

Has the jury system outlived its usefulness and practicality?

Present and analyze articles or reports written by legal scholars or stakeholders

Guiding Questions:

- 1) The broad principle of juries: what is the role of the jury in law?
- 2) What role do juries play in Canadian criminal trials?
- 3) What are the challenges of having a jury system?
- 4) How have juries been effective in introducing new ethical perspectives?
- 5) Can the challenges of implicit bias of the jury ever be eradicated?

We can extrapolate a thesis and a few arguments when analyzing these burdens

Case Studies (choose only one for seminar):

Court rulings related to jury:

- Batson v Kentucky (American)
- Morgentaler v. The Queen
(<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2684/index.do>: Jury nullification)
- R v Kokopenace (<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/15373/index.do>: Indigenous defendant's right to representative jurors,
<https://www.canadianlawyermag.com/legalfeeds/aboriginals-not-entitled-to-representative-jurors-scc-rules-6351/>,
<http://www.thecourt.ca/r-v-kokopenace-missed-opportunity-for-action/>)
- R v Spence (racial bias in interracial case:
https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2253/index.do?site_preference=normal)
 - talk about how Canada has outlived the jury as the population became more diverse

Indirectly related to jury

- R v Stanley (<https://canliiconnects.org/en/commentaries/62062>: not enough Indigenous people in the jury)

Resources:

Anti-jury:

<https://lawaspect.com/juries-are-outdated/> (this is from australia but it does have some relevant points, albeit being badly written)

<https://www.lawnow.org/jury-trials-cost-controversy-and-secret-powers/> (related article that sort of defends the jury system but mostly just gives background info:

<https://www.lawnow.org/why-do-we-have-jury-trials/>) + this is one of the sources from the syllabus

Pro-jury

<https://www.theglobeandmail.com/opinion/no-criticism-needed-canadas-jury-system-works/article38022515/> (it has some points against the jury though)

<https://www.lawnow.org/juries-as-the-great-democratic-hope-of-the-criminal-trial/> (history of the jury, why it was implemented in the first place)

Specific Issue

<https://ccla.org/supreme-court-decision-on-jury-vetting-raises-significant-privacy-concerns/> (jury vetting)

Peremptory Strikes: S.634 of the CCC

<https://laws-lois.justice.gc.ca/eng/acts/c-46/page-155.html#h-128440>

Background

Quick Review:

What is a Grand Jury? (Grand Jury is American)

- 12-23 people
- Reviewed evidence to decide if there are probable grounds on which to prosecute
- **Abolished. We have preliminary hearings (superior court and higher) for seriously contested matters, where a judge decides if there is sufficient evidence**

What is a Petit Jury? (Regular jury)

- A group of 12 Canadians selected from the province/territory the court is located in. These 12 jurors try an accused charged with a criminal offence.
- The trier of facts
- Independent from the state

Who can be a jury?

- Any Canadian adult can be called to be part of a jury
 - As long as they are not doctors or lawyers
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Benefits (quote or discuss article from reliable expert)

Challenges

Underrepresentation

Sympathy

- Juries are told not to let sympathy affect their decision-making, but both the Crown and the Defence are aware of and exploit the jury's inexperience with the law and human emotion
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Juror Compensation

- Jurors basically not paid enough
- The compensation per province varies, Quebec comp. seems to be better than Ontario comp. (Throw up examples)

Case Study

Next Steps