




LIBERIA ENFORCEMENT TRAINING PROGRAM

Enforcing the Labour and Criminal Law to Address Child Labour, Forced Labour, and Human Trafficking

PROSECUTION



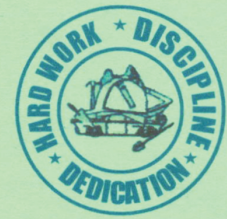
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Office of the Minister

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MINISTRY OF LABOUR

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RL/MOL/CHG/M/164/'22

November 28, 2022

The National Commission on Child Labor and the National TIP Secretariat
c/o Child Labor and TIP Divisions, Ministry of Labour
Ministerial Complex, Congo Town
Monrovia, Liberia

Dear Colleagues:

I am pleased to extend our collective heartfelt appreciation to the US Department of Labor (USDOL) which funds the Winrock International ATLAS Liberia project. This project further engaged Lawyers Without Borders (LWOB) as technical partner in providing expertise to support efforts of the Government of Liberia to eliminate Child Labour, Forced Labour, and Human Trafficking.

Winrock ATLAS project and partners (Lawyers Without Borders) engaged the Government of Liberia to assess current circumstances relating to Child Labour, Forced Labour and Human Trafficking and then identified specific activities based on Government of Liberia priorities, along with ATLAS project and USDOL priorities to implement for the enhancement of building the government's capacities to address Child Labour, Forced Labour, and Human Trafficking in Liberia. In the engagement process, three key activities referred to as Differentiated Model of Practices (DMOPs) were identified by a special **Working Group** representing the Ministry of Labour, Ministry of Gender Children and Social Protection, Ministry of Internal Affairs, INGOs, Liberia National Police (LNP), Liberia Immigration Services (LIS), Liberia Drug Enforcement Agency (LDEA) and Civil Society Organizations (CSOs). The three key activities identified by the **Working Group** include: (1) Support to the Child Labour Monitoring System (CLMS) in Liberia, (2) TOT Training Program for Grassroots and Local Actors, and (3) Enforcement Training Program (ETP). The ATLAS project, partner and Working Group developed curriculums/Guidelines for each of these key activities (DMOPs).

The Ministry of Labour, through her designated staff from the Child Labour Division, Trafficking-In-Person Division and the Inspectorate Division were highly participatory in the development of concept notes, curriculums/guidelines, piloting, refinement, and institutionalization plans for these DMOPs. The result of our joint effort and as per MOU signed between Winrock International ATLAS project and the Ministry of Labour for the institutionalization and sustainability of these DMOPs, the Government of Liberia through the Ministry of Labour considers the process as part of the broader effort to advance the fight against the menaces of Child Labour, Forced Labour, and Human Trafficking.

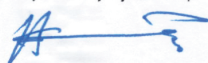
The ATLAS project collaboration with the Ministry of Labour also extended to the development and endorsement of hazardous and light work lists for children in Liberia, and the drafting of Child Labour Law for Liberia that is currently in Committee Room for revision and for subsequent enactment by the National Legislature.

In view of the collaboration and MOU, the Ministry of Labour endorses these Training Curriculums/Guidelines and institutionalization plans that are developed through joint and collaborative efforts for the enhancement of building the capacities of key Actors and partners in the fight against Child Labour, Forced Labour, and Human Trafficking in Liberia.

Together, we can end Child Labour, Forced Labour, and Human Trafficking in Liberia.

Kind regards.

Very truly yours,



Cllr. Charles H. Gibson
MINISTER

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Introduction to Module 4

After an instance of child labour, forced labour, or human trafficking is identified, investigated, and referred to the proper authorities, the next step is to ensure the effective prosecution of these crimes. This module will cover all of the aspects of a successful prosecution, including how to evaluate a case, issues relating to bail for those accused of a crime, considerations for victims/survivors during the trial process, all aspects of trial practice, using evidence during trial, and mutual legal assistance. This module includes discussion questions and interactive exercises that allow participants to practice using the skills they have learned.



Photo Credit: Cameron Zohoori, 2011, Liberia

Lesson 4.1: Case Evaluation

Objective:

- To learn how to evaluate a case, including whether or not to bring child labour, forced labour, or human trafficking charges.

Time:



2 hours and 5 minutes

Steps:

- Exercise 4.1.1: Case Evaluation Discussion
 - 15 minutes
- Present PowerPoint Presentation 4.1: Case Evaluation
 - 20 minutes
- Exercise 4.1.2: Case Evaluation Scenarios
 - 1 hour and 30 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.1: Case Evaluation Scenario
- Projector
- Handout 4.1.2: *Case Evaluation Scenario*

For a prosecutor, the most consequential decision he or she may make in any case is whether or not to bring charges. In deciding to bring charges, the prosecutor must determine that the existing evidence is sufficient to convict a suspect. This is a very serious matter because at stake may be the life, liberty and/or property of the accused, and the safety and well-being of the public.

Deciding whether to bring charges requires an objective, independent analysis of a case. The standard for deciding to charge is *whether, based on the existing evidence, there is a reasonable prospect of conviction*. In other words, is there sufficient evidence to establish *each element of the proposed offense* with respect to the person to be charged?

Such evidence may come from one or more of a variety of sources.

First, there will likely be statements from various persons, such as statements from:

- Witnesses
- Police, labour inspectors, or other investigating officers
- Relevant experts
- Victims/survivors
- The accused

There will also likely be documents, in paper or electronic form, as well as physical evidence and perhaps medical evidence.

A proper evaluation of the case should include consideration of four key areas.

- Factual theory of the case,
- Legal theory of the case,
- Evaluation of the evidence, and
- Public interest considerations.

The factual theory of the case focuses on what happened. This inquiry should answer the questions of what really happened, what are the key facts, what is the best evidence, and what were the motives of the suspect/potential defendant.

Once the facts of the case have been evaluated, the prosecutor should consider the legal theory of the case. Here, a prosecutor needs to apply the factual analysis to the law. Questions to answer include: What are the potential charges? What are the elements that must be proved? What state of mind must be proved? What facts can be used to prove those elements? And, what are the sources for those facts?

Next, the prosecutor must evaluate the evidence. Consider whether the evidence provides reasonable grounds to believe that the suspect committed the offense. The available evidence should be evaluated according to its relevance, admissibility, credibility, whether it is reliable and accurate, and the strength of any rebuttal evidence. It can be helpful to create an evidence table like the one provided below (which includes sample charges and sample evidence). In trans-national child labour, forced labour, or human trafficking cases where some critical evidence may be located outside of Liberia, you may want to evaluate the feasibility and practicability to obtain evidence from a foreign country. Please refer to Lesson 4.6 (Mutual Legal Assistance (MLA)) for more detail.

Element to prove	Evidence	Source of evidence	Counter-evidence	Comments
Charge 1: Human Trafficking¹				
Element 1: The recruitment, transportation, transfer, harboring or receipt of a person	<ul style="list-style-type: none"> • Falsified passport • Car used in transporting victim/survivor • Victim/survivor statement 	<ul style="list-style-type: none"> • Found at job site during rescue operation • Found parked at job site during raid • Victim/survivor interview 	<ul style="list-style-type: none"> • Statement of the accused 	
Element 2: By means of the threat or use of force or other means of coercion or by abduction, fraud, deception, abuse of power or of a position of vulnerability, or by giving or receiving of payments or benefits to achieve the consent of a person having control over another person	Use and threat of force: <ul style="list-style-type: none"> • Medical records documenting victim/survivor injuries • Text messages threatening violence • Victim/survivor statement 	<ul style="list-style-type: none"> • Medical exam conducted after rescue • Victim/survivor's mobile phone • Victim/survivor interview 	<ul style="list-style-type: none"> • Accused says he did not send the text messages 	<ul style="list-style-type: none"> • Need corroborating evidence tying him to the messages
Element 3: For the purpose of exploitation	Exploitation- Prostitution <ul style="list-style-type: none"> • Website advertising sexual services • Victim/survivor statement 	<ul style="list-style-type: none"> • Public website • Victim/survivor interview 	<ul style="list-style-type: none"> • Accused claims the website is not his 	<ul style="list-style-type: none"> • Need to tie the website to the employer

¹ The Revised Act to Ban Trafficking in Persons Within the Republic of Liberia, of September, 2021, Article I Section 2 [hereinafter *Revised Trafficking in Persons Act (2021)*].

Element to prove	Evidence	Source of evidence	Counter-evidence	Comments
Charge 2: Hazardous Child Labour²				
Element 1: Person under the age of 18	<ul style="list-style-type: none"> • Birth certificate • Victim/survivor statement 	<ul style="list-style-type: none"> • Family of the victim/survivor 	<ul style="list-style-type: none"> • False documents claim the victim/survivor is 20 years old 	
Element 2: i. work which exposes children to physical, psychological, or sexual abuse. ii. work underground, underwater, at dangerous heights or in confined spaces. iii. work with dangerous machinery, equipment, and tools, or which involves the manual handling or transport of heavy loads. iv. work in an unhealthy environment which may, for example, expose children to hazardous substances, agents, or processes, or to temperatures, noise levels, or vibrations damaging to their health; or v. work under particularly difficult conditions such as work for long hours or during the night, or work where the child is unreasonably confined to the premises of the employer	Prostitution <ul style="list-style-type: none"> • Website advertising sexual services • Victim/survivor statement 	<ul style="list-style-type: none"> • Public website • Victim/survivor interview 	<ul style="list-style-type: none"> • Accused claims the website is not his 	<ul style="list-style-type: none"> • Need to tie the website to the employer

Finally, the prosecutor should consider the *public interest aspects of the case*. For example, it can be important to consider the culpability of the suspect, the harm done to the victim/survivor and/or community, the status of the victim/survivor (e.g., age, vulnerability), the suspect's age at the time of the offense, and whether sources of information need protecting. The prosecutor must also decide if the proposed charges are a proportionate response to the alleged crime.

² An Act to Repeal Title 18 of the Executive Law, Labour Practices Law and to Establish in Lieu Thereof the Decent Work Act, 2015, §21.4 [hereinafter *Decent Work Act (2015)*].

Exercise 4.1.1: Case Evaluation Discussion

Objective:

- To begin thinking about how to evaluate child labour, forced labour, and human trafficking cases.

Time:



15 minutes

Materials and Preparation:

- One flipchart and markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flipchart:
 - What factors should be considered when determining whether a case should be prosecuted?
 - What makes a strong case?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- When evaluating a case, it is important to remember that there must be evidence to prove the charges being brought, and there must be a factual theory and legal theory.
- Strong cases have evidence that is credible, admissible, and reliable.
- Evaluating cases will be discussed further in the lesson.

Exercise 4.1.2: Case Evaluation Scenario

Objective:

- To familiarize participants with the concepts relevant to case evaluation.

Time:



1 hour and 30 minutes

Materials and Preparation:

- Text of relevant statutes
- Flipchart and markers
- Make copies of Handout 4.1.2: Case Evaluation Scenario
- Write the following questions on the flipchart (or white board/chalk board):

Human Trafficking

- Is there enough evidence to bring human trafficking charges?
 - Child trafficking?
 - Forced labour?
- Who can be charged for perpetrating human trafficking?
- Does there seem to be sufficient evidence against Prince? How about the Bahs?
 - What are the strong points of the case?
 - What are the weak points of the case?
- Should you recommend that a human trafficking action be brought against Prince absent additional evidence? How about the Bahs?
- What additional evidence would be sufficient to bring an action against Prince on human trafficking charges? How about the Bahs?

Child Labour

- Is there enough evidence to bring child labour charges?
- What additional evidence could make the child labour case stronger?
- Absent additional evidence, should a child labour case be brought against Prince? How about the Bahs?
 - Should that be in addition to or instead of forced labour/human trafficking charges?
 - What additional evidence could make the child labour case stronger?
 - Does Edward have any way to recover damages relating to his injury suffered while working for Prince?
 - Should a child labour case be brought against the European buyer?

Steps:

- Split participants into four different groups with a facilitator for each group.
- Ask the participants to review the scenario in Handout 4.1.2: *Case Evaluation Scenario*.
 - 5 minutes
- Each group should discuss amongst themselves the questions written on the flip chart paper. Participants should consider the questions from the point of view of a prosecutor considering charges against Prince and/or the Bahs.
 - 50 minutes
- Each group should nominate a representative. One at a time, each representative should come to the front of the room to present the conclusions made by their group. Other participants may ask questions or add comments.
 - 30 minutes
- Wrap up by reviewing the key messages.
 - 5 minutes

Key Messages:

- To properly evaluate a potential case, one must consider the following:
 - What charges can properly be supported by the evidence? Who can charges be brought against?
 - Are the potential sanctions appropriate for the defendant in the event of conviction?
 - Are there other charges that would be more appropriate?
 - Is there a reasonable prospect of conviction on these charges?
 - Can the existing evidence be strengthened by further investigation?

HANDOUT 4.1.2: CASE EVALUATION SCENARIO

Edward Kamara (15) and his sister, **Mariama Kamara** (13) live with their parents, Desmond and Amara in Hangha, outside of Kenema, Sierra Leone. In July 2021, Amara chatted with Fatmata Bah, a respected member of the village. Fatmata's husband, Alpha, was a successful local trader and the Bahs were known in the village for their prosperity. Fatmata offered to help connect Edward with a job opportunity provided by Alpha or one of his contacts. While Amara and her neighbours knew Alpha was a skilled trader, they did not know the specifics of his business.

A few days later, Fatmata shared a job opportunity for Edward at an export business and Mariama at a small shop in Monrovia. Amara and Desmond were hesitant about Mariama traveling so far away from home, but ultimately let both children go to Monrovia because Mariama would be able to go to school a few hours a day. Once the Kamaras informed the Bahs of their decision, the Bahs requested the children's passports for travel and onboarding logistics. The Kamara children applied for their passports and excitedly handed them over to the Bahs, forgetting to ask when the passports would be returned.

In August 2021, the Bahs' family friend, Prince Flomo, picked up Edward and Mariama at their house by car. Edward and Mariama were surprised when the car dropped them off at a cocoa plantation in Lofa, Liberia. This was the first time they learned that they would be working on the cocoa plantation, and not at a business in Monrovia. Both were frightened and confused but did not question Prince or ask to be taken home for fear of disappointing their parents.

Edward and Mariama stayed in gender-separate, small, windowless dorms with wooden plank beds. Prince explained to Edward and Mariama their working hours and their general tasks. On the plantation, Edward climbed cocoa trees to cut bean pods using a machete. There were a few times when Edward almost sliced himself with the machete to expose the cocoa beans. Mariama tended to the crops on the plantation. Prince was stern but reasonable. He oversaw Edward and Mariama's work from a distance. The food was decent, and consisted mostly of vegetables, fruits, and rice, with the occasional meat. There were less than two dozen workers on the plantation with the Kamaras being the youngest. Both Edward and Mariama were isolated from the outside world and their parents. They had a mobile phone, but it was not functional. They often asked Prince to speak with their parents, but each time Prince claimed he was providing regular updates to their parents.

In October 2021, a European buyer visited the plantation with the goal to sell Liberian cocoa to premium chocolate manufacturers in Europe. To meet the buyer's demands, Edward and Mariama's work increased to 14 hours daily with less pay, and less frequently. Additionally, some portions of their wages were held back to cover their transportation costs. Prince also began to monitor Edward and Mariama more closely. Due to worsening conditions and lack of sleep, Edward accidentally sliced his hand deeply with the machete in December 2021. Edward was taken to a local man, who washed the cut and applied medication to the wound. Edward was tasked with a few days of lighter chores while his wound healed.

In January 2022, Mariama overheard a telephone conversation between Prince and Alpha, where Prince asked for "younger workers" from Sierra Leone. A week ago, officials from the Liberian Ministry of Labour conducted a raid on the plantation after learning children from Sierra Leone were working there in dangerous conditions. Edward and Mariama were taken into custody by the officials and handed over to the local office of the Ministry of Health and Social Welfare. Prince and Alpha have been taken into custody.

Lesson 4.2: Pre-Trial and Bail

Objective:

- Learn the basics about the right to bail and considerations for whether it is granted.

Time:



2 hours and 15 minutes

Steps:

- Exercise 4.2.1: Bail Discussion
 - 15 minutes
- Present PowerPoint Presentation 4.2: Pre-Trial and Bail
 - 20 minutes
- Exercise 4.2.2: Bail Scenarios
 - 1 hour and 40 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.1: Pre-Trial and Bail
- Projector
- Handout 4.2.2: Bail Scenarios

The term “bail” refers to the conditions under which a defendant detained by the authorities can be released pending trial. Bail generally involves a deposit of money or other property with the court to guarantee the defendant’s later appearance. The purpose of bail is to provide assurance that the defendant will appear in court when required.

The Constitution of Liberia states the following:

- (i) All accused people are entitled to bail personally or by sureties, unless charged with a capital or grave offense as defined by law
- (ii) Excessive bail, fines, or punishment are not allowed³

Defendants charged with capital or grave offenses typically do not have the right to bail. However, the Criminal Procedure Law, states “A person in custody for the commission of a capital offense shall, before conviction, be entitled as of right to be admitted to bail, unless the proof is evident or the presumption is great that he is guilty of the offense.”⁴ Exceptions to this can be made for illness. Before the indictment, the burden is on the prosecutor to show evidence of guilt, after indictment, the burden of proof shifts to the defendant.

Everyone ordinarily has the right to liberty and to be presumed innocent unless convicted by a court. In Liberia, individuals have the right to bail unless there are compelling reasons not to grant bail. In some extremely serious cases,

³ Constitution of Liberia (1986), Chapter III Articles 21(d)(i) and (ii).

⁴ Criminal Procedure Law, Title 2, Liberian Code of Laws Revised, §13.1.1 [hereinafter *Criminal Procedure Law*].

there may be a presumption against granting bail, such as with capital crimes and those classified as capital crimes, such as gang rape. Thus, there may be a presumption against granting bail in some human trafficking, child labour, and forced labour cases because they can involve grave offenses or crimes classified as capital crimes.

Restrictions on the Right to Bail

The right to bail may be subject to reasonable restrictions. A court will determine whether to grant bail, and under what circumstances, based upon its evaluation of the following factors:

- The gravity of the charge against the defendant
- The strength of the case against the defendant
- The seriousness of the punishment that may be imposed if the defendant is found guilty
- The risk that the accused will commit further crimes
- The risk that the accused will seek to intimidate or harm the alleged victim/survivor or potential witnesses
- The risk that the accused will flee to another jurisdiction and not return to face trial voluntarily

In evaluating these factors, the court will also consider the background and circumstances of the accused, the accused's ties to the local community, and the health of the accused. For example, a business owner charged with child labour may be more likely to be granted bail if he or she has ties to the local community such as his or her business or family, since this lessens the chance that the accused will flee to another jurisdiction and not return to face trial. Alternatively, an international trafficker with strong ties to another country may pose more of a flight risk. The conditions imposed by the court may not be "excessive" or the failure to grant bail will be tantamount to imprisonment without any conviction of a crime.

Bail does not always require or only require the deposit of money. Bail may also be granted subject to other conditions when appropriate, such as the surrender of the accused's passport, periodic check-ins by the accused with the police or other authorities, and/or confinement to the accused's home, enforced by some form of location monitoring. In all cases, the conditions placed on bail should be appropriate to the circumstances of the defendant and the public interest.

If bail is granted, prosecutors should make sure that the defendant has complied with procedural requirements. These requirements include verifying that the security on any bond is adequate and genuine, and that any surety is qualified and has filed the required certifications.⁵ If the surety is insufficient, the prosecutor should file an exception with the court. The prosecutor should also notify the court of any new information that warrants a review of bail, such as failure to comply with conditions of release or if new evidence strengthening the government's case is found.

Calculating Bail

Several factors should be considered when calculating bail. If restitution is required, bail should be high enough to cover the maximum fine that could be due by the defendant if convicted.⁶ If conviction could result in imprisonment, bail should be set at \$25 per month of imprisonment, which is \$300 per year. In cases where a conviction could result in both a fine and a prison sentence, bail should be set at an amount that covers the total amount of both.

Human trafficking has a minimum sentence of twenty years,⁷ which means bail must be set no less than \$6,000. If aggravating factors are present, Article I, Section 5 the Revised Trafficking in Persons Act of 2021 provides that for each aggravating situation, both fine and imprisonment must be imposed. For example, if a trafficking victim/survivor is a child (less than 18 years old), the maximum fine is US\$200,000 and the imprisonment is no less than 20 years. Therefore, at the minimum, the bail amount will be US\$200,000 (maximum fine) plus \$6,000 (at least 20-year imprisonment). The large amount of bail is likely to make bail impossible for most trafficking defendants, enhancing the deterrent effect of the new anti-human trafficking law.

⁵ Criminal Procedure Law §13.4.1.

⁶ Criminal Procedure Law §13.2.

⁷ Revised Trafficking in Persons Act (2021), Article I Section 5.

Either party may make an application for an increase or reduction in bail and the court “may for good cause increase or reduce the amount of bail or order that additional security be furnished.”⁸ Reasonable notice of the application must be given to the opposing party.

When charging sex trafficking cases, the prosecutor may also be able to charge first-degree rape, which is classified as a capital offense even if the maximum penalty is life imprisonment.⁹ A capital offense is non-bailable when “the proof is evident or the presumption is great that he is guilty of the offense.”¹⁰

First degree rape occurs when:¹¹

- Victim/survivor is under 18 years of age;
- Rape results in permanent disability or serious bodily injury to the victim/survivor;
- Defendant threatens the victim/survivor with a firearm or other deadly weapon at the time of, or immediately before, rape; OR
- Gang rape

Rape occurs if sexual intercourse occurs without consent¹² or the person raped is under the age of 18 and the defendant is 18 years or older.¹³ For this reason, it is important to establish the age of the victim/survivor, because if a child under the age of 18 is subjected to sex trafficking during which he or she was forced to have sexual intercourse with adults over the age of 18, the charge of first degree rape can be brought.

