

Should the deployment of juries as part of this country's criminal trial procedure be abolished?

In this country's criminal trial procedure, the fate of the defendant and the victim currently rests in the hands of twelve randomly selected members of the public. This essay will argue that this practice should be abolished, and instead replaced by a judge-based system for a more efficient and effective legal process. Issues with the status quo such as bias, lack of accountability, and inconvenience will be explained to show how abolishing juries will better uphold the hand of justice.

Firstly, a jury undermines the objectivity of the legal process that is crucial to ensure fairness by allowing extraneous influences to seep into the verdict. When a defendant is brought before a court, they deserve the right to know that their case will be considered based purely on the evidence and arguments presented at the trial. However, the involvement of juries makes avoiding extraneous influence more difficult to achieve, and in some cases, nearly impossible, such as in the recent example of the defamation trial against Amber Heard. Although not a British criminal case, it highlights the power of the media in manipulating public opinion, with vitriolic hatred for Heard evident through the multitude of videos shared on TikTok and the masses of people hurling insults outside the courthouse during the trial (Sillito, 2022). Whilst the jury is instructed to avoid consuming any media regarding the case, it is unreasonable to believe that they will not be influenced by their family, friends, or indeed, random members of the public gathered outside court. The presence of a jury widens the scope of the evidence to the internet, a limitless space. This influence of external evidence makes it impossible to guarantee the defendant a fair trial, as their counsel cannot not even fully know what arguments are being made against them outside the courtroom.

Similarly, a jury is also more likely to be influenced by prejudices prevalent amongst the public. Societal views are susceptible to constant change, particularly where minority groups are concerned, and if certain communities tend to hold prejudiced views against a certain group, it is not practical to presume that such a jury would not be biased against a defendant or witness from that group. In the case of Emmett Till, for example, the jury deliberated for sixty-eight minutes before acquitting the defendants, reportedly having been told to prolong their deliberation to make it 'look good' (Linder, 2023); in the eyes of the 1955 Mississippi jury, a black American boy's life was not worth seeking retribution for, and as a result, they saw no moral fault in the two Ku Klux Klan members who had murdered the boy. It is fair to say that most of the modern British public do not hold such archaic views, but prejudices and misconceptions about other groups will always exist, perhaps unconsciously, and until we attain this utopia of an equal society, the legal system cannot afford to gamble with the lives of defendants and victims by placing them in the hands of a jury.

On the other hand, some may argue that legal experts can hold prejudices as well. Barrister Helena Kennedy KC has written extensively on the treatment of women within the Bar, with several examples of condescending, ignorant and blatantly misogynistic judges littered throughout her book, *Eve Was Framed*. There is a compelling argument that replacing a jury with a judge simply results in exchanging one bias for another. However, the key difference is that juries do not need to provide justification for their judgements — in fact, it is illegal to ask them to disclose any part of their deliberation. In some cases, a disastrously flawed guilty verdict is salvageable — the judge is free to sentence leniently with the consideration that the jury may have misinterpreted certain legal principles, misunderstood instructions, or blatantly ignored points. If there is a capricious acquittal, however, the matter ends there. In most cases, the prosecution cannot try the defendant again regardless of any perceived certainty of guilt, unless there is the unlikely scenario of new, damning evidence coming to light or instances of jurors being intimidated. Acquittals can be particularly devastating for victims of sexual crimes, and to use the aforementioned issue of misogyny, a study of jury deliberation in New Zealand found that jurors were influenced by ‘rape-myths’ when acquitting defendants (Scottish Government, 2023). Judges, on the other hand, receive longer-term training on tackling their misconceptions and unconscious biases due to the sheer length of time they spend in the legal field. Even in instances when they are prejudiced, judges must extensively justify their decisions, which forces them to rule based on evidence as opposed to their personal views. For instance, amidst the racism prevalent in 1954 Kansas, Republican Chief Justice Earl Warren declared segregation to be unconstitutional in the *Brown v Topeka* ruling because of the substantial evidence presented to him by NAACP’s lawyers (National Archives, 2024), a stark contrast to the perceived morality that influenced the jury to acquit Emmett Till’s murderers only a year later. Therefore, even if there is a danger of the judge being subject to prejudices, they are far less likely to impact the legal process than a biased jury.

