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LAW Q3: Is trial by jury obsolete?

Introduction:

"The accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law" (US Congress). The Framers included this provision in the Constitution as it protected the American people from a tyrannical government. Yet in the modern era, a jury is seen to be less important because many cases never enter trial. More than 95% of cases in California settle before a jury makes their final decision (Setareh Law). This raises whether a jury is obsolete, defined as no longer useful by Merriam-Webster (Merriam Webster). Before answering, one must recognize the history of the jury, since it will be found that a jury is constitutionally necessary to administer a fair, just trial by embodying popular sovereignty, the principle that the government has the right to rule only when given consent by the governed (LSD Law). With juries epitomizing popular sovereignty, juries are not seen as obsolete because their legitimacy expands. But a jury's power being capable of being weakened by judicial limitations and replacement in cases, whilst consisting of biased, unqualified people, makes a jury viewed more as obsolete.

JNOVs:

Because of restrictions on their power, juries are ineffective at creating fair trials, and therefore obsolete. One of the main ways they are non-useful is through judgment notwithstanding the verdict [JNOV]. Essentially, a JNOV is a judgment by the trial judge after a jury has issued a verdict. Through this, the jury's decision is not enforced, and the losing party

benefits while the winning party disbenefits (Cornell). This undermines the idea of popular sovereignty. While there are some restrictions to the JNOV, such as that the judge determines no reasonable jury could reach a conclusion with the evidence presented, it still remains a check on popular sovereignty. In the 2010-2011 court year, the Dallas court of appeals reversed 20% of judgment on jury verdicts. In that same year, the Houston First and Fourteen courts of appeals reversed 38% and 39% respectively (Houston Law Review). This shows that a jury trial may not actually enhance popular sovereignty. This in turn leads to decreased legitimacy in the jury system. Here, it is important to note that extravagant spending by King Louis XVI, which led to France on the brink of bankruptcy, diminished popular sovereignty. Consequently, it gave way to the French Revolution, where the monarchical system was overthrown as it was seen as more illegitimate and unnecessary (History). Why perhaps not as extreme as the French Revolution, a JNOV does decrease popular sovereignty. As demonstrated by the historical example, legitimacy in the system will weaken. While the jury system being completely overthrown is too intense of a claim to make, there is a good amount of certainty to argue that the jury system will be viewed as less necessary because of JNOVs. In other words, the ability of a judge to issue a JNOV will make a trial by jury appear to some as obsolete.

Plea Deals:

Plea bargains also add to a jury's obsolescence. In fact, over 98% of criminal cases in the federal courts end with a plea bargain, rather than going to trial (NPR). This practice does not ensure fairness nor ensure that someone is innocent. Plea bargains only permit efficiency. But because of plea deals, the jury's power becomes obsolete because they are hardly used in the first place. Instead of a trial by members of the community, the prosecution and defense come up with a deal that satisfies both their sides. They, additionally, leave out the interests of the community

in which the crime took place. Not only is the power of a jury outdated because they may not get to simply hear a case and create a verdict, they cannot assert their perspective. This serves to undermine the legitimacy of the system, where courts are less focused on justice and instead work to close cases quickly. With legitimacy in the jury system undermined, the people will only view a trial by jury as restricted, inefficient, and unable to allow a fair trial. There is a reason why juries now resolve less than 1% of US civil cases (The Conversation). These low statistics in cases resolved by juries indicate that people do not see the purpose behind their sixth amendment right to a trial by jury. Rather, the citizens will question the justifications behind why a trial by jury even exists. In a study conducted by NCSC in 2025, there has been a notable increase in people saying the state courts are not doing a good job. Conversely, there has been a decrease in people saying the state courts are doing a good job (NCSC). Despite the Constitutional importance given to juries, the people will come to the conclusion that a jury ultimately fails in resolving cases and bringing justice. They will soon find that a jury is unnecessary, and therefore obsolete.

Bias and Prejudice:

Because juries are human and aren't experts, resulting in them being susceptible to biases, they cannot ensure fairness, which means they are obsolete. All humans are susceptible to bias. This is common knowledge. Humans can be inclined to partiality in different ways, however, as there are different bias types. There is the framing effect, how information is presented, confirmation bias, finding what is already believed, and anchoring bias, letting first impressions skew analysis (University of Pennsylvania). These prejudices can be found in the juries for one sole reason. They are human. No human is perfect, but because of these biases, they cannot ensure fairness within a trial. A jury can side with one side, despite objective

