



Amnesty International

What Is A Fair Trial?

Introduction

A fair trial is a right that all the people of the world are entitled to according to the Universal Declaration on Human Rights. But what makes a trial *fair* or *unfair*?

Exercise A

Consider the following scenarios, each of them describes an **imaginary** court case. Rate them according to how fair or unfair you think the trial and the process leading up to it was, and explain your reasons in the space provided.

1. Carlos Rodriguez was charged with murder on 4th January 2006. He appeared in court **two** days later. He was not allowed to choose his own lawyer, but the court appointed one for him. It was the first murder case that his lawyer had ever handled. While he attempted to gather some evidence in Carlos's favour, the lawyer failed to raise a number of crucial matters that would have helped Carlos's case. In court, the police were able to present a lot of evidence against Carlos that they had been gathering for some months before his arrest. Carlos was found guilty and sentenced to death.

Fair _____ Unfair

1 2 3 4 5

2. Salim Ahmed was arrested and put in prison on **9th December 2003**. On **September 6th 2005**, the prison guards told Salim that he was to appear in court to

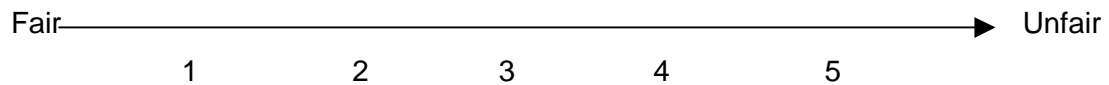
face a charge of stealing from his employer on 3rd December 2003. He was given access to a telephone and was able to contact his wife and to hire a lawyer. In court the jury heard evidence from both sides. Salim had managed to hire a lawyer, who produced a wedding certificate, receipts of air tickets and Salim's passport to support his client's claim that on December 3rd, 2003 he had in fact been on his honeymoon in another country. The court found Salim "not guilty."

Fair —————> Unfair
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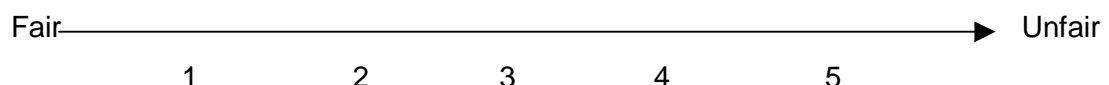
3. The poet Adnam Ardalan and 5 other Kurdish people were arrested by Revolutionary Guards in January 2007 on the charge of *Moharab*, a vaguely worded offence meaning "*being at war with God*". Adnam appeared on national television, walking with a limp and looking very ill. He confessed to belonging to a banned Kurdish organisation and to drinking alcohol. The six men were denied access to a lawyer or any legal representation. Because the suspects were Kurdish, they did not have a proper criminal trial, instead their trial was a military tribunal that was held in secret in the Army Barracks on September 17 2007 before a military judge. It lasted 23 minutes. All six were sentenced to execution. They were hanged the following day.

Fair —————> Unfair
1 2 3 4 5

4. **Philip Entise** comes from a small Catalan town in the north of Spain. On March 14th 2003 he was accused of murdering an 8-year-old girl in a town in the South of Spain. His case came to court in the Southern town in May. As Philip arrived at the court, a crowd of more than 100 people shouted "Murderer! Send him down!" The trial judge was a local man and the jury was entirely made up of people from the town where the girl grew up. They found Philip guilty and he was sent to prison for life.

Fair  Unfair

5. **Michael Roberts** grew up in Ireland. In December 2001 he went to work on a construction site in Russia and started Russian lessons. On March 5th 2002 he was arrested and accused of drink driving. When he asked for a lawyer, the city of Murmansk Police assigned him the lawyer who was always called in to work with cases involving foreigners. When Michael questioned this, he was told that the right to choose his own lawyer only applied to Russians. The judge found Michael guilty, his licence was removed and he was given a hefty fine. The court case was conducted entirely in Russian without any translation.

Fair  Unfair

6. Margaret Williams was accused of plotting to blow up a major train station in Glasgow on April 4th 2006. Her case came to court on November 25th 2006. During the trial, the Prosecution read out a confession by the convicted terrorist Peter Drew In it he claimed that Margaret had definitely been involved in the plot. The Defence claimed that Peter Drew's statement had been made in a prison in Afghanistan where police had been torturing him. Margaret was found guilty, mainly on the basis of Peter's Drew's statement and sentenced to life imprisonment.

Fair _____ Unfair

1 2 3 4 5

Exercise B

Study the list of international standards for a fair trial. These are the standards (rules) that almost all the countries of the world have agreed to follow. They are based on the rights contained in the Universal Declaration of Human Rights, and are known in legal language as “articles.”

Consider the scenarios above again and identify which articles are not being followed in each case. Write the relevant article number(s) next to each case on the worksheets (there may be more than one relevant article in each case).

BASIC INTERNATIONAL STANDARDS FOR A FAIR TRIAL

Taken from the International Covenant on Civil and Political Rights (ICCPR)

Everyone shall be entitled to a fair and public hearing by a court where the judge or jury do not favour one side of a case over another and are able to do the job well.

Article 14(1)

Anyone who is deprived of his liberty by arrest or detention shall be entitled to go to court, in order that the court may decide without delay on the lawfulness of his/her detention (imprisonment) and order his/her release if the detention is not lawful.

Article 9(4)

Anyone who is arrested shall be informed, at the time of arrest, of the reasons of his/her arrest and shall be promptly informed of any charges against him/her. **Article 9(2)**

Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. **Article 14(2)**

A person shall be entitled to defend himself /herself in person or through the help of a lawyer of his/her own choosing; He/she should not have to pay for a lawyer's help if he/she can't afford it. **Article 14(3)(d)**

The accused shall be entitled to adequate time and facilities for the preparation of his defence and to communicate with a lawyer of his own choosing. **Article 14(3)(b)**

No one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. **Article 7**

All persons shall be equal before the courts and tribunals.... **Article 14(1)**

The accused shall have the free assistance of an interpreter if he cannot understand or speak the language used in court. **Article 14(3)(f)**