A person has committed gang rape if he or she purposefully promotes or facilitates rape or agrees with one or more persons to engage in or cause rape.¹⁴ Thus, to charge gang rape in sex trafficking cases, prosecutors must show either of the following:

- the trafficker caused the sexual exploitation by rape to occur either directly or through purposeful promotion or facilitation (note: non-consent is not a requirement for victims/survivors under the age of 18);
- the defendant agreed that the expected trafficking outcome was sexual exploitation by rape of one or more persons.

Bail Pending Appeal

A person convicted of a crime (not capital) may seek to be released on bail pending an appeal of the conviction,¹⁵ but the court’s consideration of this request will look to very different factors than for pre-trial bail. Having been convicted at trial, the accused is no longer entitled to a presumption of innocence, and the accused will normally bear the burden of establishing why bail should be granted. In this regard, the court will consider, among other things, the likelihood of success of the appeal as well as the risk that the full sentence could be served by the time the appeal is heard. Depending on the weight of these factors, bail pending appeal may be an appropriate action and can be subject to the same conditions on the defendant as pre-trial bail.

8 Criminal Procedure Law §13.7.

9 An Act to Amend the New Penal Code, Chapter 14 Sections 14.70 and 14.71 and to Provide for Gang Rape (2006), Section 14.70.4(b) [hereinafter *Rape Amendment Act (2006)*].

10 Criminal Procedure Law §13.1.1.

11 Rape Amendment Act (2006), Section 14.70.4(a).

12 Rape Amendment Act (2006), Section 14.70.1 (a).

13 Rape Amendment Act (2006), Section 14.70.1 (b).

14 Rape Amendment Act (2006), Section 14.70.2.

15 Criminal Procedure Law §13.1.2.

Exercise 4.2.1: Bail Discussion

Objective:

- To begin thinking about bail in child labour, forced labour, and human trafficking cases.

Time:

 15 minutes

Materials and Preparation:

- One flipchart and markers for the facilitator

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to discuss the following questions in a large group. Write key points on the flipchart:
 - What factors should be considered when determining bail?
 - Are there circumstances in which bail should not be granted? If yes, what types of circumstances?
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- When determining bail, the circumstances of the accused and charges against him or her should be considered. Bail can vary for the same offense if one accused trafficker has more financial resources than the other.
- The presumption should be to grant bail, but in some cases this may not be appropriate if the accused is deemed too great a flight risk or the risk to victims/survivors or the public is too high.

Exercise 4.2.2: Bail Scenarios

Objective:

- To become familiar with the considerations relevant to determinations as to whether to grant bail to a defendant before trial.

Time:



1 hour and 40 minutes

Materials and Preparation:

- One flipchart for each group and one for the facilitator
- Markers
- Make copies of Handout 4.2.2: Bail Scenarios for each group
- Facilitator should review Liberia bail rules with participants
- Facilitator should prepare a flipchart in advance with the following questions to be exhibited at the front of the room as a guide for the group discussions:
 1. Under Liberian law, a defendant is entitled to be released on bail unless _____.
 2. What are the main considerations relevant to granting pre-trial bail?
 - a. Defendant's right to liberty prior to having been convicted of any crime.
 - b. Potential that the defendant will flee and not return for trial.
 - c. Public's right to safety.

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask participants to form three groups.
- Instruct each group to review the scenarios found in Handout 4.2.2: Bail Scenarios.
- Each group should prepare to argue (or listen to arguments) for each case based on the following assignments:
 - **Scenario #1:**
 - Group 1 will represent the defendant and argue to the other participants why the defendant should receive bail.
 - Group 2 will represent the state and argue against the grant of bail under the circumstances proposed and propose different bail terms if appropriate.
 - Group 3 will hear these arguments and render a decision in each case.
 - **Scenario #2:**
 - Group 2 will represent the defendant and argue to the other participants why the defendant should receive bail.
 - Group 3 will represent the state and argue against the grant of bail under the circumstances proposed and propose different bail terms if appropriate.
 - Group 1 will hear these arguments and render a decision in each case.

- **Scenario #3:**

- Group 3 will represent the defendant and argue to the other participants why the defendant should receive bail.
- Group 1 will represent the state and argue against the grant of bail under the circumstances proposed and propose different bail terms if appropriate.
- Group 2 will hear these arguments and render a decision in each case.
- Each group should choose a spokesperson who will address each case on behalf of the group.
 - 60 minutes
- Participants should act out the arguments for each scenario in front of the large group.
 - 30 minutes
- Wrap up with Q&A and key messages below.
 - 5 minutes

Key Messages:

- While defendants are entitled to bail under most circumstances, the purpose of bail is to permit a defendant to remain free while at the same time balancing that against the prospect that the defendant will flee and not return for trial or the defendant will commit additional crimes or intimidate or harm potential witnesses against him/her.



Photo Credit: Joe Gratz, 2006

HANDOUT 4.2.2: BAIL SCENARIOS

1. Defendant Sam Cooper is accused of forced labour offenses in connection with his rubber farm. He is alleged to have forced 19 men to work for no wages.
 - a. Cooper allegedly kept his workers in locked buildings and directed his men to administer beatings to those who tried to leave.
 - b. Cooper is a major local employer and his farm is one of the largest in the county.
 - c. Cooper was originally investigated after one of his former workers came forward and made allegations that he had been held prisoner. That worker was later found severely beaten and no longer willing to cooperate with authorities.
 - d. Cooper is now in poor health and confined to a wheelchair as a result of an accident last year.
 - e. Should Cooper be released on bail? If yes, should the amount be high or low?
2. Defendant Diana Willie is accused of child labour offenses in connection with a 12-year-old girl who lives with her and performs housework full time.
 - a. Prosecution asks that bail be set at a large amount given the serious nature of the alleged offense.
 - b. Defense requests that Willie be released without bail.
 - i. Willie is a single parent with two young daughters of her own at home.
 - ii. Willie has no prior offenses.
 - iii. Willie was born and raised in this area and has never travelled beyond it.
 - c. Should Willie be released on bail? If yes, should the amount be high or low?
3. Defendant Abraham Kabore is accused of human trafficking in connection with seven Burkinabe women who work in a local hair salon.
 - a. Kabore denies the charges and says that he was not aware that the women had been trafficked.
 - b. Kabore is originally from Burkina Faso and often travels there. His two sons and his ex-wife now live in Burkina Faso.
 - c. Kabore was previously convicted of violating child labour laws and of various assault charges.
 - d. Should Kabore be granted bail? If yes, should the amount be high or low?

Additional topics for discussion:

1. Defendant Joe Vande is accused of operating a scheme that recruited young women for what were said to be waitressing jobs in the UAE. The jobs turned out to be for employment as sex workers. Vande is a citizen of Sierra Leone and frequently travels between there and Liberia.
 - a. Should Vande be granted bail? Should the amount be high or low?

Lesson 4.3: Considerations for Victims/Survivors in the Trial Process

Objective:

- Understand the things about the trial process that may be especially important to victims/survivors of child labour, forced labour, or human trafficking. This may include providing information to victims/survivors, protecting victims/survivors' rights, and using victim/survivor impact statements.

Time:



Steps:

- Exercise 4.3.1: ETP Victims/survivors' Needs in the Trial Process
 - 20 minutes
- Present PowerPoint Presentation 4.3: Considerations for Victims/Survivors in the Trial Process
 - 30 minutes
- Exercise 4.3.2: Victims/Survivors' Rights Scenario
 - 1 hour and 10 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.3: Considerations for Victims/Survivors in the Trial Process
- Projector
- ETP Case Study

In prosecuting cases of child labour, forced labour, or human trafficking, the participation of victims/survivors can be particularly important. With regard to any such situation, the participation of the victim/survivor must be carefully evaluated, along with extensive preparation to ensure that this does not further traumatize the victim/survivor.

Children: Special Considerations

There are a host of additional considerations when working with child victims/survivors or witnesses, such as different rules for corroboration, *voir dire*, and the role of parents and guardians. For more information about *voir dire* and corroboration of child testimony, refer to Lesson 4.5: Evidence.

Child witnesses in court have special rights and accommodations in Liberia. Everything in the court process must be calibrated to accommodate **the best interests of the child**. Additionally, children have a right to be heard and to express their views, to be treated with dignity and compassion, to protection from hardship during the judicial process, and to information on the status of the case.

Like all witnesses, children need to be prepared in advance for court and the justice process. Prosecutors need to provide adequate information to parents/guardians and children, including what services are available, what are the court procedures, what time and place will the hearing occur, and what is the progress of the case. In some countries, orientation sessions regarding court procedure are provided by victim/survivor support or other relevant units. When working with a child to prepare, be sure to take the age of the child into account when providing information, and have an open attitude and answer questions whenever possible.

If you decide to call a child as a witness, you will need to prepare them for the stand. Consider a multi-agency approach, using the resources and expertise of victim/survivor support staff, parents, social workers, and other professionals. When possible, try to schedule the hearing in the morning at time that is compatible with the child's school schedule. Provide a child-friendly room where the child can wait during trial until their time to give testimony, and provide them with water and snacks if appropriate.

When a child takes the stand, the rules are different than the rules for adults. For example, *voir dire* is required for children 12 and younger in Liberia. For more information about this process refer to Lesson 4.5. Additionally, special measures may be available for any person under 18, such as video recorded evidence, testifying from behind a screen, or in camera testimony.

Questioning a child is different from questioning an adult. The language you use should be clear, simple, and age-appropriate. Be protective of the child on the stand and ensure that the questioning on both sides is carried out in a respectful manner.

- Do NOT ask repetitive questions or speak too quickly, ask for unrealistically specific details or times, or shout or be aggressive or impatient.
- DO ask the judge to enforce breaks should the child request one, let the child explain in his or her own words, and have patience.

Parents are entitled to attend their child's testimony and the court can order their attendance or their removal dependent on the best interests of the child. If the parent's presence appears to cause the child stress or fear, it may be better to have a social worker present instead.

Finally, try to have the child excused from proceedings at which his or her attendance is not important. It is best for the child to instead attend school and achieve some normalcy during this time.

Before Trial

It is important to keep in mind that child labour, forced labour, and human trafficking victims/survivors have been through a very difficult experience, sometimes over the course of many years, and they may be hesitant to work with law enforcement to prosecute alleged wrongdoers. Before any trial, victims/survivors must be well informed of their rights and the processes that are involved so they can make an informed decision about their participation, and feel more comfortable regarding their role.

Prior to participating in any trial, victims/survivors should be informed about their own rights, and about the legal and procedural aspects of the trial. It is important to inform the victim/survivor of the charges against the accused and the

possible outcomes, including the potential sentence/penalty and, in particular, the possibility of acquittal. The victim/survivor should be informed about the evidence that is expected to be relied upon by both sides, and made aware of any potentially painful or upsetting testimony or exhibits.

Most victims/survivors are not familiar with court proceedings, and do not know things that you may take for granted, such as where the defendant will sit in the court room, or who will ask them questions, or what it means to be under oath. Helping them understand the process at a detailed level make a victim/survivor more confident about appearing at trial.

Finally, lawyers must inform a victim/survivor of their own rights regarding the trial process.

- If the victim/survivor wishes to attend the trial in person, they can invite support persons (i.e. family and friends) to accompany them to trial.
- In some cases/courtrooms, there may be additional protection mechanisms available, such a video/teleconferencing for testimony so the victim/survivor does not have to be in the same room as the defendant. In Liberia, victim/survivor-witnesses of rape are able to testify *in camera*,¹⁶ meaning that if a sex trafficking case contains a rape charge the victim/survivor would be able to testify in the judges' chambers instead of in open court. The judge can also clear the court during rape trials.
- The court has a duty to provide an interpreter as needed.¹⁷
- Be sure to work closely with the victim/survivor to avoid, to the extent possible, any re-traumatization.

Sometimes there may not be any trial. This may be due to the fact that no perpetrators have been identified, or because a rule of legal procedure, no trial is required. In such situations, victims/survivors should be provided with information about the investigation and the reason why no trial will be held.

Similarly, victims/survivors should be informed in a timely manner of any plea bargain or deferred prosecution agreement. Generally, a victim/survivor has the right to give their views about a plea bargain, but cannot override a prosecutor's final decision. It is important to make that clear to victims/survivors at the start of the plea bargaining process that they can inform but not control the outcome.

During and Post-Trial

Victims/survivors have rights during the trial process, including but not limited to the right to be present and to be heard. They must be able to attend court free from intimidation or harassment.

If there is a risk of intimidation or harassment, either from the defendant, his or her associates, or the public, prosecutors should consider using special security measures, such as:

- Ensuring security in court (for example, by using armed guards or metal detectors)
- Providing law enforcement transport to and from court for victims/survivors
- Allowing victims/survivors to use separate exits and entrances to the court
- Redaction of the victim/survivor's name and address from statements provided pre-trial or read out in trial
- Closing the court to the public for portions of the hearings
- Allowing the victim/survivor to appear in a concealed manner (for example, with face covered or testifying from behind a screen) or via videoconference
- Allowing the victim/survivor to read their victim/survivor impact statement accompanied by a support person

A prosecutor's obligation to the victim/survivor does not end with the issuance of a verdict. Victims/survivors should be kept updated after the trial regarding appeals, sentencing, parole, and release. Immediately post-trial, victims/survivors

¹⁶ Rape Amendment Act (2006), Section 14.70.5(a).

¹⁷ Civil Procedure Law, Title 1, Liberian Code of Laws Revised, 1:21:4 [hereinafter *Civil Procedure Law*]; Criminal Procedure Law §1.12.

should be informed of potential or actual appeals and should be given the right to speak at post-conviction proceedings such as sentencing hearings. Further, if the perpetrator is granted a custodial sentence, victims/survivors should receive prior notice of any parole hearings or possible release. They are entitled to express their opinion about possible release, such as via written statement submitted to any hearings. Keeping victims/survivors informed during these processes helps to ensure their fair treatment and consideration.

Considering the Needs of the Victim/Survivor

Victims/survivors must not be discriminated against based on their ethnic background, race, sex, creed, place of origin or political opinion,¹⁸ or religion.¹⁹ Victims/survivors must also be treated in a manner which takes into account his or her cultural values or beliefs.

Victims/survivors of child labour, forced labour and/or human trafficking often require special gender considerations, depending on their particular experiences.

Most (but not all) victims/survivors of sex trafficking are female, and many of these victims/survivors are likely to have suffered extreme forms of trauma, generally at the hands of males. For this reason, a female victim/survivor may be reluctant to openly discuss her experiences with male interviewers, and a female interviewer should be used.

These kinds of issues are not limited to female victims/survivors. Males may be particularly reluctant to admit that they have been victims/survivors of child labour/forced labour/human trafficking, as this may conflict with their personal concept of masculinity. To identify as a victim/survivor may be particularly unpalatable to males because victimhood strongly implies weakness and vulnerability. This may be particularly uncomfortable for a male to acknowledge in front of a female. For this reason, a male victim/survivor may be reluctant to openly discuss his experiences with a female interviewer, and a male interviewer should be used.

These dynamics will be present even more strongly at a trial. Both male and female victims/survivors are likely to have even greater fear and/or embarrassment about discussing their experiences in court, and potentially in front of the very person who has previously inflicted trauma upon them. There is no magic solution to these difficulties, but the best outcomes can be obtained by remaining aware of this dynamic and trying to address it.

Whenever possible, inquire whether the victim/survivor would prefer to speak to a male or female officer, and consider plain clothes officers when possible to avoid intimidating already traumatized victims/survivors. Speaking to a uniformed officer may intimidate victims/survivors of child labour, forced labour, and human trafficking.

If the victim/survivor would be more comfortable conversing in a language other than the dominant language used in court, an interpreter should be provided to permit the victim/survivor to speak in a language of their choice.

Child labour, forced labour, and human trafficking victims/survivors may have been seriously injured as a result of their experiences, and they have the right to be supported properly. In addition to physical harm, victims/survivors may suffer from emotional and mental harm, such as Post-Traumatic Stress Disorder (PTSD).

To ensure that interviewing a victim/survivor does not aggravate his or her injuries, there are several best practices that officers should follow:

- **Location:** Choose the most private room available
- **Volume:** Ensure the room is quiet, free from disruption, loud noises, and interruptions
- **Basic Comfort:** Ensure the victim/survivor is comfortable and has access to refreshments, tissues, and breaks
- **Irritants:** Avoid exposing victims/survivors to unpleasant stimuli, such as smoking
- **Safety:** Ensure that victims/survivors do not feel more at risk; this may mean separating male and female victims/survivors and accompanying minors.

¹⁸ Constitution of Liberia (1986), Article 11(b).

¹⁹ Constitution of Liberia (1986), Article 14.

Safeguarding the Survivor's Right to Dignity: Child labour, forced labour, and human trafficking survivors have already experienced considerable forms of indignity during the crime. It is important to do what is possible afterward to preserve their dignity and help them heal from the trauma of their experiences. It is important to allow vulnerable victims/survivors to contact their family or a caregiver, except in the cases in which a child's parent or guardian is suspected of being involved in the child's illegal labour or trafficking. If this is the case, a social worker should be present. Be sure to address each victim/survivor in a manner appropriate to his or her age and intellectual development.

Communicating with Survivors — Key Tips:

1. DO attempt to communicate trust, support, and confidence
 2. DO calm and comfort victims/survivors. Ask "How are you doing?"
 3. DO allow victims/survivors to tell their stories in their own words
 4. DO reassure them their feelings are natural
 5. DO be willing to listen and validate their experience with empathy and support
 6. DO be encouraging but not unrealistic
 7. DO treat each victim/survivor and their experiences as unique
 8. DO understand that many victims/survivors have extreme difficulty reconstructing their life after a violent crime
-
1. DON'T be judgmental or blame the victim/survivor
 2. DON'T make promises to the victim/survivor
 3. DON'T try to frame the victim/survivor's experience to any possibly similar experiences, including your own
 4. DON'T make decisions or choices for victims/survivors
 5. DON'T make references to any religious platitude
 6. DON'T take sides with or against a victim/survivor

Victim/Survivor Impact Statements

A child labour, forced labour, or human trafficking victim/survivor may be able to present a victim/survivor impact statement at the time of sentencing, this is allowed on a case-by-case basis. The court may consider such a statement in determining the perpetrator's sentence.

A victim/survivor impact statement is a statement made by the victim/survivor, or where incapacitated, the victim/survivor's representative. It outlines the psychological, emotional, physical, economic or social impact of the offence committed against the victim/survivor.

The victim/survivor impact statement can be written or oral and should include information on the impact of the offence on the victim/survivor's life and any concerns the victim/survivor may have about their safety. Such a statement gives a victim/survivor an opportunity to describe the effects of the crime on them, and is a way of implementing the right to be heard.

If a victim/survivor expresses a wish to make a victim/survivor impact statement, he or she should be referred to an appropriate victims/survivors' service agency for assistance in preparing the victim/survivor impact statement. The making of a victim/survivor impact statement is not mandatory.

As with other interactions between prosecutors and victims/survivors, it is important to inform the victim/survivor about the role of the victim/survivor impact statement and who may see it, such as prosecution, defense counsel, the accused, and the judge or magistrate.

Structure of a Victim/Survivor Impact Statement: The information provided should be relevant to the victim/survivor and their family's experience only. Typically, a victim/survivor impact statement includes a description of the type of harm experienced by the victim/survivor. This can be financial (lost wages, medical or treatment expenses, transportation costs); social/lifestyle (changes to social commitments, impact to accommodation, employment, or education); and/or physical (injuries, details of physical effects). Victim/survivor impact statements can also include emotional or psychological trauma, such as its lasting impact.

If the crime has resulted in death, the victim/survivor's representative may want to write about the loved one who was killed, their importance, relationship to the victim/survivor, and the life that they led.

Note that victims/survivors can withdraw their participation in a case at any time. Victim/survivor impact statements can be used at any time including post-trial proceedings such as parole.



Photo Credit: Adam Parr, USAID, 2015, Liberia

Exercise 4.3.1: Victim/Survivor Needs in the Trial Process using the ETP Case Studies

Objectives:

- To begin thinking about victim/survivor needs during the trial process of child labour, forced labour, and/or human trafficking cases.
- Revisit the ETP case studies to think about the experience for victims/survivors during the next stage of the trial process.

Time:

 20 minutes

Materials and Preparation:

- One flipchart and markers for the facilitator
- ETP Case Studies 1-4

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Ask participants to review the ETP Case Studies in a large group. For each of the Case Studies, have the group discuss the following:
 - What needs do you think this victim/survivor may have during a child labour, forced labour, and/or human trafficking trial?
 - How can those needs be addressed?
 - 15 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- When evaluating a case, it is important to remember that there must be evidence to prove the charges being brought, and there must be a factual theory and legal theory.
- Strong cases have evidence that is credible, admissible, and reliable.

Exercise 4.3.2: Victims/Survivors' Rights

Scenario

Objective:

- To familiarize participants with the victims/survivors' rights concepts.

Time:



1 hour and 10 minutes

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Read aloud the following scenario:

Teresa is ten years old. A year ago, she was sent to live with her "aunt" in Monrovia, where she was to have access to a better education than that available where her parents live.

Teresa's aunt has not allowed her to attend school, but instead has insisted that Teresa do chores around the house. Even though she is only 10, she has become very good at doing the cleaning and the laundry, and has been learning to cook the family's meals. She doesn't play with other children, and reportedly has marks that look like cigarette burns on her arms.

One of the aunt's neighbors contacted the authorities after noticing that Teresa never went to school like the other children. Social services personnel also noticed signs that Teresa may have been sexually abused by the "aunt's" husband.

- As a group, discuss the following questions from the perspective of a worker with the child welfare agency who needs to understand what has happened to Teresa:
 1. Teresa's aunt demands that she be present if you are going to talk with Teresa. She says that you have no right to talk with Teresa without her permission.
 - a. Should the aunt be present for your interview?
 - b. What about the aunt's husband?
 2. Teresa has not been communicative since authorities arrived. Prince, who is a man about 45 years of age, is one of your best interviewers, and he would like to do the speak with Teresa. Who should conduct the interview?
 3. Teresa begins to describe her life with the aunt, and it quickly becomes clear that she is very unwilling to trust middle-aged women. Should you reconsider having Prince talk with her? If Prince does the interview, should a female be present as well?
 4. You offer to contact Teresa's parents, but she reacts forcefully that she does not want you to do this. Should you be in contact with her parents anyway? Must you be in contact with them?
 5. Teresa expresses a desire to go to school like other children her age. She has never previously attended school. How can she best be re-integrated into the educational system? Should she be sent to school with children her age, or should you seek help trying to determine the appropriate grade level for her to begin?
- 60 minutes

- Wrap up with Q&A and key messages below.
 - 5 minutes

Key Messages:

- Children have rights that we need to take into consideration.
- It is critical to take the victim/survivor's feelings and needs into account.
- A victim/survivor-centered approach may be both most appropriate and most effective.
- Trauma may make it difficult to communicate with a victim/survivor.
- Some kinds of interviewers may be more likely to establish meaningful communication with a victim/survivor.



