

## Jury Essay

### **(a) Describe the role of Jury in Civil and Criminal trials.**

Juries have been used in our legal system for over 1000 years since the Magna Carta which recognized the right to trial by "the lawful judgment of his peers." Since 1215 juries became the usual method of trying criminal cases. The independence of the jury was recognized in **Bushell's case (1670)** when it was established that the judge could not challenge the decision made. ⇨ more modern day example demonstrating that judges must respect the independence of the Jury is **R v McKenna (1960)** where they threatened the jury that if they don't give their verdict within another 10 minutes they will be locked up for the whole night. Juries are used in both Criminal and Civil cases although the use of juries is very small. Juries are used in the Crown Court for criminal trials of indictment, High Court - Queen's Bench Division, County Court and in some cases the Coroners' Courts. Less than 1% of criminal cases are decided on by a jury this is because 97% of cases are dealt by the Magistrates' Court and from the cases that go to the Crown Court, about two out of three defendants plead Guilty.

Juries are used in both criminal and civil cases and the law concerning juries is consolidated in the **Juries Act 1974**. ⇨ jury is defined as a body of persons convened by process of law to represent the public at a trial or inquest and to discharge upon oath or affirmation defined public duties. The jury's duty is to return verdicts upon issues joined in courts of civil and criminal jurisdiction or findings of fact at coroners' courts. The role of the jury is four-fold: - to weigh up the evidence and decide what the true facts of the case are, to listen to the directions of the judge as to the relevant law and then apply the law to the facts before reaching a verdict.

In England and Wales, minor criminal cases are heard without a jury in the Magistrates' Courts. Middle ranking "triable either way" offences may be tried by magistrates or the defendant may elect trial by jury in the Crown Court. Serious "indictable" offenses, however, must be tried before a jury in the Crown Court. Juries sit in a few civil cases, in particular, defamation and cases involving the state. Juries also sit in coroner's courts for more contentious inquests. ⇨ juries consist of 12 people between 18-70 years of age, selected at random from the register of voters. In the past a unanimous verdict was required. This has been changed so that, if the jury fails to agree after a given period, at the discretion of the judge they may reach a verdict by a 10-2 majority. This was to prevent jury tampering in cases involving organized crime.

The main role of a jury in a case is to decide, after considering all the evidence given and points made, the outcome or verdict of the trial. ⇨

juries role differs in criminal and civil cases, though in both the jury have perhaps the most important job and the biggest responsibility.

The judge gives the jury precise instructions about the law that must be applied to the case. The judge outlines the facts the Crown must prove in order to establish the guilt of the accused, and advise jurors of the duties they must carry out when they leave the courtroom to consider their verdict (deliberation). This is called charging the jury.

At the end of the jury charge, the case is in the hands of the jury and the jury leaves the courtroom to the jury room to deliberate. The jury chooses a foreperson, reviews the evidence and reaches a verdict in accordance with the instructions of the judge. If the jury requires further instruction or clarification of some point, it may contact the judge, who takes appropriate action. Once the jury has withdrawn to consider its verdict, members of the jury may not communicate with anyone outside of the jury room except jury ushers and then only for the purpose of contacting the judge. In a criminal trial, the verdict in a case can only be reached by the complete or unanimous agreement of the 12 jurors. Their duty is finished and the judge will discharge them when the foreperson announces the jury's verdict in open court.

The most common use of juries today is in the Crown Court, where they decide a verdict of guilty or not guilty. Cases heard in the Crown Court are most often serious criminal cases including murder and rape; however, jury trials account for less than 1% of criminal trials because most cases are dealt with in the Magistrates' Court.

In a typical trial, the jurors will hear the case presented by both the defence and prosecution, and then a summing-up and some direction on the law from the judge. They then retire to a private room as a group to consider a verdict, and decide if the defendant is of guilty or not guilty. Generally, there are no restrictions on how a jury may proceed to reach such a verdict, and there is no set time limit on how long they may deliberate for. Traditionally, a jury is expected to come to a unanimous verdict, but if after around two hours no verdict is forthcoming, the judge may recall the jury and instruct them that they are prepared to consider a majority verdict. This means that a verdict of either 10-2 or 11-1 will be accepted.

