



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

The Jury System: A Flawed Relic or a Missed Opportunity for India?

The emergence of jury trials in England can be credited to the urgent need for a mechanism to safeguard the interests of the masses against whimsical decisions of the high and mighty Royal judges.

The British brought the system of jury trials to the United States as they began to settle there. Though it was a seed planted by the British, this tree of jury trials truly flourished on the American soil as the right to jury trial was conferred upon its citizens as a fundamental right.

The mechanism of Jury Trial was formally introduced in France as a chain reaction of the French Revolution to promote the ideal of sovereignty. More than a century after its inception, the jury system in France underwent substantial transformation. Earlier the jury consisted of independent lay judges which was mixed with few professional judges as a step to keep up with socio-political conditions of the French society.

The Jury system harmonizes well with the English society but history has been a witness to how this very system fails miserably to blend into the Indian system.

The first Law Commission of India in its 14th report titled ‘Reforms of Judicial Administration’ stated that “The jury system in India which has had such a long trial has been a failure and should be abolished. In view of the conclusion reached by us, we do not propose to recommend measures with a view to secure its improvement and efficient working.”¹

¹ Law Commission of India, *Reforms of Judicial Administration*, No. 14 (1958).

Mahatma Gandhi advocated against the jury system in India in his journal *Young India*, “I am unconvinced of the advantages of jury trials over those by judges. I have known juries finding prisoners guilty in the face of no evidence and even judges' summing up to the contrary. We must not slavishly copy all that is English. In matters where absolute impartiality, calmness and ability to sift evidence and understand human nature are required, we may not replace trained judges by untrained men brought together by chance. What we must aim at is an incorruptible, impartial and able judiciary right from the bottom.”²

Trial by Jury system may have thrived in other countries but the author believes that this type of system is unsuitable for a country like India. The author will enunciate the reasons to support the aforementioned hypothesis.

- While adjudicating over a matter, a judge has to provide the *ratio decidendi*, or the rationale behind his decision. Under the system of common law of rights and duties, the presumption of innocence until proven guilty forms the core of the structure. The onus of taking the right decision falls upon the judge. In the case of a jury, they are not required to specify the logic behind their verdict. This feature creates an opening for arbitrariness in a space where concrete reasons are a necessity. The accused must have the right to hear the reasoning behind his conviction.
- A jury trial defendant who was found guilty by a court of session often had only a limited recourse to appeal. A jury trial expressly precluded an appeal on factual issues under Section 418 of the Criminal Procedure Code, which allowed an appeal on both legal and factual issues. Therefore, it followed that, generally speaking, issues of fact could be raised before the appellate court in cases involving jury trials. In these situations, the court of appeal would have had to determine whether the jury's verdict was incorrect as a result of the judge's misdirection or the jury's misinterpretation of the applicable law. In this regard, we may refer to Section 537 of the Criminal Procedure Code, which stated that no judgment, sentence, or order issued by a court of competent jurisdiction shall be set aside or modified because of a jury charge's misdirection unless the charge's misdirection has actually resulted in a miscarriage of justice. Whereas the opportunity to have a complete

² Mahatma Gandhi, Vol. 45, *YOUNG INDIA* (1931).

appeal lies with the accused when tried by a session court. The right to appeal is essential while handling complex question of fact.

- Random members of the society do not have the competence to answer questions of law. Intricacies and complexities of law even puzzle distinguished jurists and lawyers. The jury may not be serious in their attitude towards a case since it is just a duty that needs to be fulfilled for them. Most of the population of this country does not possess basic education qualifications, we cannot expect them to be able to dive deep into legal matters and pronounce the correct verdict. Lack of proper knowledge and nonchalance of the jury may result in grave miscarriage of justice.
- Jury trial's time-consuming nature causes inconvenience to the already burdened justice system. The proceedings are considerably slowed down so that the legal jargon can be broken down into simple terms for the smoother comprehension by the jury. The facts and timeline of the case have to be made clear to the jury several times in order to avoid misunderstandings about the case. According to the procedure, the judge has to summarize the case to the jury. The judge has to be careful in condensing the proceedings of the case. These extra proceedings drastically increase the duration of the case. Another factor that contributes to this long duration is the feature of jury trials of having unanimous decisions.
- Implicit biases and prejudices of the jurors inhibit the commencement of a fair trial. The notion of caste is deeply embedded in Indian society. It may prove difficult for jurors to look past the caste of the accused. Caste divisions may play a major role in the delivery of erroneous decisions. Class divisions also add to the prejudices of the jurors. Jurors may give into the feeling of fraternity over caste or class instead of listening to the voice of reason and justice.

There are many reasons as to why trial by jury is impractical in a country as diverse as India. Jury trial survived in this country for centuries all because of the presence of the British. Cracks in this system existed since a long time but it finally started falling apart after the departure of the

Englishmen. The justice system runs on the foundation of learned judges and lawyers, adding anything else to the equation will lead to the collapse of the system.

If in future India decides in favour of incorporating trial by jury in the judiciary once again, it can work towards creating a new kind of jury system that suits the socioeconomic and political landscape of India. We can take inspiration from how France transformed the English inspired jury system into something that accommodates the needs of the French society.