Photo Credit: Cameron Zohoori, 2011, Liberia

Lesson 4.4: Trial Practice

Objective:

- To learn skills related to each part of a trial, including opening statements, direct examination, cross-examination, expert witnesses, impeachment, and closing arguments, to ensure successful prosecution of child labour, forced labour, and human trafficking cases.

Time:



6 hours and 35 minutes

Steps:

- Exercise 4.4.1: Open and Closed Questions
 - 30 minutes
- PowerPoint Presentation 4.4.1: Opening Statements
 - 15 minutes
- Exercise 4.4.2: Opening Statements
 - 1 hour 10 minutes
- PowerPoint Presentation 4.4.2: Direct Examination
 - 15 minutes
- Exercise 4.4.3: Direct Examination
 - 1 hour 5 minutes
- PowerPoint Presentation 4.4.3: Cross Examination and Impeachment
 - 15 minutes
- Exercise 4.4.4: Cross Examination
 - 1 hour 10 minutes
- PowerPoint Presentation 4.4.4: Expert Witnesses
 - 15 minutes
- PowerPoint Presentation 4.4.5: Closing Arguments
 - 15 minutes
- Exercise 4.4.5: Closing Arguments
 - 1 hour 25 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.4.1: Opening Statements
- PowerPoint Presentation 4.4.2: Direct Examination
- PowerPoint Presentation 4.4.3: Cross Examination and Impeachment
- PowerPoint Presentation 4.4.4: Expert Witnesses
- PowerPoint Presentation 4.4.5: Closing Arguments
- Projector

Opening Statements

The opening statement is a prosecutor's first opportunity to explain their child labour, forced labour, or human trafficking case to the court. Opening statements help judges, magistrates, and juries quickly understand the facts and law at issue. Opening statements serve to fulfill several important purposes, including stating what the evidence and witnesses will prove, previewing the merits of the case, and serving as a high-level road map for the judge, magistrate, and/or jury.

Key elements to a successful opening statement include the theme, the legal theory of the case, and persuasive organization of the facts.

- The theme should provide a short, easy-to-remember explanation of why justice or moral reason compels a judge or jury to rule in your favour.
- The legal theory of the case states why the law and facts support a ruling in the prosecution's favour.
- Finally, key facts of the case must be organized in a manner that will persuade the judge or jury.

In developing the content of an opening statement, there are several important considerations. Everything stated must be true, and the prosecutor must be able to prove it. The opening statement should focus on the prosecution's big ideas, and the central evidence and witnesses of the case. Depending on the case, the prosecutor may also decide to present the weaknesses or "bad evidence" in their case in order to address them before the defense has a chance to frame them. While an opening statement should aim to outline the evidence and key points of the case in a persuasive manner, an opening statement should avoid being argumentative.

It is essential to structure the opening statement in a simple, logical manner. The following is one way to structure an opening statement:

1. Theme/ theory of the case
2. Brief outline of the opening
3. Introduction to key actors, places, and things
4. Key issues in contention
5. The "story" — a concise narrative of the facts. Depending on the case, it might be best to order the story chronologically or based upon the elements of the case.
6. Key pieces of evidence/witnesses and what they will prove
7. Weaknesses in the prosecution's case
8. Conclusion and request for a verdict

Additional Tips

- Start strong and end strong
- Know your audience
- Use visual aids
- Avoid repetition and rhetorical questions
- Use simple language
- Be professional and courteous
- Talk, do not read, to your audience
- Practice voice level, tone, and pace
- Be concise

Direct Examination (Examination-in-Chief)

The purpose of direct examination is to get the witnesses to tell the story of the case and to obtain oral evidence for the prosecution's case.

During direct examination, the witness is the storyteller and the focus of attention in the courtroom. The prosecutor's job is to guide the witness's story by using open-ended questions. The prosecutor's tone should be conversational and inquiring, though the prosecutor should already know the answers that the witness will give as a result of prior preparation. The prosecutor should also use direct examination to introduce exhibits on behalf of the prosecution's case. If a witness needs an interpreter, an interpreter should be arranged for in advance.

In organizing a direct examination, the prosecutor should first introduce and accredit the witness — that is, the prosecutor should ask questions that will help the judge and/or jury understand how the witness knows what they know and why the judge and/or jury should believe the witness. Next, the prosecutor should ask relevant questions to set the scene. The prosecutor can then proceed to the core aspect of the direct examination, in which the witness describes the actions that occurred. Questions should typically follow the chronological order of events. It may be helpful to think about the direct examination as a story that is split into different chapters; each set of questions should have its own title or heading, and the prosecutor should use transitions between each. For example:

Prosecutor: *"You've been telling us about the promises made to you by Defendant, now I would like to move on to the actual working conditions you experienced."*

FORMULATING QUESTIONS FOR DIRECT EXAMINATION

The manner of questioning is important for a successful direct examination. On direct examination, prosecutors should use open-ended questions, which are those questions that require elaboration rather than a simple "yes" or "no" answer. Open-ended questions allow the witness to tell their story. Open-ended questions often begin with:

- "Who?" "What?" "When?" "Where?" "Why?" "How?"
- "Describe"
- "Explain for me"
- "Tell me about"

Prosecutors should *not* ask leading questions during direct examination, as these types questions are only permitted during cross examination (with the exception of hostile witnesses).²⁰ A leading question is one that suggests the answer that the questioner hopes or expects to receive. For example:

- Leading: "The weapon was owned by your cousin, correct?"
- Non-leading: "Who owned the weapon?"

If a prosecutor asks a leading question, defense counsel may object on that basis.

All questions should be simple and short. Only ask one question at a time- do not ask compound questions. For example:

- Compound Question X: "How many hours per day were you working, and did work cause you to miss school?"
- Instead, break the question into two: "How many hours per day were you working?" Witness answers. "Did work cause you to miss school?"

²⁰ Civil Procedure Law 1:25.2.

Additional Tips

Make the story interesting:

- Humanize the witness
- Practice your pace, inflection, tone
- Use exhibits, diagrams, and physical evidence
- Simplify the story; eliminate clutter; and use plain language

Listen actively and ask follow up questions:

- Prosecutor: "What were your job duties at the cement factory?"
- Witness: "My job was to operate the machinery."
- Prosecutor: "You said you operated the machinery. Can you tell us more about what that entails?"

Anticipate cross-examination:

- Seek to bring out critical weaknesses during your examination-in-chief
- Weave responses to weaknesses of your case into your presentation

Cross-Examination

Cross-examination is the questioning of a witness called by the other party. The purpose of the cross-examination may be to obtain favorable evidence that supports the prosecution's case; to discredit unfavorable evidence and/or the witness who gave it; to test the veracity of a witness; or to test the accuracy and completeness of the witness' story. Cross-examination can also be used to introduce additional exhibits, though waiting to introduce exhibits during cross-examination can be risky if there is a chance that the witness will not be called by opposing counsel.

When planning for cross-examination, prosecutors should first determine their goal for cross-examining the witness. Lawyers are not required to cross-examine every witness, and they should cross-examine only if there is some sort of advantage or effect to be gained. When considering the potential advantages of cross-examining a witness, the prosecutor should consider what might be needed from the witness and whether that evidence can realistically be obtained from that witness. When thinking about the potential effect of cross-examining a witness, the prosecutor should ask themselves whether the cross-examination will affect the opinions of the judge or jury. If a lawyer decides there is no advantage or effect to be gained, the prosecutor should probably decline to cross-examine.

After formulating the goal for the cross-examination, the prosecutor should plan potential questions that will permit them to achieve that goal. Cross-examination is often organized by topic, rather than chronologically like direct examination. While it is important to plan questions ahead of time, it is also essential to be able to reassess the questions both during and after the direct examination of the witness, particularly when new statements are made by the witness.

The scope of cross examination is limited to all matters touching the case or likely to discredit the witness.²¹ There are several restrictions on the scope of cross-examination which include:

- Irrelevant:** Witness cannot be asked questions which are not relevant to the issues or his own credibility²²
- Character of the accused:** Inadmissible unless the accused first makes it an issue²³
- Prior convictions:** Evidence of conviction involving dishonesty is admissible for the purpose of impairing credibility only if evidence supporting credibility is introduced²⁴

21 Civil Procedure Law 1:25.23.

22 Civil Procedure Law 1:25.4.

23 *Dennis v. Republic*, 18 LLR 220 (1968).

24 Criminal Procedure Law §21.2.2.

Formulating Questions for Cross-Examination: During cross-examination, the lawyer should be the storyteller (rather than the witness, as in direct examination). This will require the lawyer to maintain control of the story as it is told by the witness, and to do this, the prosecutor should only ask questions that they already know the answer to. Prosecutors should also use leading questions, which are permitted during cross-examination. As discussed above, a leading question is one that suggests the answer within the question. By asking leading questions, the prosecutor can limit the witness to simple “yes” or “no” answers and prevent the witness from further explanation that might not fit with the prosecutor’s story. As with direct examination, questions on cross should use simple language and should focus on one fact per question. For example:

- Prosecutor: You are a factory supervisor?
- Witness: Yes.
- Prosecutor: You have worked as a supervisor for 15 years?
- Witness: Yes.
- Prosecutor: And you have worked as a supervisor for XYZ Corp for 10 years?
- Witness: Yes.
- Prosecutor: And you start work at 9:00am every day?
- Witness: Yes.

Techniques for Managing Difficult Witnesses: During cross-examination, prosecutors may have to deal with difficult or uncooperative witnesses. Below are some tips for managing various types of witnesses on cross:

Difficult Witness	Tips
Evasive witness	<ul style="list-style-type: none"> • Repeat question until answered • Reword question • Refer to evasiveness in closing arguments
Argumentative witness	<ul style="list-style-type: none"> • Ask only yes/no questions • Move quickly to next question • Do not argue with the witness
Talkative witness	<ul style="list-style-type: none"> • Cut witness off by asking next question • Ask witness to answer with only a yes/no
Dishonest witness	<ul style="list-style-type: none"> • Ask for more details about the point in question • Repeat questions later in cross-examination

It is important not to become argumentative with witnesses and to maintain control of the conversation. It is also important to know when to end the cross-examination; once you have gotten what you wanted from your questioning, or have gotten as close as you believe you will, close the cross-examination.

Impeachment

Impeachment is the process of discrediting a witness. Most often, impeachment occurs when the opposing counsel asks questions on cross-examination designed to elicit facts from the witness that discredit or expose inconsistencies in the witness's testimony. The goal of impeachment is to cause the judge, magistrate, or jury to question the witness's credibility and therefore their testimony. Impeachment is allowed through character, past convictions, or inconsistent statements.²⁵

Effective impeachment will depend on lawyers' identification of the witness to be impeached. Before and during the trial, prosecutors should try to determine which witnesses would be most helpful to discredit, or, in other words, which witness's testimony is most damaging to their own case. During the trial, prosecutors should pay attention to all contradictory facts and statements offered by the defense. For example, lawyers should track any statements made during a witness's testimony that are inconsistent with his or her prior statements.

Impeaching a witness by prior inconsistent statements is a quite common and effective way to cast doubt on the witness's credibility. Prior inconsistent statements can be (1) a contradiction of an earlier statement by the witness or (2) testimony on a detail that was omitted in the earlier statement.

Contradiction	Omission
a. In court: The car was green. b. In earlier statement: The car was red	a. In court: The car was green and had a flag. b. In earlier statement: The car was green.

As with other aspects of trial, it is important to prepare for impeachment. Think carefully about the order of questions and ensure all questions are clear. Consider which kinds of prior statements hold the most weight and, thus, are most valuable to use during impeachment, such as prior testimony under oath and written statements signed by the witness. When referring to prior inconsistent statements, it is important to use quotes rather than paraphrasing, so make sure to have the exact quote available. In addition, if they exist, have source documents accessible as backup.

To effectively impeach a witness, a prosecutor should follow the three C's: **C**ommit, **C**redit, and **C**onfront.

(1) Make the witness **COMMIT** to the Statement

- Repeat and recommit the witness to the statement he or she made in court
 - "You told us here in court that the car was green?"
- Or ask the question based on the earlier statement that you believe is correct.
 - "The car was actually red, wasn't it?"

(2) **CREDIT** the Circumstances

- Attempt to give as much credibility and weight as possible to the prior statement
- Explain the circumstances surrounding the earlier, original statement: date, place, time, etc.
- Get the witness to admit to having made the earlier statement and that the witness understood the surrounding circumstances:
 - Identify statement, signature, etc.
 - Language that says the statement is truthful

²⁵ Civil Procedure Law 1:25.19.1.

- When the prior statement contains a contradiction, credit the:
 - Importance of the circumstances
 - Duty involved in making the statement
 - Proximity in time to the event in question
- When the prior statement contains an omission, credit the:
 - Opportunity to include the omitted fact at the time of the prior statement
 - Duty to include all relevant facts in the original statement
 - Need to be complete when making the original statement

(3) **CONFRONT** the Witness with the Prior Inconsistent Statement

- Confront the witness with the prior inconsistent statement
- If in writing, identify the text with the prior statement and read verbatim
- Do not give the witness a way out of the statement
- Confront, then STOP. DO NOT ASK witness to explain the contradiction or omission.

Expert Witnesses

An expert witness is a person engaged to give an opinion based on their experience, knowledge, and expertise in a given field. An expert witness should provide *independent, impartial, and unbiased evidence* to the court. An expert witness should assist the court in understanding the evidence or determining a fact in issue.

There are various types of expert witnesses. Some experts are called to testify based on their given training, personal observation, and experience, while other experts are called to provide testimony on scientific tests and methods.

Examples of expert witnesses include:

- Forensic scientists- Can provide evidence in order to help determine whether a crime has occurred or to connect the suspect to the crime, etc. They may use and testify as to a variety of forensic sciences, such as:
 - DNA and fingerprint analysis
 - Ballistics
 - Drug testing
- Forensic accountants- Can testify regarding financial accounts, records, fraud, etc.
- Medical professionals- Can testify regarding the nature and extent of injuries, illnesses, or the cause of death, etc.

Having an expert testify is required for admitting medical records or expert reports. For medical records, a doctor from the same medical institution may testify as to their accuracy.²⁶ Expert reports are admissible if they are signed, and the expert testifies that it is his or her product.²⁷

How to Use Experts Effectively: Speaking with an expert early on in building your case will help to clarify the evidence and explain the facts. Prosecutors should provide documents and other relevant evidence to the expert early for a complete analysis. Experts may be able to advise on other possible evidence that the lawyer should seek, and expert opinions can inform the charging decisions or plea negotiations. Do not wait until trial to speak with the expert.

Prosecutors should also research their expert witnesses. A prosecutor should know their expert's background, such as education and work experience, as well as their standing among their colleagues. Ensure that the expert's opinions or

²⁶ *Fallah v. Republic* (Mar. Term 2007).

²⁷ *Toe v. Republic*, 24 LLR 462 (1976).

methods are consistent with at least some, if not a majority, of the experts in their field, and research whether anything in the expert's past experience may reduce their credibility.

In some situations, the lawyer can choose their expert witness. In choosing an expert witness, be mindful that not every expert is an effective expert witness. Experts are more persuasive if they are knowledgeable, impartial, dynamic, confident, and well prepared.

When working with an expert, it is important to listen and engage. Do not have an expert testify simply because it is required. Be flexible with your case theory and listen to critiques. Remember experts are impartial. *Do not expect your expert to fit into your case theory and do not cause the expert to believe that he or she is working for you.* Listen to and welcome warnings from the expert because any flaw or weakness in the expert testimony can be an argument for the opposing side. The earlier the exposure of the weaknesses, the better.

Expert's Testimony: An expert's communication skills are essential for an effective testimony. Prosecutors should advise their experts to follow these tips:

- Be brief, no long narratives
- Use simple language, avoid technical and shorthand terms
- Use visual aids
- Use examples and analogies
- Speak as equals, not as someone with superior knowledge

Lawyers may also practice with the experts during case preparation to increase the effectiveness of expert testimony.

In conducting direct examination of an expert, prosecutors should ask questions on the following:

1. Introduction, credentials and qualifications of the expert, such as years of study, relevant degrees, and years of experience with relevant matters
2. Experts' opinions
3. Process for forming the opinions — analysis, test results, etc.
4. Bases for opinions — explain and support conclusions

The defense may also call its own expert witnesses, either to counter the testimony of the prosecution's experts or to introduce new evidence. When cross-examining an expert witness, potential areas of inquiry may include:

- Expert's Qualifications
 - Has the expert attained the highest degree in that field?
 - How much hands-on experience do they have?
 - Is their expertise in a different area than the one involved in the trial?
- Bias and Interest
 - Does the expert widely advertise their services?
 - How much money do they make from testifying?
 - Do they primarily testify for plaintiffs or defendants or a particular lawyer or law firm?
- Process Conducted
 - Did the expert's process match industry standards?
 - Were any mistakes made throughout the process?

- Data Relied On
 - Accuracy of information or sources given
 - Assumptions made to reach the conclusion
- What the Expert Did Not Do
 - Identify all the procedures and tests that can be done and show some were never done
- Prior Inconsistent Statements
 - Commit the expert to their testimony, credit the impeaching source, and then confront the expert with the prior statement

Closing Arguments

Closing arguments are a key aspect of a prosecutor's case. The judge, magistrate, and/or jury needs to feel that the verdict is factually, legally, and morally correct, and the closing is the last opportunity to address the factfinder and to convince them to rule in your favour.

While during the opening statement lawyers are restricted to stating the facts, during closing arguments lawyers can argue the merits of the case:

- Opening Statement: *"Witness X will testify that Event occurred."*
- Closing Argument: *"As we know from Witness X's testimony, Event occurred and this establishes who should be held responsible in this case."*

Organizing the closing argument: Every closing submission should have a theme. The theme should be stated at the beginning of the closing and should be referred to throughout. It should also link back to the theme presented during the opening statement, providing continuity to the case. For example, "I promised to prove x, y, and z and I did..."

While the theme provides the main heading for the closing argument, early on the prosecutor should also provide an outline or roadmap for the argument. Make sure to actually cover each of those points and then review the outline again towards the end of the argument. For example:

- "I am going to make three points why the Accused should be found guilty."
- Point 1
- Point 2
- Point 3
- "I have presented to you three reasons why the Accused should be found guilty."

Make sure to use headlines and transitions during the closing argument to ensure it is both smooth and understandable.

There are various ways to organize the body of the closing argument. The closing could be organized chronologically by witness, chronologically by events, by charge, by topic, or some other method. Whatever method of organization is used, it is important to (1) use the best facts and arguments, (2) address the weaknesses of the case, (3) refer to exhibits for emphasis, (4) know your audience, and (5) start and end strong.

1. Use the best facts/arguments
 - a. Discuss the facts that support each element
 - b. Include logical inferences
 - c. Use all relevant witness testimony, including opposing party witness testimony

- d. Accept what the opposing party concedes
- e. Argue credibly
- f. Tie to your theme
- 2. Address the weaknesses
 - a. Anticipate and acknowledge weaknesses and bad facts
 - b. Anticipate and raise questions about the other side's argument that the court should consider
- 3. Use exhibits effectively
 - a. Choose only the most persuasive exhibits
 - b. Make them easy to read — project on a screen if possible
 - c. Practice how you will handle them and where you will store them
- 4. Know your audience
 - a. Use visual aids
 - b. Avoid repetition and rhetorical questions
 - c. Use simple language
 - d. Be professional and courteous
 - e. Talk, don't read, to your audience
 - f. Voice level, tone, pace
 - g. DO NOT:
 - i. Place the judge, magistrate, or jury in the litigant's shoes
 - ii. Argue without strong conviction or connection
 - iii. Attack opposing counsel or ridicule witnesses
 - iv. Argue outside the record
 - v. Incorrectly state the facts or the law
 - vi. Vouch for a witness personally or note your personal belief in the merits of the case
- 5. Start and end strong

Remember, closing arguments are a prosecutor's last chance to convince the judge, magistrate, or jury that the defendant should be found guilty.

Exercise 4.4.1: Open and Closed Questions

Objective:

- To practice asking open-ended and closed questions in order to improve questioning styles for direct examination and cross-examination, respectively.

Time:



30 Minutes

Materials and Preparation:

- Choose a topic for discussion — the topic can be an animal, a food, a famous person, a country, or city, etc.

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Tell the participants the topic for discussion (example: football).
- Starting at one side of the room, each participant must ask one open-ended question about the subject as if they are conducting a direct examination. For example:
 - How many players are on the field at a time?
 - Can you explain how teams score a point in a football match?
 - What is the role of the keeper?
- If a participant asks a question that is not open-ended, other participants should make “buzz” sound. The facilitator can then ask one of the other participants to explain why the question was not open-ended. The original participant should then try again to ask a new question.
- Weave around the room until every participant has asked a question.
 - 10 minutes
- Starting at the other end of the room, each participant must next ask one closed question about the subject as if they are conducting a cross examination. For example:
 - There are 11 players per team on the field at a time?
 - Teams score points by getting the ball into the opposing team’s net?
 - The role of the keeper is to stop balls from getting into their team’s net?
- If a participant asks a question that is not closed, other participants should make a “buzz” sound. The facilitator can then ask one of the other participants to explain why the question was not a closed question. The original participant should then try again to ask a new question.
- Weave around the room until every participant has asked a question.
 - 10 minutes
- Close the activity by discussing with participants what they have learned about asking open-ended and closed questions.
 - 5 minutes

Key Messages:

- The purpose of direct examination is to get the witnesses to tell the story of the case. Thus, the prosecutor should use open-ended questions during direct examination.
- During cross-examination, the lawyer should be the storyteller. To maintain control of the story, the prosecutor should use closed questions during cross-examination.



