



Judges in the Classroom

Understanding Procedural Justice

Source:

Adapted from material by Reinehr, Fran, *The Bill of Rights, A Law-Related Curriculum for Grades 4-6*, Unit III, Lesson 7, The Bill of Rights in Nebraska Project, pp. 27-35, 1986; material used with permission. Developed from a unit, *State of Washington v. Herschel C. Lyon*, written for the Institute for Citizen Education in the Law, Seattle, WA, by Tarry L. Lindquist, Julia Gold, and Margaret Fisher, and updated in 2012. Staff at the Washington State Administrative Office of the Courts (AOC) edited the lesson. For more information, contact AOC Court Services, 1206 Quince Street SE, PO Box 41170, Olympia, WA 98504-1170. For an electronic copy of this lesson, or to view other lesson plans, visit Educational Resources on the Washington Courts Web site at: www.courts.wa.gov/education/.

Objectives:

Students will analyze the concept of procedural justice by:

1. identifying in a play the unfair decisions by the ruler,
2. stating the procedural guarantees that ought to be included in a Bill of Rights,
3. comparing their list of procedural guarantees to the procedural guarantees provided by the U.S. Constitution and Bill of Rights, and
4. concluding that procedural fairness is an essential element of the Bill of Rights.

Grade Level:

Grades 4-7

Time:

One class period (approximately 50 minutes)

Materials:

One copy of Handout 1 ("Fairness in the Land of Faircastle" Play) for each student
One copy of Handout 2 (Procedural Justice Worksheet) for each student
One copy of Handout 3 (Basic Procedural Rights) for each student

Note: This lesson assumes students have little or no knowledge about procedural justice as guaranteed by the Bill of Rights. The judge is encouraged to add his/her personal observations and comments as the lesson progresses.

Procedures:

1. **Begin the class by introducing yourself** to the students and telling a little bit about what you do, if this is your first class.
2. **Tell the students** that you are here today to help them understand procedural justice, that is, the ways the U.S. Constitution and Bill of Rights established certain procedures to protect people from actions by the government. Today, they will participate in a play to study these procedural rights.
3. **Pass out Handout 1** ("Fairness in the Land of Faircastle" Play). Ask the teacher to randomly assign parts for each act in the play. Give the students about four minutes to read their parts silently.

(There are 4 acts and 19 speaking parts in the play. A list of the characters is on page 4 of this lesson plan. Synopses of the cases in the play are on pages 5 and 6 of this lesson plan.)
4. **Ask the students** who have speaking parts in Act 1 to read Act 1 out loud, with expression.
5. **After students read Act 1 out loud**, ask students who did not have speaking parts in Act 1 to retell the story in their own words. Once it is clear they understand the story, ask them whether they think the ruler acted fairly.
6. **Pass out Handout 2** (Procedural Justice Worksheet). Ask students what things the ruler did that were fair or ways the ruler conducted court business that were fair. Also ask students what things the ruler did that were unfair or ways the ruler conducted court business that were unfair. Have the teacher compile a list of fair and unfair actions on a docu-camera or on flip chart paper while you facilitate the conversation. Tell the students to keep their own list of fair and unfair actions on the worksheet.
7. **Repeat steps 4-6** for Acts 2, 3, and 4 of the play.
8. **Remind the class** that at the end of Act 4 the ruler was overthrown. The people now want to put together a Bill of Rights that will protect them from unfair practices in the future.
9. **Divide the students into groups** of three to five students each and **give each group Handout 3** (Basic Procedural Rights). Tell the groups to draw up a list of rights that would guarantee a fair judicial system for the Land of Faircastle. Suggest they use the list of fair and unfair actions from their worksheets as a guide. Ask students if they understand the assignment.
10. **Circulate** while the groups are working to insure they stay on task; encourage their efforts. Allow about 10 minutes for the groups to work on this activity.

11. **Call the groups** together and ask each group to share one item from their list. After all groups have shared one item, call on each group again to share another item; continue until groups share all items from their lists.
12. **Project a copy of Handout 3** (Basic Procedural Rights) with a docu-camera or ask students to refer to their copy of Handout 3. Ask for student volunteers to read their rights aloud. Ask for student volunteers to compare their list to the U.S. Bill of Rights.
13. **Ask students** if they think procedural guarantees should be in a Bill of Rights. Ask if they think a Bill of Rights would be adequate if it provided for freedoms of speech and religion, but did not contain rights that guaranteed fair procedures. Discuss this with the class. Emphasize that while substantive rights are important, it is also important that the procedures and processes be fair.
14. **If time permits**, you might attempt to explain the concept of "procedural due process." Explain to students that courts have a phrase for procedural protections; that phrase is "procedural due process." Write "procedural due process" on the board or flip chart paper. Ask students if they have ever heard of "procedural due process?" What do they think "procedural due process" refers to in the Bill of Rights?

