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Jury Trial: A Comparative Legal Analysis between Bangladesh, India and Europe

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Abstract

Research serves as the primary means to generate knowledge. This study constitutes a modest attempt to conduct research on Jury Trials: A Comparative Legal Analysis between Bangladesh and Europe and America. The objective of this research is to unveil and scrutinize the significance, criticisms, and conditions of the jury system worldwide, with a specific focus on assessing the appropriateness of the jury system in Bangladesh.

This study commences with an introductory statement and historical background, followed by a delineation of the aims, objectives, rationales, and limitations. Subsequently, it is grounded in a comprehensive literature review, wherein the key terms are elucidated.

The research methodology section elucidates the methods, data collection procedures, sample size, research area, and research questions. This section serves as the framework guiding the investigation into jury trials and their comparative legal aspects.

Furthermore, the study delves into central research findings, presenting data analysis derived from interviews and surveys.

Keywords: Jury Trial, Functions of Jury, Criminal Justice System, Bangladesh, India, Europe, Comparison, Effectiveness.

1. Introduction: The concept of Jury is an important part of legal studies with its historical background. It is the most evasive and multi dimensional issue with immense importance. In this study the background, aspects, role, dilemma, controversy and other dimensions of jury trial system have been considered as ‘focal points’.

A **jury trial** is a legal proceeding in criminal justice system with the presence of selected qualified persons from mass citizens as the representatives of '*public opinion*'. Jury trials are used significantly in serious criminal cases in almost all '**common law**' legal systems. This paper seeks to analyze the condition of jury trial with a global view by making a comparative study among the major countries, concerned with Jury system. In a criminal justice procedure, the main aim of a judicial system is to ensure a free and fair trial to protect the citizen's right. If we look upon the history, we can clearly see that, jury trial has a long historical background to preserve civil liberty.

The main function of jury is to analyze the facts of cases and to commence deliberation. In both civil and criminal cases, they play direct role to bring out justice. Academically it is said that, Jury trial system plays a helping role to flourish democracy. Many theorists argue that, in Jury trial system, the participation of civil society and expert opinion ensures transparency and accountability of criminal justice system. How would you explain the correlation between 'Jury trial system' and 'Democracy'? On the other hand, it is said that, trial by Jury serves no useful function and should therefore be abolished. Some theorists argue, Jury trial makes the judicial system complex, slow, prolonged and ambiguous.

This research will critically scrutinize the pros and cons of jury system and its application in Bangladesh. This research will also analyze the facts of avoiding jury system in 3rd world countries like Bangladesh and India.

2. Historical Background: Jury trial with its historical root has been a significant part of legal studies. Jury system in civil law countries developed in 19th century, when some European countries attempted to initiate the '**Anglo-American Criminal Jury system**'. Such changes reflect the importance, that civil law countries place on non-professional participation in court system. (Dammer & Albanese, 2013;)

The concept of the jury system was probably imported into Britain after the Norman Conquest, though its early functions were quite different from those today. Early jurors in England acted as witnesses providing sources of information on local affairs. But they gradually came to be used as adjudicators in both civil and criminal disputes. Under Henry II, the jury began to take on an important function, moving from reporting on events they knew about, to deliberating on evidence produced by the parties involved in a dispute. Gradually it became accepted that a juror should know as little as possible about the facts of the case before the trial, and which is the position today.

The modern jury evolved out of the ancient custom of many ancient Germanic tribes whereby a group of men of good character was used to investigate crimes and/or judge the accused. The same custom evolved into the *vehmic* court system in medieval Germany. In Anglo-Saxon England, juries investigated crimes. After the Norman Conquest, some parts of the country preserved juries as the means of investigating crimes. The use of ordinary members of the community to consider crimes was unusual in ancient cultures, but was nonetheless also found in ancient Greece. The modern jury trial evolved out of this custom in the mid-12th century during the reign of Henry II. (Daniel, 2003)

18th century England: In 1730, the British Parliament passed the Bill for Better Regulation of Juries. The Act stipulated that the list of all those liable for jury service was to be posted in each parish and that jury panels would be selected by lot, also known as sortition.

