

## **LESSON 4: International Criminal Court (ICC) Simulation**

### **OVERVIEW:**

In this summative performance task, students will assume the roles of judges, lawyers, defendant(s) and witnesses to conduct a trial of the International Criminal Court (ICC). The topic of this trial is the 2020 Nagorno-Karabakh crisis between Armenia and Azerbaijan. Students will research the background of the conflict and the parties involved, and produce charges for one or more persons from one or more countries to be tried before the ICC according to charges laid out in the Rome Statute. A whole-class reflection will culminate the activity.

The primary document for conducting the trial is **The Rome Statute**. Lawyers and judges will need to be the most familiar with it.

Teachers can reference **Handout 1: Suggestions for the Simulation** for conducting the trial are at the back of the lesson.

### **STANDARDS:**

PS3.c.h: Power in government: Evaluate the structure and functions of governments at the local, state, tribal, national, and global levels. Evaluate the purpose of political institutions at the local, state, tribal, national, global, and supranational or non-government organization (NGO) levels distinguishing their roles, powers, and limitations.

SS.PS4.a.h Create arguments by researching and interpreting claims and counterclaims.

### **OBJECTIVES:**

Students will be able to:

- I. Conduct a simulation of the International Criminal Court (ICC).
  
- II. Apply the definitions of genocide, war crimes and crimes against humanity to the 2020 Nagorno-Karabakh conflict.
  
- III. Construct and evaluate a claim about which person(s) should be held responsible for the 2020 Nagorno-Karabakh conflict.

**ESSENTIAL KNOWLEDGE:** Students should be able to define and begin to find the significance of:

Genocide  
Ethnic Cleansing  
Crimes Against Humanity  
War Crimes  
International Criminal Court (ICC)  
ICC Prosecutor  
The Hague

**DURATION:** 6 class periods

**MATERIALS (one per student):**

- One copy of **The Rome Statute**
- One laptop/Chromebook & access to Google Docs and YouTube
- One copy of **Handout 2: International Criminal Court Simulation – Reflection Questions**
- One copy of **Handout 3: Simplified Motions and Objections**
- One copy of **Handout 4: Resources**
- One copy of teacher-generated backchannel discussion (for witnesses only)
- Student-created notes from previous days of instruction on the ICC and the 2020 Nagorno-Karabakh conflict

**PROCEDURE – WORK DAY 1:**

- I. Assemble your student roles for the trial through student or teacher selection. Students should have done background work on the case prior to their meeting today, and may have thoughts on which witness or defendant roles to take. Suggestions for the numbers of students in each role are:
  - a. Judges (3 – one picked to serve as a Lead Judge)
  - b. Prosecution Lawyers (3-5 – one of them will give an Opening Statement and another will give a Closing Statement)
  - c. Defense Lawyers (3-5 – one of them will give an Opening Statement and another will give a Closing Statement)
  - d. Defendants (1 or more) – may be a civilian, soldier, military or political leader
  - e. Witnesses (all remaining students) – may be political leaders, soldiers regardless of rank, civilians (including juveniles), journalists, expert witnesses from NGOs (ex. Amnesty International, Human Rights Watch)
  - f. Teachers should modify the numbers depending on class size and composition. It is suggested that they don't cut down too far on the number of lawyers since those students can do a larger amount of work than some smaller witness roles.
  
- II. Students should already have done background work on the conflict & thought about potential charges. All students will be engaged in work time.
  - a. The hardest part of the pre-trial work will be:
    - i. To determine which defendant(s) to charge, and
    - ii. To determine which charge(s) they should face

Students should attempt to find real people who would really be brought to the ICC for trial in the real world. These defendants could be: Heads of Government (presidents, prime ministers), military leaders or rank-and-file soldiers, other politicians or civilians. Consult the articles from **Handout 4: Resources** to find people involved in the crisis. The charges should come from Articles 6-8 of **The Rome Statute**.

- b. Prosecution attorneys and the judges will meet together in Pre-Trial Chambers to go over the evidence and Articles 6-8 of the Rome Statute. Students should have done background work on the case prior to their meeting today.
- c. By the end of today's class, the Prosecution and judges should agree on the set of charges for the defendant(s) and they will need to publish them to the Defense.

