

# Trial by jury within the english legal system



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The English Legal system began in the year 1215 under the Magna Carta, which was then signed by King John. Pursuant to Article 39 of the Magna Carta: "No free man shall be arrested, or imprisoned, or deprived of his property, or outlawed, unless by legal judgement of his peers, or by the law of land" The English legal system falls into two categories, firstly, criminal law as to where the State accuses someone of a crime affecting the whole community.

This is called prosecution with the case taking place in the Magistrates' Court or the Crown Court. The second law is the Civil Law where instead of this affecting the community it affects the individuals within the community. A civil law will then be called into action or a claim. This is the conclusion of the English legal system and its historical background. Jury trial is only allowed in four types of civil cases.

These are as follows: fraud, defamation, malicious prosecution and False imprisonment. The Supreme Court Act 1981 (section 69), allows for juries to be used in these cases mentioned above. More serious crimes however are tried in the Crown Court. The Crown Court deals with more serious criminal offences trialled by judge and jury. While Lay Magistrates sit in the Magistrates court, juries are sat in the Crown court, the High Court, the County Court and the Coroners' Court. With the High Court being more senior it has twelve members on jury while County Court only having around eight members.

When on jury, the people have two responsibilities as a 'dual-role'. Not only do they decide whether the claimant (who claims a right or compensation)

has won the case, but also the amount of damages the defendant (the person being sued or accused of) has to pay. Nowadays people are usually summoned for jury service by computer at a Central Summoning Bureau. It is a computerised list with everyone's name being entered and there being electoral registers for each area. Once they have been selected, jury summons are sent out telling them to come out and attend the Crown Court case.

The Juries Act 1974 is as follows: the qualification for the jury was every person must be qualified to be a juror in the Crown court, High Court and County courts and must be able to attend to their job when needed. He/she must not be younger than 18 years or older than 70 years of age. Since the age of 13, if not a resident of the United Kingdom, must have lived in the U.K for at least 5 years.

He/she must not be mentally disordered and must not be disqualified for jury service. The case usually lasts at least 2 weeks but can run on for longer, the jurors are aware of this. The computer that holds the details of the jurors also have access to the police criminal records, so that those who are disqualified from jury service should be identified, if not and you are aware of this you can be fined up to £5000 for failure to declare this. Law has changed so that no one ineligible is to sit on the jury. Ineligible meaning not allowed applying to some rules; to vote and retirement benefits for example. A discretionary excuse is that some people may not want to attend a jury service and therefore must state their reasons in writing to the court.

The court then decides if the person should be excused or not. If you are excused, the jury service will be postponed until all the members of jury can attend. The guidance says that: The normal expectation is that everyone summoned for jury service will serve at the time for which they are summoned. However, if the person is not excused they must attend, failing to do so without permission after being summonsed he/she will risked being fined up to £1000 for non-attendance. In jury, where the more serious cases are heard, one or two procedural (where one person must say exactly what must be done and in what order), hearings may be held in private.

At this point, the defendant must then state guilty or not guilty to admitting to the crime committed. At these hearings the judge will then decide whether or not the defendant being accused should be kept in custody or released on bail to return on a specific date given. In court, the role of the jury is to agree on a verdict. Sometimes either agreeing on a majority verdict or can even agree to take a lesser majority verdict. Each juror stands as a judge that all joins together to reach their verdict together. If the defendant states not guilty, a trial date will be planned.

Where there will be evidence given out to provide proof for the case to be heard. The dates are usually forwarded to months ahead. However, the defendant can plead guilty to their faults at any time during the case. If admitted guilty, the case carries out to a sentence. Some weeks before the trial begins, a hearing may be held to confirm the date of the actual date to proceed.

If there is an interruption, the date will then be changed and fixed to another. On the trial day, the prosecutor and the defendant's solicitor can call witnesses to defend each person for the other reason; however this doesn't always go to plan because sometimes if a witness or the defendant is not there the trial will not go ahead. For the jury to come to a verdict on the case, they are sent to a private room to discuss the case. No one is entitled to hear the discussions, nor are the members of the jury to discuss this to anyone outside. If so, the juror is guilty of giving away details of what does not concern other persons and may therefore be fined or even sent to prison.

Once the jury have decided, they retire back to the court and the judge then tells the jurors that their decision must all be agreed on. This is called a unanimous decision. It's not all the time the jurors agree with each other. So after the long discussion and being called back into the courtroom they still can not decide they may reach a majority verdict. When this happens, at least 10 jurors must agree, to reach a vote of 11-1 or 10-2 for either guilty or not guilty.

After the jury have decided, they return to the courtroom where the clerk (keeps records or accounts) asks what their verdict is. The spokesman for the jury, known as the foreman or forewoman then states whether it is a unanimous verdict or majority one. If a majority verdict of guilty the amount of jurors agreed on this must be stated, if the verdict is guilty the judge then decides what sentence to give the defendant being accused. However, if the verdict reached is not guilty the defendant is innocent and shan't be

sentenced. To conclude ' Part A', overall, I think the system is well thought-out.

