

# **Why Juries Work Best**

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In the quarter of a century I've been practising law, I've seen all sorts of jurors, from the highly educated to those who could not read the words of the oath, from copious note-takers to those who fought a battle to stay awake (usually losing it during my speech), from those who laughed just before convicting to those who cried as they acquitted. I long ago gave up trying to read juries or predict their verdicts. So if jury trial seems so haphazard, why do I remain such a big fan of it?

First and foremost, because despite the failings of individual jurors, juries get it right most of the time. They make the right decisions on the evidence and come to the right verdicts. Not every time, of course, they are not infallible – how could they be, no humans are, not even judges, but they do get it right most of the time.

Don't just take my word for it. [The report from the Ministry of Justice published last week](#), the culmination of 18 months of meticulous research into over half a million cases heard in England and Wales, shows juries are fair, efficient and effective. They convict almost two-thirds of those they try, they convict more than they acquit in rape, they do not exhibit any racial bias and they only fail to reach verdicts in less than 1% of cases. So juries do a good job and now we have the facts and figures to prove it. Plainly that must be the first requirement of jury trial, whatever else may be its value.

Think back to all the major miscarriages of justice of the last 50 years and you'd be hard pressed to find one where the fault lay with the jury. Overwhelmingly the miscarriages have been due to failures in other parts of the system – by police, by experts, by witnesses or by lawyers. If the evidence put before the jury is flawed, because it is tainted by impropriety, wrongly interpreted, - inaccurate or incomplete, then you will get a flawed verdict.

But that juries work well is not the only reason to support trial by jury. Equally important is the fact that juries are one of the most democratic aspects of the constitution; they are democracy in action every day of the week, not just once every four or five years. There is no other part of the constitution that is so open to the public, where ordinary people participate in decisions of such immediate importance and wield real power. There are jurors settling the fates of their fellow citizens in crown courts up and down the country every day of the week, determining by their verdicts whether or not defendants are guilty of the most serious crimes of violence and dishonesty such as murder, rape, robbery and fraud.

Juries bring with them the freshness and insights of those who are new to the system and have not become case-hardened or cynical. For anyone accused of crime, the truthful defence can be no different from the lying one – I wasn't there, I thought he was going to hit me, she consented, I thought I was being honest, I didn't know the drugs were there. There is a limit to the ways in which you can be innocent. But if juries are not cynical, neither are they naive, and it is a rare jury that cannot detect where the truth lies when faced with the conflicting accounts of witnesses.

Because that is the advantage of a jury of 12: it reduces the chance that a mistake of fact will be made. It may be that one or two on the jury don't believe the witness or the defendant but that all 12 will be wrong is unlikely. Those who argue for trial by judge will have to accept that judges make mistakes and they are not infallible. But what if the judge makes a mistake of fact, chooses to believe the wrong witness, one that only a minority of the jurors would have believed? There is no remedy for that kind of mistake.

There is another powerful reason why trial by jury is necessary. In this age of mass media, most people derive their knowledge of what goes on in a court from what they read in the paper and see on television. But no newspaper report or TV item can possibly convey all the detail and subtlety of the hours of evidence given in court. An editing process is taking place: even the most impartial reporter has to filter the evidence. If all that citizens know of the criminal justice system is what they read in the papers and see on TV, they are going to get a misleading impression of how it works and that misleading impression can corrode their faith in the system.

You may wonder when you read the newspaper report of a case how a jury could have arrived at its verdicts, but you will only have heard a fraction of the evidence that the jury heard. When [Frances Inglis](#) and [Kay Gilderdale](#) were tried for unlawfully killing their children, there was fierce public debate about the merits of the prosecutions, but the only people who heard all the evidence were the jurors, and the differing verdicts reflected the differing evidence in two cases that were - superficially similar.

How often was I asked in the aftermath of the Munir Hussain trial whether the law on self-defence was out of touch with the public view, despite the fact that 12 members of the public sitting on the jury heard all the evidence, including the facts of the burglary and the characters of the participants, and were sure that the defendants had gone beyond the bounds of self-defence?

By bringing ordinary citizens into the system and placing them at the very heart of the decision-making process, trial by jury exposes the criminal justice system to their scrutiny while ensuring they gain first-hand experience of how that system works. Trial by jury helps the criminal justice system reflect the values and standards of the general public. It's vital for the health of the criminal justice system that citizens participate in it and it is vital for democracy that they do, which might explain why politicians are always seeking to limit that participation.

At the start of every criminal trial, the jurors take an oath to try the defendant "and give a true verdict according to the evidence". What last week's report shows beyond reasonable doubt is that is exactly what juries do and, for all our sakes, they must be allowed to carry on doing it.