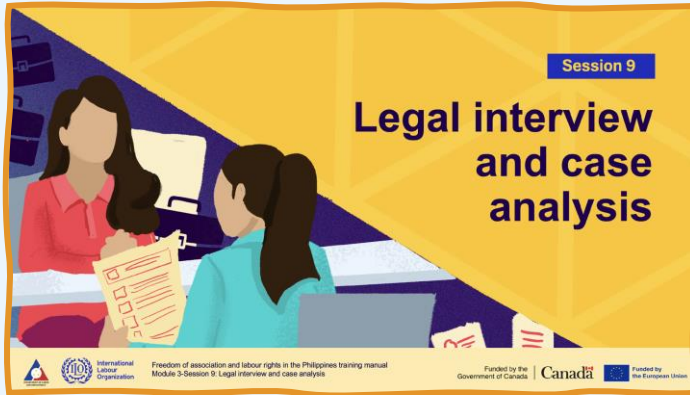


Module 3

Essential skills for documenting, reporting, and referring cases of violations of freedom of association and related labour rights in the Philippines



Module 4



Session 9: Legal interview and case analysis



Session 10: Evidence and affidavit making



Session 11: Supplemental assistance referral pathways for affected workers

Session 9

Legal interview and case analysis





Session snapshot

► Session 9

Will focus on essential skills in case buildup for violations of FOA and related labour rights.

Two aspects of the case buildup process:

- Legal interview
- Case analysis



Estimated
duration:
90 minutes



Required materials:

- Printed copies of cases as indicated in Activity M3-1
- Manila paper/cartolina
- Markers
- Usual presentation equipment and accessories





Facilitator's guide points

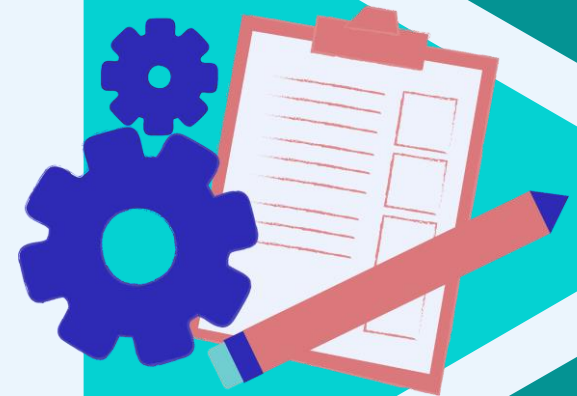
Facilitator's guide points



1. Introduce Session 9 with some remarks referring to the overall theme of third module of this manual. Emphasize that the general objective of the module is to capacitate the participants on some of the essential skills required for those who seek to assist those whose rights to FOA and collective bargaining are violated in one way or another, building on the learning content from the preceding module.



2. To transition to Session 9, use the Overview Content for further guidance. Share the session objectives to the participants.



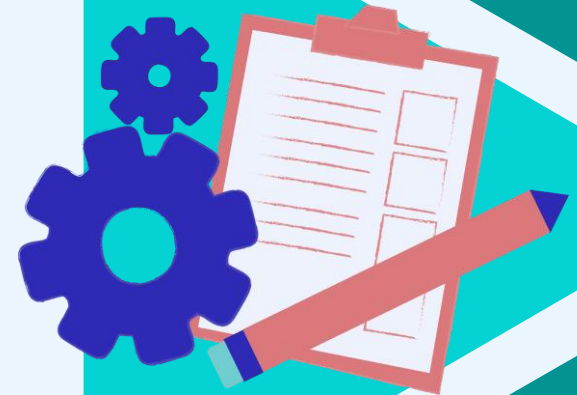


3. Facilitate the rest of the session by using the Discussion Notes as a guide, with a view to introducing, adding or modifying certain contents as deemed necessary.

- a) Legal Interview
- b) Case Analysis



4. After delivering the Discussion Notes, conduct Activity M3-1, an exercise to engage the participants in a role play demonstrating acquired skills in conducting a legal interview and analyzing a case involving violations of FOA rights. *(Be sure that even if the immediate nature of the given case is not directly about FOA, the implications of such as a case on the workers' exercise of right to organize and/or bargain collectively are explored and discussed.)*



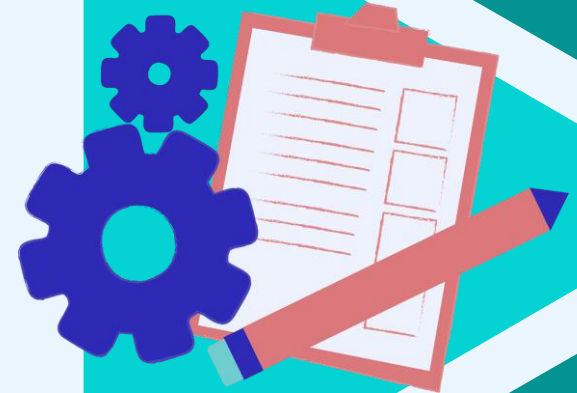
Facilitator's guide points



5. Be mindful of the Key Learning Points as internal guide on messaging.



6. Conduct the recap exercise at the end of the session.





Learning objectives



Procedure for case analysis

Identify the **elements and procedure for case analysis** which are key to building a possible strong case



