

# LEGAL STUDIES

## Interpreting Aboriginal justice in the Territory



Caroline Heske's article 'Interpreting Aboriginal Justice in the Territory' examines the problems relating to the provision of interpreters in cases involving indigenous people and the impact that these problems have on the attainment of a fair trial.

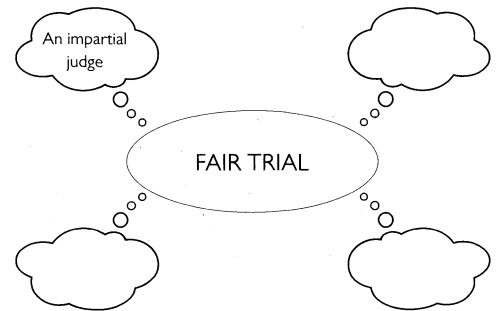
Working in small groups, answer the following questions:

1. At the start of the article the author presents the story of one indigenous woman's experience of the legal system. Carefully read this story. What factors do you think contribute to this woman's difficulties in understanding the operation of the legal system?
2. 'An incredible 50 per cent of defendants and a large proportion of witnesses (including victims of crime) experience Territory justice in a foreign language.' Explain.
3. Read the section 'A right to an interpreter... sort of'.
  - a. Is there a right to an interpreter in the Northern Territory?
  - b. The article suggests that the use of an interpreter is important for victims of crime, during an arrest and police questioning as well as at court.
    - (i) Explain why it may be necessary for a victim of a crime to be provided with an interpreter.
    - (ii) What difficulties do the police face in providing an interpreter at the time of arrest?
  - c. The article suggests that police face a number of difficulties in providing an interpreter during police questioning. Draw up a table like the one below. For each difficulty identified:
    - explain the problem
    - suggest how this problem may impact on the rights of a defendant.

Difficulties	Explanation	Impact on the rights of a defendant
Limited number of interpreters		
Geographic limitations		
Use of pidgin English		
Police officers in remote areas may lack experience		
Understanding of a caution		

d. 'At common law, a person has a right to a fair trial, and in practice this may require an interpreter to be provided.'

- (i) The article refers to the concept of a fair trial. What do you think are the essential elements of a fair trial in a criminal matter? Draw a diagram like the one below. Complete the diagram by identifying the essential elements of a fair trial. Your group may identify more than four elements. If so, you may want to add more speech bubbles.



- (ii) How may the lack of an interpreter result in an unfair trial?
  - (iii) What action can a judge take if an interpreter is not available?
- e. What problems may an indigenous person experience when acting as an interpreter?

4. Read the sections 'You can't choose your family' and 'What can be done?'. Prepare a Case Study Report on the R v RA case. Your report could be presented as a: Newspaper feature story  
or  
Scripted radio interview.

Your case study report should address the following points:

- Outline the facts in the R v RA case;
- Explain why the judge discharged the case;
- Discuss the difficulties associated with providing interpreters in cases involving indigenous defendants;
- Suggest the impact that these difficulties have on a fair trial.

**JULES ALDOUS** teaches legal studies at Shelford Girls' Grammar School in Melbourne.