Photo Credit: Flore de Premeuf/PROFOR, 2012, Liberia

Exercise 4.4.2: Opening Statements Activity

Objective:

- To familiarize participants with opening statements and how to present them in court.

Time:



1 hour and 10 minutes

Materials and Preparation:

- Handout 4.1.2: Case Evaluation Scenario
- Handout 4.4.2A: Prosecution Witnesses
- Handout 4.4.2B: Defense Witnesses
- Flipchart and markers
- At the end of the Opening Statements presentation on Day 5, have the presenter give a demonstration of two opening statements, one for a prosecutor and one for a defense attorney
- If this is a 6-day training, instruct participants on Day 5 (after the Opening Statements presentation) that they will be responsible for presenting an Opening Statement to their small group on Day 6. Assign participants to one of 4 groups. The groups should have a mix of people from the prosecution and defense attorney groups of the Case Evaluation Activity. Each participant will play the role of prosecution or defense they had during the Case Evaluation Activity to ensure that participants are familiar with the theory of the case and each group has a mix of prosecution and defense representative

Steps:

- Ask the participants to select an order to present and review key tips for opening statements:
 - Start strong and end strong
 - Know your audience
 - Use simple language
 - Be concise
 - Avoid repetition and rhetorical questions
 - Be professional and courteous
 - Use visual aids
 - Talk, do not read, to your audience
 - Practice voice level, tone, and pace
 - 5 minutes
- Read witness statement of assigned witness
 - 10 minutes
- Write opening statement
 - 15 minutes
- Have each group member give his or her presentation. Presentations should be approximately 5 minutes each. After each presentation, the small group facilitator should identify something that the participant did well as well as an area for improvement.
 - 20 minutes

-
- Each group should nominate a representative. One at a time, each representative should come to the front of the room to present their opening statements.
 - 25 minutes
 - Wrap up by reviewing the key messages.
 - 5 minutes

Key Messages:

When giving an opening statement:

- Start strong and end strong
- Know your audience
- Use simple language
- Be concise
- Avoid repetition and rhetorical questions
- Be professional and courteous
- Use visual aids
- Talk, do not read, to your audience
- Practice voice level, tone, and pace

Exercise 4.4.3: Direct Examination

Objective:

- To practice direct examination of each side's witnesses: prosecution witnesses and defense witnesses.

Time:



1 hour and 5 minutes

Materials and Preparation:

- Make copies of witness statements listed below from Handout 4.4.2A: *Prosecution Witnesses* and Handout 4.4.2B: *Defense Witnesses*
- Handout 4.4.2A: *Prosecution Witnesses*
 1. Edward Kamara
 2. Mariama Kamara
 3. Desmond Kamara
 4. Amara Kamara
 5. Joseph Tamba
 6. Annie Kollie
 7. Rebecca Johnson
 8. Esther Sumo
- Handout 4.4.2B: *Defense Witnesses*
 1. Prince Flomo
 2. Alpha Bah
 3. Fatmata Bah
 4. Michael Kabba
 5. Charles Mansaray
 6. Sébastien Sucre

Steps:

- Explain to the participants the objective of the exercise.
- Split participants into four different groups with a facilitator for each group. Two groups will present for the prosecution while the other two groups present for the defense. These groups can be numbered as:
 - Prosecution Group 1
 - Prosecution Group 2
 - Defense Group 1
 - Defense Group 2
- Assign four prosecution witnesses to each prosecution group.
- Assign three defense witnesses to each defense group.
 - 5 minutes

- Ask participants in each group to:
 - Review the witness statements assigned to them;
 - Decide which one witness they will direct exam; and
 - Write down the questions they plan to ask.
 - 20 minutes
- Each participant in each group should then practice their direct examination within the group.
- The small group facilitator should play the role of the witness while participants conduct their direct examinations.
- Each participant will have 5-10 minutes to examine their witness and receive feedback from the facilitator.
 - 5 minutes
- Close the activity by discussing with participants what they have learned about the direct examination of witnesses.
 - 5 minutes

Key Messages:

- The purpose of direct examination is to get the witnesses to tell the story of the case. Because of this, you should use open-ended questions during direct examination.
- You may want to anticipate cross examination by bringing out critical weaknesses of your case during the direct examination and weaving responses to the weaknesses into your presentation.

HANDOUT 4.4.2A: PROSECUTION WITNESSES

Statement of Edward Kamara

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Edward Kamara
Occupation	Cocoa plantation worker
Nationality	Sierra Leone
Age	15
Address	Mamba Road, Hangha, Sierra Leone
Telephone	231 88 777 2233

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	1 March 2022
Time	11:30 AM

My name is Edward Kamara. I am 15 years old, and I used to live in Hangha, Sierra Leone. My mother is Amara Kamara and my father is Desmond Kamara. I have one younger sister, Mariama, who is 13. My parents used to work seasonally on a farm in the area. Our family was fairly normal in our village. We were neither poor nor rich, but my parents would try to satisfy Mariama's and my needs to the best they could. They would take us into Kenema regularly and once, even Freetown! It was the highlight of my life. We had so much fun seeing all the people bustling about and we tried out many new foods. I said to my parents that one day I would go to university and get a well-paying job, so one day my whole family and I could live in a city just like Freetown every day.

But then COVID-19 broke out. I would hear my parents whispering about it with our neighbours. It seemed like a lot of the villagers were losing their jobs. I also heard the disease was killing a lot of people in other countries and I wondered if our town would be hit too. What if my family caught the disease? It was very scary for me at the time. Our food was also getting worse and worse — after a year of the pandemic, our family would only eat meat or fish once a month or so, and we had not left the village in more than a year. From time to time, I would hear from my parents about which neighbours had lost their jobs and what actions they were resorting to in order to survive. My best friend, James, lives in the same village. His family is even poorer than ours but he would talk about his cousin who moved to Monrovia from Sierra Leone and who became so rich he was even wearing clothing and shoes that looked like the kind we would see on TV! I mentioned this to my mother and maybe one day I could also work in a big city like that, and my mother scolded me for having my head in the clouds when I should be focusing on school and helping her around the family.

Then one day, in the summer of 2021, my mother returned home excited, which I hadn't seen her be since the start of the pandemic. She mentioned that the Bahs, who are very influential in our town, may have a job opportunity in the big city available for me. The Bahs are extremely wealthy and I remember passing by their house with James sometimes on our way to play football. James and I had always joked about how one day we would live in houses just like theirs. A few days later, my mother returned home and told us she had good news! The Bahs had a family friend in Monrovia who ran an export business and needed some workers. They were willing to take me on and even teach me how to

use computers and manage a business! The Bahs' family friend also ran a small store that could hire Mariama! I don't think my parents wanted Mariama to also leave with me, but Mariama and I had wanted to visit Monrovia and make new friends and support our family. After Mariama pleaded to my parents non-stop — which she is very good at! — my parents finally agreed. They also let me promise I would take good care of her, and I agreed. Mariama and I are very close, which is rare for siblings of our age, and I was excited to have someone to go with to Monrovia. However, I was concerned about my parents. They love having us around, so I wasn't sure if they would be very sad with both Mariama and me gone.

A few weeks later, Mariama and I were going to leave for Monrovia! James was very jealous, and he said that he'd join me a few months later so we can both become successful businessmen together. Mariama and I were both over the moon, and our parents were fussing over what we should bring to Monrovia, how we needed to have better manners because people there were more sophisticated than people in our small village and they told us we had to listen to the Bahs' family friend. On the day we left, Mr. Flomo, the Bahs' family friend came to our town in his Toyota. I knew that the Bahs' friend would be just like them, and I couldn't wait to one day own a car just like that too! My parents were both very sad. My mother was crying a bit from happiness, and my father had a very somber face but I could tell he was secretly very proud of Mariama and me. The Bahs were also there. Mrs. Bah seemed very nice and she told us to behave and that we would have a lot of fun, just like her sons did, living by ourselves and we would grow up in no time. Mr. Bah was also there and he exchanged a few greetings with Mr. Flomo. Both of them seemed a bit stiff despite being friends. Mariama and I then got into the car and waved at our parents and the Bahs until we saw them no more.

During the car ride, we passed by a few more towns and then a long river. We were finally going to Monrovia! We heard the ride was going to be a long one, so we were not too concerned when we passed by a lot of rural villages, just like Hangha. Mr. Flomo looked very intimidating, so we did not dare ask him any questions on our ride. However, our car stopped just after a few hours. Maybe Mr. Flomo needed to take a break? But he told Mariama and me to also get out of the car, and that's when we realized this is where we were supposed to be getting off at. We weren't in Monrovia.

When we arrived there, Mariama and I were brought to a small building without any windows. Mariama was sent to the girls' dorm and I was sent to the boys' dorm. My dorm only had two other boys, who were 19 and 21. Mr. Flomo ran a cocoa plantation, and Mariama and I were to work as plantation workers on Mr. Flomo's cocoa farm. We wanted to ask Mr. Flomo about Monrovia, but we didn't want to anger Mr. Flomo when he had just done such a favour of driving us all the way here and we did not want to upset our parents.

The next day, Mr. Flomo gave us duties on the farm. I was in charge of clearing the forest with a chainsaw and climbing cocoa trees to cut bean pods using a machete. It's very dangerous to use a machete. My parents usually wouldn't even let me use a knife at home; they would be very angry if they saw me using a machete! Mariama was tending the crops on the plantation, which is good because that's much safer. My parents would be worried to death if they thought Mariama also had to use a machete. Every day, I would wake up at 6 a.m. to get ready and then start my day at the farm. I would work until the sunset, after which the two other boys and I would go back to our dorms and eat dinner. The food was good, much better than what my parents could afford at home, and consisted mostly of vegetables, fruits and rice, with even meat sometimes. There were fewer than two dozen other casual workers on the cocoa plantation, but they were from the neighbouring town and did not live in the dorms with us. I would see Mariama usually once a day, but sometimes even less because she was on another part of the farm and we weren't allowed to visit each other's dorm. We tried to call our parents, but the cell phone my parents gave Mariama and me had already run out of battery on our second day at Mr. Flomo's farm. Even if we had battery, it would not be of much use, because the signal on the farm was very poor and we did not want to ask Mr. Flomo to use his cell phone.

A few months after we had started working at the farm, Mr. Flomo told all of us living in the dorms to stay inside and not leave until we were given instructions by him to go outside. We were very happy to hear this, since Mr. Flomo had never allowed us to take a break before. We heard the reason we had to stay inside was that a tall man from abroad was visiting the farm. A few hours later, Mr. Flomo came over to our dorm and told us we could leave the dorms again. I had never seen a foreigner before in Hangha, so I was very curious to hear more about who this man was and why he was visiting. The older plantation workers not living in the dorms were able to see the man, and I eavesdropped on their

conversations after. They were also very excited about the foreigner's visit and I overheard them saying this foreigner was a European buyer who wanted to sell Liberian cocoa to premium chocolate manufacturers in Europe, and he wanted to source from our farm.

We were excited that our cocoa was going to be sold abroad! Maybe with more money, Mr. Flomo could even afford better living conditions for us. But after the foreigner's visit, it seemed like our lives became even worse. Mr. Flomo's plantation was very old and he had to upgrade the farm to satisfy the foreign buyer. We started working even more. We were also being paid even less and at a lower frequency. Even after working for 2 months, we had only received around \$50 each and a portion of our wages were apparently held back to cover our transportation costs. We barely had anything left over by the end of it. Mr. Flomo was also increasingly antsy from all the upgrades, and he would watch us more closely and sometimes even yell when he thought we were being lazy.

The lack of sleep and the increasing workload made it very hard for me to concentrate sometimes, and there was one day when I was feeling dizzy and my hand slipped as I was using the machete, and it sliced my hand! I was howling with pain and thought I was dying. There was blood everywhere — on my clothes, on my body, on the ground. I just remember people screaming all around me and then after a while, I regained consciousness and remember Mr. Flomo carrying me to a man, who washed the cut and applied some form of medication to my wound. The injury was very painful, but Mr. Flomo allowed me to take a few days off and tend to the crops with Mariama. It was around this time when Mariama and I were speaking more of leaving the farm. She said that she tried to check in on me multiple times after she learned I was injured. She even wanted to tell our parents, but Mr. Flomo would brush her off each time saying that they wanted us to learn more about the cocoa trade and they were very proud of us. She didn't think he was being honest, though, because Mariama always had very good intuition. She also mentioned that she heard Mr. Flomo talking to someone on the phone before. He asked the other person on the line for "younger workers" from Sierra Leone, telling the other person that he could not afford to hire local adults. Mariama did not catch who Mr. Flomo was talking to, but she thinks he was speaking to Mr. Bah because Mr. Flomo kept referring to "Alpha" on the call and we think that's Mr. Bah's first name.

We tried to find a way to escape from the farm, but the farm is in a very rural place. Apart from the time we arrived at the farm and when Mr. Flomo took me to the local man to heal my hand (of which I was semi-conscious for most of it), I was not sure what would the point be if we made it out of the farm. We also did not have our ID cards with us — our parents usually kept them — so how would we even be able to go back to Sierra Leone even if we could find our way across the border?

We felt very hopeless. We missed our parents, our friends and our village. We also missed going to school and learning. Would we ever be able to leave the farm or would we work here until we died? Were our parents worried sick? Would we ever see them again?

A few weeks later, just when we thought we were going to live on Mr. Flomo's farm forever, we heard some loud yelling one day. There were a lot of strangers on the farm and they were wearing formal clothing. Mr. Flomo seemed very flustered and angry at them, and he kept waving his hands. Then one of those strangers saw me — I was hiding behind a tree trying to listen and poked my head out. That stranger saw me and started pointing at me and running towards me. I was very scared and started running away, but because of my injury I was still weak and didn't get very far. That stranger finally came up and instead of hitting me or yelling at me, he was very nice and I stopped struggling. It turned out he was part of the team to rescue me! Mariama and I were saved! Since then, Mariama and I, along with a few other girls, were taken into custody and eventually handed over to the Ministry of Health and Social Welfare.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Edward Kamara
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Edward Kamara. Signed by me James Mulbah on 1 March 2022 at about 2:30 PM.

Statement of Mariama Kamara

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Mariama Kamara
Occupation	Cocoa plantation worker
Nationality	Sierra Leone
Age	13
Address	Mamba Road, Hangha, Sierra Leone
Telephone	231 99 888 1111

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	1 March 2022
Time	3:30 PM

My name is Mariama Kamara. I am 13 years old and I used to live in Hangha, Sierra Leone. My mother is Amara Kamara and my father is Desmond Kamara. I have one older brother, Edward, who is 15 years old. Our parents have always not been very well off, and since the pandemic things became even worse. Sometimes my mother would bring me into Kenema to run errands with her. My mother is very warm and friendly, and she would always chat with the local vendors or friends of hers whom she would run into. I remember hearing about how poor people were becoming because of a disease that was spreading across the globe, a lot of people were dying and we were very fortunate to just be alive. I also remember hearing my parents talking to each other about how they weren't sure whether we would survive another year like this. I even heard mother crying to father once late at night, when they both thought we were asleep. I wish I could do something to help out! Edward was turning 15 soon and he was talking about going off to a big town to work, just like what his best friend's cousin was doing. I also wish that I could help out, but I was only 13. What could I do? I felt very bad for my parents, who had to take care of me for so much longer.

Then around a year later, my mother returned home excited and she mentioned that the Bahs may have a job opportunity in the big city available for Edward. The Bahs are very well off. Mrs. Bah was always wearing very beautiful clothing and she always looked very elegant. I remember seeing how mother would look at Mrs. Bah's clothing very admiringly, and I wish that mother could one day own something as nice as Mrs. Bah's. A few days later, my mother returned home and told us the Bahs had a family friend in Monrovia who ran an export business and needed some workers. The best part of it was they were not only willing to take Edward on, but the family friend also ran a small store that could hire me. My parents were very excited for Edward, but they did not want me to go. They said I was too young, that it would be safer for me to stay at home and that I could go in the future. But this was a once-in-a-lifetime chance! Who else would be willing to give a chance to someone as young as me and with no work experience? The other people working at the store were probably much older and mature, and I was so fortunate that the Bahs' family friend would even consider me! I begged my parents non-stop and even became on the verge of tears! I wanted to help my family and be useful, and I wanted to become an adult just like Edward was. Eventually, my parents agreed. This was truly the best news ever! I was so excited that I hugged both my parents and my brother very tightly. The only potential problem was that I wouldn't be able to go to school anymore, but I was sure I could learn on the side in my free time!

Edward and I were so overjoyed. I had so many things to do before leaving! What should I pack, who should I say bye to, and how to prepare for life in Monrovia. One of the neighbours' daughters, who's a few years older than me, told me that I needed to act more like a grown-up because people in Monrovia are very mature and they would tease me if I didn't act like them. My parents were both very happy but also very sad; I could tell they didn't want us to leave but this was the best decision for our family and our futures. On the day we left, the Bahs' family friend came to our town in his car to pick us up. His name was Mr. Flomo and he was a stern-looking man. He gave my parents, Edward and me a brief smile and assured my parents we would be in good hands. My mother kept on telling me things I had to remember to do (or not do) in Monrovia, and I had to assure her again and again that I knew. Father gave me a tight hug and told me he believed in me. The Bahs were also there, but I didn't pay attention to them much because I was so sad about saying bye to my parents. Edward and I then got into the car and waved at our parents and the Bahs for as long as we could.

We were on our way to Monrovia! We passed by a lot of rural villages. I asked Edward if this was normal, because I thought that we would be seeing stunning cityscapes on our way there. Edward assured me that was normal for the road, but we would be seeing buildings and people just like those we saw on TV after we enter Monrovia. However, Edward seemed a bit tense after a while and it seemed like he was increasingly unsure when I asked him if we were in Monrovia yet. Then the car came to a stop at a sparsely located area, and Mr. Flomo told Edward and me to get out of the car. The place we were getting off at didn't look anything like Monrovia.

When we got out, Edward and I were brought to a small building without any windows. Edward went to the second floor, where the boys' dorm was, and I was sent to the girls' dorm on the third floor. My dorm had four other girls. Two were around 16 and the other two were around my age. There were a few other casual workers who did not live in the dorms because their homes were nearby. From them, I learned that Mr. Flomo ran a cocoa plantation. This was his family business and we were in Lofa, Liberia, not Monrovia.

The next day, Mr. Flomo gave us duties on the farm. The girls would tend to the crops on the plantation. It was hard work but it was much better than Edward's. He had to use a chainsaw to clear the forest and use a machete to cut open bean pods. I was very worried for Edward and every day I would pray that he would be okay. My parents would be heartbroken if they knew he was actually using a machete instead of working in Monrovia. I rarely saw Edward, once a day at most. I cried a lot because it was very scary, and I am very grateful for the other girls in my dorm. They had gone through something similar to what I did and they gave me a lot of good advice while I was there. We became good friends as we spent all our time together. We couldn't use our cell phone because the battery had run out, and the other girls told me they also had not contacted their parents in months.

A few months later after working on the farm, a tall foreigner visited the farm. Mr. Flomo told us that we couldn't leave our dorm until he said so. I was barely awake at the time and didn't really comprehend what Mr. Flomo was saying, so the other girls told me this foreigner was a European buyer who wanted to source cocoa from our farm.

After the foreigner's visit, it seemed like our lives became even worse because Mr. Flomo had to upgrade the farm to meet the foreign buyer's high requirements. We started working even more and our pay seemed to become less and less. It was like we were basically working for free. Mr. Flomo was also getting angry often and he often made the girls in my dorm cry.

One day, as I was tending to the crops, a girl from my dorm ran over to me. She looked very worried and I knew immediately she was bringing bad news. She told me my brother was severely injured when he was using his machete! Was he alive? Was he going to be okay? I tried to press for answers from her, but she did not know as well. She just told me that Edward and Mr. Flomo were visiting a local man and we should know in a few days. I was worried sick those few days and barely ate or slept. I tried to see Edward a few times to find out if he was okay, but Mr. Flomo rejected my pleas each time. How could he be so mean? Edward was my brother! If Mr. Flomo wouldn't allow Edward and me to see each other, at least he should let me tell my parents about it! But Mr. Flomo also rejected these requests and he told me my parents were very happy that we were here and we were really helping our family and learning so much about the cocoa trade, all of which were very important to them. There was once when I went to find Mr. Flomo to ask him to let me see my brother, that I overheard him talking to someone on the phone. He was asking the other person on the line for "younger workers" from Sierra Leone because he could not afford to hire local adults. He kept on calling the

other person "Alpha", which sounded familiar at the time, and afterwards I realized that was Mr. Bah's first name. After my insistent pleading, Mr. Flomo eventually let me see Edward. When I saw Edward a few days later, Edward looked very frail and weak, but at least he was alive. Mr. Flomo also was allowing Edward to tend to the crops with us! Edward and I started speaking more about leaving the farm.

Sadly, Edward and I had to give up on our dream of escaping the farm since we neither had our ID cards nor did we know how to get out, even if we could escape. But a few weeks later, a group of people dressed in uniforms came to the farm and told us that we were being rescued! Edward, the other girls in my dorm and I were all rescued and taken into custody by the government here.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Mariama Kamara
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Mariama Kamara. Signed by me James Mulbah on 1 March 2022 at about 5:00 PM.

Statement of Desmond Kamara

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Desmond Kamara
Occupation	Agricultural worker
Nationality	Sierra Leone
Age	38
Address	Mamba Road, Hangha, Sierra Leone
Telephone	231 44 222 4555

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	23 March 2022
Time	4:30 PM

My name is Desmond Kamara. I am 38 years old and I live in Hangha, just outside of Kenema, Sierra Leone. My wife is Amara and our children are Edward (15 years old) and Mariama (13). My wife and I are both agricultural workers.