As jurors have no legal training, and have no obligation to supply reasons for their verdict, they are able to decide a verdict on their idea of 'fairness', commonly known as jury equity. Occasionally, a jury may find the defendant "not guilty" even if they have violated the law, simply because the jury may believe that a specific law is invalid or unjust.

Sometimes a jury will take into account a wider view than simply the judge's summing up, and will reach a verdict influenced by or based on their view of the case presented by the media. This is particularly true of high profile cases, however the fact that the media may influence jurors is seen to be a strong disadvantage, as the defendants

may appeal against their conviction arguing they haven't received a fair conviction.

In order for juries to fulfil their role in analysing the main facts of the case, there are strict rules about the information they use during the trial. Jurors must not learn about the case from any source other than the trial, nor can they conduct their own investigations such as visiting the crime scene independently. Nobody involved with the trial should speak with a member of the jury, and jurors are not supposed to read news or other accounts of the trial. In order to achieve this goal in high-profile cases, some juries are sequestered either for the deliberation alone, or for the entire trial.

In civil cases juries are now only used in limited circumstances, but have two roles when they do sit in civil cases. The first is to decide if the claimant has sufficiently proved their case, and then if they decide that the claimant has won their case, they will judge and decide the amount of damages that should be paid by the defendant. When a jury is used in the High Court, there will be twelve people sitting, but in the County Court a jury will consist of eight people.

It is stated in the County Courts Act 1984 that a person may only have the right to have a jury trial in the following types of civil cases; defamation, false imprisonment, fraud, and malicious prosecution (4). These cases are all based around both character and reputation, and a judge may still refuse a jury trial in these cases if it involves complex documents or scientific evidence, as is it considered to be unsuitable for jury trial.

In the Queen's Bench Division of the High Court, it is possible to apply for trial by jury, but this is very rarely granted, and from October 2003 to July 2004 juries in this division tried only eight cases. In personal injury claims, it is particularly true that a jury trial will not be permitted as The Court of Appeal stated that these claims should usually only be tried by a judge sitting alone. This is because they often involve assessing certain damages, so it is only in exceptional circumstances that a jury will be permitted in such cases.

It was effectively the decision made during **Ward Vs James (1966)** that stopped the use of juries in personal injury claims, when a plaintiff attempted to claim for injuries caused in a road accident. The court has now stated that an example of where a jury might be appropriate in a personal injury claim would be if injuries had resulted from somebody deliberately misusing their authority, meaning that there could potentially be a claim for exemplary damages.

In conclusion I think both juries and lay magistrates play a key role within the administration of justice in this country. They both have a part to play in civil and criminal system but their role is obviously wider in the criminal court system and I agree with the saying that the jury system is the '**jewel in the crown**' or the '**corner-stone**' of the British criminal justice system.

**(b) Access the extent to which juries are representative of society?**

On the face of it asking 12 strangers who have no legal knowledge and without any training to decide what may be a complex and technical point is an absurd one.” However when you think back through times, a system like this one has been in practise for many years and it has worked fine up until now and has been considered as one of the fundamentals of a democratic society. This current jury system gives people from all walks of life the chance to see how the law works first hand, and have the freedom to make a decision.

It could be said that public confidence is one of the main focal point for having a jury in the English legal system. It is said that a jury allows ordinary people to participate in the administration of justice meaning that the verdict is seen as a representation of societies view rather than the view of just one member of the judiciary system. The trial by jury is very old and people have confidence in the impartially and fairness of a jury trial. It is said that the public and the defendant would see the decision as a fairer as it is made by 12 people rather than just one person.

Juries provide certainly, as they only have to deliver a guilty or not guilty verdict. This leaves no room for confusion and cannot be misinterpreted therefore the decision is not open for dispute. This is very important as it ensure there can be no grounds for appeal on the juries verdict unless it was made for the wrong reasons and this is very hard to find out as the juries decision is made in secret. Although a juries decisions was questioned in the case **R Vs Young**. In this case the jury stayed overnight in a hotel, as they had not reached a verdict during the day.

When the jury passes the verdict of a case, no reason of how the jury came to their decision have to be given. This helps promote the idea of fairness, also known as jury equity. A good example of this is in **Ponting's Case (1984)**, where a civil servant leaked information, yet he pleaded not guilty, as he said that his actions were in the public's interest. In this case the jury refused to convict even if there was no defence. Cases like this help promote fairness and equality in the legal system.

