
Is Trial By Jury Necessary To Our Legal System?

INTRODUCTION

It is argued that a trial by jury is not a positive attribute to the adversarial system, due to unnecessary prejudice being a factor in decision-making. However, it is a significant factor in non-discriminatory decision making. The Magna Carta formed the historical underpinning of trial by jury. This was then recognised in the Australian Constitution and is still established currently. There are rules and regulations surrounding judge and jury conduct in criminal law cases. Despite this, prejudice and differing social standings can still play a role in influencing the verdicts of both the jurors and the judge. Though, having a variety of prejudices within the jury are intended to counterbalance common, stereotypical views, in order for a more reliable representation of the community. Trial by jury complies closely with Liberalism and Rule of Law principles due to the evidence that states it is a method of analysing the legal system, thus everyone is innocent until proven guilty. Although, subconscious influences relating to social media, provide limits to the presumption of innocence. In conclusion, if juries were abolished, judges would have full control over convictions, based only on their perception and evaluation of the law. This could be damaging due to judges being seen as disconnected from the general community.

THE FOUNDATIONS OF TRIAL BY JURY

The signing of the Magna Carta in 1215, was perhaps one of the most imperative, historical foundations for the development of the adversarial system and common law - in particular, the process of a trial by jury. King Henry II's kingship largely influenced the fundamental change for a jury trial, as Lords were demanding power away from the king. The king accepted the request in 1156. Chapter 29 of the Magna Carta insisted that in order for a fair trial, the community must assess the case before a valid verdict can be drawn. The right to a community representative trial was a concept strongly inhibited by the Australian Constitution. S 80 of the Australian Constitution states that all criminal offences have the right to a trial by jury.

RULES AND REGULATIONS RELATED TO TRIAL BY JURY

There are strict rules and regulations in relation to procedure in a jury trial. This is reflected in the Jury Directions Act (2015). The document addresses in section 5, that jurors are accountable to construct a valid verdict based on only the facts and evidence provided. On the other hand, the judge has the responsibility for applying the facts and evidence to current and relevant law. Another role of the judge mentioned in section 14 is to provide explanations on facts and any other information that may need clarification such as legal terms and current law. He must abide by the given procedure. However, there are some limitations to these processes of jury trial. First of all, it is inevitable that not all judgements of the jurors are based solely on the information provided, as everybody has existing preconceptions, either consciously or subconsciously. Nevertheless, the intent of having twelve jurors with contrasting views may help to reduce the chance of common prejudice or stereotypes influencing the final decision. Secondly, in many instances, judges are perceived to be socially incompatible with the general

community as they may be in a higher class or maintain a better socio-economic status. Because of this, the judge may not take into account the current knowledge of the jurors and use jargon. This can consequently lead to a misinterpretation of facts which may be detrimental to the fairness of the case. This is why judges must use simple and understandable language, that is fluent to the jurors and free of prejudice. This is in order to protect the presumption of innocence that is owed to any defendant from the entire decision-making body.

THEORETICAL INTERLATIONS WITH TRIAL BY JURY

Presumption of innocence and a trial with equity, replicated in a trial by jury, are concepts that correlate closely with Liberalist and rule of law values. Both of these concepts promote very minimal interference between the governing body and its citizens. Consequently, the theoretical perspective interrelates with the evidence that the adversarial system, in particular trial by jury, is a way of questioning the intentions of the government, rather than the accused. Considering the presumption of innocence, this argument marginalises the external influences that are involved with jury decision making. The dramatic development and prevalence of technology has had an immense impact on the adversarial system. Any information is easily accessible and discrete. Inherently, people are consistently being influenced by what they see on social media. Data interpretation software enables social media sites to display advertising, accommodated to the individual's internet history and frequent searches. Despite jurors being confined to only the factual evidence in the courtroom, the court has no ability to restrict the person's influences in privacy. Therefore, as mentioned above, if a juror is exposed to an article or piece of writing relating to the case, the verdict may be effected - either subconsciously or knowingly. As a solution to this, maintaining diversity in the jury will help to reduce this outcome. An example of maintaining diversity would be having a range of jurors who do not engage in online activities.

THE CONSEQUENCES OF A TRIAL BY JUDGE ALONE

It is concluded that elements such as social media influence may be a contributor to the verdict outcomes of those participating in jury duty. However, the absence of a trial by jury in criminal cases, would increase the likelihood of settlements based on singular preconception rather than multiple. Trial by judge alone gives the judicial authorities overall power of the outcomes, which relies solely on their application and interpretation of the law. It is commonly believed that judges are oblivious to the norms of general society due to generally being higher in class and socio-economic status. Factors such as, class stereotypes and appearance could come into play when determining the fate of the accused. On the other hand, a positivist interpretation would argue that a trial by judge alone is beneficial, due to the experience and law knowledge attained by the judge. It is also more cost-efficient and faster in process. Another advantage is that they are required to justify their decisions. This keeps the law clear to the community; comparative with the jury system, where no explanation is given.

CONCLUSION

In conclusion, trial by jury is an asset to the adversarial system as it maintains transparency and societal representation within the courts. The foundations of the right to a trial by jury, such as the Magna Carta, perceive it as a way of confronting legal authorities to prevent unlawful treatment. This was then reflected in the Australian Constitution and is implemented in the adversarial system used today. Trial by jury imitates the principles valued by liberalism and rule

of law such as the presumption of innocence. Although a jury trial may be more susceptible to bias, from sources such as social media, the variety of contrasting views among the twelve citizens, is seen to balance out personal prejudice and prevent its contribution in unfair decision-making. Therefore, by abolishing trial by jury, particularly in criminal cases, judges will receive overall power in the final outcome of the case. Despite their knowledge and experience, individual prejudice can still contribute to a verdict. As a judge is seen to be seen as distant from general societal norms, this could be harmful to the adversarial system.

edubirdie.com