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Jury System Abolishment

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This research paper tries to discuss the idea and the concept of the jury system. From where it started, how juries are selected by judges and advocates of the court in this research paper. It also discusses the different processes of selection of jury members, their types, and how different countries use jury systems and change the order of selection of juries as per their convenience. The jury system is based on how jury members are selected, their work, their functions, and the jury system's advantages and disadvantages. the first experience of some countries via jury trial. The problems and the major reasons behind the abolishment of the jury system were discussed in this research, and at the end, the conclusion of the research paper is also given, which gives the idea of why this system should not come into force again.

Keywords: *jury, abolishment, court.*

INTRODUCTION

The jury system or jury trials refer to the trials where members of the jury, after listening to all the arguments and analyzing the evidence determine the guilt of the accused person. The jury system is adopted to promote the idea of trial by laypersons of the same country/ locality/ or of the same society. Such trial means a group of laypersons, without legal knowledge, perform

a judicial activity of giving decisions or deciding the guilt of the accused in accordance with the jury upheld the needs for justice and humanity of the law.

HISTORY AND BACKGROUND OF JURY TRIAL

In the history of trial by jury, in most English-speaking nations an individual who is blamed for wrongdoing includes a right to trial by jury. In a trial by jury, the blame or guiltlessness of a charged individual is chosen by a gather of twelve individuals called attendants who decide the confirmations approximately the case. The thought of trial by jury is over 800 a long time ancient but there was a time when criminal cases were chosen in other ways, nowadays numerous of these strategies appears silly and brutal numerous blamed individuals were constrained to experience a trial by difficulty. There were several different sorts of this trial for illustration within the trial by the fire we denounce men were constrained to carry a ruddy hot piece of press in his hand. Individuals accept that in the event that the men wear guiltless at that point the divine beings will secure him and his hand would not be burnt or rankled by the press. Continuously individuals figure out that the trial by aldol was a totally useless way to judge a person's blameless or blameworthy. Donate needed a less primitive way to choose criminal cases. Amid the 12th century, a modern strategy was presented by one of the rulers of Britain 'Henry the second'. Henry says that the criminal cases ought to be chosen by the conclusion of 12 genuine implies you know approximately the wrongdoing, the casualty, and the denounced individual. This was the starting of the trial by jury in English talking nations and the strategy before long ended up exceptionally well known. People trusted this unused strategy much more than they trusted the ancient one. Afterward, this framework of trial by jury changed to some degree rather than having a jury of 12 men and ladies who know almost the wrongdoing, Juris was chosen so that the 12 individuals did not know anything almost the wrongdoing. This alter ensures that the jury won't have any buyers without charge Judaizers almost the case, which makes the jury choice more exact and fairer.

Functions of Jurors: The jury members are in the position to decide the guilt of the accuser, whether the person is guilty or not based on the facts and evidence of the case.

Selecting process and powers of the jury: Jury members are selected through a process called 'VOID DIRC'. It's a Latin term which means 'To speak the truth'. In the process of selecting a jury the court used to issue a summons, whomsoever interested to become a jury are invited. The judges and the lawyers ask them questions to determine whether they are capable to become a jury or not. The jury members have the power to determine whether the person is accused or not, but they don't have the power to decide the appropriate punishment for the crime committed by the suspect, it is the duty of the judge to provide appropriate punishment to that person.

The jury system works/processes: The jury system works on the basis of majority votes. The majority of voters' votes will be considered as a final decision by jurors or the jury system. If the voters are equal on both sides, this situation is called a "hung jury". In this scenario, the jurors are asked to vote again till the majority comes on one side. In the history of the jury system, we have seen judges ask jurors to vote again when they felt their decision was not appropriate or proper.

THE JURY TRIALS ARE OF TWO TYPES

(a) Grand jury -

- Determine the probable case and decides if the case should go for trial
- Consist of 16-23 persons/members
- Not the matter of public record (It means common people or the public cannot be the part of the trial)

(b) Petit jury -

- During the trial, the jury determines the guilt of an accused person
- Consist of 6-12 persons/members

- It is a matter of public record (It means common people or the public can be the part of the trial)

LITERATURE REVIEW

The jury system is the system where people are invited from the same locality/society where the crime happens and are selected to become jurors via different processes as per the convenience of the country. In mostly, This history jury system is performed all over the world and every country has a different experience with jury justice delivering systems, but the similar problem they all face is biases and discrimination in the justice delivering process by the jury system. There are advantages and disadvantages also in the jury system, as it's a human-made system and performed by humans, so flaws are quite common. But there are some major flaws that are almost impossible to overcome in the jury justice delivery system, because of which this jury system has been abolished from the world and bench trial or trial by judges has been adopted, which is done nowadays.