Most juries should be impartial, as they are not usually connected to other cases. The fact that jurors are said to have come from a wide section of society enables should enable them to give the views of society as a whole. This also ensures that the jury are able to bring knowledge and experience of different backgrounds as they are thought to have different Life experiences to the usual stereotypical member of the judicial system, who are believed to be white males from a middle class background, who attended private schooling. It could also be argued that the jury could sympathize with the both

parties is the case as the jury would have local knowledge and understanding of their areas problems.

Jury system discusses their verdict in secrecy. This means that they are free from the outside world and do not feel pressed to make a decision either way. It is also said that people would be less willing to do jury service if their discussions were to be made public, and their verdicts may be swayed making their decision unjust and unfair.

⇒ big criticism of the jury system is that although the system is intended to represent a wide cross-section of society, in practise it is rather narrow. This can be due to many reasons, as there are high excusal and disqualification rates and that the homeless, who represent a big section of society, cannot vote because they are not on the electoral register. Also women are poorly represented as they are relied upon to look after children, and not all ethnic minorities have lived in this country for five years. However, the cross-section did widen when it was made compulsory for everyone to do jury service and no one is ineligible so it now includes a lot more citizens.

⇒ Although it was stated earlier that having all discussions by the jury members in secret was an advantage, it is also a disadvantage. This is because section eight of the **Contempt Of Court Act 1981** states that it is a criminal offence to talk about any matters discussed in private, so therefore no inquiry is allowed to be made into why the jury came upon their decision. This means that the jury may have reached their decision for the wrong reasons so the defendant has had an unfair trial.

It was stated earlier that the fairness used in law is a good thing as it helps to keep equality in the case. However, this can also be a disadvantage as it means the jury will ignore unwarranted law, which means a perverse decision would have been made and not all the law was counted for. This means an unjust decision would have been made based on only some of the facts, rather than all relevant issues displayed. As demonstrated in the case **R v Randle and Pottle (1991)**, where the defendant was charged for helping a spy escape from prison 25 years ago, however the jury decided to acquit the defendant, possibly due to the amount of time since the deed.

⇒ jury can also be influenced by local bias and this can mean unfair decision have been made, for example they may be more likely to deliver a guilty verdict to a person who is believed to have committed a car theft, if car theft is a frequent occurrence in their local area. Bias is also a huge disadvantage of a jury system, as bias can affect the outcome of a verdict and prevents a competent decision being reached.

In a case like Michael Jackson's trial it was noticeable that there was a lot of media coverage. This can be a major disadvantage in high profile cases where it could mean that the jury could be persuaded to make a decision based on media coverage rather than what they have heard in the case. This occurred in the case **R v West (1996)** where the defendant was convicted for killing ten young girls. This meant that the media were constantly trying to get stories and could have an effect of the jury. After found guilty the defendant appealed against the verdict stating that it was impossible to have a fair case due to the intense coverage, however this appeal was rejected on the grounds that the judge had pre-warned the jury.

Jury nobbling is an obvious threat to the reliability of a verdict. Yet it must be remembered that nobbling the jury is a very hard task because the judge will only accept a majority verdict of 10-2 or 11-1 meaning that the jury must have at least three corrupt jurors in any one case. **The 1994 criminal justice and public order act** gave more protection to jury members by making it an offence to intimidate or threaten to harm a member of the jury physically or financially. So although Jury nobbling is a huge disadvantage to the jury system, it does not pose that much of a threat, yet it is impossible to prevent its occurrence.

Despite all the problems of using juries there is still a strong feeling that there are more methods available. There are alternatives that could be used such as: One possibility would be to have a trial by a single judge. This would produce a more predictable outcome and would be cheaper, however in cases such as this one there is less public confidence. It is said that the acquittal rate would be lower with a single judge as they are more prosecution based, and would be harsh on the defendant.

Another option is to have a panel of judges. This would give a wider view of society, but they will all be of a middle or higher class therefore not completely fair to the lower class. However it would be much more expensive to have three or five judges sitting together.

In conclusion although there are a number of disadvantages to the jury system overall it is a fairway of delivering a verdict which not only represents views of society, but allows there to be independent within the judiciary system as the jury delivering the verdict is not organised and arranged by the state. Therefore I agree with Lord Devlin's statement which declared that juries are the '**lamps that show that freedom lives**' and would say that juries are essential when administering justice.