

## ENGLISH LEGAL SYSTEM COURSEWORK

### **QUESTION 2 : “The present selection, exclusion, exemption and challenge procedures ensure that juries will never be representative of the public conscience”**

Discuss.

#### **ANSWER;**

Juries in England often described as the “the jewel in the Crown”, with 12 different faces on the jury that is its strength, of course there are automatic exemptions: for criminals and bankrupts and more importantly for professionals like lawyers, judges, prison officers and police. Others, like doctors, can seek exemptions. It's tighter in some States than others, but after all the exclusions, exemptions and excuses - and let's not forgets the defence is entitled to challenge if they don't like the jury. Juries Act 1974 is the act governing the juries system in UK. Juries system been form in UK for insure the public justice system will be fairly deliver and up hold the justice, yet the present selection, exclusion, exemption and challenges procedures become a great question that did such method did representative of the public conscience.

1 The method of selection of juries subject to this section and section 5, every person enrolled as an elector for the Legislative Assembly shall be qualified and liable to serve as a juror, Therefore those age reach 18 up to 70 were eligible to become juror. This means this category of people details must listed in the Electoral Register records otherwise they wont be listed under the jurors selection list. Ten percent of England qualify votes, never register them self as the votes. The second issue is this category of people wills randomly choused. Thru random selection not all citizen will be selected as the juror even if they are entitle to become a juror.

2One important fact of random selection is its doesn't mean representative selection but its just cross-section of population. This shows that the current juror selection still need to be improve to an advances or alternate method such as using the records of National Registration of Birth and Death in order every qualify citizen not been left behind in the selection.

[1] Juries Act 1967 Act No. 7651/1967

[2] Layman in Law Element, <http://members.lycos.co.uk/lawnet/LAYMEN.HTM>

3 After the selection processes done, all the selected juror will be summoned for the final selection, at this stage numbers of them will be exempted from juror services, for having good reason. Those such as pregnant women's, ill-health person, those age 65 above, person facing deep hardship, medical officers, member of Parliaments, legal professionals or those with legal background on the past or current services. Those did serve, as jurors in past two years also will be exempted from such services. The society still believed that in order to have better verdict thru jury's services, those been exempted due to their nature of duties should consider their participation in jury services, the possibility to such category of people might be better jurors because of having more experiences of life or working with people. Equal opportunity to participate in the fair administration of justice is fundamental to our democratic system. It not only furthers the goals of the jury system. It reaffirms the promise of equality under the law - that all citizens, regardless of race, ethnicity, or gender, have the chance to take part directly in our democracy. 4 *Powers v. Ohio*, it shows and believed that no body should exclude based solely because of race or gender, this promise of equality dims, and the integrity of our judicial system is jeopardized. The law makers need look in this factors for 5 commands the public confidences in order the jury system continuously will be representative of the public conscience. 6 In New York and many other State of USA source records for jury services been expended, all or most of exemptions from jury trial been swept away, and excusal become largely deferred. This result is that nearly every one does jury service as an acknowledged civil duty, including, judges, lawyers, policeman. Doctors and clergymen.

[3] *Juries Amendment Act 1990*

[4] [499 U.S. 400, 407]

[5] <http://66.218.71.225/search/cache?p=disadvantages+of+juries+section+uk&ei=UTF-8&url=Kup67d0cKBwC:www.criminal-courts-review.org.uk/chpt5.pdf>

[6] The Jury Project, this development pioneered in New York as a result a report of 31 March 1994 by the Chief Judge of the State of New York. Judith Kaye.

About a quarter of million people are summoned for the jury service every year. <sup>7</sup>A recent Home Offices research project highlighted that only third of them are available to do so. It shows that, in sample of 50,000 people summoned for jury service in June and July 1999, one third of them are available to do so, half of them have been allowed to defer their service on a later date. Of the remaining two-thirds, 13% were ineligible, disqualified or excused as of the rights.<sup>15</sup> % either failed to attend on the day or their summons were returned as “undelivered” and 38% were excused.

The Court also had the power to remove selected jurors if it considered on the account of disability or insufficient understanding of English. <sup>9</sup>The Crown Court study undertaken during 1992 on behalf of Runciman Royal Commission, indicated that, nationality, ethnic minority communities seriously under-represented in jury service. This is due to this group of ethnic not registered in the electoral

The right of the jury Challenges is very limited in England and Wales compared with in any other country. <sup>10</sup>There is no longer right to Peremptory Challenge. It was abolished in 1988. Juries Act, 1927 s.57 says the plaintiff or, where there are two or more plaintiffs, the plaintiffs jointly may challenge without cause shown three jurors and no more where there are two or more plaintiffs, they shall join in their challenges. Such <sup>11</sup> Privileges specially in sexual abuse case, not likely allow the female juror as the first choice, the defendant use to challenge the female juror. The society believe the women’s privileges to become potential juror in such cases become a barrier through such challenges.

[7] Jury Excusal and Deferral Research Findings No102, Home Offices Statistics Directorate

[8] 1974 Act s.9b

[9] Royal Commission on Criminal Justice, Research Study 19.

[10] Criminal Justice Act 1988, s.118 (1)

[11] The Hon Mr Justice D. K. Malcolm AC, Chief Justice of Western Australia, Report of Chief Justice's Taskforce on Gender Bias, 30 June 1994.

Although there are a number of legitimate concerns with the current jury selection process in UK and while a number of options are open for reforming the process, the report concludes that a piecemeal approach to reform is not likely to successfully address the need to improve the system for racial, visible, ethno-cultural and other minorities. The need is not only to address some or all of the out-of-court processes, but at the same time to reform the in-court procedures in the selection, exclusion, exemption and the challenges procedures of juries. It would appear to be necessary to undertake reform in order juries always representative of the society.

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