

Engaged Trial Observation

An introduction to a **practice of sustainable solidarity** inside and outside the courtroom



Courtroom drawing, pre-trial hearing against the crew of the *Luventa*, a civil search-and-rescue ship, 8 Sept. 2023, Trapani, Italy.

What is trial observation?

Trial observation is a form of human rights monitoring in which observers attend court proceedings and conduct interviews to evaluate the context and assess the fairness of a trial. It involves documenting observations and issuing a report on the findings. A legal background may be beneficial for observers, but it is not required.



Legally trained observers can 'translate' legal proceedings for a broader non-legal audience, thereby contributing to the accessibility of the courtroom.

Objectives:

Encourage the court to ensure a fair trial

Document patterns of abuse/violations

Bring international attention to the case

Support defendants and build solidarity

What does it mean to be an observer?



It is important to continuously reflect on one's role throughout the mission.

When discussing observers' positionality, terms like neutral, objective, unbiased, impartial, or independent often arise—all of which are multi-layered and even contested. In essence, observers maintain a certain 'professional distance' from the parties to the trial, as observers are not directly involved in the proceedings.

While engaged trial observation takes a clear stance in solidarity with defendants, the **findings** remain fact-driven and **based on a critical examination** of the information and observations gathered during the mission. The more reliable and diverse the sources, the stronger the legal assessment of a situation can be. This is also reflected in the language used for conclusions, ranging from "we were told" and "we assume" to "we consider," "we have probable reason to believe," and "we are convinced."

What makes trial observation engaged?

Engaged trial observation does not begin or end with the start or finish of a hearing or trial. Trials take place within a historical, political, and societal context. Especially in situations of systematic criminalization, the issue is not limited to an individual case but rather extends to numerous cases that may follow an abusive pattern.

Therefore, engaged trial observation seeks to identify and document patterns beyond the individual case. Further, engaged observation is not limited to what happens in court. It also interacts with the context and addresses related issues, such as detention practices, prison conditions, and the impact on affected communities.

“Engaged trial observation doesn't have to be loud. It means staying connected to what we witness, transforming what we see into care, solidarity, and advocacy—neither victimizing those affected nor exploiting struggle and suffering as a spectacle.”

Ceren Uysal, 2025

Critical (self)reflection

The focus of an observer differs depending on their level of legal knowledge, experience, and personal and professional background. Engaged observers reflect on how their positionality shapes their perspective. They are sensitive to the effects of their presence and behavior, including perceptions by the court or public that could harm the defendants. Therefore, engaged observers must adapt to and continuously reassess the situation, as well as reflect on their role and conduct.

What to observe?

Trial observation aims to visibilize what is happening in the courtroom—not just the facts, but also the context. While observing, one can focus on the following:

Structure: Examine who is present, who is excluded, and why. Consider the spoken language, setting, location, architecture, layout, and maintenance of the courthouse and courtroom.



Hierarchies and power dynamics influence who gets to speak and when.

Attitude/conduct: Observe, punctuality, tone, and general behavior of all participants, including interruptions, intimidation, and expressions of (dis)respect. Fairness can also manifest behaviorally.

Substance: Trial observation is not about assessing merits. Rather, it involves analyzing the factual and evidentiary basis and evaluating whether rights were respected, as well as whether the defense was heard.

Basic safety guidelines!

- Defer to local advice about risks and what is or is not possible.
- Get consent before taking or using a photo or quote.
- Keep notes factual, anonymized, and secure.
- If necessary, inform your embassy/consulate of your presence in advance, and communicate regularly with colleagues at home during a mission.

DON'T!

- Intervene, disrupt, or argue in court.
- Post or share sensitive information anywhere, including online, without prior approval.
- Assume your own 'neutrality.' Forget to be self-aware.

