

MILITARY TRIBUNALS LESSON

Introduction:

- set up by linking to current events, e.g. Fort Hood - military tribunals; Gitmo and torture
- Explanation of different sources of power for article 3 courts, military tribunals, international rules of warfare and human rights.
- Different courts have different rules (ask students to identify basic rights such as representation, right to be apprized of charges, right to a jury)
- Where does the power to deal with “war criminals” come from?
- military combatant definition
- what is the difference between an act of terrorism and an act of war?

Discussion questions: (in small groups)

Which statement in the following pairs is closer to your viewpoint on the issue? Support your answer by explaining why.

1. All people living in the United States should have equal rights. The Constitution states that all people are created equal, not all citizens are created equal.
Or
Foreign born people should have fewer rights than U.S. citizens, especially in a time of crisis or heightened concern about the safety of people on U.S. soil. Security of U.S. citizens is more important than the civil rights of other human beings who are not citizens of the U.S.
2. Civil liberties of all Americans, including the safety of their person and property, should be protected at any cost.
Or
There are limits to how far the government should go to protect people from terrorism.
3. Certain rules and rights (such as the right to counsel and the right to a trial) should apply to all persons detained, whether they are suspected terrorists or not.
Or
Anyone who is suspected (but not yet tried) for terrorism is entitled to fewer civil rights and protections in our courts.
4. Torture is never allowed or justified under the Constitution.
Or
Some extreme methods of obtaining information are justified when the threat to security is high.

5. One country's definition of terrorism could be another country's definition of war.

Or

Random attacks on innocent persons by groups in hiding is not a declared war that would trigger protections of international law for the combatants . . . it is terrorism.

Application activity - (can do in small groups or as whole class if time permits.)

Each group receives one scenario and there is a person designated to argue for or against civil protections.

For each scenario, answer the following questions:

Q1: Should the accused be tried in open U.S. Court, by a military tribunal, or detained without trial for some period of time?

Q2: Should the accused have the right to counsel?

Q3: Should some of the information obtained against the accused be kept secret in order to protect U.S. citizens?

Scenario 1. A U.S. citizen joined Al Qaeda and is accused of participating in the bombing of a U.S. embassy in the Middle East.

Scenario 2. A suicide bomber who was not born in the United States bombs a U.S. embassy in the Middle East.

Scenario 3. The mastermind and head of the self-proclaimed terrorist group, "GET THE CAPITALISTS," has published a video declaring war against the United States. She is captured while purchasing explosives in Philadelphia.

Scenario 4. A known terrorist, Mr. T, has been videotaped entering a mosque in Philadelphia. The government has rounded up and put all individuals who practice their religion at that mosque in the Eastern State Penitentiary for questioning.

Scenario 5. A man with dark skin and a turban, who happens to be a Sikh, is strip searched at the airport and found to have a mace on his person. He is not Islamic nor is he a terrorist with any plan to hurt anyone. He simply forgot to leave his mace at home before traveling. He is placed in a locked room at the airport for questioning.