Explain to students that rights to guarantee fair procedures, which they covered in class today, are part of procedural due process. Tell students that procedural due process refers to the safeguards to a person's life, freedom, and property mandated by the Fourteenth Amendment. Examples include the right to counsel (a lawyer) for your defense, right to face those who accuse you, and right to a speedy trial. The Sixth Amendment specifically provides these rights and the Fourteenth Amendment applies them to the states' procedure(s). Also, the Fifth Amendment specifically mentions that no person shall be deprived of life, freedom or property, without due process of law.

**Fairness in the Land of Faircastle
(A Play in Four Acts)**

Cast of Characters (In Order of Appearance)

Act 1: THE CROWN AGAINST RED SMITHY

Narrator
Bailiff
King/Queen
Lady Violet
Red Smithy

Act 2: THE CROWN AGAINST OLD STOUTHEART

King/Queen
Bailiff
Old Stoutheart
Tiny Stoutheart
Narrator

Act 3: THE CROWN AGAINST SIR WINALOT

King/Queen
Bailiff
Lord Lottaland
Sir Winalot

Act 4: THE CROWN AGAINST LINDA LILY

King/Queen
Bailiff
Roxanne Rose
Linda Lily
Narrator

Fairness in the Land of Faircastle
(A Play in Four Acts)

Synopses of the Cases in the Play

ACT 1: THE CROWN AGAINST RED SMITHY

Lady Violet brings charges against the defendant, Red Smithy, for an incident that happened 15 years ago. Because the case is so old, all the other witnesses are dead or no longer in the kingdom and the physical evidence, Lady Violet's bruised legs, healed years ago. The defendant cannot defend himself because he cannot even remember the incident. The defendant is found guilty. It is unfair to make one defend himself against stale charges. That is one reason the Sixth Amendment requires a speedy trial. The Sixth Amendment also requires that the trial be public, so the people can see if justice is done.

ACT 2: THE CROWN AGAINST OLD STOUTHEART

Old Stoutheart has been accused of pulling a chair out from under the court jester, Funnyfellow, which injured him. The Royal Jury found Stoutheart not guilty as there was no evidence that he did what he was accused of doing. The monarch was quite upset by this and he/she dismissed the jury. The ruler decided the people in the kingdom would no longer be tried by their peers, but by the ruler him/herself. Even though Stoutheart has been found not guilty, the ruler wishes to try him again, to make him again go through the trauma and expense of a trial. The Fifth Amendment says people should not be put in jeopardy twice.

Stoutheart is pressured to confess by being repeatedly called into Court. When that does not work, the ruler increases the pressure by threatening to imprison Stoutheart's five-year-old granddaughter. This finally forces Stoutheart to confess, even though he is innocent. The Fifth Amendment says one cannot be forced or coerced to testify against oneself. This prevents law enforcement and judicial officials from putting pressure on accused criminals. As in this case, such coerced convictions are not reliable. An even more blatant abuse would be torturing the suspect until he or she confesses. The Fifth Amendment permits only the use of truly voluntary confessions.

ACT 3: THE CROWN AGAINST SIR WINALOT

Lord Lottaland accuses the knight, Sir Winalot, of stealing his horse. Sir Winalot has a bill of sale to prove he bought the horse, but this does not matter to the ruler once he/she realizes that Sir Winalot was the knight who recently defeated the monarch's son in a jousting tournament. The monarch is a biased decision maker. The right to a fair trial in front of a neutral, unbiased judge or jury is a basic protection inherent in the Fifth, Sixth, and Seventh Amendments.

ACT 4: THE CROWN AGAINST LINDA LILY

Roxanne Rose accuses Linda Lily of punching her in the nose. The monarch finds Lily guilty even though Lily is not present. The Sixth Amendment says people have a right to be told of what they have been accused, to face their accusers, and to subject their accusers to questioning in court. Lily did get some sort of notice of the charges against her, but she had received it only that morning and could not read it. One needs time to prepare a defense (the trial here is too speedy) and the Sixth Amendment guarantees the assistance of a lawyer. The U.S. Supreme Court, in the famous case of *Gideon v. Wainwright*, said that the state must supply an attorney for persons accused of a serious crime if they cannot afford an attorney.

Even though Lily has a defense, the monarch refuses to listen. After Lily insults the monarch, he/she orders the bailiff to jail Lily and throw the key away. Here, as in many other sentences, the punishment is unduly harsh. The Eighth Amendment forbids cruel and unusual punishments.