In addition, prejudiced judges pose a greater risk to the legitimacy of rulings in jury trials as they are very capable of manipulating juries themselves. The manner with which they instruct or conduct their courtroom can have a major impact on the outcome of the case. Moreover, the presence of juries allows judges to absolve themselves of responsibility, whereas judge-made decisions would have to be defended against the Court of Appeal, and possibly even the Supreme Court, making a prejudiced judge far less likely to allow their personal views to influence a judgement. Without a supposed ‘voice of the people’ to impose blame on, the victim, defendant or indeed, the general public, can hold the justice system accountable. A recent example to illustrate this is the formal misconduct warning handed to Deputy Chief Magistrate Ikram over perceptions of bias when convicting three women who were accused of a terror-related offence in a pro-Palestinian march (Kirk, 2024).

The argument that juries are the 'voice of the people' is often presented when discussing their abolition, and that a supposed strength of the juries is that it makes the law more accessible to the public, increasing involvement and knowledge about the legal process. However, the public is already quite immersed in the fascination and drama of the courtroom, as seen in the rise of true crime television and legal dramas. The sensationalism of crime and criminal justice skews public perceptions of the legal process, which is harmless entertainment until the criminal justice is placed in the hands of that very public; there, it becomes dangerous, undermining the legitimacy of trials through unreliable handling of legal matters. If there is a genuine need to promote public interest in court proceedings, visiting local Crown Courts should be encouraged, as opposed to upholding the guise of public involvement through jury trials.

Furthermore, jury service is time-consuming and often inconvenient. Court hours are long and require the sacrifice of at least two weeks' worth of employment. This creates unnecessary tension for those who are self-employed, as they have no financial security for that duration. Placing pressure on the courts to reimburse them for lost wages and travel expenses incurs unnecessary financial drain. Similarly, those who work from home may have stresses surrounding their caring responsibilities. The removal of juries would save costs by improving the efficiency of the courts by eliminating the administrative responsibilities and reimbursements for expenses.

It is also important to consider that jury service could impact the mental health of those serving in cases concerning particularly violent crimes, and as juries are currently deployed only for offences serious enough to be tried in the Crown Court, exposure to graphic descriptions and imagery would not be uncommon. Whilst legal professionals would be accustomed to hearing about such matters at extensive lengths in court, members of the public are unlikely to be as equipped to cope with distressing information. In addition to affecting their mental well-being, this could impact the legitimacy of decision-making as jurors may neglect to consider legal principles and arguments when faced with explicit details of sexual abuse or murder, turning a verdict based on their feelings as opposed to the facts of the crime.

The removal of juries from trials would also result in a change in the style of advocacy. Many criminal barristers are particularly skilled at manipulating juries through appealing to their emotions and common perceptions, even misconceptions. Though a testament to their oration, it is nevertheless injustice if someone is labelled a criminal simply due to the image created by the capable barrister. As judges are or were barristers themselves, they would be less likely to be swayed by such tactics and hence, advocates would be forced to move towards a more evidence-based approach while presenting their cases. Currently, barristers facing juries also fear perverse verdicts, particularly in cases with political undertones, when jurors are tempted to take the law into their own hands, thereby undermining the impartiality of the legal process (Forsyth, 2022). With their abolition, complaints about unpredictable juries would cease to exist.

Some may counter that juries often act as a buffer in instances where the law is ill-equipped to act in the best interest of society. However, there are two main flaws in this reasoning. Firstly, judges already have methods of interpreting the law, and as long as their reasoning is justifiable, they are not confined to the mere black letter, hence there is little fear of technicalities being forced to overturn an unfair verdict. Secondly, even in instances where a certain set of laws is fundamentally dysfunctional, a jury acting on their own moral volition is not a viable solution; instead, reforming case law through the Supreme Court or perhaps even through pushing for change at a parliamentary level is far more appropriate as it is less inconsistent and unreliable.

In essence, juries often conflate perceived morality with the law. Although not mutually exclusive, they are ultimately not the same in this country, where the justice system is grounded in legal positivism. From this, stems the issues of bias, prejudice and external pressure influencing legal decisions, which makes the hammer of justice simply the hammer of the public. The criminal justice system has the power to isolate an individual from society, taking from them everything that makes them human by deeming them to be a criminal. When such a power is treated so lightly as to be pushed into the hands of twelve randomly selected and often inconvenienced, legally uneducated people under the guise of democracy, this country cannot claim that justice has truly been served.

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