Anglo-Saxon England: Historical Treatise on Trial by Jury, Wager of Law, and other co-ordinate forensic institutions formerly in use in Scandinavia and Iceland. 1832 The Scandinavians, when not on the Viking warpath, were a litigious people and loved to get together in the 'thing' to hear legal argument. They had no professional lawyers; A Danish town in England often had, as its principal officers, twelve hereditary 'law men'. The Danes introduced the habit of making committees among the free men in court (William, 1875)

Later Middle Ages: In the 12th century, Henry II took a major step in developing the jury system. Henry set up a system to resolve land disputes using juries. A jury of twelve free men was assigned to arbitrate in these disputes

Early modern period: The first paragraph of the Act that abolished the Star Chamber, long a bone of contention between the early Stuart kings and a significant fraction of their subjects, on 5 July 1641 repeats the clause on the right of a citizen to be judged by his peers (NS, 2000) (Trial by Jury in criminal cases was introduced into Belgium in 1830. It was introduced into the kingdom of Greece in 1834. In Portugal it was partially adopted in 1832.

3. Objectives of the study: The objective of this study is

- i. To explore the inherent significance and multi-dimensional aspects of jury trial system.
- ii. To explain the probability and effects of the jury system to reorganize the judicial procedures of Bangladesh, India and Europe.
- iii. To draw attention of law-makers and law-implementers about it.

4. Limitations of the study: Despite putting forth my utmost effort to ensure the excellence of this study, numerous obstacles were encountered throughout the research process. These challenges included my lack of prior research experience, financial constraints, and the daunting task of undertaking the entire study single-handedly within a limited timeframe. Additionally, obtaining interviews with individuals directly involved in the judicial process proved to be particularly challenging, especially securing appointments with judges familiar with the criminal justice system. Moreover, the extensive nature of jury analysis presented difficulties in thoroughly examining the subject within the confines of word limits. Furthermore, the scarcity of reference materials on this topic necessitated extensive time and labor in searching for relevant books, articles, and journals. Despite these hurdles, every effort was made to overcome these limitations and produce a comprehensive study.

5. Literature Review:

Definition of the Concept: Although enough literature and secondary data are not available about the issue, but I like to define the key words.

5.1: What is Jury?

Jury refers to a group of representatives selected to conduct the criminal justice process as a 'body of experts'. They gradually came to be used as adjudicators in both civil and criminal disputes. As the constituent part of the court, jury works with judges to provide legal verdict of any case.

Juries are called 'Lay judges', who come from typical citizens, not professional legal personnel. They are usually elected or chosen by government agencies responsible for monitoring the activities of courts. (Dammer & Albanese, 2013;)

The word *jury* derives from (Norman) French, "*juré* (sworn)". (6. Bander J Edward, 1979)

According to the jurisdiction and rights of courts, judges and juries work as 'Public Officers' and hold prime positions. (Curts, 1890)

"A group of persons selected according to law and given the power to decide questions of facts and return a verdict in the case submitted to them. In certain context jury embraces any fact-trier, including an arbitrator or a trial judge sitting in a non-jury proceeding." (Garner, 2008)

5.2: What is Jury Trial?

"Jury trials are used in a significant share of serious criminal cases in almost all '**common law**' legal systems, and juries or lay judges have been incorporated into the legal systems of many '**civil law**' countries for criminal cases." (Samons, 2007)

"A **jury trial** is a legal proceeding in criminal justice system, in which verdict is deliberated by a judge with the assistance of a panel of jury who are selected according to legal procedure." (Rahman, 2006)

Jury makes a decision findings the fact and analyse the depth of the cases. It is distinguished from a bench trial.

"Jury system is a judicial procedure, which is used primarily in socialist and common law system. It is a method of adjudication in which one or more 'lay judges' help the professional judges come to a decision." (Dammer & Albanese, 2013;)

Many states of the world followed jury system as the part and parcel of their adjudication branch.