HANDOUT 1

Fairness in the Land of Faircastle (A Play in Four Acts)

ACT 1: THE CROWN AGAINST RED SMITHY

Cast of Characters

Narrator

Bailiff (person who helps run the court)

King/Queen

Lady Violet

Red Smithy

NARRATOR: This Friday, as on every Friday morning, the ruling monarch of the Land of Faircastle is about to open the Faircastle High Court of Justice. The Ruler (King/Queen) is the only member of the Court.

BAILIFF: Hear ye! Hear ye! The Great Chief and Only Justice of the Land of Faircastle is about to open the Court for the business of the day.

KING/QUEEN: Bring on the first case.

BAILIFF: The first case is The Crown Against Red Smithy. The victim is Lady Violet.

KING/QUEEN: State your case, Lady Violet.

LADY VIOLET: Fifteen years ago I was injured when Red Smithy, then 12 years old and learning how to be a blacksmith, let a barrel of horseshoe nails roll over my legs, which badly bruised them.

KING/QUEEN: Why did you wait so long to bring this case before me?

LADY VIOLET: When I was injured Red Smithy was only 12 years old. He had few customers. Now he is doing so well that he is taking business away from my own true love, Pureheart Smithy.

KING/QUEEN: Is there anyone else who saw the terrible bruises?

LADY VIOLET: Oh yes, Your Majesty.

KING/QUEEN: Well, bring them to court as witnesses.

LADY VIOLET: I cannot do that, Your Royal Highness. My mother is now dead and my best friend Elaine Roundhead has moved to the colonies. There is no way after so much time to bring in my witnesses.

KING/QUEEN: Well then, let's hear from the blacksmith, Red Smithy. What do you have to say?

SMITHY: That was many years ago. I don't remember causing injury to Lady Violet.

KING/QUEEN: Lady Violet has brought serious charges against you, Red Smithy. You do not deny them; you only say you don't remember. I find you guilty of injuring Lady Violet and order that you spend 10 years in prison.

Act 2: The Crown Against Old Stoutheart

Cast of Characters

King/Queen

Bailiff

Old Stoutheart

Tiny Stoutheart

Narrator

KING/QUEEN: Bailiff, call the next case.

BAILIFF: The next case is The Crown Against Old Stoutheart. The victim is Funnyfellow, the Court Jester.

KING/QUEEN: Yes, I know this case well. Every Friday I order Old Stoutheart to the Court to answer to the charge that he caused Funnyfellow, the Royal Jester, to fall to the floor by removing Funnyfellow's chair as he was about to sit down.

OLD STOUTHEART: That is right, Your Majesty. You make me come here every Friday even though the Royal Jury found that I was not guilty because there was no evidence that I pulled the chair out from under Funnyfellow.

KING/QUEEN: Yes, that is why the Royal Jury is no more. The Court Jester was injured and unable to work for a whole month, leaving the Royal Court without laughter. Someone must pay for such a nasty crime. So we are waiting for you to confess -- patiently waiting, I might add.

OLD STOUTHEART: I will not confess. I did not do it. I am merely trying to make a living as a baker and it is not easy when I spend every Friday morning in the Court. If I were not such an honest man I would confess just so I could continue to make a living.

KING/QUEEN: Aha! Did you say you confess?

OLD STOUTHEART: No, a thousand times no! I didn't do it! I will not confess!

KING/QUEEN: We'll see about that. Bailiff, call the next case, heh, heh.

BAILIFF: The Crown Against Tiny Stoutheart.

NARRATOR: The bailiff enters the room with Tiny Stoutheart, a five-year-old girl.

TINY STOUTHEART: No, you cannot do this to me. I have done nothing wrong.

BAILIFF: Your Majesty, on your order, Tiny Stoutheart is charged with injuring the Royal Jester. She will be put in jail unless she can prove her innocence.

OLD STOUTHEART: No, wait! If you are so anxious to arrest someone that you would put my little granddaughter in prison, I will confess. I hurt the Royal Jester.

TINY STOUTHEART: But Grandpa, you did not hurt the Royal Jester! I know you didn't. That was the day you took me to the Royal Zoo.

OLD STOUTHEART: Hush, girl. It is for the best. I confess.

KING/QUEEN: Old Stoutheart has confessed to injuring Funnyfellow, the Royal Jester, and depriving the Royal family of laughter. I order him to give me his bakery and sentence him to spend 20 years in prison. Take him away.

Act 3: The Crown Against Sir Winalot

Cast of Characters

King/Queen

Bailiff

Lord Lottaland

Sir Winalot

KING/QUEEN: Bailiff, bring in the next case.

BAILIFF: The Crown Against Sir Winalot. The victim is Lord Lottaland.

KING/QUEEN: Lord Lottaland, what is your charge?

LORD LOTTALAND: The knight, Sir Winalot, stole my horse, Aksarben.

KING/QUEEN: What say you, Sir Winalot?

SIR WINALOT: Aksarben is my horse. I bought him last year from Lord Lottaland. Here is the bill of sale signed by Lord Lottaland.

