

Unanimous verdict vs. majority rules verdicts essay sample

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The use of a jury is the traditional method within the common law for deciding the facts in any dispute between parties. The role of a jury is to determine question of fact. The jury is in a powerful method because ultimately, it determines whether a person is guilty or innocent. In civil cases, the main function of the jury is to find the facts having regard to the evidence, and assess damages. The number of jurors used in a civil trial is less than that used in a criminal trial. Another important difference is that the verdict does not have to be unanimous, meaning that a judge will accept a majority decision of a civil jury.

Unanimity has long been considered as essential and fundamental part of jury trials. Unanimous decisions refer to the nature of the decision reached by a jury. All jury members must be in agreement as to the innocence or guilt of the accused in criminal cases or as to the liability of the defendant in civil cases. Where all are in agreement, the verdict is said to be unanimous. A unanimous verdict must be given in a criminal proceedings involving treason or murder. In all other criminal offences a majority decision out of twelve, will be accepted.

Unanimity not only ensures that the minority viewpoint is heard, it gives people in the minority a vote of value, and hence enhances the representative character of the jury by ensuring the participation by individual citizens on the jury is real rather than illusionary. If a unanimous verdict is achieved, then in theory it corresponds to the level of proof required- in criminal offences being beyond reasonable doubt. Finally, the requirement of unanimous verdict ensures that the representative character

and the collective nature of the jury are carried forward into the definitive verdict.

On the other hand, there is a requirement of unanimity in jury decisions which creates delays in decisions and increases the cost of trials. When a jury cannot reach a unanimous decision it will be discharged and a new trial ordered, and as a result, substantial costs and expenses are often incurred due to the often-increased length of time that juries deliberate. In addition, there is sometimes one juror with radical/diverse views that causes disagreement amongst other jurors, and will refuse to take any other factors into account, and as a result, a retrial is ordered in which is an unwanted burden on the state and the accused person.

In a case where a civil jury is not able to reach a unanimous verdict, it is permitted to return a majority decision. In criminal cases, a majority verdict requires at least ten out of twelve jurors, or five out of six; decide in favour of one of the parties to the argument. The positive aspect of majority verdict is that by allowing such a concept, valuable court time and delays will be incurred. Therefore, decreasing the potential cost of the case.

However, whilst the concept of a majority verdict strikes at the basis of the principle that the guilt of the accused person must be proved beyond reasonable doubt. Where there is a majority verdict of guilty, it can clearly be said that in the absence of corruption, there exists in the minds of at least one member of the jury about the guilt of the accused person. It is simply not valid to say that if a doubt is held by one amongst twelve, then it cannot be reasonable doubt. Another disadvantage, which would result from

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adopting the majority rules verdict system, includes the fact that there is also a risk that a minority in a criminal jury may cease to be listened to once the availability of majority verdicts exists. Once stated that fewer than twelve will have to agree, some jurors will come to a conclusion that does not account. Where a majority verdict is acceptable, the minority can be ignored because the majority has the numbers.

The common law requirement of unanimity means that neither a conviction nor an acquittal can be secured without the agreement of the whole jury. In accordance with the common law rule, criminal verdicts in New South Wales must be unanimous. The rule that a verdict in a criminal trial must be the unanimous verdict of the members of the jury also exists in Victoria, Queensland and the Australian Capital Territory, but in other parts of Australia unanimity is not usually required.

The weight of evidence would therefore suggest that the implementation of majority verdicts within Australia would not necessitate solution nor eliminate the already small number of retrials which are caused by jury disagreement within the unanimous verdict trial system. The current requirement of unanimity within criminal cases is effective in achieving justice for Australian citizens, however, substantial costs and expenses are often incurred as an unwanted burden on the state and the accused person due to the often-increased length of time that juries must deliberate to achieve a unanimous verdict. Whilst adopting the unanimous verdict trial system, may, at times allow the guilty to escape conviction, it also acts to minimise the risk of convicting the innocent. In summation it can be stated

that there is no immediate, or urgent need to change the existing rule requiring unanimity to a system by which those in the minority can be ignored.