"A trial in which the factual issues are determined by a jury not by the judge and also termed as a trial by jury." (Garner, 2008)

5.3: Steps in Jury: A complete criminal trial typically consists of six main phases, each of which is described in more detail below:

- 1) Choosing a Jury

- 2) Opening Statements
- 3) Witness Testimony and Cross-Examination
- 4) Closing Arguments
- 5) Jury Instruction
- 6) Jury Deliberation and Verdict

5.4: Types of jury: In the analysis of jury we found diversity in the formation and activities of jury by its size and area of working. Among them there are 3 basic types of jury, which are discussed below-

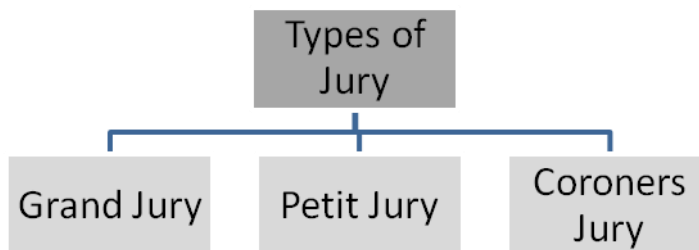


Figure- 1: Types of jury

5.4.1: Grand jury: A body of people (often 23) who are chosen to seat permanently for at least a month and sometimes a year and who, in ex party proceedings, decide whether to issue indictment.

A grand jury, a type of jury now confined almost exclusively to federal courts and some state jurisdictions, determines whether there is enough evidence for a criminal trial to go forward. . Grand juries can also be used for filing charges in the form of a sealed indictment against unaware suspects who are arrested later by a surprise police visit.

Grand jury is also works in different forms as below (Garner, 2008):

1. Additional grand jury
2. Investigative grand jury
3. Run away grand jury
4. Screening grand jury
5. Special grand jury

A grand jury is traditionally larger than and distinguishable from the petit jury used during a trial, usually with 12 jurors. It is not required that a suspect be notified of grand jury proceedings. In addition to their primary role in screening criminal prosecutions and assisting in the investigations of crimes, grand juries sometimes utilized to perform an investigative and policy audit function.

“The investigation is analogous to grand jury hearings, which are conducted in secret. Grand jury hearings are usually short, however dominated by the prosecutor and designed to make sure that the prosecution will not be frivolous or willful.” (Dammer & Albanese, 2013;)

5.4.2: Petit jury: A jury (usually consisting of 6 Or 12 persons) summoned an empanelled in the trial of a specific case. (Garner, 2008)

“The petit jury” (or “trial jury”) hears the evidence in a trial as presented by both the plaintiff (**petitioner**) and the defendant (**respondent**). After hearing the evidence and often jury instructions from the judge, the group retires for deliberation, to consider a verdict. The size of the jury varies; in criminal cases involving serious felonies there are usually 12 jurors. However, the common law trial jury is the most common type of jury system.

5.4.3: Coroner’s jury: Usually, a jury summoned by a coroner to investigate the cause of death. A third kind of jury, known as a **coroner's jury** can be convened in some common law jurisdiction in connection with an inquest by a coroner. A coroner is a public official, who is charged with determining the circumstances leading to a death in ambiguous or suspicious cases.

In practice, coroner's juries are most often convened in order to avoid the appearance of impropriety by one governmental official in the criminal justice system toward another if no charges are filed against the person causing the death, when a governmental party such as a law enforcement officer is involved in the death. (Garner, 2008)

To make a clear conceptual analysis about ‘jury system’, we need to review the literatures about it. It is important to create a strong paradigm of conceptions to carry out a deep study.