- d. After publishing the charges, the Prosecution should meet with witnesses. Lawyers should divide up the witnesses to equalize workload, and only lawyer should direct or cross a witness.
  - e. Assuming the defendants are known ahead of time, defense attorneys will begin class by meeting with their client(s) and plotting a strategy. This work will greatly increase once the list of charges are published. They should also begin meeting with witnesses. Lawyers should divide up the witnesses to equalize workload, and only lawyer should direct or cross a witness.
  - f. By the end of today's class, the lawyers for both sides who are delivering the Opening and Closing Statements should be picked.
  - g. Witnesses should be engaged in research on their person and finding evidence to correspond to their person. They should be ready to share their information and any associated video evidence with both legal teams. All witnesses will need to be called to testify in the trial by either the Prosecution or Defense, so the sides will need to be ready to direct or cross examine each witness.
- III. Conclude class by walking around and checking in with all groups. Bring the class together as a whole for the last five minutes to see where everyone is in the preparation and where they will be starting tomorrow.

## **PROCEDURE – WORK DAY 2:**

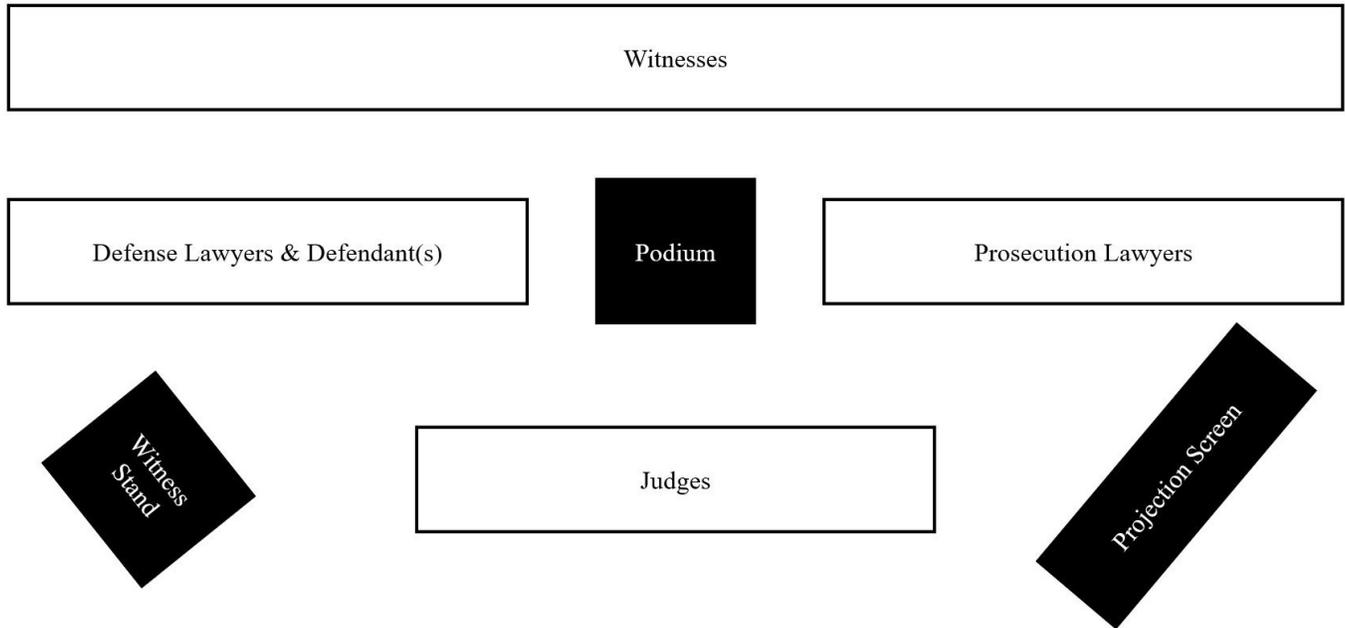
- I. Begin class by getting students into the same groups as Work Day 1.
- II. At the start of class, a list of all of the student witnesses should be published to the class. All witnesses will need to be called to testify in the trial by either the Prosecution or Defense. At the start of class, both prosecution and defense sides should say out loud in front of the class whether they plan to call the witness for direct examination. Then the other side knows to prepare for that witness for cross examination. If they haven't done it yet, lawyers from both sides can then divvy up the witnesses & determine which lawyers will handle direct and cross examination.
- III. Both Prosecution and Defense teams will meet with witnesses to discuss the case. Evidence should be shared & potential questions/topics will be discussed. Lawyers should divide up the witnesses to equalize workload, and only lawyer should direct or cross a witness.
  - a. Lawyers who are directing their witnesses should be sure that there are no surprises for what they will ask their witnesses. On the other hand, lawyers who are cross-examining a witness should not tip their hands before the trial begins but may want to make sure that a witness has knowledge of a topic or event that will come up in questioning.
  - b. By the end of class, lawyers for both sides who are delivering the Opening and Closing Statements should be give a rough draft of their statement to their own sides for critique and edits.
- IV. Judges will meet together as a group to discuss the charges and what they know of the background knowledge but they are not to come to any sort of judgement or agreement on their thoughts of the guilt or innocence of the defendant(s).
- V. Witnesses should be engaged in research on their person and finding evidence to correspond to their person. They should be ready to share their information and any associated video evidence with both legal teams when they are called.