Legal Interview

Know **what a legal interview is** and the **different tips and strategies in conducting an effective one**



Gender Sensitivity in Legal interview

Understand the **importance of gender, cultural and disability sensitivity** in conducting not just effective but inclusive legal interview



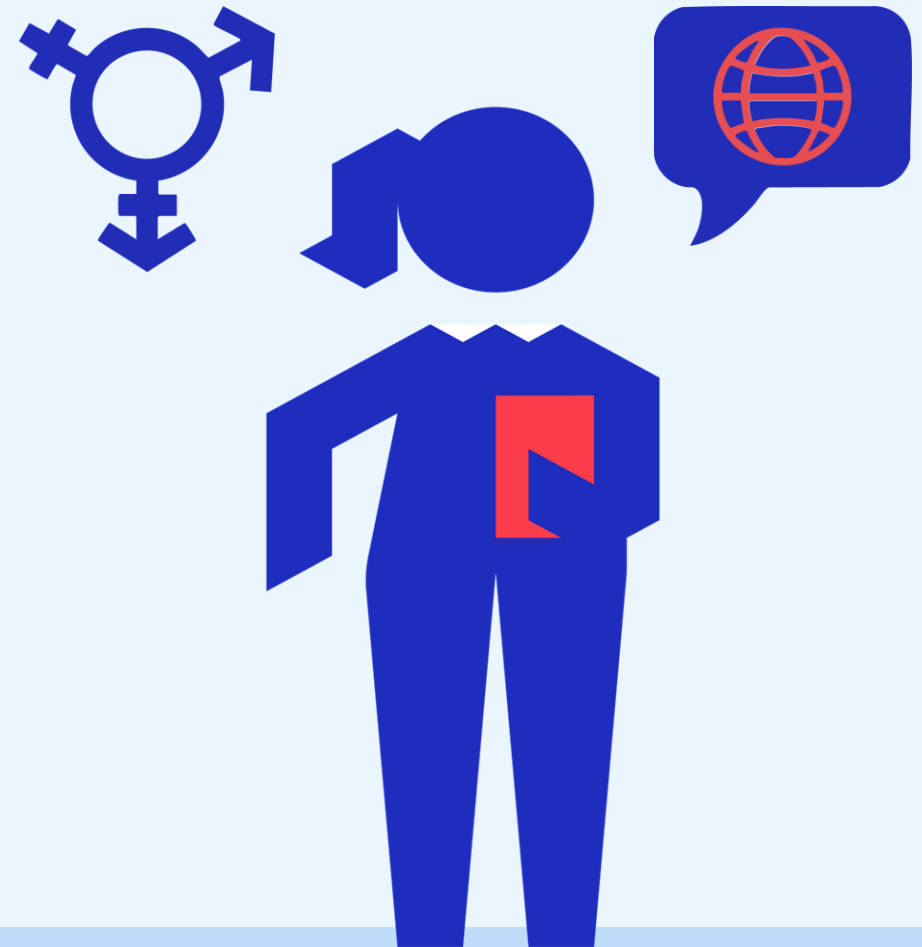
Key learning points

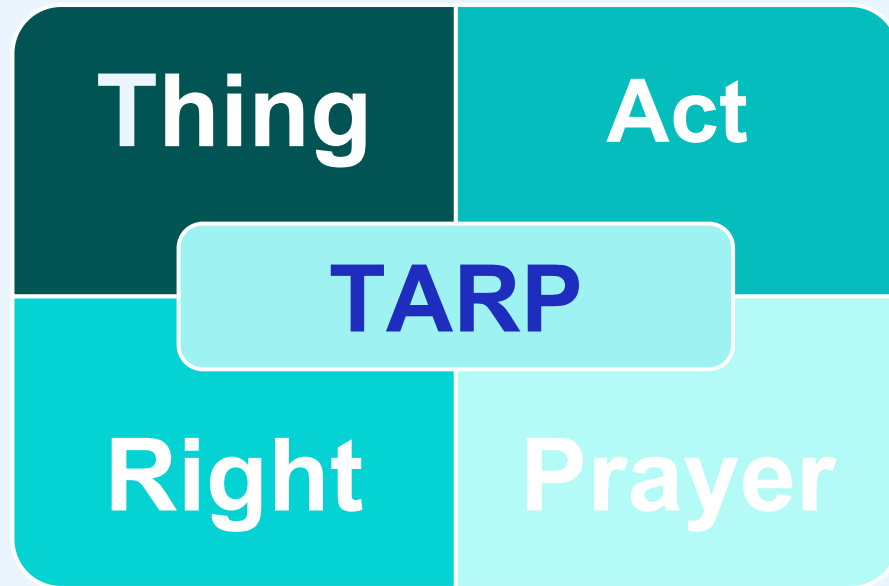


A critical part of protecting and promoting FOA and related labour and human rights is equipping oneself with the legal knowledge and skills for possible case buildup.