When my wife told me the Bahs had an opportunity for Edward and Mariama, I was so happy. This was a rare opportunity here in our village. We were excited that our children could live the lives they had dreamt of. I had a lot of confidence in Edward. He is a very talented boy and I am sure that he would be successful in Monrovia. I was much more hesitant for Mariama. She is our only daughter and very young, and we were hesitant to let her go to Monrovia. But after Mariama asked us again and again, we could not say no. This was the very least we could do, but I was still a bit worried that Mariama would be delaying her education. My wife and I had hoped that she would be able to graduate from high school at least. Fatmata asked my wife and me to share our children's passports with her. Fatmata reassured us that Mariama would be able to go to school for at least a few hours a day. Fatmata mentioned how important she knew education was in this day and age and how she wished that she had tried harder at school back when she was younger. This reassured my wife and me about Mariama's schooling, but we were worried about whether we'd be able to obtain passports for the children in time. After all, there were only a few weeks till the Bahs' family friend was going to pick up our children, so we did not want to delay any paperwork.

We went to the closest office of the Ministry of Internal Affairs Immigration and Passports division to apply for a passport. The office was operating on reduced hours due to the pandemic, so we lined up at dawn to make sure we could get a same-day appointment. We brought along the required documents and while we were waiting in line at the office, Amara noticed Edward's birth date was off by a few months in the birth certificate. We actually didn't apply for Edward's birth certificate immediately after he was born. It's pretty common around here for children to not have a birth certificate. We only applied for one when he was about to go to school and a birth certificate was required to enroll. A government official must've made a clerical error back when we applied for Edward's birth certificate. My wife and I briefly discussed whether it would make sense to correct Edward's birth date but it was such a hassle to get a birth certificate for Edward last time — getting an affidavit and telling the government why we were requesting a birth certificate, and then going through an interview process for it — that we didn't want to go through it again, especially when our timing was already so tight. Edward's birth date was only off by a few months anyway, so we didn't think it'd be a big deal. The passport

application fees cost us a fortune, but we didn't want to miss out on this opportunity for the kids! We were worried we wouldn't receive the passports in time, since there are administrative delays all the time, but gladly we received the passports around two weeks later. Once we received the children's passports, we rushed over to the Bahs' house and handed them off to the Bahs.

I still remember the day we sent our children off to Liberia very clearly. The Bahs' family friend came to pick our children up. I did not exchange many words with him, but he seemed like a respectable man and we were sure that the Bahs would only do business with people equally well respected as they are. I was very proud of our children for pursuing their dreams and beginning a better future and for being so hard working. That evening, we received a text from Edward to say that they had arrived. He said he was too excited and busy exploring his new home to call us, but that everything was fine. We decided to stop bothering him and Mariama for the night so that they would have time to explore.

A day later, we reached out to Edward again, but our WhatsApp message to Edward stopped delivering. We were concerned because the cell phone we bought them was used and we did not know if it would work well. We asked Fatmata to check on our children as well and she said that the charger was broken and the children would not be able to find a charger for the phone we gave them in Monrovia. We hoped that the children would be able to buy a new phone with their earnings soon. Fatmata told us that Prince was very busy and could not give us updates on how the children were doing. We missed our children terribly, but did not want to bother the Bahs and Prince further since we had already asked them for such a big favour.

The weeks went by and we heard nothing. At first my wife would ask Fatmata for updates, but I heard from my wife that Fatmata was becoming very annoyed at our questions. I also had not seen Alpha much lately. We used to see each other on the streets often, but lately it seemed like he had disappeared. When my wife saw Alpha and tried asking him about our children, I heard he was equally hostile. The Bahs were anything but hostile to us before, and I told my wife that we should wait a bit to appear calm. I was actually also very worried, but did not want to agitate the Bahs or Prince anymore and potentially further worsen our relationship. I was not sure if we had done something to upset the Bahs or if our children had offended Prince and Prince had informed the Bahs about this.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Desmond Kamara
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Desmond Kamara. Signed by me James Mulbah on 23 March 2022 at about 6:00 PM.

Statement of Amara Kamara

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Amara Kamara
Occupation	Agricultural worker
Nationality	Sierra Leone
Age	36
Address	Mamba Road, Hangha, Sierra Leone
Telephone	231 22 888 1111

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	23 March 2022
Time	2:30 PM

My name is Amara Kamara. I am 36 years old, and I live in Hangha, just outside of Kenema, Sierra Leone. My husband is Desmond Kamara. My children are Edward (15 years old) and Mariama (13). My husband and I are both agricultural workers. We hoped to find an apprenticeship for our son Edward during the pandemic as we were struggling to make our ends meet, and we wanted Edward to learn new skills so that he could have a better life.

I asked my neighbour, Fatmata Bah, for help, because her husband is known to be a very wealthy man in our area, and I thought that I could trust her. Fatmata said that she would ask her husband if he knew anybody who could give Edward a job. Fatmata has always presented herself as an upstanding woman in our community — someone who other people look up to. Fatmata is a mother herself — I never thought that my son would come to any harm if she helped him. A few days after I spoke to Fatmata, she told me that her husband, Alpha, had found work for both Edward and Mariama with their friends over the border in Monrovia. Edward was to work in an export business and learn how to use computers, and Mariama was to work in a shop. The offer for Mariama was unexpected as at first we were only looking for work for Edward. However, the opportunity sounded exciting and Mariama begged my husband and me to go. How could I refuse my child the chance for a better life? With the promise from Edward that he would look after his sister, and the assurance from Fatmata that all would be well, my husband and I relented. Both children were so excited to start their big adventure. After so long struggling to get by during the Covid-19 pandemic, we finally had hope that better times were coming.

Fatmata reassured me repeatedly that the children would be fine. Shortly after she told us about the jobs, we went over to the Bahs' house for tea to talk about the logistics of getting the children to Liberia, and Fatmata told wonderful stories about the kindness of the couple that would be caring for Edward and Mariama. She said that they lived in a mansion near Monrovia, with six children of their own who were all grown up. She said the wife was longing to care for children again, and the husband was excited to have an apprentice to train. It sounded idyllic. My husband and I had also hoped that Mariama would be able to graduate from high school at least. My husband asked the Bahs about that, and they reassured us that Mariama would be able to go to school for at least a few hours a day. I was very relieved to hear that at the time. However, the Bahs also asked us for the children's passports and we were not sure if we'd be able to obtain passports for the children in time. A few days after that, my husband and I went to the closest office of the Ministry of

Internal Affairs' Immigration and Passports division to apply for passports for Edward and Mariama. We went as early as possible to make sure we'd get be able to apply for the passports that same day. I was going through the documents required for the passport applications and I noticed Edward's birth date was earlier by a few months than Edward's actual birthday in his birth certificate. The passport showed that he was 15 when there were actually still a few months left till he would be turning 15. I wasn't sure if this was going to be a problem so I told my husband about it, and we discussed for a bit while waiting in line. My husband and I decided that it already took us so long to get us the birth certificates last time and we didn't want to go through it again. The children and the Bahs would be so angry at us if this opportunity fell through because of a small administrative mistake made many years ago! Gladly, the passport application process went smoothly after that and we received the passports around two weeks later. We handed the passports over to the Bahs, who took care of everything after that and we couldn't believe our luck. We did not ask the Bahs when they would return the children's passports to us or to the children directly, but we were not concerned and did want to risk seeming impolite.

A few weeks later, when we waved the children off in the car with Prince Flomo, who had come to collect them, we felt certain that they were headed off to find success and prosperity. That evening, we received a text from Edward to say that they had arrived. He said he was too excited and busy exploring the mansion to call us, but that everything was fine.

A day later, my WhatsApp messages to Edward stopped delivering, so I could tell that he hadn't charged the phone we had given him. Concerned, I texted Fatmata, but she said that the charger was broken. This reassured me: the children were earning plenty of money — they would be able to buy a new one soon. However, Fatmata then told me that the children would not be able to find a charger for the phone we gave them in Monrovia. I had no reason to doubt Fatmata — she is very well respected, and had always been kind to me and my family. I just hoped that the children would be able to buy a new phone with their earnings soon. Fatmata told me that Prince was very busy and could not give us updates on how the children were doing. I didn't want to bother him — I was so grateful to him for giving my children this opportunity — so I accepted Fatmata's suggestion that 'no news is good news', although I missed my children terribly.

The weeks went by, and we heard nothing. At first, I would run to see Fatmata if I passed her in the village, asking for any news of the children. However, as time went by, she seemed increasingly annoyed by my questions. I asked her in the street when we could expect to receive money from the children, and she raised her voice at me, telling me that I was money-grabbing and needed to be patient. I was mortified, as some of our other neighbours overheard. I decided not to ask anything further. When I saw Alpha, I tried to ask again more discreetly, but he was equally hostile. It was very strange — they had never treated me like this before. There was nothing I could do but wait, but I was devastated — something felt very wrong. My husband said I was being too anxious — after all, the Bahs were the most well-respected people we knew. He told me not to worry too much, so I bit my tongue.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Amara Kamara
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Amara Kamara. Signed by me James Mulbah on 23 March 2022 at about 3:30PM.

Statement of Amara Kamara

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Amara Kamara
Occupation	Agricultural worker
Nationality	Sierra Leone
Age	36
Address	Mamba Road, Hangha, Sierra Leone
Telephone	231 22 888 1111

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	23 March 2022
Time	2:30 PM

My name is Amara Kamara. I am 36 years old, and I live in Hangha, just outside of Kenema, Sierra Leone. My husband is Desmond Kamara. My children are Edward (15 years old) and Mariama (13). My husband and I are both agricultural workers. We hoped to find an apprenticeship for our son Edward during the pandemic as we were struggling to make our ends meet, and we wanted Edward to learn new skills so that he could have a better life.

I asked my neighbour, Fatmata Bah, for help, because her husband is known to be a very wealthy man in our area, and I thought that I could trust her. Fatmata said that she would ask her husband if he knew anybody who could give Edward a job. Fatmata has always presented herself as an upstanding woman in our community — someone who other people look up to. Fatmata is a mother herself — I never thought that my son would come to any harm if she helped him. A few days after I spoke to Fatmata, she told me that her husband, Alpha, had found work for both Edward and Mariama with their friends over the border in Monrovia. Edward was to work in an export business and learn how to use computers, and Mariama was to work in a shop. The offer for Mariama was unexpected as at first we were only looking for work for Edward. However, the opportunity sounded exciting and Mariama begged my husband and me to go. How could I refuse my child the chance for a better life? With the promise from Edward that he would look after his sister, and the assurance from Fatmata that all would be well, my husband and I relented. Both children were so excited to start their big adventure. After so long struggling to get by during the Covid-19 pandemic, we finally had hope that better times were coming.

Fatmata reassured me repeatedly that the children would be fine. Shortly after she told us about the jobs, we went over to the Bahs' house for tea to talk about the logistics of getting the children to Liberia, and Fatmata told wonderful stories about the kindness of the couple that would be caring for Edward and Mariama. She said that they lived in a mansion near Monrovia, with six children of their own who were all grown up. She said the wife was longing to care for children again, and the husband was excited to have an apprentice to train. It sounded idyllic. My husband and I had also hoped that Mariama would be able to graduate from high school at least. My husband asked the Bahs about that, and they reassured us that Mariama would be able to go to school for at least a few hours a day. I was very relieved to hear that at the time. However, the Bahs also asked us for the children's passports and we were not sure if we'd be able to obtain passports for the children in time. A few days after that, my husband and I went to the closest office of the Ministry of

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A few weeks later, when we waved the children off in the car with Prince Flomo, who had come to collect them, we felt certain that they were headed off to find success and prosperity. That evening, we received a text from Edward to say that they had arrived. He said he was too excited and busy exploring the mansion to call us, but that everything was fine.

A day later, my WhatsApp messages to Edward stopped delivering, so I could tell that he hadn't charged the phone we had given him. Concerned, I texted Fatmata, but she said that the charger was broken. This reassured me: the children were earning plenty of money — they would be able to buy a new one soon. However, Fatmata then told me that the children would not be able to find a charger for the phone we gave them in Monrovia. I had no reason to doubt Fatmata — she is very well respected, and had always been kind to me and my family. I just hoped that the children would be able to buy a new phone with their earnings soon. Fatmata told me that Prince was very busy and could not give us updates on how the children were doing. I didn't want to bother him — I was so grateful to him for giving my children this opportunity — so I accepted Fatmata's suggestion that 'no news is good news', although I missed my children terribly.

The weeks went by, and we heard nothing. At first, I would run to see Fatmata if I passed her in the village, asking for any news of the children. However, as time went by, she seemed increasingly annoyed by my questions. I asked her in the street when we could expect to receive money from the children, and she raised her voice at me, telling me that I was money-grabbing and needed to be patient. I was mortified, as some of our other neighbours overheard. I decided not to ask anything further. When I saw Alpha, I tried to ask again more discreetly, but he was equally hostile. It was very strange — they had never treated me like this before. There was nothing I could do but wait, but I was devastated — something felt very wrong. My husband said I was being too anxious — after all, the Bahs were the most well-respected people we knew. He told me not to worry too much, so I bit my tongue.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Amara Kamara
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Amara Kamara. Signed by me James Mulbah on 23 March 2022 at about 3:30PM.

Statement of Rebecca Johnson

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Rebecca Johnson
Occupation	Government officer
Nationality	Liberia
Age	30
Address	Mills Place, Monrovia, Liberia
Telephone	231 55 444 5555

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	30 March 2022
Time	1:30 PM

My name is Rebecca Johnson and I am a Liberian citizen. I have been working at the Liberian Ministry of Labour for the last eight years. I was recently part of the team that conducted a raid on a cocoa plantation in Lofa owned by a businessman named Prince Flomo. Prior to the raid, we received a tip-off from villagers in a nearby town reporting that children were seen being driven into the plantation unaccompanied by their parents. Villagers also reported hearing young voices echoing from a small building within the plantation well into the night. Upon receiving this tip-off, our team did a cross-check against local schools and vocational training centers and no new enrolment records were revealed. In addition, rumors had apparently spread over town that Prince had boasted to his relatives that he was recently able to purchase a number of large-ticket items due to his business acumen and ingenuous cost-saving idea of “simply hiring younger workers from Sierra Leone to cut down on operating expenses”.

The majority of Lofa is covered in rice, cassava and cocoa plantations. Our drive into the village was smooth, and a local villager kindly directed the way to Prince’s plantation. The raid consisted of a team of twelve of us, and we arrived in three cars. Our team was cautious to remain quiet, and we split ourselves into three teams of four members each spread over discreet parts of the 3-hectare plantation. We agreed to conduct the raid in the evening right before sunset. During the day, we were able to observe workers using a chainsaw to clear the forest, or climbing cocoa trees to cut bean pods using a machete. These actions seemed dangerous as some of the workers seemed quite young, whilst the knives they were carrying appeared large, rusty and heavy. Once the workers successfully cut the bean pods from the trees, they would pack the pods into sacks which are then mounted onto their heads and carried through the forest. Some of the other workers were seen tending to crops on the plantation.

My team was the closest to the small building. When we raided the building, I observed that the building was quite old, and that it had no windows. Apart from a few personal items and wooden planks for beds, the building was pretty bare. There were no electrical outlets, and the only adjoining bathroom did not appear to be sanitary.

I came into contact with Mariama in the building. Another team entered into a confrontation with Prince Flomo and it was during that encounter when they found Edward. They were taken aback by our presence, and seemed tired and afraid. Edward told me that he is 15 and Mariama is 13. According to Edward, they are siblings from Sierra Leone and that they had little money. Edward has a visible cut on his hand, and he asked me if him and his sister were being

arrested for doing something illegal. Edward also asked if they would be given the opportunity to speak with their parents if they came along with us. They were taken into custody by our team and eventually handed over to the local office of the Ministry of Health and Social Welfare.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Rebecca Johnson
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Rebecca Johnson. Signed by me on 30 March 2022 at about 2:30 PM.

Statement of Annie Kollie

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Annie Kollie
Occupation	Agricultural worker
Nationality	Liberia
Age	30
Address	Foothill Road, Lofa, Liberia
Telephone	231 66 111 3333

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	29 March 2022
Time	2:30 PM

My name is Annie Kollie. I am 30 years old. I live in Lofa and I have been working at an old and big cocoa plant in the area owned by a man named Prince Flomo for six years.

There are around 20 workers on the plant, most of us aged between 20 and 35 years old. It is a big plant and we do not have enough workers. Our work at the plant is very demanding and labour intensive, and could be dangerous especially during rainy season when the plant is additionally slippery and dangerous. Normally, the male workers would be responsible for clearing the forest with a chainsaw, or climbing cocoa trees to cut bean pods using a machete. Once they cut the bean pods from the trees, the female and younger workers would take on slightly easier tasks such as packing the pods into sacks and carried through the forest, or tending to the crops on the plant. Prince Flomo is a strong and stern person who is very serious about his business. He is always at the plant monitoring our work.

A few months ago, Prince Flomo brought two new young workers, Edward and Mariama to the plant. I remember them particularly because they looked really young, and they looked confused and frightened when Prince Flomo was showing them around the plant and explaining to them their general daily tasks. Prince Flomo arranged for Edward and Mariama to live in the small, windowless building with wooden planks for beds right across the plant.

Edward and Mariama started working on the plant soon after they arrived under Prince Flomo's supervision. Edward worked with the male workers in the forest, while Mariama worked with me and the other female workers to tend to the crops on the plant. I learnt from Mariama that she was only 13 years old and Edward is her brother who was 14 years old back then. I was surprised when I knew they were that young because I was not aware that Prince Flomo employed children of that age to work on the plant. Particularly, the work that Edward was tasked to perform in the forest was dangerous and definitely not appropriate for a 14-year-old boy. Mariama told me that Prince Flomo is a friend of her parents' good friends who ran an export business in Monrovia, and that Prince promised to bring her and Edward to work for his export business. Mariama said she had no idea that she would end up working on a cocoa plant with her brother. Mariama also mentioned that she was not able to contact her parents and she did not know how she could leave the plant with her brother although she really wanted to go home.

Around a few months ago, Prince Flomo brought a European buyer to visit the plant. The European walked around the plant with Prince Flomo, observed our work and examined the cocoa. Soon after the European buyer's visit, our

work in the plant became significantly more demanding and intensive. Prince Flomo told us that a lot of work needed to be done to upgrade the plant in a short period of time to meet the European buyer's demands. Our working hours increased from around 10 hours a day to 14 hours a day and Prince Flomo supervised our work even more closely. As a result of longer working hours, many of our workers did not have enough rest and injured themselves during their work. A few male workers, including Edward, sliced their hands with the machete. However, despite the deep wounds, Prince Flomo only arranged for the injured workers to a local man to help wash the cut and apply medication to the wound, without providing appropriate medical care to treat the wounds.

A few days ago, the local authorities conducted a raid on our plant. At the end of the raid, I heard that Edward and Mariama were taken away from the plant by the local authorities.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Annie Kollie
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Annie Kollie. Signed by me on 29 March 2022 at about 3:30 PM.

Statement of Esther Sumo

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Esther Sumo
Occupation	Family business
Nationality	Liberian
Age	28
Address	Cheeseman Blvd, Lofa, Liberia
Telephone	231 77 222 9999

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	26 March 2022
Time	9:00 AM

My name is Esther Sumo. I am 28 years old and live in Lofa. Since the age of 17, I have worked for my family business. I help with the accounts and the general running of the business. We own paddy fields and produce rice, which we generally sell to local suppliers. The plan is that my husband and I will take over the family business when my parents get too old.

I have been asked to give a statement about my neighbor, Mr. Flomo. My husband and I have lived in our current house for almost six years. Mr. Flomo was already living on the neighboring plot of land when we moved in. He runs a cocoa plantation, which is very common in this area. My husband and I are both usually out at work during the day, but I am currently pregnant with our first child so have been home most of the time in the past two months.

Mr. Flomo used to be well known in the area for running a very profitable cocoa business, and he employed a number of local men, including my husband before we got married. Things changed very abruptly, I am not sure whether he had cash flow issues, or what exactly the problem was, but he suddenly stopped paying the 10 or so labourers he had working on the plantation. Naturally, they all gave him the benefit of the doubt for a few weeks and then stopped turning up to work. You can't expect people to work for free.

Since then, it has been much quieter over on the cocoa plantation. I definitely haven't heard of him hiring anyone else in the community, and there aren't people coming and going to work on the plantation in the morning and evening. At least, in the past two months while I have been at home I haven't seen anyone. I'm guessing he now has lodgers that live on the plantation and work for him. He does have a very small outhouse that could probably house a few people.

Other than the fact that Mr. Flomo still owes my husband for the few weeks of labour that he didn't pay him for, we haven't had any issues with him.

Recording officer's signature	James Mulbah
Complainant's/Witness' signature	Esther Sumo

I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Esther Sumo. Signed by me on 26 March 2022 at about 10:00 AM.

HANDOUT 4.4.2B: DEFENSE WITNESSES

Statement of Prince Flomo

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Prince Flomo
Occupation	Plantation Owner
Nationality	Liberia
Age	52
Address	Flomo Quality Cocoa Farms, Lofa, Liberia
Telephone	231 66 111 1111

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	6 March 2022
Times	9:30 AM

My name is Prince Flomo. I am 52 years old and have lived all my life in Lofa, Liberia. I grew up working on my family's cocoa plantation, Flomo Quality Cocoa, and have done every type of job on the plantation at one point in time or another. The work is hard, but I worked this hard to learn the family business, improve myself, and eventually I took over from my father when he fell ill several years ago. Under my hands, the business had grown so much that I could afford to buy a house near Monrovia, expand into other businesses and even contribute to my local community.

A week ago, the government raided my plantation and arrested me under allegations that simply are not true. I would like to take this opportunity to provide my statement of the true facts and set the record straight.

I have been told that I am being prosecuted for employing Edward and Mariama Kamara under false pretenses as child labourers and subjecting them to unsafe and unhealthy conditions. I was incredibly shocked by these allegations, and in fact quite disheartened as I believe I went out of my way to take a personal interest in the well-being and betterment of Edward and Mariama, as a favor to the Bahs and as a kindness to the Kamara family who I believed I was very much helping. We had only met recently and I had heard that Mr. Bah was incredibly influential in his village. To get on his good graces and to ensure that we would have good working relations going forward, I even generously invited him over so that we could have a meeting face to face. He even met my family, which I believe would help him understand what kind of person I am and the business I am trying to build.