5.5: Jury size: The size of the jury is to provide a "cross-section" of the public. In Williams case, (Williams v. Florida, 1970) the Supreme Court of the United States ruled that a Florida state jury of six was sufficient, that "the 12-man panel is not a necessary ingredient of "trial by jury," and that respondent's refusal to impanel more than the six members provided for by Florida law "did not violate petitioner's Sixth Amendment rights as applied to the States through the Fourteenth. (Robert & L.Paul, 2007)

5.6: Functions of Jury: The main function of jury is to work as a helping body of judge to reach a proper decision by analyzing the facts of cases and to commence deliberation. (Siddique, 2010) The judge gives the direction to the jury on the relevant law, which the jury has to apply to the facts of the case in order to reach a verdict. If it is a criminal case and the jury has given a verdict of guilty, then the judge will decide on appropriate sentence. In civil cases, juries function is to decide on how much money should be awarded in damages.

“In discharging this duty, the jury generally cannot draw on prior courtroom experience, since the member typically consists of lay persons who are unfamiliar with how to evaluate the trial evidence.” (Kaplan, 1961)

Typically, the jury only judges guilt or a verdict of not guilty, but the actual penalty is set by the judge. In France and some countries organized in the same fashion, the jury and several professional judges sit together to determine guilt first. Then, if guilt is determined, they decide the appropriate penalty. (Vouin, 1956)

Basically functions of jury can be analyzed in 2 parts:

1. The Jury in Criminal Cases
2. The Jury in Civil Cases

5.6.1: The jury in criminal cases: Although juries are very important in the criminal justice system, they actually deal only in a minority of the cases. 5% of the cases heard in the Crown Court, in majority of the cases either defendant pleads guilty, so there is no need of a jury or the judge directs the jury that law demands that they acquit the defendant. As a result the juries actually decide only around 1% of criminal cases. But on the other hand this **1% amount** of trials and these are the most serious ones come before the court. (Paul, 2010)

5.6.2: The Jury in civil cases: The erosion of the use of the juries in civil cases was gradual and appears to have started in the middle of nineteenth century to refuse to let a case be heard before a jury and to insist that it be heard in front of a sole judge. As a result the use of jury in civil cases is now almost obsolete. Jury trial is working in following cases mostly: *libel and slander; malicious prosecution; false imprisonment; and fraud*. Juries have limited power to adjudicate some limited offences against the penal code and Municipal act which are punishable only with fine or with imprisonment for a limited term. (Chandra, 2003)

5.7: Debates on Jury Trial:

Arguments in favor of jury system:

1. Several advantages have long been claimed for trial by jury, such as: Juries represent the common public and therefore are more likely to judge in line with generally accepted values of the society.
2. It may be more difficult to corrupt 12 jurors than one or several judges.
3. Jury best reflect the views of the society because of random selection from a wide range of population. When a person's liberty is at stake it is a matter of principle that s/he should be tried by his/her peers.
4. The jury is regarded by the public as the 'mirror of individual liberties'.
5. The opinion of the 12 jurors prevents the individual biases.
6. Juries are barometers of public feeling on the state of law,
7. There is no satisfactory alternative to a lay jury.
8. The presence of the lay jury ensures that the proceedings are kept simple.

Arguments against the jury system:

1. Since the decision by jury is a group decision, individual members of the jury may not feel that responsible about their duties and therefore neglect it.
2. Group pressure might be influential on the decision.
3. Juries may be swayed by the current prejudices in the society, which are not supported by law. Complex cases tend to require special expertise to judge the case which a jury does not have.

4. The jury is an uneducated body in the law and is often unable to weigh evidence properly and to understand certain complex matters.
5. Juries are often unable to understand the more complex distinction in the law, Jurors may be dominated by two or three strong minded individuals in the jury.
6. It is a fact that juries acquit proportionately more defendant than the magistrates do. Many critics of the jury system argue that this is a major failing on the part of juries, arising either from their inability to perform their function properly, or from their sympathy with defendants, or both.
7. It is not possible to guarantee that there has been absolutely no tempering with the jury.
8. The unaccountability of the jury by virtue of the secrecy of the jury room, is against the democratic principles.