This is important most especially to trade union leaders and members as well as labour and human rights advocates who frequently receive or come across reports, complaints and other concerns regarding violations of these rights.

Legal interview is not merely about knowledge of laws and possession of skills to navigate the facts of a given case. It is also **about enhancing competencies on communication and interpersonal relations**, such as gender sensitivity and empathy.





Analyzing a case may follow a certain method, such as the **TARP** *(as contained in this session)*, but the interviewer may also explore additional resourceful ways to gather facts and build the case together with the concerned worker/representative.



Definition of key terms



Legal interview

A communication between two or more persons for the purpose of drawing out and gathering all the relevant information that are or can be useful in building a potential or pending legal case or issue and come up with appropriate remedies



Material fact

A fact that is germane to the decision to be made, the suppression of which would result in a different decision



Case analysis

An important tool in the appreciation of a case which will aid in the threshing out of issues and case build-up strategies



Relevant fact

A fact which, though not in issue, is so connected or related to a fact in issue



Session proper

Session 9



What is a legal interview?



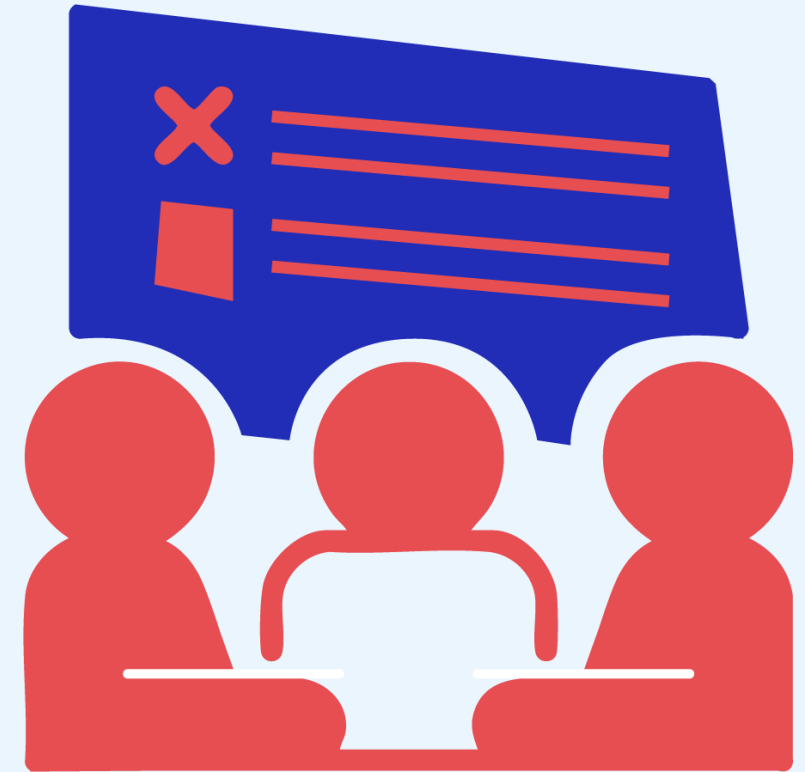
What is a case analysis?

Legal Interview



Legal interview

- Legal interview in **a sense is a communication between two or more persons for the purpose of drawing out and gathering all the relevant information that are or can be useful in building a potential or pending legal case** or issue and come up with appropriate remedies.
- In building potential or pending cases it is vital for trade union members or paralegal counsels to be **equipped with skills on conducting a legal interview while gathering relevant data and information** that may be useful in a potential case or a pending issue.



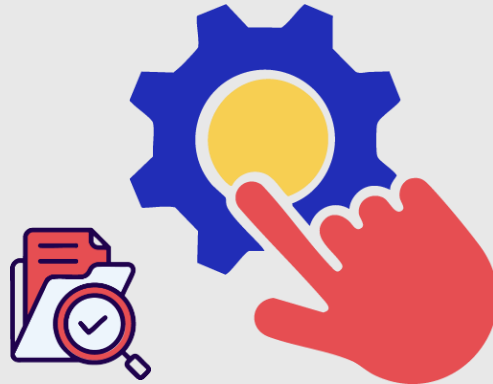
What is a Legal interview?