There are many different cases and courts for different situations whether serious or a minor. Each person in the court has a different role to someone else unless it is in the jury among other jurors that are there to decide upon if the defendant is guilty or not guilty after the trial. Part B Effectiveness of Trial by JuryIt is my personal view that the present system of trial by jury is very effective because the way it is categorised is promising and well organised. For example the criminal and civil laws making it clear the difference between. These are the divisions of law. These divisions make it very clear for the jury system.

The laws are effective because people are aware that a particular crime results in a certain punishment, for example, if you rob a bank, the punishment will be sincere. But not all the time, there are others laws that don't need to consist of crimes or punishment, for instance, ' David claims he has been unfairly dismissed from work'. This example used is an employment law; a civil law. As a result of the random selection of jurors, the possibility of bias is greatly lessened.

For example, if a young woman, age 28, got raped, on the night she wore a mini black skirt, high heels, and tube top with a crop jacket. If the jury was full with men, the view would be biased. They could say that the woman shouldn't have been wearing those clothes, therefore she deserved it. Same as if the jury was full of women, the majority will take sympathy on the

young woman and the man's punishment will become severe. Therefore, there should be a mixture so the views are all different.

Trial by jury is also effective because jurors are given the opportunity to decide a case based on the evidence and their own conscience and are free to ignore the beliefs of the judge or barristers. This is effective because judges and barristers like to follow the laws and evidence only being oblivious to conscience. However, if normal people with consciences are in case to come to decision in the end, the defendant or claimant could each stand an equal chance of winning the case. However, sometimes I disagree with this system because; it is not always fair, for example. If a young woman, age 28 had gotten raped, on a foggy night, wearing ' inappropriate dressing' however, there are 12 jurors, six are women and the rest are men.

Some, being sexist and all, the majority of men could easily state the girl should not have been out to late and be wearing such revealing clothes. Whereas, the women if at an older generation could find the clothing also inappropriate or find forgiveness in the man that raped her and let his punishment be less severe. This treatment is not fair on the woman as the case would only be based on the clothing as to conclude the man couldn't help but notice her in what she was wearing. The fact that jurors are left to decide the verdict without interference from judge or barrister, the secrecy of the jury room makes it very effective. It is effective because if word ever got out about what was discussed inside it is clear that someone discussed the case with someone outside the jury. If that person is found out they risk being arrested themselves because that information is confidential and should not leave that room where it was discussed.

Although the present system is largely effective for the reasons previously discussed, it has weakness. Jurors usually have no legal training and may not understand some complex trials. Even with the judge's explanation, they may not understand the importance of the evidence being presented. Consequently, their verdict may not reflect the facts and often go against the evidence.

This is a disadvantage because it is true that not all the time does the jury understand the case thoroughly. Sometimes it is asked if there could be an easier translation for the jury to understand in other words putting it into simpler words. As a result of the weaknesses mentioned above, I will now put forward some alternatives to the present system of trial by jury. For instance, in some countries, they don't even require a jury. Sometimes only the judge decides whether guilty or not guilty for the defendant.

This is sometimes a good idea because a judge knows the procedures of the law however, this is also a bad idea because it could result in one biased view which isn't fair. Another example that I would agree with is, a judge and two lay assessors. Similar to the jury, but not quite, it still relates to public involvement however before coming to a conclusion the two lay assessors decide with the judge. So opinions and the law understanding of the case is fair.

Among other examples I agree with this system more because of its understanding and less bias than others. I think the jury system could improve if fewer jurors were there and could other views involved in the court room so it isn't biased and unfair. To make jurors understand the trial



more, the case should be broken down to simpler sentences so that overall the case is fair. When jurors attend court, they should be paid more because they are taking time off from their daily work to come and attend jury summons. For example, the Jubilee Line case where some woman had to change her wedding day because she was summoned for a case.

Even in extreme cases, the court is very strict as it depends on you to attend. But if the reason is extreme, the payment should be risen. With jurors attending complex fraud cases, this takes up time as the arrangements could continuously change at short notice. Taking a lot of their time, even to cancel their own arrangements or if they are unwell. I think that with fines being around for those that fail to deliver their disqualifications is fair because they were aware of the consequences and should know that it is the computer that holds all information about each individual.

When people fail to attend, I think if the excuse is reasonable and serious then they should be let off and they should have a limit to times when they can be let off on a serious matter like 3 times. Those that just have a bad attitude as to not attending the case should be fined. To conclude this, I don't think the jury system is a good system because not everyone shares the same opinion either sex or age. At each stage of an individual's life, we all see things differently to one and other. I also agree with the system of a judge and two lay assessors, this is more constructive and organised. It's a simple system and doesn't involve too many people in making the final decision.