

Is the jury system the best way to try serious criminal charges?

As a psychology student keen to study law, my interest remains in the effect that the human mind holds within the halls of justice, particularly exemplified by the context of the jury system. The average jurors' legal naivety builds trust, forging a bond between the ordinary person and the legal system, contributing to its profound public support — however, unfortunately, this naivety permits susceptibility to social pressures, and the detrimental influences of bias. How just really is the jury decision making process, and what must be taken into account when it plays a role in serious criminal charges?

Often viewed as the crown jewel of the British justice system, jury trials, more accurately described as 'trial by judge and jury,' involve the judge instructing the jury on the law, and empowering them to use this knowledge in deliberations. Brewer and Williams (2005) argue that the jury's deliberation process usually passes through three phases:

- Orientation – the jury elects a foreperson, who reviews deliberation procedures, and resolves any general trial issues.
- The open conflict stage (usually the longest stage) – involves jurors discussing and debating the information and evidence presented within the trial, attempting to persuade one another into a final unanimous verdict.
- Reconciliation – ensuring each member is satisfied with the verdict, and rectifying any tension that may have occurred within the jury during their deliberations.

Opinion polls consistently demonstrate plausible public support for jury trials — when asked to rate six democratic rights, 87% of respondents highly valued the right to a jury for serious crimes. Some participants prioritised it over other drastic democratic rights, such as the right to protest, freedom from prolonged detention, and public free speech. [1] When performing a balanced evaluation of the jury system, it's crucial to consider this profound public support, which remains prevalent in serious criminal charges.

Furthermore, the diverse perspectives provided within the open conflict stage provides the legal process with equitability, minimising the chance for stereotyping and prejudice. Debating is a powerful way to reduce bias, prompting reflection on the data we see before us, and our personal attitudes. This is demonstrated in the jury system's discursive nature – bias is minimised through conversation, increasing the objectivity of the jury system.

However, practically speaking, there remains a debate on whether this system is effective in reducing prejudice. Following the Lammy Review[3], which called for more scrutiny of UK data on ethnicity and religion, evidence was uncovered of disproportionate outcomes for black and minority ethnic people within the criminal justice system. [4] Many feminists also question the fairness of the jury system in serious sexual assault trials, as a result of the low conviction rate. Natalie Taylor argues that figures demonstrate a reluctance to convict young men, attributed to societal attitudes that blame women for their own rape incidents. She claims juries, in these instances, rely on their own biases, rather than the facts presented to them. [5] It is important to consider alternative sociological influences, and not blame the jury as a single party for these complex concerns, but these issues do raise the question – is jury deliberation fair, or riddled with personal bias?

This remains of interest to psychologists, particularly those who study the effects of social influence. Psychological theories remain starkly applicable to the jury system, for example, the Halo Effect [6] – a cognitive bias that distorts perceptions due to positive judgments based on appearance or character. The opposite, the Horn Effect, refers to negative prejudice which hinders judgement.

A practical example of this theory is a study by Michael Efran [7], examining the effects of physical attractiveness on the severity of sentences recommended for criminals. Efran discovered that, in summary, attractive criminals were likely to receive lenient penalties for the same crime. This all too common demonstration of the halo effect raises concerns about jury bias — if these influences are so profound, the ordinary people of the jury are likely to be influenced, especially in serious, emotionally charged cases, with less room for nuance. This

limits its effectiveness in serious criminal trials, as the system is clearly more subjective than first thought.

Alongside bias, social pressures also influence the jury. Normative Social Influence (the need to be liked), and Informative Social Influence (the need to be right) both come into effect during the open conflict stage of criminal trials. In the open conflict stage, jury members may refuse to bring their contrary opinions to mouth, to avoid becoming outcast, or disliked by others, even if their opinion could rock the verdict entirely. This exhibits the negative effects of normative social influence. Members may also feel unconfident in the prestigious space of a courtroom, and feel unqualified to represent important criminal matters. In comfort, they might confide in whoever they deem as qualified, or whoever's opinion they believe 'sound correct', and thus not voice their, perhaps more valid, take on the matter. This personifies informative social influence's far too common detrimental pressure on the jury system, and leaves us to question whether it is as effective as once believed. When it comes to serious trials, as previously mentioned, there is far less room for nuance and discussion, due to their sensitive nature. These social pressures therefore heighten, tightening their grasp on the jury members.

In summary, the nature of serious trials places jury members at risk of psychological factors, exposing personal biases, which may detriment the final verdict of the crime. Instead, to improve the jury system's effectiveness, it would be more effective to inform the participants of potential psychological threats at the beginning of the deliberation, or try to place alternative measures into the existing system to combat these, rather than entirely reform our already largely effective legal system. Are we really to remove such a firmly rooted system, which has proven effective over the past millennium, for its psychological faults? It is easy to argue against this suggestion – for what will be the replace this?

References

- [1] Public opinion and the jury: an international literature review. - Justice.gov.uk
- [2] Are juries fair? - Justice.gov.uk
- [3] The racial bias in our justice system is creating a social timebomb - Guardian, David Lammy
- [4] Juries, not judges, lead the way against racial bias in our justice system - Guardian, Binna Kandola
- [5] Juror Attitudes and Biases in Sexual Assault Cases, US Office of Justice program, Natalie Taylor.
- [6] Bethel, 2010; Ries, 2006.
- [7] The effect of physical appearance on the judgement of guilt, interpersonal attraction, and severity of recommended punishment in a simulated jury task. Efran, 1974.
- [8] How Social Influence Factors Might Impact the Jury, Memorial University of Newfoundland.