LORD LOTTALAND: Your Majesty, I remind you that Sir Winalot was the winner of the royal jousting tournament in which he defeated your son, Sir Neverwin.

KING/QUEEN: Why that's right. I so wanted my son to win. Sir Winalot, I find you guilty as charged. You must turn over your horse. Ah, I mean Lord Lottaland's horse to him. You are to be put in prison for the entire jousting season and for the next 30 jousting seasons to come.

ACT 4: THE CROWN AGAINST LINDA LILY

Cast of Characters

King/Queen

Bailiff

Roxanne Rose

Linda Lily

Narrator

KING/QUEEN: I hope we are done now.

BAILIFF: Just one more case, your Royal Judgeship. It looks like a short one.

KING/QUEEN: Okay, okay. Bring it on.

BAILIFF: The Crown Against Linda Lily. The victim is Roxanne Rose.

KING/QUEEN: Ms. Rose, what is your charge? Make it snappy. I'm in a hurry.

ROSE: (holding a handkerchief to her nose) Your Majesty, two days ago Linda Lily punched me in the nose, which caused me great pain. You can see how bruised my nose is.

KING/QUEEN: Yes, yes, I see. Where is Ms. Lily?

BAILIFF: She is not here, Your Majesty.

KING/QUEEN: Good, that makes it easy. I find her guilty and order her to spend one year in prison. Arrest her immediately.

NARRATOR: The bailiff goes to arrest Linda Lily. A few minutes later Linda Lily comes running into court with the bailiff following after her.

LILY: Your Majesty, why did you have me arrested?

KING/QUEEN: Roxanne Rose said you punched her in the nose. You were not here to defend yourself. Did you not receive an order to appear in court?

LILY: I did get a piece of paper early this morning, but I did not understand it. It was written in Latin and I am a poor woman who cannot afford to hire someone to help me.

KING/QUEEN: Too bad. I have already decided you are guilty.

LILY:

But, Your Majesty, while it is true I punched Roxanne Rose in the nose, I did it to defend myself. She was going to hit me because I just got the job of helper to the royal gardener, instead of her.

KING/QUEEN: You will not be gardening; you will be spending a year in jail. You have had your trial and I found you guilty.

LILY: (angrily) This court is a joke. You should be the Royal Jester.

KING/QUEEN: Bailiff, lock her up and throw away the key.

NARRATOR: The people of Faircastle got so tired of the Royal Ruler and the Court's unfair decisions that they overthrew the ruler and set up a new government. But they had a hard job ahead of them. They needed to write a Bill of Rights. What are the rights that the people of Faircastle should have to prevent unfair decisions like the ones we just saw?

HANDOUT 2

Procedural Justice Worksheet

List the actions of the King that were fair. In the second column, list the actions that were unfair.

| <u>WAYS KING/QUEEN WERE FAIR</u> | <u>WAYS KING/QUEEN WERE UNFAIR</u> |
|--------------------------------------|--|
| | |

List the rights that were violated by the King. Add any other rights that need to be protected by our government. In the right-hand column, list the Amendment in our Bill of Rights that protects us.

| <u>RIGHTS NEEDING PROTECTION</u> | <u>AMENDMENTS IN THE BILL OF RIGHTS GIVEN PROTECTION</u> |
|---|---|
| | |

HANDOUT 3

Basic Procedural Rights Guaranteed by the U.S. Bill of Rights to Individuals Accused of Crimes

The United States Bill of Rights guarantees residents of this country certain procedural rights: _

YOU HAVE THE RIGHT TO REFUSE TO TESTIFY AGAINST YOURSELF. _
(5th Amendment)

YOU CANNOT BE TRIED FOR THE SAME CRIME TWICE. _
(5th Amendment)

YOU HAVE THE RIGHT TO A SPEEDY TRIAL.
(6th Amendment)

YOU HAVE THE RIGHT TO A PUBLIC TRIAL.
(6th Amendment)

YOU HAVE THE RIGHT TO BE INFORMED OF CHARGES AGAINST YOU.
(6th Amendment)

YOU HAVE THE RIGHT TO FACE THOSE WHO ACCUSE YOU.
(6th Amendment)

YOU HAVE THE RIGHT TO COUNSEL (A LAWYER) FOR YOUR DEFENSE.
(6th Amendment)

YOU HAVE THE RIGHT TO TRIAL BY JURY.
(6th Amendment)

YOU HAVE THE RIGHT TO REASONABLE BAIL, FINES, AND PUNISHMENT.
(8th Amendment)

YOU HAVE THE RIGHT NOT TO LOSE YOUR LIFE, LIBERTY OR PROPERTY WITHOUT
DUE PROCESS OF LAW.
(5th and 14th Amendments)