Knowledge and skills needed to effectively conduct a legal interview:

Knowledge of the applicable laws



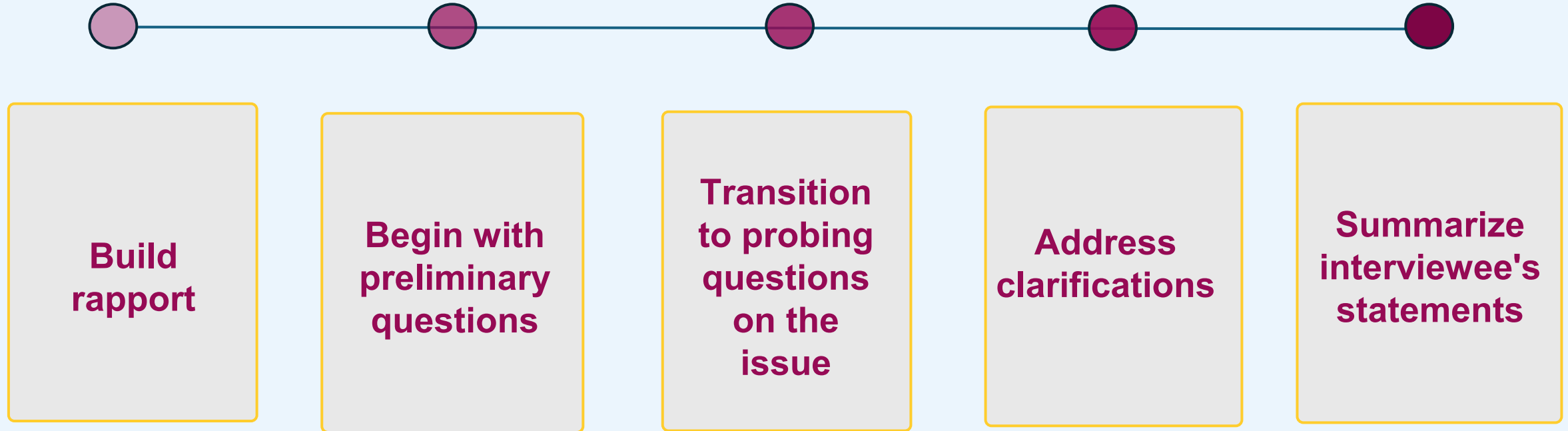
Knowledge as to the purpose of the interview



Adequate preparation



Steps in conducting a legal interview:



What is a Legal interview?

One of the vital skills in conducting legal interviews is the **integration of gender-responsive data gathering** such as:



Case analysis



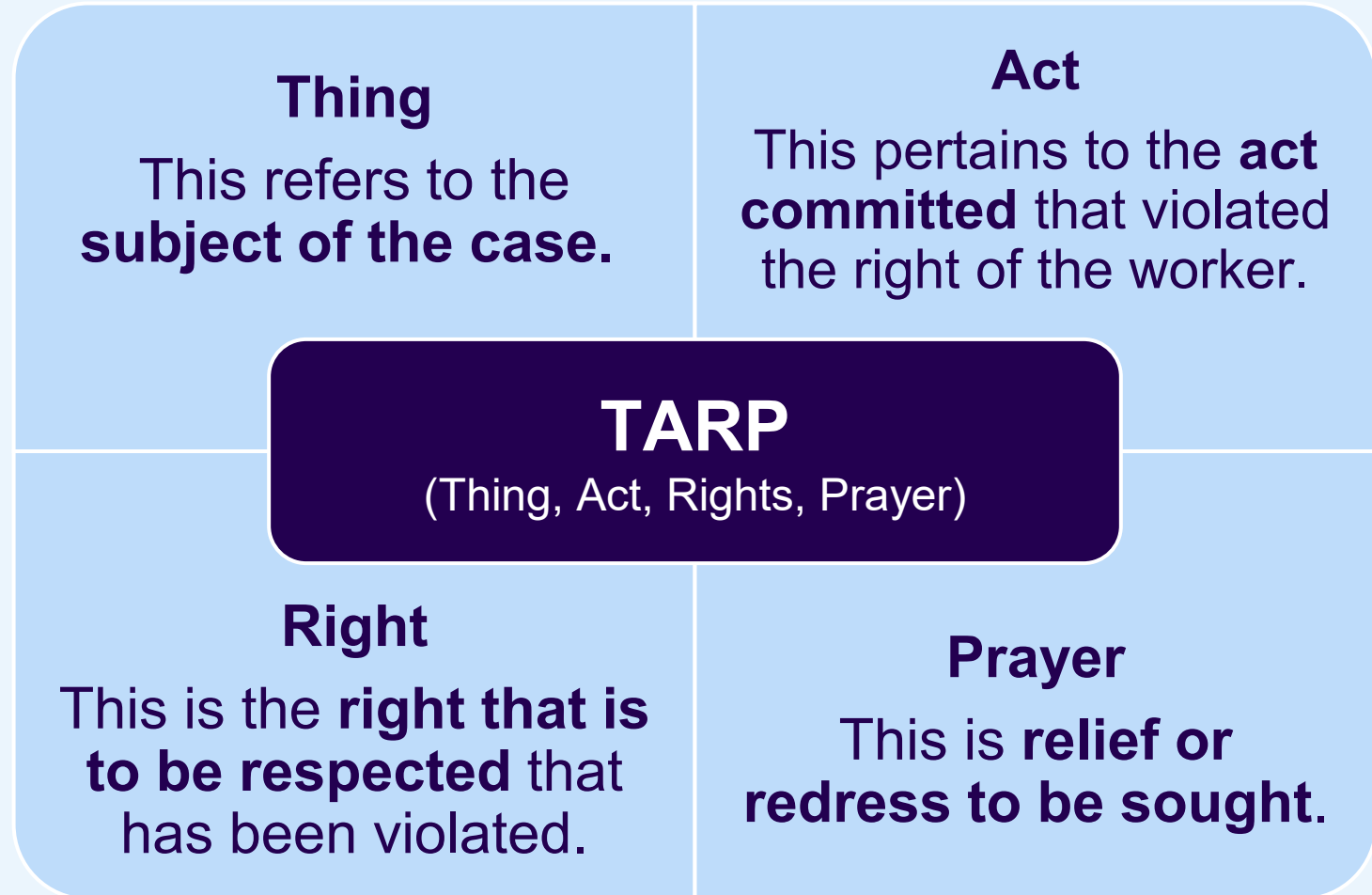
CASE ANALYSIS

- is an important tool in the **appreciation of a case which will aid in the threshing out of issues** and case build-up strategies.
- After the legal interview, trade union and paralegal representatives will now review and analyze the case at hand to determine the issue and strategize how to approach the case.



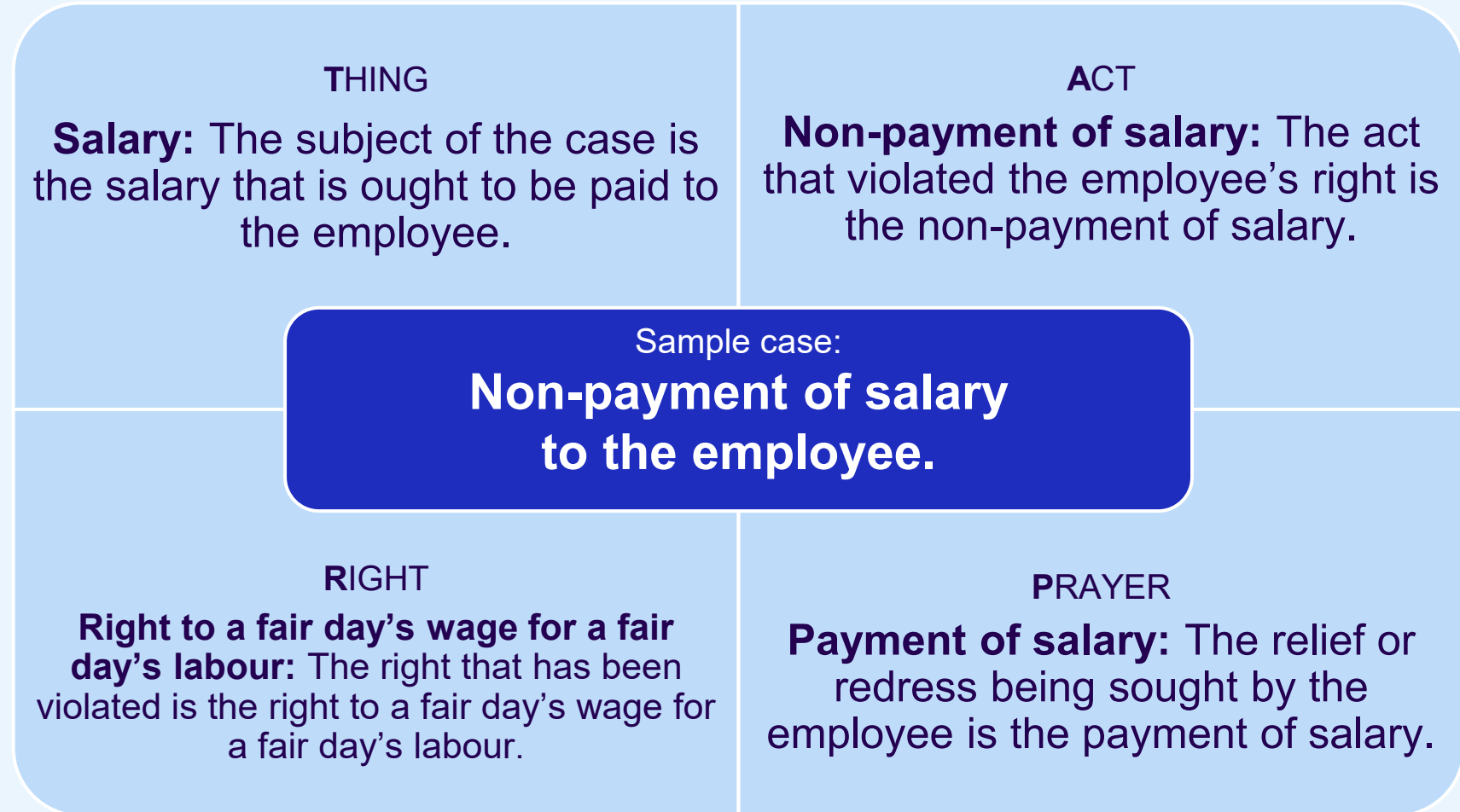
Elements of a Case Analysis

- Using the TARP, determine if there is **cause of action**



What is Case Analysis?

