

# Whether trial by jury should be abolished in the english legal system? essay samp...

Law



Jury selection is laid down in the Juries Act 1994. While it is proven that there are reasonable alternatives to a jury trial and that there is no doubt that jury trial is both time consuming and expensive when compared with trial by magistrates or by a judge alone, however the right to a jury trial shall not be dismissed so lightly. The anti jury lobby deems the jury system unpopular the importance of which is considered only overrated. I will be critically analysing whether trial by jury should be abolished in the UK legal system plus evaluating the advantages and disadvantages of the system.

Lord Devlin was quoted as saying the jury system is “ the lamp that shows that freedom lives”. A Jury can decide cases on their idea of fairness, e. g. R v Ponting [1984] civil servant leaked info to a MP on the ground of public interest, jury refused to convict despite no legal defence. Juries are seen as the essence of citizenship, the involvement of ordinary people in government, and in this sense essential to Tony Blair’s ‘ vision’. The jury provides people with experience of the justice system, an educative process inspiring people with confidence that the justice system is working properly. However, this theory is not backed-up by the fact that nearly everyone who is called to do jury service does their level- best to get out of it. Part of the reason is the inadequate recompense, the long waits, abrupt adjournments and inconvenient rescheduling.

Jurors are interviewed to avoid bigots, one cannot always identify a bigot nevertheless there is still less of a risk with 12 jurors than with a single judge that the guilt-determiners’ views will influence the verdict. It is said that it is justifiable to have a disparity in the use of criminal and civil juries because in criminal cases, the result will decide someone’s future liberty and reputation, <https://assignbuster.com/whether-trial-by-jury-should-be-abolished-in-the-english-legal-system-essay-sample/>

but in civil cases only money is at stake. However, this assumes that juries are somehow 'better' than they are more likely to reach 'fair' or 'correct' decisions than properly trained judges. Evidence shows that this is not the case, and therefore, the role of the jury must be purely representative, a symbol that the law is not just locking people.

The judge's direction to a jury can have undue influence, they can effectively be deciding the case (and they do, in the case of directed acquittals), and this can negate the advantages of having a jury system. Juries may be incapable or unwilling to understand proceedings. Runciman Commission (1992): just under 10% of jurors admitted difficulty with a case

The middle class are more likely to have or to be able to devise what is seen as a good excuse for not missing their work, and this results in juries of the unemployed and the working class. Many people find jury service very tedious, and do not pay appropriate attention to their duties; this cannot be advantageous since they may not come to the proper decision. Is it sought-after that people who do not want to be doing jury service should be doing so? Juries do not include as many ethnic minorities as are present in the population as a whole because many are excluded for lack of language skills. Some jurors may be biased, e. g. against the police or racially prejudiced. See R v Gregory [1993](juror showing racial overtones) and research by Baldwin & McConville [1979]: doubt in 5% of cases by professionals.

Particularly vociferous or eloquent jurors can influence entire juries, who may be constituted of people apathetic as to the results. This can exacerbate the problems of juries being more vulnerable to bribery, corruption and

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intimidation, since they are drawn from the wider community. Many jurors can be criminals themselves. Jurors, it is said, are often more impressed by amusing addresses by counsel, or any number of other concerns, irrelevant to the determination of an accused's guilt, than are trained judges or magistrates. The fact that, it is said that juries are influenced by eloquent counsel makes it even more important to have good and hence expensive lawyers, this may, indirectly, result in the high cost of criminal legal aid. Media coverage may influence jurors, R v Taylor (1993) – newspapers gave false impression of video sequence

Furthermore, the fact that the Access to Justice Bill will deny people in complicated trials their choice of lawyer, could be crucial in jury trials. Juries are far more likely to lock people up irrationally, and this may lead to people being imprisoned unjustly. Some believe that the function of the jury is to protect us from the worst excesses of Parliament, many citing the acquittal of Clive Ponting (the jury first adopted this role with the trial of the London Reform Society's leaders in 1794), thus affirming the principle that 'lex injusta non est lex', and describing the jury as the 'bulwark of our liberties' as did Lord Denning MR in Ward v. James [1966] 1 QB 273.

However, such cases are the exception rather than the rule and indeed all of the famous miscarriages of justice were executed by juries, and indeed are so few in number that such as there are attract great publicity. It is said that juries will acquit defendants who have been prosecuted unjustly, e. g., where the homeowner shoots the burglar who has come into his house. Thus the jury, or so it is said, avoids unjust laws or precedents without breaking them.

It provides a criminal equity. Having said this however, juries have no business in changing the law; they are breaking the rule of law and going against the will of the democratically elected legislature.

