotional difficulties faced by former child soldiers in court were exemplified when a witness retracted his testimony. Upon retaking the stand several days later, the witness said that, on the first day, “a lot of things went through my mind. I got angry and I wasn’t able to testify.”
4H. Victims and civilians

Statements from victims and civilians

I was heading to work one morning when I saw a group of soldiers kidnap some local village children. Some were as young as 11 years old. I really wanted to help them but anyone who got in the way was punished. I could see mothers crying for their children to come back. I wish there was something I could have done but the soldiers were too powerful.

(Local Villager)

I have helped many children return to civilian life after spending many months or years as a child soldier. Many of them have been girls as well as boys. There are rehabilitation camps set up to help children integrate back into normal civilian life. However, this can be a very long process, which is why the camps are miles away from any villages. It prevents children from escaping and causing danger to other civilians. Many of the girls have faced emotional trauma and have clear memories of being forced to fight in battle in any way possible. My concern is that the memories which have scarred them for life will prevent them from living their life.

(Co-ordinator of reception centre for ex-child soldiers)
4H. Victims and civilians

Statements from victims and civilians

I was looking for my son everywhere when I had seen children were being taken from the village. I kept shouting his name. I saw he was placed in a truck. I tried to run to him but I was pushed to the floor. The truck had been loaded with about 20 children. The truck had driven off so fast that I had hardly any time to think what this would do to my husband. My son was a good boy, he always attended school and wanted to make the most of life. A year later, I was reunited with my son. I could see the sadness in his eyes. I wished I could take away the pain he felt.

(Parent of child soldier)

When I became a soldier, I had never felt such power. I was given the opportunity to make decisions. I was made chief soldier – this gave me responsibility for training other soldiers in how to use weapons. I had my own reasons and made my own choices becoming a soldier.

(Child soldier)