

Amnesty International

What Is A Fair Trial?

Teacher's notes

The worksheets on “*What is a fair trial?*” can be used in one lesson (or part of a lesson), by dividing the class into small groups. Each group can discuss a scenario and feedback. The activity can be used as a starting point to discuss the US government’s announcement that they intend to try 6 Guantánamo detainees using a military commission, which Amnesty believes to be an unfair trial. Alternatively you could use the worksheets for homework as a follow up to the Amnesty lesson on Guantanamo Bay “Justice for Dad.” www.amnesty.org.uk/humanrightsinfocus.

There are no right or wrong answers to the ratings, they are really just to get the students thinking, but the cases are all *unfair* to some extent in that they all contravene one or more of the international standards for a fair trial. The list below outlines which standards are not being followed in each case, and also makes links to real cases which are similar.

1. Carlos Rodriguez

This trial was unfair because Carlos was not allowed to choose his own lawyer and the lawyer assigned to him was inexperienced. The defence were only given 2 days to gather evidence and prepare their case. The police on the other hand spent months gathering evidence against him. The case contravenes Article 14 (3)(b) 14 (3) (d) of the ICCPR.

Although this case is fictional, situations similar to those described for Carlos Rodriguez with incompetent and inexperienced court-appointed attorneys defending those accused of first degree murder are not uncommon in capital trials in the Southern states of the USA.

2. Salim Ahmed

The case was unfair because Salim was not informed of the charges against him when he was arrested. He was then held in prison for 18 months before he was charged. This case contravenes articles 9(2), and 9(4) of the ICCPR.

Although Salim Ahmed is not an actual case, around the world very large numbers of prisoners are being held in custody who have neither been charged or tried for example in India, Cameroon, Bolivia, Argentina, India, Egypt, Uzbekistan, Malaysia, Burma and Guantanamo Bay, Cuba.

3. Adnam Ardalan and 5 others

This case was unfair because Adnam may have confessed under torture, (hence the limp etc.) The military trial of the six men was not impartial. It was held in secret. The accused had no lawyer. This case would appear to contravene Articles 7, 14 (1), 14(3)(d), 14(1) of the ICCPR.

The imaginary case of Adnam Ardalan and 5 others has parallels with the denial of a fair trial and due process of law in a number of countries. Students may look up the trial and

execution of Ken Saro-Wiwa in Nigeria, and read about recent trials of Kurdish activists in Iran and court procedures under the Saddam Hussein regime in Iraq.

4. Felipe Entise

This case is unfair because the judge and jury were people who all came from the town where the little girl lived. They were therefore unlikely to be impartial and independent. The public feeling in this case could also mean that Felipe's right to be presumed innocent until proven guilty was denied. The case contravenes article 14(1) and (if the court was influenced by the public feeling), article 14(2) of the ICCPR.

Felipe Entise is an imaginary case. However concerns about the lack of independent judges have been raised in relation to North Korea, Saudi Arabia, Cuba, Egypt, Somalia and many other countries.

5. Michael Roberts

This case was unfair because Michael was not allowed to choose his own lawyer and because the case was conducted in a language that he did not fully understand. He was not offered an interpreter. The case is also discriminatory because Michael is not afforded the same rights as German citizens. It contravenes articles 14(3) (d), 14(3) (f) and article 14(1) of the ICCPR.

Michael Roberts is imaginary but for real examples of concerns about an absence of interpreters for foreign language speakers when they are on trial look up: *Fair Trials Abroad*, an organisation that works for British prisoners in foreign jails.

6. Margaret Williams

This case was unfair because it relied on evidence obtained through torture. Torture is against international law, and the use of torture in this case undermines the reliability of the evidence. It contravenes article 7 of the ICCPR.

For real examples similar to what happened in Margaret Williams' imaginary case look up: Syria, Sudan, Craig Murray's book on Uzbekistan and Amnesty International reports on China.

Further Discussion/Activities

If you have time in this lesson or in a follow-up lesson it is worth discussing the following points:

- If the suspect is clearly guilty, does it matter if the laws on fair trials are not followed?
- Should everyone have all their rights to a fair trial fulfilled or are there some instances where these rights should be restricted? NB Amnesty's view is that everyone has the right to a fair trial at all times, no matter who they are or what they are accused of.

Ask the students to think about the cases of the suspects in Guantanamo Bay. The families of the detainees were claiming that they had never been given a trial and yet many had been in prison for some years. The US government are planning to give some of the detainees a trial through military commissions. In Amnesty International's view, these are not *fair* trials.

You can find the arguments against military commissions here:

http://www.amnesty.org.uk/news_details.asp?NewsID=17648

<http://www.amnesty.org/en/news-and-updates/one-year-military-commissions-act-20071017>

You can find some arguments in favour of military commissions here:

<http://www.whitehouse.gov/news/releases/2006/10/20061017.html>