5.8: Jury Trial in Global Perspective: A Comparative Analysis: With a long tradition, Jury trial is playing vibrant role many countries of the world. The trend, system and procedures of jury may vary country to country, but we found its existence in judicial process of many powerful states of the world. Recent years have witnessed the widespread diffusion of the criminal jury trial across the globe.

Theorists identify 3 basic causes for the world wide spread of jury system. Such as:

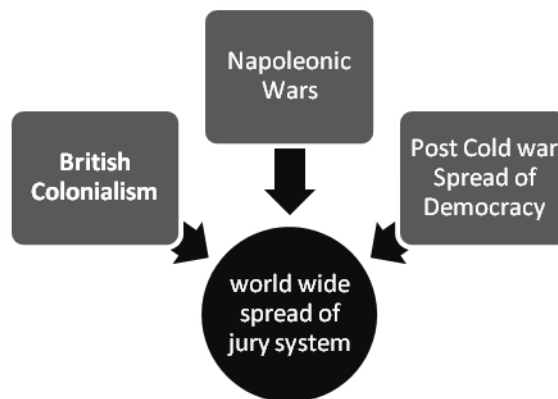


Figure- 2: Causes for the world wide spread of Jury system

As of 2008, **55 of 192 UN member states** employed some variation of jury system to aid in the process of criminal adjudication. (Park, 2010)

Now we will scrutinize the nature and prospects of jury trial in different countries to make global comparative analysis.

5.8.1: Jury Trial in India:

India: Following the ‘colonial legacy of British India’, jury trial was adopted in new independent India. Trial by jury in so far as it became the law of India as a western product.

In the earliest time justice was administered by arbitrators known as '**Panches**' or '**Panchayat**'. (Pullan, 1946)

Juries were formerly used in India up until the famous **KM Nanavati v State of Maharashtra** (1959), which led to the abolition of jury trials. According to some intellectuals-

“Abolition of the Jury system is a positive step in the history of Indian judiciary, since the jury cannot in most cases weigh proper legal complications and is likely to be swayed by popular and painted notions.” (Bibek, Dec 21 2009)

5.8.2: Analysis of Jury system: special reference to UK, and Bangladesh and Europe:

In this research we like to focus a special attention to the jury system of the Bangladesh, India, U.K. and Europe.

United Kingdom: United Kingdom is known as the pioneer of jury system. The law of United Kingdom is uniform and specific compare to others country of the world. They are the most law abiding country of the world and that's the reason to foot them to highest step of success. The main source and origin of laws of United Kingdom is Common law. Thus common law is the foundation of laws of UK as common law was the only system of adjudicating dispute among peoples of the country.

The United Kingdom consists of three separate legal jurisdictions as:

1. Common Law
2. Equity and
3. Statute law

But there are some features common to all of its parts.

England and Wales: In England and Wales (which have the same legal system), minor criminal cases are heard without a jury in the Magistrates' Courts. Middle-ranking (“triable either way”) offences may be tried by magistrates or the defendant may elect trial by jury in the Crown Court. Serious (“indictable”) offences, however, must be tried before a jury in the Crown Court. All criminal juries consist of 12 jurors, those in a County Court having 8 jurors and Coroner's Court juries having between 7 and 11 members. Jurors must be between 18–70 years of age, and are selected at random from the register of voters. In the past a unanimous verdict was required. (Forston, 1975)

Scotland: In Scots law the jury system has some similarities with England but some important differences; in particular there are juries of 15 in criminal trials, with verdicts by simple majority. (Forston, 1975)

Northern Ireland: In Northern Ireland, the role of the jury trial is roughly similar to England and Wales, except that jury trials have been replaced in cases of alleged terrorist offences by courts where the judge sits alone, known as *Diplock courts*. Diplock courts are common in Northern Ireland for crimes connected to terrorism. (Forston, 1975)

Bangladesh: Bangladesh is a development country which because of its economic, political and geographical position is full of crime but does not seek justice properly. We have the law, administrative body, legislative body, Executive Authorities and Judiciary everything to suppress crime and to ensure justice if it committed but hence there are lots of cases where no justice is ensured and moreover crime is increasing day by day.