FIRST TRIAL/CASES OF THE JURY SYSTEM IN VARIOUS COUNTRIES

India

The first case of a jury trial in India was decided by an English jury. It happened in Madras in 1665, when Mrs. Ascentia Dawes (probably a British woman) was held liable for the murder of her slave, an Indian girl. A jury of six Englishmen and six Portuguese were steered up to determine her guilt. The jury bench found her guilty of the intentional murder of her slave, but she was later acquitted as it was found she was mentally unstable.

Australia

In Australia, the first jury trial was held in 1824 by 12 civilian Juris of New South Wales. The case was ruled by the supreme court of New South Wales on 14th October 1824. Later on, in 1833 the specific number of Juris decided to judge the cases for civil or criminal there are different numbers of jury benches, for criminals the number of members must be 12 and for civil can be 12 or less than 12.

Russia

Trial by jury was first introduced in the Russian Empire, as a result of the Judicial reform of Alexander II in 1864, 12 jury bench was set up for serious crimes. There was the criterion of selecting process for jewelry members in Russia that it is, to become a jury person must be 25 years old, he/she must be legally competent and should not have any criminal record. The bunch of 12 jurors was selected by the prosecution and defense as it is stipulated in the Russian constitution until the abolishment of the death penalty. All the defendants who are punished for a death sentence are entitled to a trial by jury, for this both the defendant and prosecution side are awarded a 30 to 40 jurors list from where they can select jury members for their case.

United States

The first jury trial in the United States was held in 1630 in an American colony. When John Billington I was acquitted with the murder charges of fellow Mayflower who is his colonist. In the United States jury trial, the accused person was found guilty of wilful murder office colonists and he was punished by hanging punishment. In the United States, the jury member is selected through voter registration, driving license, etc. The right to trial by jury system is a fundamental civil right that allows the accused pictures weathering judged by jury members or by the judge itself.

WHAT TYPES OF CASES GET JURIES?

Both the civil as well as criminal cases are taken by juries but there are different methods and processes that are followed to select the jury bench for civil and criminal cases and also delivering justice is different in both cases.

HOW MANY JURORS ARE THERE IN A CRIMINAL AND CIVIL CASE?

| | |
|------------------|--------------------|
| Civil cases jury | Criminal case jury |
|------------------|--------------------|

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| <ul style="list-style-type: none">• In civil jury cases, the bench is made up of 6 to 12 persons.• Respectful juries choose where the respondent harmed the offended party or something else fizzled to satisfy the legitimate obligation towards him.• The civil jury can determine what should be the compensation or penalty.• In most civil cases punishment is in the form of a penalty.• Under sec274(Crpc, 1861), the civil jury bench forms.• The accused can demand trial by jury in his/ her case, without demand the cases can only be decided via trial by judge or bench trial. | <ul style="list-style-type: none">• The criminal jury bench usually consists of 12 members depending on the hinency of the case.• Criminal juries determine whether the defendant actually committed the crime as he/ she charged or not.• In several southern states, the jurors can determine the appropriate punishment, while in most states' judges are the ones who can announce punishment for the accused person.• Punishment is based on the category of crime.• Under sec275(Crpc,1861), the criminal jury bench forms.• The accused can demand trial by jury in his/ her case, without demand the cases can only be decided via trial by judge or bench trial. |
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PROBLEMS INJURY SYSTEM

There is a lot of problems injury system, the common problem faced by all the countries is 'Biased juries. Jurors are the common people, who are invited to decide the case on merits, evidence, and arguments from both sides of advocates. But they may give decisions in favor of the people they already know, or many reasons behind them be biased. Not just this every jury paid on the basis of their experience, sometimes the case is too short but because of the

demand by defendant side the jury bench sets up which increases the expenses and it is also very time taking process, after hearing all the arguments verifying the facts/pieces of evidence the jury bench sets up and after a long discussion they give their judgments and after all these judges finally decides the appropriate punishment 'if proven guilty. In some countries like India jury system was abolished because the literacy rates of that country were very low. People give verdicts without understanding the facts of the case because of illiteracy. Sometimes biasness happens in various counties on the basis of caste, color, sex, financial condition, and power.

ADVANTAGES AND DISADVANTAGES OF THE JURY SYSTEM

Advantages of the jury system:

Within the same society, it hides the truth or the judicial system. A jury is a group of laypeople from the locality/society/community of the nation where the crime occurred or where the case occurred who determine the law on the basis of evidence so that the matter remains within the nation and is never revealed to anybody outside the country. The jury system is designed to eliminate both conscious and unconscious bias. Most common people have been involved in the jury system throughout history to minimize the possibility of the corporation in the world and raise the odds of offering a fair and assured process, which is why both sides of causes interview potential jurors to determine if they believe in a fair end. Judges have been known to halt cases from progressing through the jury system if they consider the panel has not operated in a fair, ethical, or legal manner.