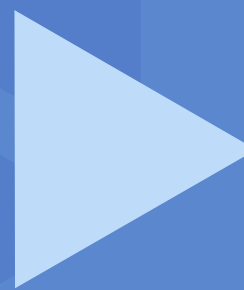
Sample Case Analysis





Activity

Instructions



Activity M3-1. Role Play: Legal Interview and Case Analysis of Labour and Human Rights Violation Cases



Methodology

A role-play activity provides a practical opportunity to apply theoretical and conceptual lessons into real life. It is a mock exercise allowing participants to not just tell the lessons they learned from a training session, but act them out. In this context, the participants will do a simulation of a legal interview and case analysis based on a hypothetical case of labour or human rights violation.

Activity M3-1. Role Play: Legal Interview and Case Analysis of Labour and Human Rights Violation Cases



Timing

The simulation will be best introduced right after the discussion on legal interview and case analysis as the first two essential skills in case buildup and management among trade union organizers and workers' rights advocates.

Activity M3-1. Role Play: Legal Interview and Case Analysis of Labour and Human Rights Violation Cases



Mechanics

1. Divide the participants into four (4) groups.
2. Assign a specific case to each group (**see the cases on the succeeding page, and select four from the options**).
3. Instruct the participants to identify group members who will role play as: (a) trade union leader or officer or member; (b) designated legal/paralegal officer of the union; (c) worker or his/her/their representative raising the labour issue/concern to the union; and (d) reporter or discussant of the mock legal interview and case analysis. The rest can take other further roles as discussed by the group.

Activity M3-1. Role Play: Legal Interview and Case Analysis of Labour and Human Rights Violation Cases



Mechanics

4. Prior to the mock interview and case analysis, the groups should be able to:
5. Identify and list down the possible questions to ask during the legal interview based on the guide points and tips provided under the current session.
6. Determine if there is a cause of action using the TARP method by also listing down the details as they fall under the TARP categories: Thing / Act / Right / Prayer (sample below).

Activity M3-1. Role Play: Legal Interview and Case Analysis of Labour and Human Rights Violation Cases



Mechanics

Thing	Salary
	The subject of the case is the salary that is ought to be paid to the employee.
Act	Non-payment of salary
	The act that violated the employee's right is the non-payment of salary.
Right	Right to a fair day's wage for a fair day's labour
	The right that has been violated is the right to a fair day's wage for a fair day's labour.
Prayer	Payment of salary
	The relief or redress being sought by the employee is the payment of salary.

Activity M3-1. Role Play: Legal Interview and Case Analysis of Labour and Human Rights Violation Cases



Mechanics

5. After 15-20 minutes, instruct the groups to wrap up and be ready with their simulations. Each group will be given 5-7 minutes.

- Begin with the mock legal interview, with any of the trade union officer, legal/paralegal officer or their representative approaching the worker or representative to discuss what the complaint is all about. Ask the questions listed down earlier.
- Regroup in the union to further discuss the details of the case based on the results of the legal interview. Go through the details of the TARP as previously listed.
- Go back to the worker/representative to discuss with him/her/them the initial analysis of the union on the case/complaint.
- Stop there. (*The identification of evidence, making of affidavit and exploration of other non-legal referral pathways will be covered in the next activity as a continuation.*)

Activity M3-1. Role Play: Legal Interview and Case Analysis of Labour and Human Rights Violation Cases



Mechanics

6. Provide synthesis right after all the groups are done with their simulation exercises, underscoring the implications on FOA and right to collective bargaining in the cases. Open the floor to other comments or insights from the groups as necessary.

Activity M3-1. Role Play: Legal Interview and Case Analysis of Labour and Human Rights Violation Cases



Materials

- Printed copies of the cases
- Manila paper/cartolina
- Markers
- Usual presentation equipment and accessories

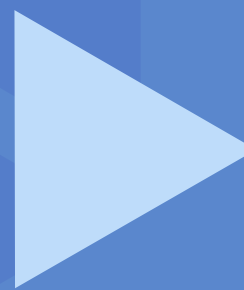
Notes on transition to online session

Breakout rooms in platforms like Zoom can be utilized in case of the need to conduct the activity online. The simulation or role play will happen in the plenary room, immediately following the breakout discussions as provided in the mechanics of this activity.