- VI. Conclude class by walking around and checking in with all groups. Bring the class together as a whole for the last five minutes to see where everyone is in the preparation. Prepare students ahead of time for the layout for of the class for trial and what student responsibilities will be.

## PROCEDURE – ICC TRIAL DAY 1:

- I. Teacher will need to setup room layout before students enter and sit in assigned seats. See “Figure 1: ICC Seating” below for a room layout suggestion:

**Figure 1: ICC Seating**



- II. Judges will enter & sit at head table while lawyers, defendant(s) & witnesses are already present in the room.
- III. The pre-selected Lead Judge will read the individual charges against the defendant(s), who will enter pleas.
- IV. Both Prosecution and Defense lawyers will give Opening Statements.
- A single Prosecution lawyer will approach the podium and give an opening statement. Their statement should address the charges, introduce a line of reasoning or theme, briefly mention witnesses that will be called, and lay out the case. They may have a written outline of it to reference, or give it from memory.
  - Following the Prosecution, a single Defense lawyer will give a similar opening statement, doing the same as the Prosecution.
  - Opening statements should last approximately 2-5 minutes each.
- V. The Prosecution will call their witnesses.
- Prosecution lawyers will direct their witnesses, with Defense lawyers available to object and cross examine them. Only one Prosecution lawyer should direct and one Defense lawyer should cross each individual witness – no tag-teaming with multiple lawyers on one side.
  - Judges may ask clarifying questions of the witnesses, but this should be done selectively at the end of the witness examination before the witness steps down.
  - If there are motions or objections (ex. leading question, hearsay), both sides may state their case. Judges will confer, with the Lead Judge rendering a decision (sustained or overruled). See handout for “Simplified List of Objections and Motions.”

- VI. If done calling witnesses, then the Prosecution should rest their case by the end of the period and the Defense should prepare to begin their defense on Day 2. However, the Prosecution may still have witnesses to call by the end of the period.
  
- VII. As part of examining witnesses, other evidence may be entered at this time.
  - a. The Prosecution may move to introduce evidence into the trial – such as a video clip. They must make a motion to introduce the evidence.
  - b. The Defense can object and challenge its admission for a legal reason (ex. relevance, hearsay) but they cannot object to its introduction simply because they do not like it or it hurts their case.
  - c. While evidence is usually entered on direct examination, the opposing side can enter evidence on cross examination.
  - d. After the evidence is entered and viewed, the Defense may again object to it on legal grounds (ex. relevance, hearsay) but not purely because it hurts their case.
  - e. The same rules will apply when the Defense will enter evidence on direct examination with their witnesses.
  - f. The Defense should be prepared for the chance that the Prosecution will introduce a piece of evidence that the Defense would like to use later in their direct examination. They may wish to make the Court aware of this, or attempt to address it at that moment as part of their cross examination.
  
