

**Foundations of Law 2007 Court Observation Assignment**

**CLSS EXAMPLE - Credit**

**Introduction:**

The magistrate at Local Court and the three judges at the Court of Criminal Appeal (NSW CCA) are the adjudicators of crimes committed by an individual against the State. The basic role of the magistrate and of the three judges is to ensure that defendants are given a fair trial. Beyond this basic aim however, because the NSW CCA is in a higher position than the local court in the hierarchy of courts, this greatly contributes to the differences in their respective criminal proceedings.

**Procedural Fairness**

To the lay observer, impressions of a fair trial are conveyed shortly after entering the courtroom. The magistrate and the judges exude a unique authority which force us to trust, respect them and hence their decisions. This authority comes about through their distinction from others in the courtroom. At the NSW CCA, for example, the magistrate wears a red gown, different from the black ones worn by barristers. Furthermore, the justices sit at elevated benches set back into the courtroom. This isolation from others in the courtroom appears to increase the justices' impartiality in the trial. By being away from the distracting public, the justices are able to disengage themselves from the bias and emotions of the public.

However the fairness of the trial at both courts is offset by the observation that there is a lack of legal representatives at local court.

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**Conclusion**

Although magistrates and the judges aim to conduct a fair trial, factors such as the lack of legal representation at local courts and the emotional labour of magistrates have the potential to reduce the fairness of the trial at local court. Ultimately, because the two courts are at different places of hierarchy of courts, this factor is responsible for many of their differences in proceedings.

**Appendix: Number of times I attended Court.**

1. **Tues. 20<sup>th</sup> Feb. Local Court, Downing Centre, 10:45-11:30am**
2. **Wed. 21<sup>st</sup> Feb. Local Court, Downing Centre, 3pm-4:30pm**
3. **Thurs. 22<sup>nd</sup> Feb. The Court of Criminal Appeal: 10:00am-12:30pm**
4. **Mon. 26<sup>th</sup> Feb. Local Court, Downing Centre, 2pm-4:30pm**