In today's world, the prediction accuracy of the jury system is relatively high when compared to the court system. In the United States, the accuracy percentage of awarding murdered by jury is 99.7%. Because of this high level of accuracy, the ordinary individual accepts the conclusion even if it is not the best and even if they disagree with the decision. People who want to serve on juries must pass certain tests, which are not required in every county. Judges have been known to halt cases from progressing through the jury system if they consider the panel has not operated in a fair, ethical, or legal manner. In today's world, the prediction

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Dis-advantages of the jury system:

The jury system makes the process of justice slow: The jurors determine all the evidence and after listening to the hearings by both the party lawyers, to determine the guilt get they sometimes as per their requirement but in some countries this time is pre-decided. which makes the process of delivering justice slow. Sometimes if the judge is not satisfied with their decision, they can as for re-decide the case.

Biasedness of jurors: The jurors are selected from the same city/town or locality where the crime happens, so there is a high chance that the jurors give their decision in the favor of their people or the people they already know, and also it sometimes seems that the jurors give a decision by taking a bribe or can discriminate people on the basis of caste, color, religion, and sex.

Wastage of time and money as well: The jurors get compensation per day by the government of that state (it depends on the case (criminal/civil) and on the state). The jurors can extend their period of deciding the guilt of an accused and get compensation daily, it's on the judges cannot decide or cannot interfere in this phase of the case.

Juries give decisions under influence, emotion, and under public sentiments: In India, there is a famous case of a jury trial under the pressure of public emotion and sentiments. In the case of “, KN Nanavati vs State of Maharashtra 1959” jury members give verdicts as ‘Not Guilty’ under the pressure of public sentiments because at that time thousands of people come on the road in support of accusing person at the ratio of 8:1. The jury system has some major flaws that make it abolished.

IS THE JURY SYSTEM STILL PERFORMED BY ANY COUNTRY/ COMMUNITY?

Yes, the jury act was repealed many years ago, but it continues to function in some nations, such as India, the United Kingdom, the USA, Canada, Australia, and others, whose legal systems are based on England's legal traditions. Under sections 19 and 20 of the "India Parsi marriage and divorce act 1936," the jury system is still used to resolve divorce and marriage-related disputes in the Parsi community. Delegates are the members of the panels or jury bench. The panel consists of five members who are elected for 10 years by the chief justices of Bombay, Madras, and Kolkata. They are not given a certain amount of time to resolve the dispute or determine the guilt of a Parsi marriage under the jury system. This jury system is a hybrid of the American jury system and the panchayat system in India. The supreme court of India upheld the constitutional validity of sections 19 and 20 of the Parsi Marriage and divorce act of 1936, ruling that all these sections are consistently valid and that the practice of a jury trial for divorce disputes is a customary right and that the judiciary cannot interfere in such spiritual matters.

WHAT'S BETTER TRIAL BY JURY OR JUDGE?

As per this research paper, we can easily conclude that the trial by jury system consists of biasness, time and money wastage on the other hand trial by judges exclude all of these things and can only include fair trials and fair judgments or justice to the accused person. But we cannot say that the trial by judges is purely fair as it's a human-made system and followed by humans itself so there are chances of getting flaws but the trial by judges is surely better than the trial via jury system.

CONCLUSION

There are advantages and disadvantages of the jury system that suggests the structural work to reduce the biases so that fair trial, judgments, verdicts, and penalties are branded from the judicial/justice system. But as the structure was created by humans, different chances of imperfection where innocent people slip through the cracks.

The issue with the jury trial is more often when emotional cases get heard especially in murder and violence cases. Even with these problems the jury system is used for approximately a thousand years by the human government because of its effectiveness, there are flaws/problems but we cannot Lego the advantages of the jury system. The jury system does an excellent job of involving the le men from the same community where the crime happens to deliver justice and serve as many rights and protection as possible to the accused or wrongdoer. Because of its flaws jury system was abolished but it still performs in some countries but not as it performs before. Now in the current world, the literacy rate is increased and we also have a better system than before to determine the biased people In the society, but still, It is not a good idea to recontinue the jury sys+tem in today's world as there are so many cases which are already pending before the courts of various countries and if we recontinue this jury justice delivering system maybe it performs well than before but it takes time to deliver justice or decide the guilt of the accuse, not just this it also requires a lot of budgets which some countries don't even have.