- VIII. Throughout the trial, all witnesses will engage in a backchannel discussion via Google Doc. Lawyers & Judges will not have access to this or see it. This can be used for graded or non-graded reflection or participation, and it will serve as the basis for their post-trial discussion.
  
- IX. Throughout the trial, all judges will need to take notes on the lawyers, witness testimony and video evidence. This will form the basis of their verdict(s) at the end of the trial.
  
- X. Conclude the class by issuing the following reminders:
  - a. Witnesses should update their backchannel conversations & those that weren't called today should be prepared to be called tomorrow.
  - b. Judges should finish their trial notes.
  - c. Prosecution lawyers should prepare to wrap up their direct examination quickly tomorrow if they did not do so today.
  - d. Defense lawyers should prepare to present their case tomorrow.
  - e. All lawyers should confer in preparation for tomorrow and plan ahead for closing statements.

## **PROCEDURE – ICC TRIAL DAY 2:**

- I. If the Prosecution did not finish the direct examination of their witnesses, then they will pick up where they left off with their witnesses – see “Procedure ICC Trial – Day 1 – Step V.”
  
- II. Prosecution should rest their case today.
  
- III. Defense will begin their case today and call their first witnesses.

- a. Defense lawyers will direct their witnesses, with Prosecution lawyers available to object and cross examine them. Only one Defense lawyer should direct and one Prosecution lawyer should cross each individual witness – no tag-teaming with multiple lawyers on one side.
  - b. Judges may ask clarifying questions of the witnesses, but this should be done selectively at the end of the witness examination before the witness steps down
  - c. If there are motions or objections (ex. leading question, hearsay), both sides may state their case. Judges will confer, with the Lead Judge rendering a decision (sustained or overruled). See handout for “Simplified List of Objections and Motions.”
  - d. See “Procedure ICC Trial – Day 1 – Step V.”
- IV. If done calling witnesses, then the Defense should rest their case by the end of the period. However, the Defense may still have witnesses to call by the end of the period.
- XI. As part of examining witnesses, other evidence may be entered at this time.
- a. The Defense may move to introduce evidence into the trial – such as a video clip. They must make a motion to introduce the evidence.
  - b. The Prosecution can object and challenge its admission for a legal reason (ex. relevance, hearsay) but they cannot object to its introduction simply because they do not like it or it hurts their case.
  - c. While evidence is usually entered on direct examination, the opposing side can enter evidence on cross examination.
  - d. After the evidence is entered and viewed, the Prosecution may again object to it on legal grounds (ex. relevance, hearsay) but not purely because it hurts their case.
  - e. At this stage, it is usually not encouraged for either side to re-introduce a piece of evidence that has already been viewed. The Defense may need to do so if they weren’t prepared for the chance that the Prosecution showed a video clip that the Defense wanted to use later. The Prosecution had their chance to introduce evidence at the start of the trial, so they should not have saved much evidence to show at this stage unless they have something that is very pointed and directed at a specific witness for a specific purpose.
  - f. See Procedure ICC Trial – Day 1 Step VII.”
- V. Witnesses will continue to make their backchannel discussion entries throughout the period.
- VI. Judges will continue to take notes on the lawyers, witness testimony and video evidence.
- VII. Conclude the class by issuing the following reminders:
- a. Witnesses should update their backchannel conversations.
  - b. Judges should finish their trial notes.
  - c. Defense lawyers should prepare to wrap up their direct examination quickly tomorrow if they did not do so today.
  - d. All lawyers should confer in preparation for tomorrow and plan ahead for closing statements.

### **PROCEDURE – ICC TRIAL DAY 3:**

- I. If the Defense did not finish the direct examination of their witnesses, then they will pick up where they left off with their witnesses – see “Procedure ICC Trial – Day 1 – Step V.”
  
- II. Defense should rest their case today.
  
- XII. Both Prosecution and Defense lawyers will give Closing Statements.
  - a. A single Prosecution lawyer (if possible, not the same one who did the opening statement) will give a closing statement. Their statement should review the case theme, remind the court of the witness testimony, and demonstrate which evidence proved their position on the charges.
  - b. A single Defense lawyer (if possible, not the same one who did the opening statement) will give a similar closing statement, doing the same as the Prosecution.
  - c. Closing statements should last approximately 2-5 minutes each.
  