evidence that determines that the favored side is in the wrong. In a study conducted by Orrick, 11% of jurors admitted to having a bias against police and 27% reported anti-corporate sentiment pre-pandemic. Today, jurors admitting bias against police has tripled and anti-corporate sentiment has doubled. Only 48% of jurors trust courts today (Orrick). Therefore, jury bias is a real phenomenon and it only continues to make them obsolete. With citizen bias, true justice may not be served. In its place is a simple opinion. This can be seen in the infamous OJ Simpson case, where the jury found Simpson not guilty of murder despite insurmountable evidence that points to him being at fault. The jury in the OJ Simpson case rejected hard evidence in favor of their own conception of justice, or bias (Fukurai). Thus, a jury becomes outdated, where individuals fear the judgments of regular-day, bias-prone citizens like them instead of government authority. Bias, as seen in OJ Simpson, leads to a less safe society. Murderers are able to escape justice through narratives that appeal to opinions rather than facts. Granted, there is a check to ensure that a jury does not fall into bias, with that being a JNOV. One main key reason why JNOVs may occur, after all, is to prohibit favoritism or discrimination by a group of people who are just ordinary citizens. A jury is not necessarily composed of legal and policy experts. Thus, even though judges can be susceptible to bias, they do have a clear understanding of the law which juries don't. However, a jury does serve as a way to create a sense of popular sovereignty in not only the justice system, but also the government more broadly. A JNOV, as previously discussed, creates a check on the jury, which, although a check that limits prejudice, subsequently creates a check on popular sovereignty. Therefore, there is no best-fits-all solution to deter the weaknesses of a jury. Either a check is placed on them to diminish popular sovereignty, or they can exercise authority without much restraint, but they can subject people to discrimination, allowing for minority suffering under the rule of a majority. With this, a trial by jury is indeed obsolete.

Constitution and Procedure:

Juries are important to the justice system as they Constitutionally ensure fairness in trials. Jurors are supposed to listen to testimony, review evidence, and even make decisions in a trial (US Courts). As explored earlier, the right to a trial by jury is guaranteed in the Constitution, which acts as the law of the land. However, one may question the Framers' reasoning behind including the seventh amendment. According to Gorod, chief counsel of the Constitutional Accountability Center, "the jury was a fundamental part of our democracy and a check on potential government overreach" to the Framers. They may have gotten this idea, though, from the very distant past. The concept of a trial by jury, indeed, dates back to the ancient Romans, Greeks, and Egyptians (Western Virginia Association for Justice). The American justice system itself takes inspiration from Great Britain's Magna Carta, under the "great charter" of English Rights signed by King John. It stated that the king itself was not above the law (History). It's also the case that a right to a jury was one of the "rights of Englishmen" that the colonists felt was denied to them by the Crown. In fact, that denial makes it into the list of grievances in the Declaration of Independence. As Thomas Jefferson writes, "I consider trial by jury as the only anchor yet imagined by man, by which a government can be held to the principles of the Constitution" (The Missouri Bar). The history of the jury gives them their legitimacy in functioning in the US legal system. A trial by jury has always been utilized, ever since the birth of civilizations like Egypt and Greece. Juries themselves must appear to be successful, for they have been used consistently, even reaching the modern world. It must be made clear that, procedurally and constitutionally, a trial by jury is seen to be important in ensuring fairness. Even in the modern era, many will find that a jury fosters popular sovereignty, because it allows the community to hold some control over the government, as noted by Jefferson. But there are

many downsides. A jury is human, and thus susceptible to prejudice. Although judges and legal experts can too have bias, they at least have a clear understanding of the legal code to mitigate their bias. Juries consist of ordinary, unqualified people. This has resulted in the implementation of JNOVs to limit the jury's power, making them not only less needed, but also diminishing the popular sovereignty appeal of the jury. Moreover, a jury may not even be called in the first place through plea bargains, adding on to why a jury is non-relevant. Therefore, while the right to a trial by jury was made in the Constitution to create fairness through popular sovereignty, JNOVs, plea bargains, and human bias make juries obsolete.

Conclusion:

In conclusion, there are merits to a jury trial, one of them being that it creates fairness through enhancing popular sovereignty. This belief was the motivation to include the right to a public jury in the 6th Amendment (Cornell). Yet, a jury is no longer required because of it being able to have its power not only undermined, but also prone to preconceptions. This viewing of the jury system has increased over time. But, it shouldn't be this way. With an outdated system, consequences that deter the legitimacy and functionality of the jury system arise. If courts were to lose legitimacy, it would pose a danger to the justice system, due to the significance of the right to a jury trial. With popular sovereignty and legitimacy in the government minimized, the United States legal system is itself weakened and considered by some in need of reform. Currently, though, Mark Twain is right when he said, "the jury system puts a ban upon intelligence and honesty, and a premium upon ignorance, stupidity, and perjury" (TwainQuotes). Juries have led to murderers escaping justice, failure in maximizing popular sovereignty, and created discrimination in the court system. Mark Twain is correct in his belief that trial by jury is obsolete.

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