Activity

Case studies



Case No. 1



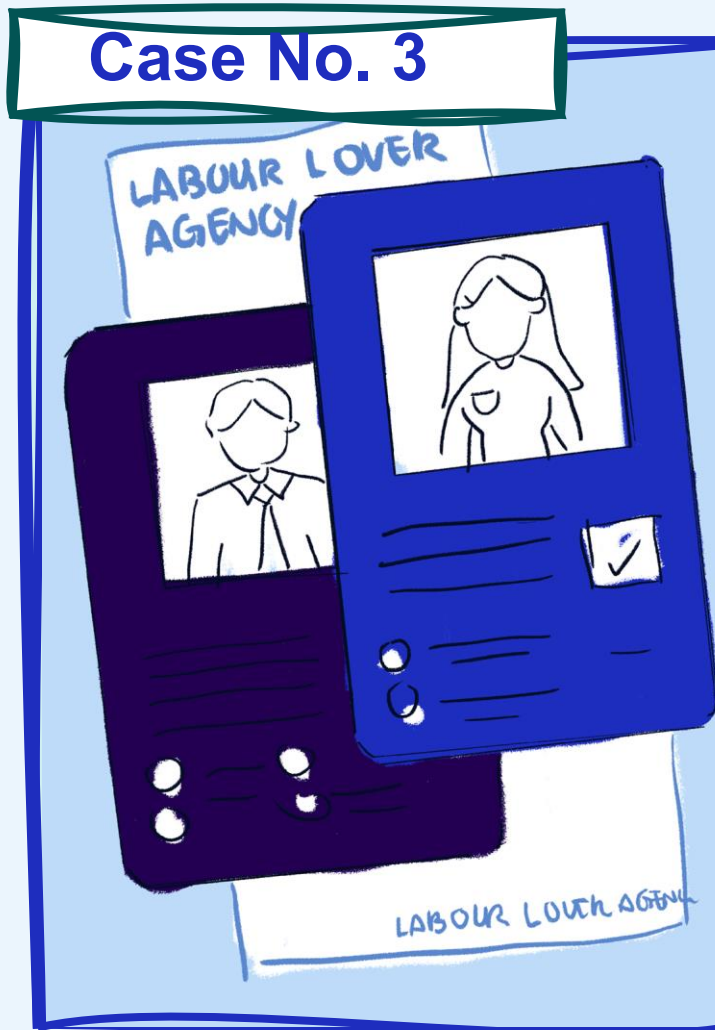
On May 1, workers across the country made history by conducting the biggest labour day rally. They are calling for, among others, the passage of Security of Tenure law, and the increase in minimum wage. While they were marching from Welcome Rotonda to Malacañang Palace, members of the AFP entered their ranks and “picked up” three rallyists who were holding the megaphones and leading the chants. The three were immediately taken into a government vehicle and they drove away from the streets. The rest of the rallyists were not able to go after them. They have been missing for four days now.

Case No. 2



Annie Batungbakal is employed by Bakya Supermart as a cashier in its Davao City branch. Bakya Supermart is a huge company with over 100 branches across the country. Annie is also a labour organizer. As such, she is set to organize the workers of Bakya Supermart to form a union and eventually enter into CBA with the company. Before the conduct of Certification Election, Annie received a notice from the company that because of her good performance, she is being transferred to its newly-opened Naga City branch as head cashier. Annie did not want the transfer because she is from Davao City and her family is there. Because of her refusal to follow the order, she was dismissed.

Case No. 3



Ibong Adarna is a five-star hotel in Cebu City. Because business was booming, it built another hotel in Bohol. However, instead of directly hiring employees, it entered into a service agreement with Labour Lover Agency wherein the latter will provide personnel on all matters pertaining to maintaining the rooms and attending to the needs of the guests. Not long after, other personnel services were outsourced. As a result, many regular employees lost their jobs on the ground of redundancy.

Case No. 4



Fifteen full-time instructors of the Pamantasan ng Pilipinas (PNP), a state university, were hired under temporary contracts of employment renewable on a yearly basis. The 15 instructors, after being in service for an average of four years, with their contracts being yearly renewed due to outstanding performance, formed the Pamantasan ng Pilipinas Faculty Organization. Their contracts were not renewed at the same time the union secured its public sector union registration. The PNP management also refused to produce the results of their evaluation which, they said, was the basis for the non-renewal of their contracts.

Case No. 5



An employee was charged with non-payment of union dues and was meted the penalty of suspension by the Union's Executive Board. The said employee was again charged with non-payment of union dues and was expelled on third occasion. On each finding, the employee demanded that the General Membership Assembly be convened to allow him to appeal under the Union's Constitution and By-Laws, but these were denied.

Case No. 6



Rey Lima is a labour union president and a member of the Regional Tripartite Industry Peace Council (RTIPC). He joined the inspection conducted by DOLE in manufacturing companies in Laguna and Cavite. He noticed that most of these companies have employed contractual workers and are unorganized. Soon thereafter, he met with the employees of Tralala Company with the aim of organizing them.