The jury system existed in ancient India but not in the same form as understood in today's world. There is evidence that the community members used to assist the administration of justice.

Legal system of Bangladesh is a mixer or collection of the rules and laws followed in the other country of the world. Bangladesh got its independence on 16th December 1971. Before the independence it passed through different period of administration process e.g. Hindu, Muslim, British, and Pakistan etc.

The present legal and judicial system of Bangladesh owes its origin mainly to two hundred years British rule in the Indian Sub-Continent although some elements of it are remnants of Pre-British period tracing back to Hindu and Muslim administration. It passed through various stages and has been gradually developed as a continuous historical process. The process of evolution has been partly indigenous and partly foreign and the legal system of the present day emanates from a mixed system which has structure, legal principles and concepts modeled on both Indo-Mughal and English law. The Indian sub-continent has a known history of over five hundred years with Hindu and Muslim periods which preceded the British period, and each of these early periods had a distinctive legal system of its own. At present the jury system of criminal proceedings is not found on the judicial system of Bangladesh.

6. Research Methodology: This section deals with the theoretical framework of the study by analyzing method, sample, source of data, data collection procedure, hypothesis, etc.

6.1: Research Method: I have applied '**Mixed Method**' in this study. Both **qualitative** and **quantitative methods** are followed to conduct this research. But, mostly this study depends on qualitative method. But to minimize the weakness of it, I have used quantitative method with it to conduct the research.

6.2: Data Collection Techniques: To find out the actual fact I have used the following data collection techniques-

1. Interview method
2. Survey method

6.3: Source of Data The paper is based on both **Primary and secondary data**.

Secondary data is collected from *different reference books, research paper, journals, articles, news paper, website, etc.*

Primary data is collected from *Survey and Interview*.

6.4: Sample: My research is mainly based on the views of people related with laws and jurisprudence. So to find out their thinking about the aspects and acceptance of jury trial, I have chosen the persons connected with law based profession, such as- **Judges, advocates, Attorney General, Members of Bar council, chairman and employee of Law commission** etc. under **interview**.

I have also scrutinized view of the '**Law Students**' of some educational institutions of Bangladesh to bring out their opinions by **survey**.

So there are 2 types of samples in this study as follows:

1. Persons connected with law based profession- 13

2. Law Students- 25

7. Hypothesis: In this research I have assumed some hypotheses, which will be tested by this study. These are-

1. Jury trial system plays a helping role to flourish democracy. But Jury trial have lost its widespread acceptance for its complex, slow, prolonged and ambiguous nature.
2. '*The large expenses of jury system*', '*lack of knowledge of jury about judicial procedures*', '*probability of influencing trial by media*', etc as the prime causes of avoiding jury system in 3rd world countries like Bangladesh.
3. It is not appropriate to adopt Jury system fully in Bangladesh. At least in important and serious cases, can jury system be helpful for ensuring fair and speedy trial in Bangladesh.

8. Research Findings:

8.1: Central Research Findings: This research is conducted by following both *qualitative* and *quantitative* method. This section of research contains the **major findings** of data collected from **Survey, Interview**.

In this section I will represent the data those have been collected from interview and survey.

Summarization of the total collected data with features is given in below:

8.2: Findings Of The Data Collected From The law Students By Survey:

Question (1): Theoretically in Jury trial system, the participation of mass people, civil society and expert opinion ensures transparency and accountability of criminal justice system. Do you agree with this view?

From the survey conducted among 25 respondents of law students of different educational institutions, it is found that 72% law student respondents think the participation of mass people, civil society and expert opinion ensures transparency and accountability of criminal justice system.