- XIII. Judges will confer to determine judgement on the merits of the case and charges.
  - a. Judges will retreat to a separate room or hallway outside the view of the class to deliberate the charges (see Rome Statute Articles 74-78). They will debate and vote on each individual charge. Votes to convict the defendant(s) must strive to be unanimous but they can be decided by a majority vote.
  - b. If the judges agree on a guilty verdict on any or all charges, they also may decide on punishment. Charges carry a maximum penalty of 30 years, or life imprisonment “when justified by the extreme gravity of the crime and the individual circumstances of the convicted person.”
  
- XIV. Once judges return to the courtroom, the Lead Judge will read the charges and the decision of the judges, including any penalties. Then they will adjourn the court.
  
- XV. Witnesses will continue to make their backchannel discussion entries throughout the period and submit them by the end of class.
  
- VIII. Conclude the class by issuing the following reminders:
  - a. Thank your students for their professional work in engaging in such a challenging simulation.
  - b. Acknowledge that many of them may have strong feelings or questions about what happened during the simulation. Remind them that you will meet together tomorrow (potentially back in your usual classroom) for reflection on the trial.

### **PROCEDURE – ICC TRIAL DAY 4 - REFLECTION:**

- I. Class will meet back in the usual classroom to reflect on the trial.
  
- II. Class will engage in a discussion about the class ICC simulation. There are many options for how to sit the class groups and structure the class discussion:

- a. In a whole class format, they sit in the same groups from the previous three days – all prosecution lawyers together, all defense lawyers together, all judges together and all witnesses together.
  - b. Also with the whole class, the prosecution and defense lawyers can sit facing the rest of the class to answer the questions from the student witnesses who watched the trial.
  - c. Engage in multiple small group discussions or fishbowls where each group has at least one prosecution lawyer, one defense lawyer, one judge and multiple witnesses.
- III. Students should have their notes from the simulation prepared to reference.
- a. All students can reference
    - i. “Handout A: PBS – American Experience – “The Nuremberg Trials” Video Guide” and notes from the class discussion to compare/contrast our trial and the ICC with the Nuremberg Trials (see Supporting Question 1).
  - b. Witnesses can refer back to their backchannel discussion document to help pose and answer questions.
  - c. Judges should have their notes they took during the simulation.
  - d. Lawyers should have their pre-trial work, direct examination & cross examination scripts, and opening & closing statements to reference.
- IV. The teacher or student small group leaders will facilitate a reflection on the trial. This is meant to accomplish several things:
- a. To discuss what went well and what didn't go well in the case
  - b. To connect to this simulation to other real-world examples such as the Nuremberg trials
  - c. To determine whether this case was properly administered and whether the charges were properly defined, prosecuted and defended
  - d. To connect what happened in the class trial to what could (or if it ever happens in real life, did) happen at the real ICC
  - e. To determine whether the ICC would be the proper venue for holding individuals accountable for the crimes committed in the 2020 Nagorno-Karabakh conflict
  - f. To conclude whether the right person(s) faced justice for the 2020 Nagorno-Karabakh conflict
- V. Engage the group using the potential discussion questions found in **Handout 2: International Criminal Court Simulation – Reflection Questions** for the whole group, all lawyers, just the Prosecution or Defense lawyers, or specific witnesses:
- VI. Conclude the class by summarizing the lessons and issuing the following reminders:
- a. Ask your class as a whole – these questions can be delivered in a formative assessment through an exit ticket or an online poll application:
    1. Was \_\_\_\_\_ guilty?
    2. Did the prosecution or the defense win the case?
    3. Was the ICC the best venue for holding the defendant(s) accountable?
  - b. Thank them again for their professional work in engaging in such a challenging simulation.