When the Bahs approached me to ask, as a favor on behalf of a struggling family in their village, whether I knew of any employment opportunities for the two oldest children of their family friends, who they told me were 18 and 15 years old, I was eager to help and suggested I might be able to take them on as apprentices on my plantation, and show them the ropes, as I had learned myself from the ground up.

A few days later I was told by the Bahs that the family was very grateful for this opportunity and would like to send their son Edward and daughter Mariama to come work for me. Because these were friends of the Bahs and it was Edward's and Mariama's first time leaving Sierra Leone by themselves, I offered to come personally to pick up Edward

and Mariama, introduce myself to the family, and provide the parents with my contact information and to make sure Edward and Mariama were able to travel safely. When I arrived, everyone seemed very grateful and excited about the opportunity. No one asked me any questions or raised any concerns to me at that time about the nature of their employment, nor did Edward or Mariama say anything to me once we reached the plantation or at any point thereafter to indicate this was not exactly as had been agreed to. When we left Kenema, the Kamaras gave their children cell phones to stay in contact and the Bahs handed me an envelope with various documents including the ID cards for Edward and Mariama which indicated their ages as above the working age here as I was informed.

When we arrived at the plantation, as I do with most new workers, I was fairly lenient with Edward and Mariama during their first few weeks, to give them time to adjust to the job. Normally I would gradually increase their duties and my expectations over time, but unfortunately, very shortly after they arrived, I was offered a very important and potentially lucrative opportunity with a foreign buyer. This opportunity would be very good for the plantation and consequently for all my workers who would benefit as well. However, in order to meet the demands of this buyer, the plantation would need to undergo some significant upgrades and this was going to require a lot of extra work and cost upfront, and I needed to ask for some extra commitment and sacrifices of my employees to get us through this period. And this included Edward and Mariama.

I could see the extra workload was difficult for them, and again I took time out of my schedule to give them some extra personal attention to help them as much as I could. At one, Edward, unfortunately, injured himself — this happens occasionally on a cocoa plantation as it can in all forms of manual labour. And again, I personally saw to Edward's care, taking him to the local doctor myself and making sure the doctor gave him proper care and attention. Seeing a doctor and having to take care of Edward was not cheap, on top of accounting for his lost productivity. I also provide Edward and Mariama with lodging and food, and had to pick them up over from Sierra Leone, all of which I need to deduct from the salary I give them each month. Edward and Mariama were also more inexperienced than I expected and not as fast as the other workers. I initially told Alpha I would be paying them \$300 per month each, but adjusted that to \$200 per month each. There's no such thing as a free lunch, after all.

I believe my plantation operates with higher safety and concern for its employees than most if not all of my competitors in the region. And ironically, many of the upgrades I was making to the plantation included even further improvements in the safety conditions of the workers, and it is astonishing that I am now being charged with creating a hazardous work environment.

I also believe that it is some of my less scrupulous competitors who have levied these false accusations against me to the Liberian authorities, and that as this investigation uncovers the truth, I will be vindicated of all charges.

Recording officer's signature	Nathaniel Kollie
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Complainant's/Witness' signature	Prince Flomo
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I, Nathaniel Kollie, hereby declare that I have faithfully and accurately recorded the statement of the above-named Prince Flomo. Signed by me on 6 March 2022 at about 10:30 AM.

Statement of Alpha Bah

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Alpha Bah
Occupation	Trader
Nationality	Sierra Leone
Age	51
Address	Robertsfield Road, Hangha, Sierra Leone
Telephone	231 11 222 7777

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa Police Station
Date	5 March 2022
Times	9:30 AM

My name is Alpha Bah. I am 51 years old and live in the village located on the outskirts of the city of Kenema, Sierra Leone with my wife, Fatmata Bah. I have two sons who are both living and studying in Monrovia, Liberia.

Many years ago, I set up a business trading in local handicrafts and textiles, which became very profitable. Due to my success and good fortune over the years, my wife and I have earned the respect and admiration of the people of our village. They often approach us for advice on various matters, including requests to help them find work when they are unemployed. I have helped a few people in my village find work in Sierra Leone, as well as in Liberia, through my contacts in that country. However, the Covid-19 pandemic affected my business badly, and ever since, my finances have taken a turn for the worse.

About one year ago, a man named Charles Mansaray approached me at my home. He mentioned that he had heard about me through the others in the village and had a business prospect for me. He told me that a business associate of his, Prince Flomo, was in the export business and needed young workers to help him. He did not elaborate on the exact nature of the business. He said Prince Flomo's business was located near Monrovia in Liberia, and therefore, the workers must be ready to travel and live there. He even offered to pay me a portion of the compensation he would get from Prince Flomo! This was an exciting business prospect, especially since my business was making heavy losses at the time. Mr. Mansaray asked if I could meet with Prince Flomo and take the matter further with him. I agreed to do so.

A few weeks later, I travelled to a place near Monrovia to meet Prince Flomo at his house. He introduced me to his wife and six children and showed us around his mansion. Soon after, he pulled me aside to talk business. He told me that the workers he needed for his export business must be young and able-bodied, and could be both boys and girls. He also told me that he would need to obtain and retain the workers' nationally issued ID cards as security. He also told me that he would pay me handsomely for every worker that I recruited. I wondered why he needed so many workers and why he wanted their ID cards as security. However, I did not ask further questions, as I was eager to stay in his good graces. After coming back to my village, I decided to keep an eye out for any people in our village who may be interested in working for him.

A week later, Fatmata told me about a conversation she had with Amara Kamara, whose family we knew well. She mentioned that Amara wanted her son Edward to start working to help supplement the family's income, and if I could

give him a job as my apprentice. While I did not have any jobs available, I decided to check whether Prince Flomo might be interested in hiring Edward. It also struck me at that time that Edward had a young sister, Mariama, who could also be sent to Liberia. I wasn't sure of their ages, but I had passed by them many times in the village and they looked to be at least working age around here from what I recall. I also asked Fatmata if Amara's children were old enough to travel to Liberia alone since I would certainly not want to send anyone too young over to Prince Flomo and potentially harm our relationship, and Fatmata told me not to worry and they were old enough. I asked Fatmata to tell Amara Kamara that we could help both Edward and Mariama find work in Liberia. I recognized that it would be harder for the Kamaras to agree to send their daughter to work with someone they didn't know. Therefore, I asked Fatmata to refer to Prince Flomo as our family friend. In any case, I had met him at his home and been introduced to his family.

I then spoke with Prince Flomo to tell him that I had found a boy and a girl in my village who wanted to work, and asked him whether he is still looking to hire workers. Prince Flomo confirmed he was still hiring and could hire both Edward and Mariama. He told me that once I had secured their national IDs, he would pick them up and transport them to Monrovia himself. Prince Flomo told me the children would each be compensated around 300 USD a month. This is a lot here and a lot more than what the children would be paid if they stayed in our village. I asked a bit more about the working conditions and Prince Flomo assured me that he would treat Edward as his own apprentice, although he may need Edward to help him run some tasks here and there that may involve some labour. Prince Flomo and I both agreed that was how we each started our businesses and working hard tasks is good for young people, if anything! Mariama would also be working close to Edward and she would be doing more domestic work. She would need to help out with some urgent tasks if they came up, but nothing she couldn't handle. Prince Flomo also promised that he would give me around 500 USD as a gift to show his appreciation, and he was looking forward to a long-lasting relationship between us. I was impressed by Prince Flomo's generosity and happy about my good fortune to be able to connect with such an impressive man. What a nice outcome for just making an introduction! Fatmata delivered the good news to the Kamaras. A couple of days later, Amara and Desmond Kamara came to our house for tea and conveyed their acceptance of the job offer for both Edward and Mariama. Fatmata and I were both very happy! We were sure that we had facilitated a wonderful future for Edward and Mariama. I asked the Kamaras to arrange for Edward's and Mariama's national ID cards for the border crossing, which they readily handed over to us. I had an urgent business meeting to go to at the time, so I took a quick glance at the national ID cards and they looked fine to me at the time. I didn't pay too much attention since I was running late already and the business partner I was meeting was a very important trading partner of mine and he's known for having a bit of a temper.

Some weeks after Edward and Mariama left with Prince Flomo for Monrovia, Fatmata told me that Amara had approached her saying that she was not able to get in touch with her children and asked if we had any news of them. Fatmata asked if we should make any inquiries about Edward and Mariama with Prince Flomo. I was surprised to hear that Amara had not heard from her children for many weeks, but I was sure that they were well taken care of with Prince Flomo. Besides, just a couple of days ago, I had received a call from Prince Flomo who asked me to find more workers for him, even those that are younger than Edward. He insisted that he needed younger workers, as hiring local adults was too expensive. I was eager to receive more business from Prince Flomo, and did not want to anger him by making inquiries about Edward and Mariama. I told Fatmata that we should not meddle in Prince Flomo's business and asked her not to respond to Amara's questions. Soon after, Amara approached me asking if I had heard from Edward, Mariama or Prince Flomo. I decided not to answer, since I was already recruiting more workers for Prince Flomo and did not want to risk the good business relationship I had developed with him.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Alpha Bah
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Alpha Bah. Signed by me James Mulbah on 5 March 2022 at about 10:30 AM.

Statement of Fatmata Bah

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Fatmata Bah
Occupation	Housewife
Nationality	Sierra Leone
Age	40
Address	Robertsfield Road, Hangha, Sierra Leone
Telephone	231 11 999 7777

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa Police Station
Date	5 March 2022
Time	2:30 PM

My name is Fatmata Bah. I am 40 years old, and I live in Hangha, Sierra Leone. My husband's name is Alpha, and we have been married for almost 20 years. He is very kind to me and works very hard. When we were young, he started a small business trading local handicrafts and textiles. Due to his hard work, this small business grew, and now he trades across Sierra Leone and also in the neighbouring countries.

We were blessed with two sons — the oldest is just starting college, and the younger is still in grade school. A few years ago, our oldest son expressed interest in studying in Liberia. Liberia's education system was better than the schools around the area we live. We thought about this for a bit but ultimately, we decided that investing in our son's education was a worthy use of our money. We sent our sons together, and I visit often and cook and clean for them while I am visiting. The younger one struggled a bit at first, but now he has made friends and adjusted well. My older son also looks after his brother and they seem to be doing well.

We are grateful for our good fortune, and our ability to give our sons a better life than what we had. Many in our village gossiped about our decision, saying that we had so much money we did not know what to do with it, that we were wasting money paying for two homes just so our sons could get an education in a different country. Many do not understand why we are spending so much money supporting them from afar. It was not an easy decision for us, but we believed it was a worthwhile investment in their future.

My husband continued to work hard, since we had to support our sons. His business grew, and now he runs multiple businesses around the country and he has made a lot of money. We are thankful for the good fortune and understand that not everyone has it as easy as us. We remind our children that it is a blessing that they can study instead of work in the fields like many of their friends do.

Many in our village are secretly jealous of our good fortune. They gossip about our family and even create false rumours that we are involved in illegal businesses, and that there is no way that my husband could have earned this money through honest work.

I understand that they say these things because they are jealous. I try not to let it bother me too much.

One day I was out shopping for groceries when I ran into Amara Kamara. Amara is around my age and lives in our neigh-

bourhood. She also has two children. We are not too close but we say hi when we see each other in the market. I think Amara and her husband are farmers. I am not sure what they do.

On this day, I was shopping for some chicken. My sons were planning to visit that weekend and I was excited to cook them their favourite dish. She approached me and asked how I was affording chicken “in these times.” I responded that today was a special occasion as my sons were visiting. I showed her pictures of my sons.

She complained about COVID-19, and how it had made things very difficult for her family. They had lost their jobs and could not find new ones. They were now living off of gruel. She said she was very jealous of my life, of my sons studying in Liberia and of my ability to afford chicken. Amara said that it was too late for herself and her husband, but she prayed that her son would become like my husband and live a successful life, so that his wife can buy chicken and her grandchildren can study abroad.

She looked distressed and I wanted to help. I suggested perhaps I could ask my husband if he needed help at his businesses, and if he would consider taking on Edward as an apprentice. I knew that this request would annoy my husband. He always received requests from people asking for money or jobs, and most of the time, they would take the money and never pay him back, or they would work at the job for a few days before complaining that it was too difficult for them to do their jobs. But I promised Amara I would at least raise the possibility for her to my husband.

Amara immediately brightened up and thanked me, and immediately asked me to also find a position for her daughter. I stated that I could not make any promises but I would try.

Over dinner, I raised the topic with my husband. He sighed and stated that he was not interested in hiring someone who did not have a proven track record of being a hard worker. I persisted. I asked him to consider teaching Edward as our neighbours were going through a hard time. I persuaded him to think of Edward as our son, and how we would feel if we were in that position.

My husband relented and explained that he did not have any open positions at his businesses, but that he would ask his business partners to see if anyone needed assistance. Alpha knows a lot of successful people in this region after doing business all these years, so I was sure that he’d find someone who would be willing to take on Edward as an apprentice. The next day, my husband spoke to some of his business partners. One of his friends in Monrovia who ran an export business said that he needed some workers, and he would take anyone that was available. I asked my husband questions about the work, and he told me that the job would mostly be assisting his friend with running the export business — a wonderful opportunity in Monrovia — and as part of the job, Alpha’s friend would also provide on-the-job vocational training related to computers and business management to Edward. The friend also ran a store that always needed a pair of extra hands, and he was willing to employ Amara’s daughter as well. It was wonderful news and I had helped change a family’s life for the better, and I went to share this news with Amara soonest I could.

After Amara heard the news, she was also very excited. I thought it was a good opportunity for her children too, so I was happy that we could help. We invited their family over for tea to celebrate the good news. When they came over, they asked many questions about the business partner. My husband and I answered their questions, explaining that we worked with this business for a few years and that they seemed like reasonable and nice people.

My husband then connected the partner to the family directly. Last I heard, the partner had sent a car to pick up the children. I did not hear about them after, and my husband also assured me that they would be fine.

One day Amara texted me and said she could not reach her children. I was not sure why she was reaching out to me about this, but I asked my husband to check with his business partner. His partner told my husband that the children had broken their phone charger but that they were fine. I relayed this message to Amara. She asked me many questions about how the children were doing and said that that business partner was not responding to her messages. I was not sure how her children were doing either, but I suggested that perhaps the business partner was too busy with work. I assured her that her children were likely doing well.

Amara continued to ask me about her children. She would come by almost every day and would sit in my house, even though I had other plans and errands to run. She would come and just complain about how her children were not responding to her messages. Whenever she saw me in the market, she would run up to me and ask me how her children

were doing. I was frustrated because I also did not know. I was not the employer of her children. All we had done was provide the introduction. I did not want to be this involved after her children had already been hired. She started to be accusatory in her questions, as if I was the person who had sent her children off and cut them off from her family. She started to accuse us of not giving her children their phone, and not providing a charger. She accused us of not paying her children.

I explained to her many times that my husband and I were not employing her children. But she did not seem to accept that fact. She started spreading rumours about our family, that we had taken their children and isolated them. She spread rumours that we had tricked her into sending her children away. My husband became increasingly annoyed at the rumours because they were impacting his reputation in the village.

She then started asking us for money. She said we should give her and her husband money for her children's wages. I became even more frustrated. I was not employing her children. My husband was not employing her children. I asked her firmly to reach out to the business partner, and explained that we were not her children's employer. I asked her to please stop raising this with us as we did not have more information on this topic.

My husband told me that after this conversation, she started harassing my husband for news about her children and money. My husband also firmly asked her to reach out to the business partner directly. She has continued to spread rumours about our family. I finally understand why my husband tries not to help out people who are not interested in helping themselves.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Fatmata Bah
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Fatmata Bah. Signed by me James Mulbah on 5 March 2022 at about 4:00PM.

Statement of Michael Kabba

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Michael Kabba
Occupation	Carpenter
Nationality	Sierra Leone
Age	40
Address	Mamba Road, Hangha, Sierra Leone
Telephone	231 55 444 9988

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	6 April 2022
Times	9:30 AM

My name is Michael Kabba. I am 40 years old and live at Mamba Road, Hangha, Sierra Leone. I was born and raised here, right outside of Kenema, Sierra Leone. My father taught me carpentry when I was 18. I have been working at the village carpenter workshop for more than twenty years. I do not earn a salary. Instead, I am paid for each piece of furniture that I make.

I have been asked to give a statement about the Bahs and Kamaras. I know of Mrs. Fatmata Bah and Mr. Alpha Bah. It is fair to say that anyone who lives in our village would know of the Bahs as Mr. Bah is the richest man in the village. The Bahs live in a mansion at the outskirts of town. They are very well dressed, Mrs. Bah especially, who wears a lot of jewelry and silk. They have a driver who drives them to town. It is rare for anyone to own a car in our village, so the Bahs are highly recognizable. Mr. Bah became rich through his trading business, but I do not know the specifics of his business. I have heard from my customers that the Bahs are very generous when it comes to business opportunities. They are very willing to offer opportunities to children so that they can learn and develop business skills and knowledge. As a result, the Bahs are very respected in our community. It is important that the Bahs are helping the poor in the community. Although most of these job opportunities are abroad and involve hard labour, we are already very grateful. There is no future in our village, to travel abroad and receive education is something that we have never dreamt of, but Mr. Bah made this come true, we will always be grateful.

I recall that the Kamaras are one of the families who the Bahs helped to secure jobs. I am close with Desmond Kamara and his wife, Amara. They are seasonal farmers and have two children, Edward and Mariama. Both of them are in their teens. I recall visiting the Kamaras one evening for dinner and they told me the fantastic news that the Bahs have offered jobs to Edward and Mariama in Monrovia. They will be working in an export business with Mr. Bah's friend. Edward also mentioned that the Bahs promised to give vocational training in business management to both Edward and Mariama. Amara told me that she was reluctant to let Mariama go with Edward at first, especially when Monrovia is so far away, but Mariama pleaded for days and she eventually gave in. I am very proud and excited for both Edward and Mariama. I think this is such a good opportunity for them to grow and build a life and future outside of our village.

Edward and Mariama left home a week later. It has been around 7 months since I last saw them. While I miss having them around, I am sure they are working hard and learning diligently in Monrovia. I ran into Desmond in town a few days

ago and asked him about Edward and Mariama. He told me that they have not called home but Mr. Bah had reassured him that they are well.

Recording officer's signature	James Mulbah
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Complainant's/Witness' signature	Michael Kabba
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I, James Mulbah, hereby declare that I have faithfully and accurately recorded the statement of the above-named Michael Kabba. Signed by me on 6 April 2022 at about 10:30 AM.

Statement of Charles Mansaray

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Charles Mansaray
Occupation	Trader
Nationality	Liberian
Age	47
Address	Tubman Blvd, Voinjama, Liberia
Telephone	231 88 11 2211

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have willfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	4 March 2022
Times	11:30 AM

My name is Charles Mansaray. I am 47 years old and live here in Voinjama with my wife, Jennifer Mansaray and our three children. I am based in Lofa County, Liberia. I am a trader and I work closely with Mr. Alpha Bah and Prince Flomo.

I have been asked to give a statement about Mr. Alpha Bah and Prince Flomo, and my connection with them. Prior to my marriage, I had worked in Kenema, Sierra Leone. I acted as a middle man in the cocoa trading business. My role is to connect cocoa plantation owners with potential chocolate manufacturers. When the plantation industry slowed in Sierra Leone, I moved back here where I met Prince Flomo. Prince Flomo is one of my most important clients, as he is a very influential man in Lofa County. He also paid me well. I earned Prince Flomo's trust after introducing him to a major European chocolate manufacturer, Cadbury's in 2015.

A few years ago, Prince Flomo told me that he was looking for workers in his plantation, and asked if I could help. He said that it became very difficult to find strong and young workers in the local area, and since he was aware of my previous experiences working abroad, he wanted me to find young and willing teenagers to work for him from the neighboring countries. His request was a pretty standard request to me. Working on a plantation is labour intensive, it makes business sense to have young and strong workers working on the plantation so that they can handle the heavy machinery. Prince Flomo also told me not to mention this to others as he did not wish for his competitors to know about his business plans.

I travelled to Kenema, Sierra Leone in search of workers for Prince Flomo. When I arrived, I heard about Mr. Alpha Bah. The villagers told me that Mr. Bah is well-connected and a successful trader, so I decided to visit him. Through my conversation with Mr. Bah, I learnt that he has experience in finding jobs for local villagers abroad. I told Mr. Bah about Prince Flomo's business and his need for young workers, but specified they would need to be at least over the legal age in order to travel to Liberia alone. I also offered to pay Mr. Bah a cut of what Prince Flomo was paying me. Mr. Bah was very happy about the opportunity. I, therefore, set up a meeting between Mr. Bah and Prince Flomo. I was not present in the meeting but was later told that Mr. Bah has since been sending workers from Sierra Leone to Prince Flomo's plantation. I was not involved in the arrangement between Mr. Bah and Prince Flomo. They always communicate directly, so I do not know any details of their arrangement or the identities of the workers whom Mr. Bah connected to Prince

Flomo. It was none of my business so I never asked. To express his gratitude, Prince Flomo gifted me a large sum of money for connecting him with Mr. Bah.

Recording officer's signature	Nathaniel Kollie
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Complainant's/Witness' signature	Charles Mansaray
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I, Nathaniel Kollie, hereby declare that I have faithfully and accurately recorded the statement of the above-named Charles Mansaray. Signed by me on 4 March 2022 at about 12:30 PM.

Statement of Sébastien Sucré

Liberian National Police — Lofa County

Case No.: 453 of 2022

Statement of	Sébastien Sucré
Occupation	Business Executive
Nationality	Switzerland
Age	47
Address	Quai du Mont-Blanc 11, Basel, Switzerland
Telephone	231 22 111 3333

I hereby declare that what is stated herein is true to the best of my knowledge and belief and I make this statement knowing that, if it is tendered in evidence, I shall be liable to prosecution for perjury if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Made at (place)	Lofa National Police HQ, Voinjama, Lofa, Liberia
Date	8 May 2022
Times	9:30 AM

My name is Sébastien Sucré and I am a Swiss citizen. I have worked for a Swiss company called Sugarcess for nearly a decade. I am sent frequently to Liberia to search out opportunities for sourcing cocoa supply chains for production in Switzerland of various qualities and types of chocolate products. We have had great success in the past finding affordable and reliable plantations in the rural parts of Liberia and the people of Liberia have always been welcoming and kind to me when I visit.