The finding of this question is shown in the following table:

Answer	Number of Respondents	Percentage
a. YES	18	72%
b. NO	7	28%

Table-1: Opinion about the Transparency and Accountability of Jury trial

The ratio can be understood from the following chart:

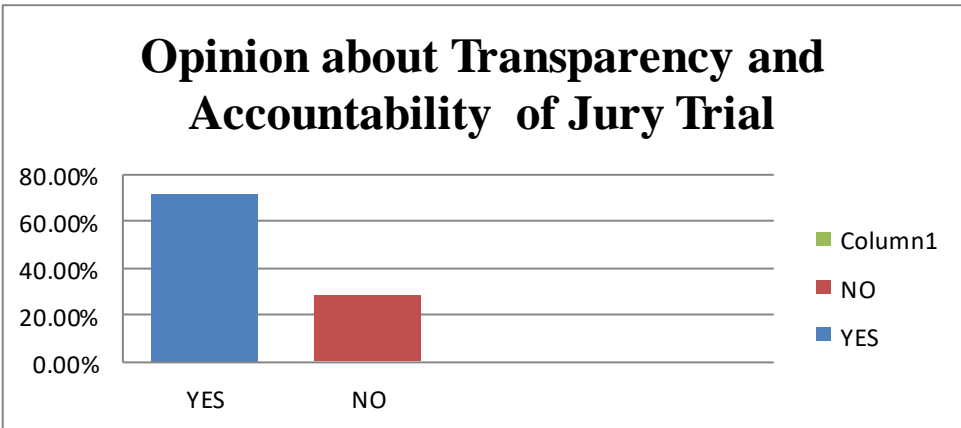


Figure- 3: Opinion about the Transparency and Accountability of Jury trial

Question (2): In many cases theorists identify that, Jury trial makes the judicial system complex, slow, prolonged and ambiguous. Do you think so?

From the survey we can see 60% respondents out of 25 respondents think that Jury trial makes the judicial system complex, slow, prolonged and ambiguous.

The finding of this question is shown in the following table:

Answer	Number of Respondents	Percentage
Yes	15	60%
No	10	40%

Table-2: Assumption about complex, slow, prolonged and ambiguous nature of jury system

The ratio can be understood from the following chart:

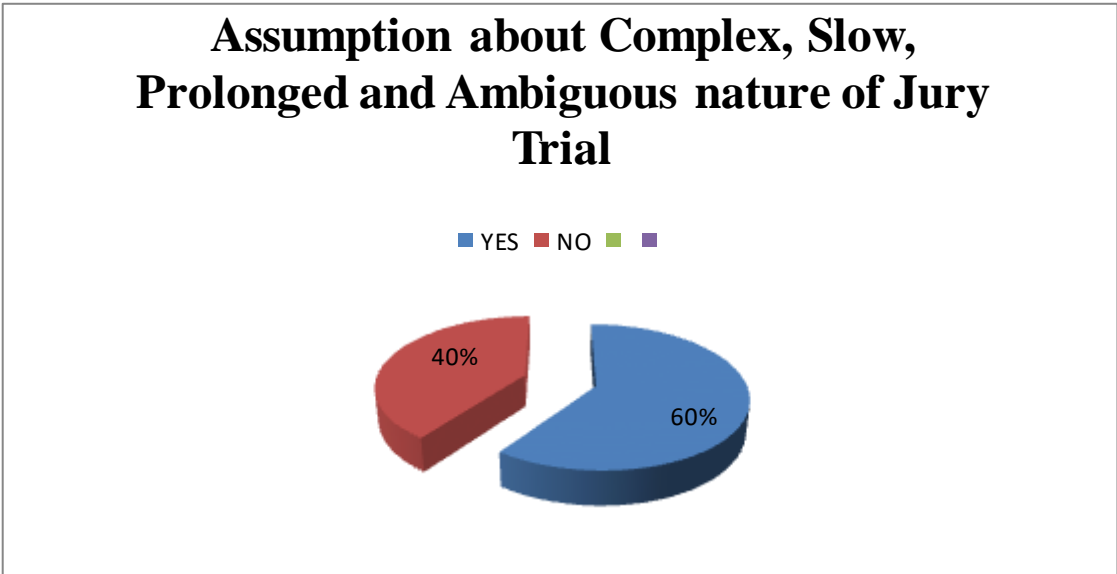


Figure- 4: Assumption about complex, slow, prolonged and ambiguous nature of jury system

Question (3) - According to you, does jury system suit in Bangladesh?