## **Handout 1: Suggestions for the Simulation**

- I. The hardest part of this particular International Criminal Court trial will be doing the pre-trial historical research on the topic. Make sure that students have concrete, accurate knowledge of the conflict and have roles based in real-world defendants, witnesses and experts.
- II. Do something to make it feel like a real court case. Borrow graduation gowns for the judges to wear, or ask the Mock Trial advisor for a gavel. Setup a larger multi-purpose room to look like a courtroom with tables & podiums; see suggested diagram below. Take the need for showing video evidence into account when selecting your room setup and location; your students will need to see & hear video evidence in this trial.
- III. Poll your students for interest & knowledge on the case, legal issues or both. Those who are more interested or invested might do quite well as a lawyer or in a challenging witness role. In this case, someone with a strong interest in military actions or weapons could serve as an expert witness in that area. Those with less interest might enjoy serving as a judge or less-complicated witness.
- IV. When the Prosecution and judges set the charges, it's a good demonstration of application of content knowledge to the case. Encourage them to charge the defendant(s) with more than one charge – maybe 2-4 – but going for a lot of charges may prove difficult. In order to win a conviction, the Prosecution will need to prove guilt beyond a reasonable doubt; therefore, they would need to prove every part of a charge to gain conviction. Some charges found in the Rome Statute have multiple parts. In some of my past classes, this had led the Prosecution to only go for charges that they feel 100% confident in proving instead of branching out and trying for other, more complex charges. The best example of this is the genocide charge – which is incredibly hard to prove because of the aspect of specific group extermination. In my past simulations, about half of the Prosecution teams will try for the genocide charge and the rest will defer to crimes against humanity for murder. In the cases where the Prosecution goes for the genocide charge, they have been successful in winning conviction about half of the time. This brings up a big discussion point in our post-trial reflection about why the Prosecution did/didn't go for the genocide charge and if they were successful in proving it and if this may be the case in present-day ICC cases.
- V. Introducing physical evidence in this trial will be extremely difficult; however, video evidence may be possible. Be sure to preview all videos before the trial to watch out for inappropriate material. This means that both sides will have to share them with you at least 1 day before the trial begins. When they share the videos with you, ask them to give you the link, a brief explanation of what it is, and the time that they'd like the video shown. Advise them to keep clips short – the lawyers & witnesses should make the case, not the videos. This is one area where the trial can get really bogged down – especially if both sides want to show numerous videos or show them a second time on cross examination. See “Figure 2: Student Video Evidence Shared Entry” below:

### **Figure 2: Student Video Evidence Shared Entry**

<https://www.youtube.com/watch?v=enawelXlsQE>

“Rights Groups Document Use Of Cluster Bombs In Nagorno-Karabakh Conflict”

- Shows cluster bombs & quotes from Amnesty International & Human Rights Watch
- Play from 0:00-1:15

- VI. In addition, watch out for edited or doctored videos – some students may want to cut videos to eliminate parts that hurt their case. Advise them that they may be specific in the time frames to show, but they cannot do any video cutting/pasting/voice overs, etc.
- VII. If the videos are on an internet streaming platform such as YouTube and you plan to play them from that location, then the ability for playing them is linked to internet access, buffering, or other technological issues. Be sure to test the videos before class. You may need to download them in some capacity before playing to ensure that students can see them.
- VIII. During the trial, students will need a way to see the videos. I act as keeper of the evidence, with the videos shared with me from the attorneys. I connect my laptop to a large projector screen. When an attorney wishes to broadcast a video, they ask me to show it. I share my screen, bring the video up, and play it according to their timing wishes. It helps to check your A/V equipment ahead of time – lighting & audio so everyone can see/hear the videos during the trial. You could also assign a trusted student to act in this role as well.
- IX. With your need to review video evidence and your students' need to prepare opening statements, you may wish to schedule Day 1 of the trial on a Monday, giving you and them the weekend to prepare. This would also give you time to complete the trial during the bulk of the week – avoiding leaving the middle of a trial in a weekend cliffhanger that forces you to come back on a Monday when some students may have forgotten what went on during the trial the previous week.
- X. It's fine if some aspects of American law creep into this trial. It may be what some students are more used to, and it may serve to help them run the trial easier. I've included a list of simplified motions and objections, all coming from American law but should serve well in this setting. The same may be said for other legal actions taken during the case. In one instance, a defendant pled not guilty by reason of temporary insanity, which is not a popular plea in international criminal cases. Ask a local lawyer or students from your Mock Trial chapter to come into class and help teach what these motions and objections mean to your student lawyers.
- XI. Some witnesses may only be on the witness stand for a matter of minutes. That's why I use the backchannel dialogue to keep them involved, and it can also act as a formative or participation assessment.
- XII. Check in with your witnesses ahead of time to be sure that they will be there on the day they are probably going to be questioned. Cases that run in conjunction with, say, Advanced Placement testing or the week before Spring Break, can be quite problematic if a major witness is gone due to testing or a vacation. Do this during Work Day 1 & 2 so that you can adjust your days or student roles if necessary.