It was a visit that I was invited to visit the plantation in Lofa. My friend, Francois Fève, had introduced me to an intermediary who knew the landscape of plantations outside of Monrovia intimately. He suggested that I contact a man by the name of Prince Flomo and arrange a visit to Lofa. It is a small town, nothing much to see or do or eat other than to visit the plantation. It was very swampy, I recall, coming in, though up the hills there was a beautiful woodland. I believe the majority of the area is covered in rice plantations, some cassava as well, but of course I was there just to see the cocoa plantations. It seemed a friendly town, but I stopped only for a short while before a driver my friend had arranged picked me up and whisked me away to the plantation.

When I arrived, I met Prince Flomo. He is a strong man, physically imposing. I have always had warm receptions in Liberia and friendly relations, but Prince came across to me very serious, very dry and very direct. He took me on a quick tour of the plantation and was eager for me to commit to buying. Of course, there are a number of things important in identifying a supply opportunity that I needed to confirm and obtain some assurances about: the quality of the cocoa, the size of the shipments they could provide, assurances on regularity and frequency, cost and risks of disruption, and assurances that the labour market nearby could ensure all of the production targets could be met. When Prince took me on a tour of the plantation, I saw workers at work in what seemed to be a fairly customary and comfortable working environment. I did not see anything that looked unusual or particularly onerous, but I did notice a few people on the plantation who seemed a bit younger than the others. I asked Prince if those were the workers on his farm, and he told me that they were the children of some of the plantation workers. The children would come over to hang around on the farm after school. Prince allowed this since it didn't seem to affect the workers' productivity and the workers were happier with their children close by. I had asked Prince if it might be possible to speak to some of the workers, but he informed me that it would not be practical given they were right in the middle of their work at the time and they were trying to meet a production target for another buyer.

Prince Flomo and I discussed the commercial details that would be necessary to begin a business relationship. I informed him of what the production targets would be and he assured me that they could be met quite easily. I asked about the labour availability and he told me it would be very easy to find the required workers for any increase in production given the region has many experienced workers. This made sense to me as the area has many plantations. We set out the initial scope of expectations and requirements and I informed Prince that I would need to speak with my employers before we finalized terms. If everything went well, I told him, we would expect to ramp up production as soon as possible. He assured me all would be well. Bien. We enjoyed some ginger beer and had dumboy before my driver took me back. Ever since then, our production targets have been met with little problem and we believed we had formed a successful relationship.

Recording officer's signature	Nathaniel Kollie
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Complainant's/Witness' signature	Sébastien Sucré
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I, Nathaniel Kollie, hereby declare that I have faithfully and accurately recorded the statement of the above-named Sébastien Sucré. Signed by me on 8 May 2022 at about 10:30 AM.

Exercise 4.4.4: Cross Examination

Objective:

- To practice cross examination of a witness called by the other party.

Time:



1 hour and 10 minutes

Materials and Preparation:

- Continue to use the copies of witness statements (Handout 4.4.2A: *Prosecution Witnesses* and Handout 4.4.2B: *Defense Witnesses*) used during the direct examination activity
- Handout 4.4.2A: *Prosecution Witnesses*
 1. Edward Kamara
 2. Mariama Kamara
 3. Desmond Kamara
 4. Amara Kamara
 5. Joseph Tamba
 6. Annie Kollie
 7. Rebecca Johnson
 8. Esther Sumo
- Handout 4.4.2B: *Defense Witnesses*
 1. Prince Flomo
 2. Alpha Bah
 3. Fatmata Bah
 4. Michael Kabba
 5. Charles Mansaray
 6. Sébastien Sucré

Steps:

- Explain to the participants the objective of the exercise.
- Split the participants back into the same four groups used during the direct examination activity with the same facilitator for each group:
 - Prosecution Group 1
 - Prosecution Group 2
 - Defense Group 1
 - Defense Group 2
- Pair Prosecution Group 1 with Defense Group 1.
- Pair Prosecution Group 2 with Defense Group 2.
- 5 minutes

- Ask participants in each pair of groups to exchange the witness statements of the witnesses that they previously used during the direct examination exercise.
- Ask participants in each group to:
 - Review the witness statement they received from the opposing side;
 - Write down the questions they plan to ask during the cross examination of the opposing side's witness.
 - 15 minutes
- Each participant in each group should then practice their cross examination within the group.
- The small group facilitator should play the role of the witness while participants conduct their cross examinations.
- Each participant will have 5-10 minutes to cross examine their witness and receive feedback from the small group facilitator.
 - 45 minutes
- Close the activity by discussing with participants what they have learned about the cross examination of witnesses.
 - 5 minutes

Key Messages:

- During cross examination, the lawyer should be the storyteller. To maintain control of the story, the lawyer should use closed questions during cross examination.
- The purpose of cross examination can be to:
 - Obtain favorable evidence
 - Discredit unfavorable evidence
 - Test the accuracy and completeness of a witness's story
- Lawyers should only cross examine a witness if there is an advantage or effect to be gained.

Exercise 4.4.5: Closing Arguments

Objective:

- To familiarize participants with closing arguments and how to present them in court.

Time:



1 hour and 25 minutes

Materials and Preparation:

- Handout 4.1.2: *Case Evaluation Scenario*
- Handout 4.4.2A: *Prosecution Witnesses*
- Handout 4.4.2B: *Defense Witnesses*
- Flipchart and markers
- If this is a 6-day workshop,
 - At the end of the closing arguments presentation on Day 5, have the presenter give a demonstration of two closing arguments
 - Instruct participants on Day 5 (after the closing arguments presentation) that they will be responsible for presenting a closing argument to their small group on Day 6. Assign participants to one of the four groups, the same groups as for the Opening Statements Activity. The groups should have a mix of people from the prosecution and defense attorney groups of the Case Evaluation Activity. Each participant will play the role of prosecution or defense they had during the Case Evaluation Activity to ensure that participants are familiar with the theory of the case and each group has a mix of prosecution and defense representatives.

Steps:

- Divide participants into suitable groups
- Assign some prosecution witnesses (Handout 4.4.2A) and defense witnesses (Handout 4.4.2B) to each group
- Ask the participants to organize the body of the closing argument:
 - Chronologically by witnesses,
 - Chronologically by events,
 - By charge, or
 - By topic
- 10 minutes
- Have each group member give his or her presentation. Presentations should be approximately 5 minutes each. After each presentation, the small group facilitator should identify something that the participant did well as well as an area for improvement.
 - 40 minutes
- Each group should nominate a representative. One at a time, each representative should come to the front of the room to present their closing argument.
 - 30 minutes
- Wrap up by reviewing the key messages.
 - 5 minutes

Key Messages:

- Closing argument is a key aspect of trial practice since it is the last thing the fact finder will hear.
- Plan the closing argument before the trial even starts; this will ensure trial lawyers are prepared and the lawyer's opening and closing are strong and parallel with each other.
- Ensure that both opening and closing have a clear theme and are logically organized.
- Practice, practice, practice!



Photo Credit: UN Women/Joe Saade, 2015, Guinea

Lesson 4.5: Evidence

Objective:

- Learn the different types of evidence used in child labour, forced labour, and human trafficking cases and how to introduce such evidence at trial.

Time:



1 hour and 50 minutes

Steps:

- Exercise 4.5.1: Evidence Energizer
 - 25 minutes
- PowerPoint Presentation 4.5: Evidence
 - 45 minutes
- Exercise 4.5.2: Admitting Evidence Drill
 - 40 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.5: Evidence
- Projector
- Handout 4.5.2A: Facilitator's Script
- Handout 4.5.2B: Pieces of Evidence

Evidence is any information or object presented by either party in a lawsuit to support its case. Common types of evidence include:

- Forensic evidence (fingerprints, blood stains, fibers, DNA, etc.)
- Physical evidence (weapons, objects found at a crime scene, etc.)
- Testimonial evidence (depositions, lay or expert testimonies in court, any permissible hearsay evidence, etc.)
- Electronic evidence (text messages, social media posts, e-mails, etc.)
- Illustrative evidence (photos, videos, graphs, charts, maps, etc.)
- Documentary evidence (letters, invoices, records, etc.)

Not all evidence is admissible to a court proceeding. Some evidence may be irrelevant to the present case. Some evidence may be highly prejudicial to a party. Some evidence may be so speculative or highly tainted that it only has a very minimal probative value. All such evidence is inadmissible. Admissibility is a threshold quality control mechanism for evidence, and a court can only consider evidence that has been properly admitted. For more information about how to properly collect and store evidence to increase its admissibility during trial, please refer to Module 2 (Investigation).

This lesson will first discuss common types of evidence that prosecutors may use to demonstrate each element of child labour, forced labour, and human trafficking. This can help prosecutors better guide the police and other law enforcement officers to investigate the crimes. Then, the lesson will discuss how prosecutors can introduce such evidence during trials, so that the court will consider it as admissible evidence.

Types of Evidence Used in Child Labour, Forced Labour, and Human Trafficking Cases

TYPES OF EVIDENCE USED IN CHILD LABOUR CASES:

As a reminder, the ILO defines child labour as “work” that:

- (1) is mentally, physically, socially, or morally dangerous and harmful to children; and/or
- (2) interferes with their schooling by:
 - (i) depriving them of the opportunity to attend school.
 - (ii) obliging them to leave school prematurely; or
 - (iii) requiring them to attempt to combine school attendance with excessively long and heavy work;²⁸

The Decent Work Act (2015) defines hazardous work that are prohibited for children as follows:

- i. work which exposes children to physical, psychological, or sexual abuse;
- ii. work underground, underwater, at dangerous heights or in confined spaces.
- iii. work with dangerous machinery, equipment, and tools, or which involves the manual handling or transport of heavy loads.
- iv. work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; or
- v. work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.²⁹

Whether or not particular forms of “work” can be called “child labour” depends on the child’s age, the type and hours of work performed, the conditions under which it is performed, and the objectives pursued by individual countries. The answer varies from country to country, as well as among sectors within countries.³⁰ For Liberia, the objectives to protect children can be found in various laws and regulations as well as best practices or ethical rules in different sectors. Relevant laws and regulations include the Decent Work Act (2015), the Revised Trafficking in Persons Act (2021), the Hazardous Work List, and the Light Work List.

Therefore, prosecutors should work with investigators trying to gather evidence in the following categories. The bullet points under each category show some examples of evidence in that category. The categories and examples are not exhaustive. Prosecutors can use their knowledge to expand and modify the following list. Prosecutors can also be creative in gathering evidence based on their understanding of the ILO definition of child labour and Liberian law regarding child labour and child protection in general.

I. Evidence of a Child’s Age

- Birth certificate, ID, or passport
- School certificate
- Certificate signed by a physician (such as medical evaluation of the child’s age)
- Sworn statement of the parents
- Dated pictures or other documents

28 *What is Child Labour*, International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO). <https://www.ilo.org/ipecc/facts/lang--en/index.htm>

29 Decent Work Act (2015) §21.4.

30 *What is Child Labour*, International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO). <https://www.ilo.org/ipecc/facts/lang--en/index.htm>

II. Evidence of a Child's Type and Hours of Work, and Conditions of Work

- Employment contract
- Paycheck
- Documents containing work schedules, time sheets, assigned tasks, or reprimands from employer
- Internet sites or recruiters used for recruiting children
- Witness statements (such as statements of police officers, co-workers, or friends)

III. Evidence of a Negative Impact on the Child's Education

- Documents attesting absence from school
- Documents showing that the child is working during school hours (e.g. timecards or attendance sheets) or abnormally long working hours before or after school
- Witness statements (such as statements of teachers, classmates, or neighbors)

IV. Evidence of Hazardous Work

- The workplace is underground, under water, at dangerous heights, or in confined spaces
- Employment contracts, witness statements, emails, or other forms of communication and work schedules may demonstrate that:
 - The work involves handling dangerous machinery, equipment, and tools.
 - Involves the manual handling or transport of heavy loads.
 - The working environment exposes the child to hazardous substances, agents or processes, or too high temperatures, noise levels or vibrations.
 - The working conditions are particularly difficult (e.g., long hours, night shifts or unreasonable confinement to the premises of the employer)
 - The child was subjected to physical, mental, or sexual abuse

TYPES OF EVIDENCE USED IN FORCED LABOUR CASES

In Liberia, forced labour means “labour or services obtained or maintained through force, threat of force, or other means of coercion or physical restraint.”³¹ Forced labour does not include compulsory military service, normal civic obligations of the citizens, service exacted in cases of public emergency, and minor communal services.³²

In order to prove forced labour occurred, prosecutors should work with investigators to collect evidence on the following elements:

- (1) “Labour or service” — evidence that labour or service is provided³³ and
- (2) “Obtained or maintained through force, threat of force, or other means of coercion or physical restraint” evidence of a threat such as criminal sanctions or various forms of coercion, such as violence, retention of identity documents, confinement or non-payment of wages³⁴

These elements are intertwined. For example, an adult employee’s consent may be invalid because the consent is obtained by deception or coercion.

31 Revised Trafficking in Persons Act (2021), Article I Section 1.

32 Convention Concerning Forced or Compulsory Labour, 1930 (No.29). (Entered into force 1 May 1932) Article 2(2). International Labour Organization (ILO). [hereinafter *Forced Labour Convention*] https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO.

33 *Forced Labour and Human Trafficking: A Handbook for Labour Inspectors*, International Labour Office (ILO), 2008, p. 4. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang--en/index.htm.

34 Ibid.

Examples of the types of evidence that can be used in forced labour cases are:

- Evidence of recruitment
 - Physical job posters, pamphlets, leaflets, etc.
 - Electronic advertisements, such as social media posts or messages, instant messages on mobile applications, etc.
 - Text messages of recruiting communications between the trafficker and the victim/survivor
- Evidence of lack of consent
 - Discrepancy between the initial recruiting materials or promises and the actual work conditions
 - Contract substitution or lack of employment contract
 - Withholding wages or nonpayment of wages
 - Threat to lose a wage that is due to the worker or the right to be protected from violence
 - Debt bondage (excessive fees paid by the worker for recruitment, transportation, food, accommodation, working tools, etc.)
 - Retention of identity documents
- Evidence of different/poor working conditions
 - Wage slips and other documentation showing violation of minimum wage laws
 - Lack of health and safety equipment
 - Evidence of people sleeping in what should be places of work exclusively
 - Lack of rest and vacations (long working hours every day, etc.)
 - Harsh penalties for non-conforming job performance
 - Retention of identity documents

TYPES OF EVIDENCE USED IN HUMAN TRAFFICKING CASES

The Revised Trafficking in Persons Act (2021), Article I, Section 1 defines human trafficking as “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” Thus, a prosecutor must generally prove three elements: (1) the act, (2) the means, and (3) the purpose. For the trafficking of children, prosecutors only need to prove act and purpose.³⁵

Accordingly, prosecutors should try to submit evidence in the following categories by working closely with investigators. The bullet points under each element show some examples of evidence in that category. Note that victim/survivor or witness testimony can be used as evidence to prove some or all the elements of trafficking in persons. Some of the evidence listed may be used to prove multiple elements. Furthermore, the examples are not exhaustive. Prosecutors can use their local knowledge to expand and modify the following list.

I. Evidence of Act:

- Recruitment
 - Physical job posters, pamphlets, leaflets, etc.
 - Electronic advertisements, such as social media posts or messages, instant messages on mobile applications, etc.
 - Text messages of recruiting communications between the trafficker and the victim/survivor

35 Revised Trafficking in Persons Act (2021), Article I Section 2(b)(ii) (“The recruitment, transportation, transfer, harboring or receipt of a child for the purposes of exploitation shall be considered ‘Trafficking in Persons’ even if this does not involve any of the means set out above in subsection 100 of this Act.”).

- Transportation,
 - Travel itinerary
 - Bus tickets, flight tickets, boarding pass stubs, etc.
 - Payment of travel details, receipts, invoices, etc.
- Harboring, or
 - Food and lodging provided
 - One-way locks on doors
 - Video cameras or monitoring devices
 - Forfeiture of passports and other travel documents
 - Security guards closely monitoring the premise
 - Exclusive transportation vehicles (police report or statements by people who procure or operate such vehicles)
- Receipt.
 - Wire transfers, ledgers, or bank statements linking recruiters and traffickers
 - Legal documents showing change in guardianship
 - Evidence of trafficked persons working at the location

II. Evidence of Means:

- The threat or use of force or other forms of coercion,
 - Injuries
 - Text messages, letters, etc. documenting threats
- Abduction,
 - Injuries or evidence of use of restraints
 - Weapons or restraints used to commit abduction
- Fraud,
 - Fake labour contract
 - False advertising
- Deception,
 - False promises
 - Documented lies
- The abuse of power or of a position of vulnerability, or
 - Documentation showing change in guardianship
- The giving or receiving of payments or benefits to achieve the consent of a person having control over another person.
 - Proof of a person's position of authority over another (such as being a child's teacher, community leader, etc.)
 - Bank statements, wire transfers, other financial documentation

OR

- Evidence of the victim/survivor's age to establish that the victim/survivor is a child so that there is no need to show further evidence of means.
 - Birth certificate
 - Passport or other ID card
 - School records

III. Evidence of Purpose of Exploitation:

- The prostitution of others or other forms of sexual exploitation,
 - Evidence of sexual intercourse or contact (including traces of semen, hair, or blood on victims/survivors, and on bedding)
 - Unwanted/unplanned pregnancy
 - Evidence that identifies related injuries, illness, or disease
 - Evidence that establishes the age of a victim/survivor (Liberia has increased penalties and additional charges that can be brought if the victim/survivor is a child)
 - Documents or electronic records that show prices for sexual services
 - Websites used for recruiting victims/survivors or selling sexual services
 - Sex toys, sexual implements, lubricants, sex work clothing, etc. — these may be evidence themselves, but may also have traces of biological evidence that could link them to individuals
 - Multiple keys or access instruments to hotels, brothers, or areas known for prostitution
 - Photographs or videos
 - Marks/tattoos on body
- Evidence of forced labour or services, slavery or practices similar to slavery, or servitude,
 - Evidence of violence (injuries) or restraint
 - Evidence that links a victim/survivor's injuries to a particular type of equipment
 - Evidence that links piece of equipment to an individual through fingerprints, hair, etc.
 - Employment Contracts (or lack thereof)
 - Evidence of people sleeping in what should be places of work exclusively
 - Wage slips and other documentation showing a violation of minimum wage laws
 - Lack of health and safety equipment
 - Hard labour, long hours
- Evidence of removal of human organs
 - Injuries and scars of the victim/survivor
 - Medication taken by the victim/survivor

How to Introduce Evidence at Trial

Relevant evidence that is not obtained through illegal procedures or means will be admissible unless any exclusionary evidentiary rule applies, such as rules that exclude certain types of out-of-court statements. Evidence is relevant when it tends to make a fact corresponding to an element of an offense more or less probable than what would be without that evidence.

In evaluating whether a piece of evidence is admissible, a judge generally will consider how the evidence is obtained, whether the evidence is relevant, reliable, and credible, and whether any exclusionary evidentiary rules will nonetheless exclude the evidence. To prove a fact with evidence, that evidence needs to be properly identified and traceable to the relevant fact. Evidence may face less or more scrutiny from the judge as to its integrity depending on the nature of the evidence. For example, electronic evidence must often be supported by authentication to support its reliability and credibility.

Evidence introduced at trial can be roughly divided into two types: (1) personal observation statements introduced through trial testimonies and (2) exhibits, such as documents, photographs, electronic, objects, substances, samples, etc. This section will discuss how to introduce evidence for admission at trial. The following paragraphs discuss some of the major issues that prosecutors will likely encounter in introducing evidence, such as how to lay the foundation for evidence, how to establish the chain of custody of evidence, how to deal with credibility issues of witness, how to introduce child witness, and how to introduce electronic evidence.

Laying the Foundation: When introducing an exhibit into evidence at trial, the prosecution must first properly “lay the foundation” for such evidence. Laying the foundation is the step in which the exhibit is identified, authenticated, and connected with an issue in the trial. Often, the foundation is established by a witness who can testify as to the identity and authenticity of the exhibit. Prosecutors can follow the eight steps below to lay the foundation for evidence at trial:

- (1) Ask introductory questions to orient the witness
- (2) Have the exhibit marked
 - “May I have the letter dated 1 December 2021 marked as Republic’s Exhibit X?”
- (3) Show the exhibit to opposing counsel
 - “Let the record reflect that I am showing Exhibit X to opposing counsel.”
- (4) Ask to approach the witness
- (5) Show the exhibit to the witness
 - “I am handing you what has been marked as Exhibit X for identification.”
- (6) Ask if the witness recognizes the exhibit
 - “Do you recognize Exhibit X?” OR “How do you recognize Exhibit X?”
- (7) Ask any other questions specific to this exhibit
- (8) Offer the exhibit into the evidence
 - “I produce Exhibit X as evidence.”

Once admitted, exhibits can be used in the courtroom and shown to any witness (your own witness and opposing parties’ witnesses) to:

- Corroborate testimony
- Impeach testimony
- Assist the witness in explaining testimony
- Refresh memory

Tangible objects: To introduce a tangible object as evidence, prosecutors and defense attorneys must show the following:

- The object is relevant
- It can be recognized visibly or by touch
- The witness is able to recognize it
- The witness knows what the object looked like at the relevant date
- The object is in the same condition as when seen by the witness on the relevant date

Chain of Custody: Chain of custody is the process used for collecting, documenting, and protecting evidence. See Module II for a more detailed discussion on maintaining a proper chain of custody, which is an important procedure that allows prosecutors to defend the reliability and credibility of the evidence. Common errors in maintaining a chain of custody include:

- Not labeling evidence or missing important information from labels
- Evidence being handled without gloves being worn
- Evidence not being bagged
- Evidence being mishandled, tampered, or damaged

During trial preparation, prosecutors should determine whether there is any defect in the chain of custody; whether there is still time to gather more evidence to overcome the defect; if some evidence cannot be used due to a defective chain of custody, whether other evidence still capable of proving all the elements of the offense, etc. Prosecutors should also be prepared to present a good chain of custody to the court and answer the judge's and opposing counsel's questions about it.

