

***Discuss the composition and role of the jury and consider whether it is now time to replace it with an alternative***

*The jury has been a feature in criminal trials in England for hundreds of years. It is a civic duty that consists of 12 people aged 18 to 70 who are chosen at random from the electoral register (Before 1972 property qualifications were required in order to be eligible for the jury). Mentally Disordered or any person with a recent or serious conviction is disqualified from jury service along with anyone who has ever been sentenced for 5 years imprisonment or more and anyone who has completed a shorter sentence within the last ten years or community service within the last 5. Also anyone who has any connection with the victim, the defendant or any of the witnesses is unable to serve. If jurors don't attend they may face a possibility of punishment for contempt of court. Jurors can be granted excusal from jury service but only in exceptional cases for reasons such as ill health, examinations or specific domestic or business problems.*

*Once the jury have been selected and sworn the jury's role is to act as judge of fact. In cases the jury must use their experiences of human nature and usually they must use experience of life rather than any legal knowledge to decide a verdict.*

*In 1974 Lord Salmon estimated that about 2% of cases brought before the jury are wrongly acquitted and about 5% of the convictions in Birmingham were considered "doubtful" and even though there is always a risk of convicting an innocent this figure is considered unacceptably high. Appeals against convictions solely on evidence are very rarely successful. About one third of the jury's acquittals were questionable and were said to be mainly down to feeling sympathy for the defendant or a general mistrust of the police evidence.*

*However although only 2% of cases brought before the jury are wrongly acquitted people still stand divided on how beneficial and fair the jury system is, and although the jury has been around for a long time, is it now time to replace it with an alternative?*

*When being chosen to serve for the jury there is no kind of intelligence test to be taken and there is no training or experience. Many people would argue that this is the point of the jury and because they have no experience they also have no previous bias so it's considered fairer. Lord Devlin said juries are "the lamp that shows that freedom lives", though at the same time criticisms of the justice provided by the jury trial have been made. Some people think that the jury is too eager to acquit and so many people charged of serious crimes get away with nothing but a small fine. In a case in 1992 'D's son was killed by 'T' who was sent to prison for 12 months which 'D' felt wasn't enough. When he was released 'D'*

went to T's home and fired at him with a sawn off shotgun causing injuries to his back and arm. 'D' was charged with attempted murder and malicious wounding with intent, but the jury at Maidstone Crown Court acquitted him and some members later congratulated him on what he had done. This just shows one of the problems with the jury and there are many more. Some jurors maybe unable to cope with the difficult medical, financial or technical evidence especially in complex fraud cases. One of the main criticism of juries in civil cases is that when awarding damages they were unpredictable because they weren't sure how much or how little to award, so unlike a judge who could just look back at similar cases and decide from there juries couldn't. The amount that a party maybe awarded in jury cases could vary widely so it was difficult for a lawyer to tell there clients what damages they might have won. This was assessed in 1975 when the Faulks Committee expressed doubts as to whether juries should be able to assess damages. In the case of *Aldington v Watts and Tolstoy* (1989) the jury awarded damages of £1.5 million. This case was taken to the European Court of Human Rights, which ruled the amount awarded so disproportionate that it amounted to an infringement of Tolstoy's right to freedom of expression of the European Convention on human Rights. Because of cases like these, the appeal courts were given the power to alter the amount of money made by the jury. Then in 1996 the Defamation Act extended the role of the judges by making them able to set levels of compensation where the defendant has offered to make amends.

Still even with all the juries problems some people still believe it should be kept. It is belied that the jury system brings the good sense and judgement of ordinary people into the legal system and its said to be a feature of any domestic society. It's also though to be fairer to have 12 people judging you rather than just one judge, as judges are seen to side with the prosecution viewpoint.

There are other ways to tri defendants without a jury. Such as a judge alone, a panel of judges, or judges and lay assessors together. In a trial by a judge alone the judge must act as both a judge of law and fact. However one argument against this is that judges may become 'case hardened' (cynical about the need to assume the defendant as innocent until proven guilty because they hear a great number of similar cases. Its also said that a judge is unable to have the same understanding and experience as a jury as there are 12 people from different backgrounds instead of just one judge. Though on the other hand unlike juries, judges have been trained to evaluate cases as lawyers and therefore don't have as much trouble in complex fraud cases.

The benefits of a panel of judges are that its considered fairer as with more than one judge present because the judges would be more skilled in

*analysis so the trial would be cheaper than a jury trial. However disadvantages with this method is that most judges come from the same background so would not represent the range of experience that the jury have and trying to find suitable judges may cause the price to be more expensive than if it was to be with just one judge.*

*One advantage of using judges and lay assessors is that there would be considerably shorter trials than with a judge and jury. Though the magistrates used would only come from mostly middle class and upper class backgrounds so don't also bring the different perspectives that a jury would.*

*In Conclusion it seems as though while the jury is a fair way to reach a verdict as it brings experience and view points from many different people. However it does have its problems, more bad points than good. It's obvious that not everyone is happy with the jury. Coloured people believe that there are not enough black or Asian people on the jury and that it's unfair to be tried by all whites, as to be tried by a jury is to be tried by your peers and they expect their peers to be the same as them. If the jury system was to be abolished what ever is to replace it will end up with many the same criticisms, as the jury is experiencing now. So even though the jury has quite a lot of acquittals, nothing's perfect and it's better to have wrong acquittals than wrong convictions.*