## **Handout 2: International Criminal Court Simulation – Reflection Questions**

### **Whole Class:**

1. Was defendant \_\_\_\_\_ guilty?
2. Which of the following most contributed to the verdict:
  - a. The merits of the evidence
  - b. The presentation of the prosecution
  - c. The presentation of the defense
  - d. The testimony of witness \_\_\_\_\_
3. Based on your knowledge of the conflict, should a different person(s) have been put on trial instead? Which one(s)?
4. What was the most effective piece of video evidence that proved the prosecution's case? The defense's case?
5. Which witness was the most essential in proving the prosecution's case? The defense's case?
6. Which previous historical trial, conflict or suspect that came up in class was most similar to this trial?
7. Is the International Criminal Court (ICC) the proper venue for holding the person(s) accountable? Why or why not? What alternate venue or method of prosecution would you propose?

### **Prosecution:**

1. Now that the case is over and you are no longer prosecuting them – do you believe the defendant(s) to be guilty?
2. Why did you choose to go/not go for the genocide charge?
3. What did you think about witness \_\_\_\_\_'s testimony?
4. Where do you think your side beat the defense?

### **Defense:**

1. Now that the case is over and you are no longer defending them – do you believe your client(s) to be guilty?
2. What did you think about witness \_\_\_\_\_'s testimony?
3. Where do you think your side beat the prosecution?

**Judges:**

1. Please explain why you ruled the way you did on each of the charges.
2. (If they found the defendant(s) guilty) Please explain your reasoning behind the number of years you gave for the verdict(s).
3. Which of the following most contributed to the guilty verdict:
  - a. The merits of the evidence
  - b. The presentation of the prosecution
  - c. The presentation of the defense
  - d. The testimony of witness \_\_\_\_\_
4. What was the most effective piece of video evidence that made the case for one party in the trial?
5. Which witness was the most essential in making the case for one party in the trial?
6. What did you think about witness \_\_\_\_\_'s testimony?
7. Which side had the more effective closing statement?

**Witnesses:**

1. How did your pre-trial work match up to your in-trial work?
2. Which side used you as a witness to your fullest potential?
3. Were you "essential" to the case for one side or the other? How do you know?
4. What should the prosecution lawyer have asked you?
5. What should the defense lawyer have asked you?
6. You came to this trial as a witness. Could you also have been called to this trial as a defendant? Why or why not?

## Handout 3: Simplified List of Objections and Motions

Motions and Objections can be made on both the

- **PROCEDURE** of the trial – the rules of HOW things are handled, and the
- **SUBSTANCE** of the trial – the WHAT in the trial - facts, evidence and testimony