Credibility of the Witness: Witnesses must testify regarding the time, place, and circumstances of his or her personal observation. Speculation in the testimony is not acceptable. The testimony will be subjected to challenge for credibility. Witness credibility can be challenged on the following grounds:

- Competency (capacity to understand)
- Sensory limits (capacity to observe or hear)
- Memory (capacity to remember)
- Communication (capacity to respond to questions)
- Bias (capacity to be objective and free of conflicts of interest)

Prosecutors can use these grounds to assess the strength and weakness of a witness's testimony, to determine whether to let him or her testify at trial, to prepare the witness for trial testimony, and to anticipate and prepare an appropriate response to an attack of the witness's credibility by the opposing party. This process can not only enhance the prosecution's performance at trial, but also can help prosecutors weed out weak or unreliable testimonies, gather more evidence, and make informed prosecutorial decisions so that the limited governmental resources can be used in a way that will be more likely to result in successful prosecution.

Voir Dire of Child Witness and Corroboration of a Child Witness: Children might not understand the meaning of telling the truth in the court under oath. Voir dire is used to determine whether a child of a tender age, which in Liberia is children 12 years or younger:

- (1) understands the nature of an oath;
- (2) possesses sufficient intelligence; and
- (3) understands the duty to tell the truth.

If a child passes this examination, the court will receive the child's testimony. If a child fails the voir dire examination or if a judge fails to conduct the examination properly, the court may still receive the child's testimony as unsworn testimony if it determines that the child has sufficient intelligence and understands the duty to tell the truth. For children up to at least the age of 11, additional evidence is required to corroborate the child's testimony, such as another competent witness's testimony.³⁶ If the child's testimony cannot be corroborated, the court may exclude the child's testimony.

Prosecutors should make sure they are familiar with the rules for admitting a child's testimony. If the prosecution's case heavily relies on a child's testimony, the prosecutor should be prepared (preferably with some credible corroborating evidence) to establish the credibility of the child's testimony in court.

Admission of Electronic Evidence: Admitting electronic evidence is becoming increasingly important in child labour, forced labour, and human trafficking cases as more and more perpetrators now use online platforms to recruit and control their victims/survivors. Electronic evidence could include social media posts and messages, text messages, instant messages on mobile applications, web browsing and online searching histories, login histories and account information, etc. Refer to Lesson 2.4 for more information on electronic evidence.

Electronic evidence is generally admissible. According to Liberian law, "without prejudice to any rules of evidence, an electronic record shall not be denied admissibility in evidence in any legal proceeding on the sole ground that it is an electronic record."³⁷

Several types of electronic evidence are addressed in Liberia's Electronic Transactions Law. An "electronic record" is defined as "a record generated in digital form by an information system, which can be:

- (a) Transmitted within an information system or from one information system to another; and
- (b) Stored in an information system or other medium."³⁸

"Information" includes data, text, images, sound codes, computer programs, software and databases."³⁹

Documents that are required to be retained in their original form can be stored electronically. Keeping electronic records is permissible provided the following three requirements are met:

- The electronic records accurately reflect the information set forth in the original form;⁴⁰
- The electronic records stay accessible to all of the people entitled to access them for the required time in a form that can be accurately reproduced for future reference;⁴¹ AND
- There exists a reliable assurance as to the integrity of the information from the time when it was first generated in its final form."⁴²

Electronic output may be considered a document for admissibility purposes. Generally, to be considered a document, the output must have been produced during regular use; it must be of a type expected in ordinary use; and the computer/ other device generating the output must have been operating properly. For example, bank records are often admissible if they were made in the usual and ordinary course of business and the book is in the custody of the bank. The safest way to authenticate an electronic record for use in court is via a certificate. When using a certificate for authentication, the certificate should identify the electronic record and the manner of production; provide details on the device that produced the electronic record, such as make, brand, type, and/or serial number; and be signed by the responsible person.

36 *Settro v. Republic* (Oct. Term 2007).

37 An Act Amending the General Business Law, Title 14 of the Liberian Code of Laws Revised, By Adding Thereto Chapter 13 to Facilitate the Use of Electronic Transactions for Commercial and Other Purposes, and to Provide for Matters Arising from and Related to Such Use, 2002, Section 13.13 [hereinafter *Electronic Transactions Law* (2002)].

38 *Electronic Transactions Law* (2002), Section 13.2.

39 *Electronic Transactions Law* (2002), Section 13.2.

40 *Electronic Transactions Law* (2002), Section 13.8 (a).

41 *Electronic Transactions Law* (2002), Section 13.8 (b).

42 *Electronic Transactions Law* (2002), Section 13.8 (c).

A witness with personal knowledge of electronic evidence, such as an electronic message, can often be used to verify the authenticity of the evidence. For example, the person who wrote the message testifies to its authenticity, or a person who saw the message being authored or received can testify about the identity of the author or recipient of the message. Independent witnesses are often required to testify as to other matters, such as verifying that evidence was seized properly. Videotaping the seizure of electronic evidence is a best practice.

Circumstantial evidence can also be used to verify authenticity. This can be done by showing unique ties to the purported author such as a known email address or phone number; the use of an electronic signature, username, nickname, business logo, etc.; the name as stored on the recipient's phone; and the use of the same email address or phone number on prior occasions. Unique facts used in messages can also help verify the sender's identity, such as facts only a small number of people would know or containing personal information or contact information of family members. Additionally, a witness could testify that the author told him or her to expect the message before it was sent, or that the sender acted in accordance with and responded to the message. Linking the activity to an IP address associated with the user can also help verify authenticity.

Even if admitted into evidence, the weight given to electronic evidence is guided by:

- The reliability of the manner in which the evidence was generated, stored, or communicated,
- The reliability of the manner in which the evidence was maintained,
- The manner in which the originator of the evidence was identified, and
- Any other relevant factor

Depending on the complexity of the electronic evidence, expert witnesses may be needed to testify about the workings or contents of a device, hard drive, cloud, etc. to explain what was found and how the device or account functions. Testimony by an expert witness would likely increase the reliability and weight of the electronic evidence in the eyes of the factfinder.

Admission of Forensic Evidence: Typically, forensic evidence has the same rules as physical evidence for use at trial. However, lawyers often use expert witnesses, rather than lay witnesses, to introduce forensic evidence at trial. Expert testimony about the forensics conducted can be provided by either the person who conducted the analysis or an expert with similar qualifications. If the expert is not sufficiently qualified, the evidence could be challenged in court (see more on examining an expert witness in Lesson 4.4). The evidence should have been analyzed by an expert following a proper procedure, and the expert should be prepared to detail that procedure during their testimony. Like all physical evidence, the evidence must be related to a fact or issue in the case and must have been properly obtained to be admissible in court.

Exercise 4.5.1: Evidence Energizer

Objective:

- To start thinking about evidence in child labour, forced labour, and human trafficking cases and how it can be useful during a prosecution.

Time:



25 Minutes

Materials and Preparation:

- Flipchart
- Markers
- Notecards
- Pens/pencils
- Copies of one ETP Case Study (facilitator can select the case study that is most relevant for the training)

Steps:

- Explain to the participants the objectives of the exercise.
 - 2 minutes
- Give each participant one notecard. Read one of the ETP case studies aloud, or have the participants read the case study independently if they have their own copies. Have each participant write down one piece of evidence they think would be useful at trial.
 - 5 minutes
- Have participants get out of their seats and group themselves with people who have the same answers, they will need to ask each other what their answers are. Once they are in groups, have each group determine why they think their evidence would be useful and what element it helps prove.
 - 5 minutes
- Have each group present what need they have identified, why they think it would be useful, and what element they think it helps prove. The facilitator should write down the evidence and the element that each piece is linked to on the flipchart. At the end, the facilitator should review the different elements of the crimes that the groups identified evidence for.
 - 10 minutes
- Wrap up with key messages below.
 - 3 minutes

Key Messages:

- Evidence can be used to prove different elements of a crime.
- Multiple pieces are needed to prove the different elements of crimes and different charges.

Exercise 4.5.2: Admitting Evidence Drill

Objective:

- To practice the process of laying the foundation for introducing an exhibit into evidence at trial.

Time:

 40 Minutes

Materials and Preparation:

- Flipchart (can also use chalkboard or whiteboard)
- Handout 4.5.2A: *Facilitator Script*
- Identify and review local rules for admitting evidence
- Cut out pieces of evidence Handout 4.5.2B: *Pieces of Evidence* and place at the front of the room
- Write the following (or local rules for admitting evidence, should they differ) in large font so that it is easy for participants to see (if possible, on two separate sheets of flipchart paper):

Admitting Evidence Steps

- (1) "May I have the description of item marked as Prosecution Exhibit 1?"
- (2) "Let the record reflect that I am showing Exhibit 1 to opposing counsel."
- (3) "May I approach the witness?"
- (4) "I am handing you what has been marked as Exhibit 1 for identification."
- (5) "Do you recognize Exhibit 1?"
- (6) "How do you recognize Exhibit 1?"
- (7) *Magic words*
- (8) "Your Honor, I would like to produce Exhibit 1 as evidence."

Magic Words: Questions specific to the type of exhibit

Unique Objects — Weapon:

- (1) "How do you know this is the same gun that was found at the crime scene?"
- (2) "Does it look the same as it did at the time of the event?"

Photographs — Crime Scene Photo:

- (1) "Did you take this photo?"
- (2) "Does it fairly and accurately show what the scene looked like on the date and time in question?"

Business Records — Accounting Record:

- (1) "Was this made in the regular course of business?"
- (2) "Was it made around the time of the event?"
- (3) "Was it produced by someone who had knowledge of the event?"

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Instruct participants to form a line in front of the facilitator.
- Starting at the front of the line, each participant will attempt to admit evidence by following exactly the steps on the Admitting Evidence and Magic Words posters. The facilitator will act as the judge/witness, following along with the script.
- If the participant misses a step, the facilitator shall buzz and the participant will move to the end of the line to try again. Participants proceed through the line until everyone has correctly admitted the required piece of evidence.
- Repeat three times, each time for the introduction of a different kind of evidence: a weapon, a crime scene photo, and an accounting record.
 - 30 minutes
 - Note: If there is more than one trainer in the room, you can form multiple lines in order to give trainees more time and practice admitting exhibits.
- Close the activity by discussing with participants the key messages, their new comfort level admitting evidence, and what they have learned.
 - 5 minutes

Key Messages:

- Before a judge will admit evidence into the record, the lawyer must lay the foundation for that piece of evidence.
- “Laying the foundation” is the step in which the exhibit is identified, authenticated, and connected with an issue in the trial.
- While every piece of evidence is unique, most of the steps to admit evidence stay consistent. By participating in this drill, participants will be able to remember the key steps to admitting evidence.

HANDOUT 4.5.2A: FACILITATOR SCRIPT

Note: If there are two facilitators in the room, one facilitator should play the judge, and one facilitator should play the witness. If there is one facilitator, they can play both roles.

Participant	Facilitator (Judge/Witness)
"May I have the [description of item] marked as Prosecution Exhibit 1?"	"Let the [item] be marked as Prosecution Exhibit 1."
"Let the record reflect that I am showing Exhibit 1 to opposing counsel."	
"May I approach the witness?"	"You may approach the witness."
"I am handing you what has been marked as Exhibit 1 for identification."	
"Do you recognize Exhibit 1?"	"Yes."
"How do you recognize Exhibit 1?"	Chainsaw: "It is the chainsaw found at the crime scene."
	Crime Scene Photo: "It is a photo of the crime scene."
	Accounting Record: "It is an accounting record for XYZ Corporation."
Magic words	
Chainsaw: (1) "How do you know this is the same gun that was found at the crime scene?" (2) "Does it look the same as it did at the time of the event?"	Chainsaw: (1) "I recognize it by the serial number." (2) "Yes."
Crime Scene Photo: (1) "Did you take this photo?" (2) "Does it fairly and accurately show what the scene looked like on the date and time in question?"	Crime Scene Photo: (1) "Yes." (2) "Yes."
Accounting Record: (1) "Was this made in the regular course of business?" (2) "Was it made around the time of the event?" (3) "Was it produced by someone who had knowledge of the event?"	Accounting Record: (1) "Yes." (2) "Yes, the record is dated on the day of the event." (3) "Yes, I created the record as part of my role as an accountant for XYZ Corporation."
"Your Honor, I would like to produce Exhibit 1 as evidence."	"Exhibit 1 is admitted into evidence."

HANDOUT 4.5.2B: PIECES OF EVIDENCE

Chainsaw:



Crime Scene Photograph:



Accounting Record:



Lesson 4.6 Mutual Legal Assistance (MLA)

Objective:

- Learn what MLA is and how to request MLA.

Time:



55 minutes

Steps:

- PowerPoint Presentation 4.6: Mutual Legal Assistance (MLA)
 - 15 minutes
- Exercise 4.6.1: Mutual Legal Assistance Discussion
 - 40 minutes

Supplies:

- Flip chart
- Markers
- PowerPoint Presentation 4.6: Mutual Legal Assistance
- Projector

Child labour, forced labour, and human trafficking can be transnational crimes. If so, national borders will be additional hurdles for prosecutors to overcome to pursue evidence, suspects, and victims/survivors located in foreign states. In this case, prosecutors should consider using Mutual Legal Assistance (“MLA”) to gather the information they want and need from foreign states.

MLA is a process by which states seek and provide assistance to other states in servicing of judicial documents and in gathering evidence for use in criminal cases.⁴³ MLA can be based upon bilateral or multilateral MLA treaties between or among the states. If no such treaties exist, the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto (“Organized Crime Convention”) provides a framework for state parties to follow. Article 18 of the Organized Crime Convention provides some examples of the purposes that MLA can be requested for:

- Taking evidence or statements
- Effecting service of judicial documents
- Executing searches and seizures
- Examining objects and sites
- Providing information, evidence, expert evaluations, documents, and records
- Identifying or tracing proceeds of crime, property, or instrumentalities for evidentiary purposes and their seizure for the purpose of confiscation
- Facilitating the appearance of witnesses
- Any other type of assistance not barred by domestic law

⁴³ *Mutual Legal Assistance (MLA)*, United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html>.

When considering MLA from a foreign state, prosecutors should first research whether there is an MLA treaty between their state and the foreign state. If such a treaty exists, the prosecutor should follow the procedures set out in the treaty to request the MLA. If there is no such a treaty, the prosecutor should generally follow the domestic law requirements regarding MLA.⁴⁴ If the domestic law is unclear, the prosecutor can look up to the Organized Crime Convention for guidance, because the Convention requires its States Parties to fully afford each other mutual legal assistance.⁴⁵

Article 18 of the Organized Crime Convention prescribes that a request for MLA shall contain:

- (a) The identity of the authority making the request;
- (b) The subject matter and nature of the investigation, prosecution, or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution, or judicial proceeding;
- (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
- (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
- (e) Where possible, the identity, location, and nationality of any person concerned; and
- (f) The purpose for which the evidence, information, or action is sought.

In addition to the above requirements, MLA treaties increasingly require that States Parties designate a central authority (usually the Ministry of Justice) to whom requests can be sent.⁴⁶ Therefore, even if there is no MLA treaty, it is still recommended that prosecutors designate the central authority in their requests of MLA.

The United Nations Office of Drugs and Crime (“UNODC”) has developed computer software that can help prosecutors write MLA requests that conform with all of the requirements of the Organized Crime Convention.⁴⁷ This MLA tool can be linked to the UNODC Directories of Competent National Authorities (“CNA”)⁴⁸ to retrieve the CNA contact information for use in the preparation of MLA requests. Additionally, the International Criminal Police Organization (INTERPOL) is a good resource to facilitate MLA exchanges.

In Liberia, the Mutual Legal Assistance in Criminal Matters Act (2012) added a new Chapter 9 (Mutual Legal Assistance in Criminal Matters) to the Liberian Criminal Procedure Law.⁴⁹ This chapter mandates that the Ministry of Justice in collaboration with the Financial Intelligence Unit have the power to make MLA requests on behalf of the Republic of Liberia through the Ministry of Foreign Affairs to the appropriate authority of a foreign State.⁵⁰ §9.6 details what MLA requests the Ministry of Justice can make, for example, to request a foreign State to provide information, evidentiary items, and expert evaluations, or to locate and restrain any property believed to be the proceeds of crime located in the foreign State.⁵¹ §9.7 describes the required content of requests for MLA. Besides some formatting requirements, §9.7 says a request for MLA shall contain exactly the same six types of information as required by Article 18 of the Organized Crime Convention as listed above.⁵²

The Liberian government can deny a foreigner’s request of MLA if the request:⁵³

- (i) Is not made in conformity with Liberian laws

44 A vast majority of UN Member States are Parties to the Organized Crime Convention, so we assume that most countries’ domestic laws are in line with the Convention. In practice, it could be very rare where the domestic laws directly contradict the Convention. If you doubt whether the domestic law or the Convention should be followed, you are likely facing a complex legal question. Consultation with international or constitutional law experts may be warranted.

45 *Mutual Legal Assistance (MLA)*, United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html>.

46 Ibid.

47 *Mutual Legal Assistance Request Writer Tool*, United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/mla/>.

48 *Online Directories of Competent National Authorities*, United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/unodc/en/legal-tools/directories-of-competent-national-authorities.html>.

49 An Act to Establish the Mutual Legal Assistance in Criminal Matters Act, 2012.

50 Criminal Procedure Law §9.5.

51 Criminal Procedure Law §9.6.

52 Criminal Procedure Law §9.7.

53 Criminal Procedure Law §9.5.

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- (ii) Is likely to prejudice Liberia's sovereignty, security, public order, or other national or essential interests
 - (iii) Is prohibited by Liberian law and the action requested with regard to any similar offense, had it been subject to investigation, prosecution, or judicial proceedings in Liberia
 - (iv) If granted, would be contrary to the Liberian legal system

These reasons to refuse MLA also closely track the provisions of Article 18 of the Organized Crime Convention. Other countries from which you may request MLA may also have similar domestic laws if they have ratified the Convention. Except for these reasons, other countries generally cannot deny your request for MLA. If you have the resources, it can be helpful to research the foreign country's relevant laws before you request MLA, especially how to make a request in conformity with that country's laws.

Exercise 4.6.1: Mutual Legal Assistance

Discussion

Objective:

- To discuss prosecutors' experience with mutual legal assistance (MLA).

Time:



40 Minutes

Materials and Preparation:

- Flipchart and markers to take notes
- Handout 4.4.2B: *Prosecution Witnesses* (Statement of Sébastien Sucré)

Steps:

- Explain to the participants the objectives of the exercise.
 - 5 minutes
- Ask for volunteers to answer the following questions:
 - Have you ever used mutual legal assistance?
 - What did you use MLA to request?
 - How did it work?
 - How long did it take?
 - Did you receive what you had requested?
 - Was there an MLA treaty in place with the state from which you were requesting assistance?
 - What were some challenges you faced?
 - If you received assistance, did it help your case? How?
 - How can mutual legal assistance be used for human trafficking, child labour, and forced labour prosecutions?
 - Referring to the case file, how can you use mutual legal assistance to charge against the European buyer?
- 35 minutes

Key Messages:

- Because the crimes of child labour, forced labour, and human trafficking can be transnational, national borders be additional hurdles for prosecutors to overcome to pursue evidence, suspects, and victims/survivors located in foreign states.
- Prosecutors should consider using MLA to gather the information they want and need from foreign states.

List of Sources

1. An Act to Repeal Title 18 of the Executive Law, Labour Practices Law and to Establish in Lieu Thereof the Decent Work Act, 2015 [*Decent Work Act* (2015)]
2. *Convention Concerning Forced or Compulsory Labour, 1930 (No.29)*. (Entered into force 1 May 1932) International Labour Organization (ILO). [*Forced Labour Convention*] https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO
3. *Forced Labour and Human Trafficking: A Handbook for Labour Inspectors*, International Labour Office (ILO), 2008. https://www.ilo.org/global/topics/forced-labour/publications/WCMS_097835/lang-en/index.htm
4. *What is Child Labour*, International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO). <http://www.ilo.org/ippec/facts/lang-en/index.htm>
5. *Mutual Legal Assistance (MLA)*, United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/e4j/en/organized-crime/module-11/key-issues/mutual-legal-assistance.html>
6. *Mutual Legal Assistance Request Writer Tool*, United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/mla/>
7. *Online Directories of Competent National Authorities*, United Nations Office on Drugs and Crime (UNODC). <https://www.unodc.org/unodc/en/legal-tools/directories-of-competent-national-authorities.html>
8. *Mutual Legal Assistance in Criminal Matters Act* (2012)
9. An Act Amending The General Business Law, Title 14 of The Liberian Code of Laws Revised, By Adding Thereto Chapter 13 to Facilitate the Use of Electronic Transactions for Commercial and Other Purposes, and to Provide for Matters Arising From and Related to Such Use (2002) [*Electronic Transactions Law* (2002)]
10. An Act to Amend the New Penal Code, Chapter 14 Sections 14.70 and 14.71 and to Provide for Gang Rape (2006) (Liberia) [*Rape Amendment Act* (2006)]
11. *Constitution of Liberia* (1986)
12. *Dennis v. Republic*, 18 LLR 220 (1968)
13. *Fallah v. Republic* (Mar. Term 2007)
14. *Civil Procedure Law*, Title 1, Liberian Code of Laws Revised [*Civil Procedure Law*]
15. *Settro v. Republic* (Oct. Term 2007)
16. *Revised Act to Ban Trafficking in Persons Within the Republic of Liberia*, of September, 2021 [*Revised Trafficking in Persons Act* (2021)]
17. *Criminal Procedure Law*, Title 2, Liberian Code of Laws Revised [*Criminal Procedure Law*]
18. *Toe v. Republic*, 24 LLR 462 (1976)