Case No. 6



They are in the process of registering their union, when suddenly, Rey Lima was not allowed to visit the premises of Tralala. One day, while he was meeting four employees outside of the company's premises, an armed man approached them and warned Rey that something bad would happen if he did not stop what he was doing. Mark Ayala, one of the employees Rey was meeting, witnessed the incident. Rey also disclosed to Mark and the other companions that he often receives threats from unknown numbers.

Case No. 6



Shortly thereafter, while he was walking to the bus station after meeting with the employees, he was gunned down by a riding-in-tandem. The incident was caught on closed-circuit television (CCTV), but the men were unidentified. While the case was being investigated, the Mayor had a press conference wherein he presented a matrix of Rey's illicit relationships with women, some of them are employees of the company. In the press conference, the police investigator said that they are exclusively looking at these relationships as the motive for the killing.

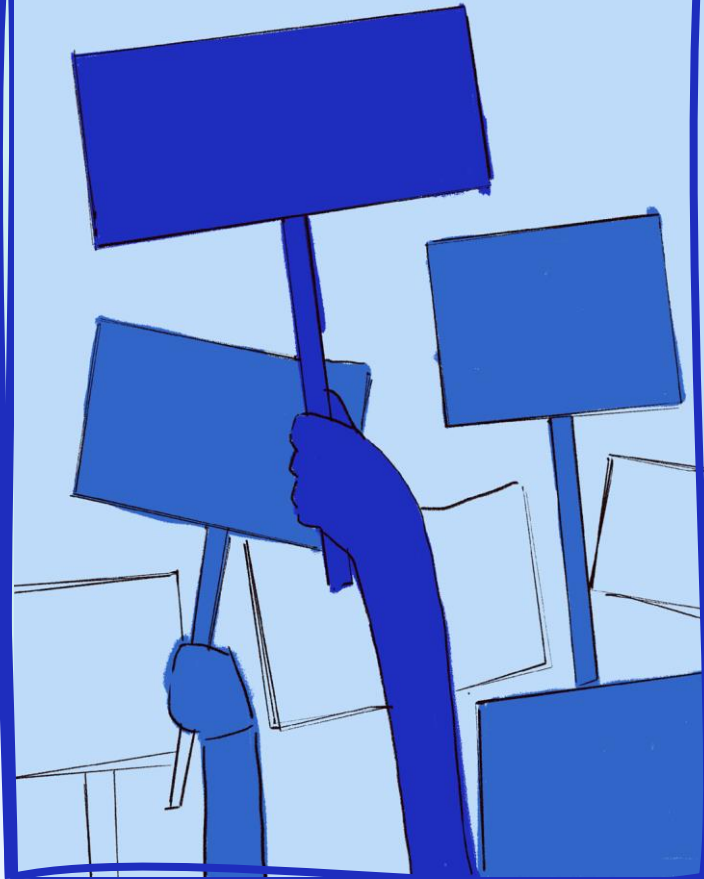
Case No. 7



(Public/Private Sector)

Last month, the DOJ filed with the Court a Petition to declare 600 organizations as terrorist groups. Four of those organizations are large labour union federations in the Philippines, including one in the public sector. The list was given to the media and the international community.

Case No. 8



Case No. 8

Union Nice is a labour organization in Tag Hiras Clothing Company located inside a PEZA. Because of a CBA deadlock, members of the Union Nice staged a strike. On the second day of the strike, members of the private security unit of the Company, started breaking the strike, alleging that they were blocking the entrance gate to the company. The PEZA security personnel negotiated with the strikers, upon request of the company.



Recap exercise

TRUE OR FALSE

1. Before the scheduled legal interview, the interview need not have an idea on what questions have to be answered by the interviewee and will just go with the flow of the interview.

2. This refers to 'P' in the TARP method which is the relief or redress being sought in a case.

- a) Policy
- b) Position
- c) Prayer

3. To effectively conduct a legal interview, one must have the knowledge of or skills on the following except for one:

- a) Applicable laws
- b) Personal history of the interview/complainant
- c) Purpose of the interview

TRUE OR FALSE

4. One of the vital skills in conducting legal interviews is the integration of gender-responsive data gathering such as using appropriate language.

■



Recap exercise

Answer Keys

TRUE OR **FALSE**

1. Before the scheduled legal interview, the interview need not have an idea on what questions have to be answered by the interviewee and will just go with the flow of the interview.

2. This refers to 'P' in the TARP method which is the relief or redress being sought in a case.

a) Policy

b) Position

c) Prayer

3. To effectively conduct a legal interview, one must have the knowledge of or skills on the following except for one:

a) Applicable laws

b) Personal history of the interview/complainant

c) Purpose of the interview

TRUE OR FALSE

4. One of the vital skills in conducting legal interviews is the integration of gender-responsive data gathering such as using appropriate language.

5. Fills in the blanks:

There are two types of facts in a case: material facts and **RELEVANT FACTS.**