Juries award absurdly large sums of damages in libel actions, resulting in the stifling of freedom of expression, and of the media. This means that the threat of a libel action can cast such fear into the heart of the alleged libeller, that misdeeds can go uncovered or unexposed as a result. This can result in long-term damage. *Elton John v. MGN* [1999] limited the right to jury. In *Ward v. James* [1966] 1 QB 273, the Court of Appeal said that juries in personal injuries cases should only be used in very special circumstances. It was said there that juries were declining because “ Juries cannot assess fair compensation without experience, they remove predictability, they reform uniformity”.

Juries are often unsure as to the standard and burden of proof, and can confuse their duty to the law, with their ‘ duty’ to protect the public – do juries lower the standard of proof for e. g. suspected child molesters? Juries deliberate in private and no one can inquire into what happened in the jury room.

On the side of using juries, judgement of character does not require legal skills or experience, and in defamation, it is better for many ordinary people to judge what is defamatory than one man. The jury can reach perverse decision which is not justified, Have refused to convict in clear cut cases e. g. *R v Randle and Pottle* (1991) where D’s wrote a book, 25 years later, about their crime helping a spy to escape from prison.

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For far too long now all the emphasis has been placed on the defendant, with the victim more often than not feeling less catered for than the accused. It is about time the balance was redressed, where the victim comes first. In today's society, the evidence is usually compelling, there is no need for a jury; one man can be confident of ensuring the right man or woman is guilty. In the more important crimes, then a jury will still be there. People fear change far too much in this country, yet our society has changed so much it makes sense to adapt our justice system to better suit the needs of society.

The purpose of the jury is to provide trial by peer group, a notion encapsulated in the Magna Carta of 1215. Clause 39 of the charter stated that “ no man shall be imprisoned...except by the lawful judgement of his peer...” Allowing some people to avoid jury service by virtue of their occupation means that the diversity of the community from which jury members are drawn is not properly reflected. A long trial could mean that invaluable training would be missed. However, this could be said of many professions. The categories of ineligibility should be abolished and replaced by a system that uses discretion to excuse or defer service for individuals. The considerations for excusing jury service should include whether it would be in the public interest to excuse someone on account of their work. I believe the blanket policy excusing surgeons and barristers' is outdated and elitist.

Mr Jack Straw wants to remove the option of jury trial for some defendants because “ changing the system would save £105m a year and claimed the Law Society and Bar Council opposed the move because it could hurt their

members, not on principle” showing even the government are ready for reforms. However “ Trial by jury is a key freedom in our democracy” at the time home secretary said. The director of civil rights group Liberty, John Wadham, claims that the removal of the jury system would “ be a disaster for our criminal justice system. There will be more wrongful convictions, less confidence in criminal justice, and more widespread perceptions of unfairness.”

Reforms in the jury service are needed. A panel of judges are more likely to follow the law allowing juries to decide sentence as well as guilt – to stop the public outcry at people being given short sentences Specialist jurors – either selected from those with qualifications, after aptitude tests although would anyone try to pass them? A reasonable man would much rather receive a verdict from people trained to weigh evidence professionally and remain impartial, than from twelve potentially ignorant, uneducated people, whose analytical capacities are entirely unknown. The government could steadily increase the magistrates’ court jurisdiction, and/or to give the magistrate the final decision as to mode of trial.

Sander v United Kingdom A judge’s decision to deal with an allegation of racial bias in a jury trying an Asian defendant by means of a redirection rather than a discharge did, in the circumstances, constitute an infringement of the right to a fair trial as guaranteed by article 6. 1 of the European Convention on Human Rights. The ECHR held by four votes to three that allegations contained in a note which a juror had transmitted to the judge, indicating that another juror had made racist comments during deliberations,

which the latter had admitted to have made, were capable of causing the applicant and any objective observer legitimate doubts as to the impartiality of the court. A subsequent collective letter by the jurors and the redirection of the jury by the judge did not dispel that doubt that the jury had been racially prejudiced. “ I have decided I cannot remain silent any longer. For some time during the trial I have been concerned that fellow jurors are not taking their duties seriously. At least two have been making openly racist remarks and jokes and I fear are going to convict the defendants not on the evidence but because they are Asian.”

In conclusion, it is said that juries distract from the real problems in the criminal justice system just as the fact that we have a democracy makes it, by definition, look better than if we have a dictatorship what dictator can afford to be complacent? People think that as long as the jury survives, all is rosy in the justice system. Many advantages and disadvantages have been shown, showing trial by jury should be abolished completely.

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