Practices of solidarity



- ✓ Trials observed often involve (pre)trial detention. Break the isolation imposed by incarceration through, e.g., visiting the defendants or sending them post-cards. Follow local guidance closely.
- ✓ Organize, sign, circulate support calls, such as in the event of arrests. Contribute to submissions, e.g., to UN bodies.
- ✓ Reach out to other organizations and interested individuals for their support, contribution, or participation.

Trial observations require financial resources. To **enhance accessibility** and **reduce the reproduction of privilege**, consider ways to financially support delegations/individuals who otherwise cannot participate.

Credits: Drawing on front page: Annina Mullis. Authors: Ceren Uysal and Annina Mullis. This introduction draws on personal trial observation experience since 2012, previous publications, and joint reflections and discussions with others. Annina Mullis submitted an earlier version as a class assignment for the seminar 'Landscapes of Law' at the University of Bern. Design: Annina Mullis. Editing: Rosemary Pritchett-Montavon. Published by: European Association of Lawyers for Democracy & World Human Rights (ELDH), Çağdaş Hukukçular Derneği (ÇHD), and Demokratische Jurist*innen Schweiz (DJS). First edition, 2026 ©

Identifying which case to observe

Starting point: **the issue**

Usually, situations of **politicized criminalization**, such as criminal trials in which there is reason to question the judiciary's independence/impartiality or where systemic issues or structural conditions may undermine a fair trial.

Condition: **clear consent**

Engaged observations may be conducted upon invitation or on one's own initiative. In any case, those on the ground must be informed and agree. Engaged observation ensures consent is maintained throughout the mission.

Requirement: **access**

Firstly, observers need access to the courtroom. For the purposes of visibility, their presence may be announced to the court. Secondly, access to reliable, direct information is essential. Diverse sources, such as one's own observations, interviews, and access to the case file, allow for a well-founded assessment.

Responsibility: **commitment**

Building solidarity and providing meaningful support demands **reliability** and **continuity**. Sufficient time and other resources, must be allocated or gathered. Long-term commitment, therefore, includes fundraising.

Preparing for the mission

- ✓ Define the mission's mandate.
- ✓ Consult available information on the trial to be observed, such as the type of trial and the stage of the proceedings.
- ✓ Gather information on the (human rights) situation and context of the country.
- ✓ Compile relevant international instruments, principles, and guidelines, as well as national legislation, related to the case.
- ✓ Establish communication between the mission coordinator, members of the delegation, defense counsel, and local actors, with whom you wish to meet.
- ✓ Organize interpretation.
- ✓ If required, register with the court and/or apply for a visa.

For **safety** reasons, always defer to local advice about risks and what is or is not possible.

If necessary, register with the relevant embassies.

Engaged trial observation includes a process of **co-learning**. Those affected by the trials observed are experts in their own right and do not need teaching. Therefore, observers should reflect on internalized stereotypes, perceptions of superiority, and notions of competence or knowledge.

Observing fair trial rights

One of the objectives of trial observation is to monitor respect for **fair trial rights**. Of particular relevance are the rights set out in Article 6 of the European Convention on Human Rights. These include:

Prohibition of arbitrary arrest/detention

Right to access files/provide evidence

Right to defense/representation

Right to an interpreter

Right to a trial without undue delay

Right to a public hearing

Right to be presumed innocent

Right to an independent/impartial judge

Right to call/examine witnesses

Right to a reasoned judgment/decision

While in court, take as **many detailed notes** as possible on which to base the report.

Engage with what was observed

Write a **report** for internal documentation, potential later evaluation, and publication. Possible structure: 1) introduction to the case and context; 2) description of observations; 3) evaluation/assessment.

Debrief after the trial to answer any remaining questions.

Coordinate communications and collaborate with other participants.

Publicize insights through articles, press statements, podcasts, events, and other means. Include views and voices from the ground.

Share expertise through expert opinions, amicus briefs, petition to an international body, join related fact-finding missions, and create **working groups** where needed. However, these actions require coordination with those on the ground.

Continuous commitment requires reliable presence.

Stay connected, prepare for the next mission(s), and mobilize support!

After the hearing