A lawyer will make a <b>MOTION</b> if they want take a specific action in court	A lawyer will <b>OBJECT</b> if they disagree with a court action– usually one done by the other legal team
<b><u>Common Motions</u></b>	<b><u>Common Objections</u></b>
<ul style="list-style-type: none"> <li>• <u>Move to Introduce Evidence</u> – asking permission to bring a piece of evidence before the court</li> <li>• <u>Move to Remove an expert not competent</u> – asking that the court force the witness to step down due to lack of knowledge about the case</li> <li>• <u>Move to Strike a statement</u> – asking the court to take out a previous statement so the jury does not have it             <ul style="list-style-type: none"> <li>○ This can come after the lawyer has OBJECTED to a statement based on a legal argument (ex. hearsay)</li> </ul> </li> <li>• <u>Move to Strike evidence as inadmissible</u> – asking the court to take out the evidence so the jury does not see it             <ul style="list-style-type: none"> <li>○ This can come after the lawyer has OBJECTED to the evidence based on a legal argument (ex. relevance)</li> </ul> </li> <li>• <u>Move to Treat Witness as an Expert</u> – saying that a witness is an “expert” means they have substantial knowledge &amp; training on a topic &amp; can speak authoritatively about it, even if they were not at the scene of the crime</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Argumentative</u> – lawyers cannot harass or badger a witness in the way they ask questions or challenge the witness’s answers</li> <li>• <u>Asked &amp; Answered</u> – lawyers cannot ask the same questions again once it’s been answered sufficiently by a witness</li> <li>• <u>Facts not in Evidence</u> – bringing in outside information or statistics to the trial that is not common knowledge in the court or that a witness would have no direct knowledge of</li> <li>• <u>Hearsay</u> –saying that the witness got the knowledge secondhand or outside the trial</li> <li>• <u>Lack of Foundation</u> – lawyers must set the background of the witness before they can testify about what they know</li> <li>• <u>Leading</u> – when lawyers phrase their questions that suggests the answer or to get the witness to answer in a certain way</li> <li>• <u>Non-Responsive</u> – when the witness does not answer the question or is wasting time</li> <li>• <u>Relevance</u> – saying that the question is not important to the subject of the trial</li> <li>• <u>Speculation</u> – saying that the witness had no direct knowledge about the topic based on the facts of their experience &amp; is essentially guessing</li> </ul>

### GENERAL COURT PROCEDURE FOR OBJECTIONS AND MOTIONS:

1. A lawyer makes a motion, introduces evidence, poses a question to a witness, or a witness responds to a lawyer question.
2. The opposing lawyer OBJECTS and states the reason for the objection (ex. speculation, relevance).
3. The first lawyer tells the court why their action is valid. The opposing lawyer can counter and explain the purpose for their initial objection. Both lawyers direct their responses to the judge, not to each other, and it should not last long.
4. The judge renders a ruling:
  - a. A judge answering **SUSTAINED** means the objection is granted and that they side with the lawyer making the objection – the previous action is prevented
  - b. A judge answering **OVER-RULED** means that the objection is not granted and that they side against the lawyer making the objection – the previous action can go ahead

# **Handout 4: Resources**

## **Pre-Conflict & Background**

BBC News. "Armenia-Azerbaijan: Why Did Nagorno-Karabakh Spark a Conflict?" *BBC News*  
<https://www.bbc.com/news/world-europe-54324772>

Blakemore, Erin. "How the Nagorno-Karabakh Conflict Has Been Shaped by Past Empires." *National Geographic*  
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Within the Rome Statute of particular importance for students will be:

### **Pre-Trial: Jurisdiction**

- Article 12 Preconditions to the exercise of jurisdiction
- Article 13 Exercise of jurisdiction
- Article 14 Referral of a situation by a State Party

### **Pre-Trial: Investigation and Prosecution**

- Article 33 Superior orders and prescription of law
- Article 54 Duties and powers of the Prosecutor with respect to investigations
- Article 56 Role of the Pre-Trial Chamber in relation to a unique investigative opportunity
- Article 57 Functions and powers of the Pre-Trial Chamber

### **Pre-Trial / Trial Charges & Criminal**

**Responsibility** (see “Elements of Crimes.” International Criminal Court)

- Article 5 Crimes within the jurisdiction of the Court
- Article 6 Genocide
- Article 7 Crimes against humanity
- Article 8 War Crimes
- Article 8bis Crime of aggression

### **Trial**

- Article 25 Individual criminal responsibility
- Article 26 Exclusion of jurisdiction over persons under eighteen
- Article 27 Irrelevance of official capacity
- Article 28 Responsibility of commanders and other superiors
- Article 30 Mental element
- Article 31 Grounds for excluding criminal responsibility
- Article 33 Superior orders and prescription of law

### **Trial: Judgement**

- Article 74 Requirements for the decision
- Article 77 Applicable penalties