From the data of the survey, among the respondents of 64% think jury system does not suit in Bangladesh.

The finding of this question is shown in the following table:

Answer	Number of Respondents	Percentage
a. YES	9	36 %
b. NO	16	64%

Table-3: Appropriateness of jury system in Bangladesh

The ratio can be understood from the following chart:

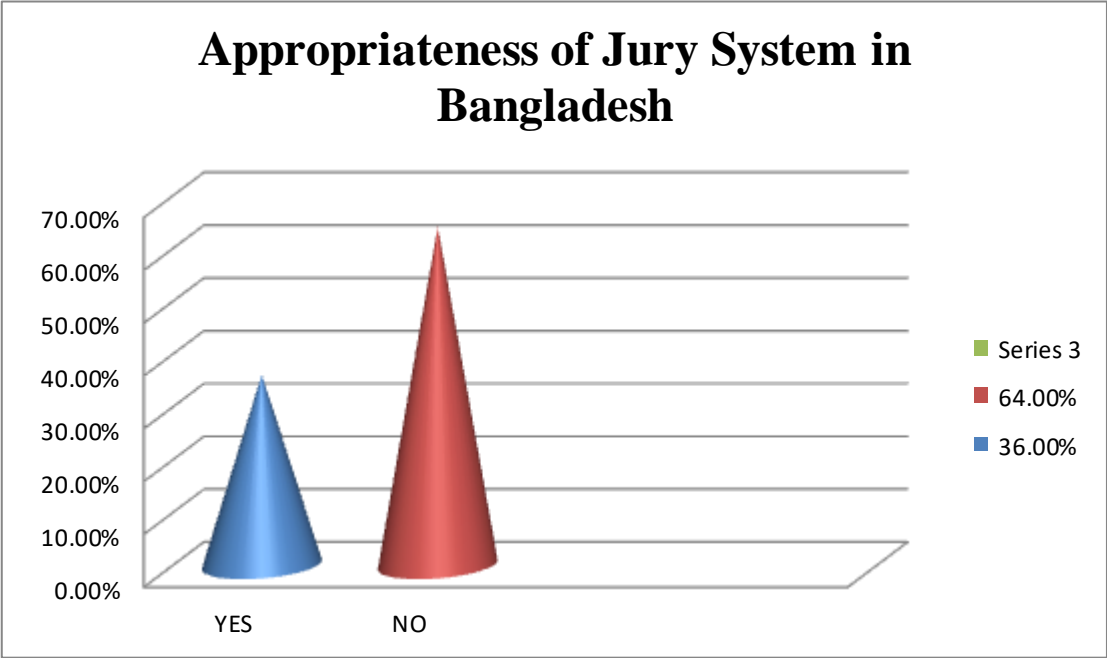


Figure- 5: Appropriateness of jury system in Bangladesh

Question (4) - According to you what is the prime obstacle to enforce jury system in Bangladesh?

In this study we tried to find out the prime obstacle to enforce jury system in Bangladesh. Among the respondents **8%** states that **expensive, prolonged and slow nature** of jury trial is prime obstacle. On the other hand, **20%** think, jury system cannot be adopted for **the probability of influencing trial by media, political persons and biasness of jury**. **72%** think all of these are vital hindrances to enforce jury system in Bangladesh.

The finding of this question is shown in the following table:

Answer	Number of Respondents	Percentage
expensive, prolonged and slow	2	8%
lack of knowledge of jury about judicial procedures	0	0%
probability of influencing trial by media, political persons and biasness of jury	5	20%
All of these	18	72%

Table-4: Prime obstacle to enforce jury system in Bangladesh

The ratio can be understood from the following chart:



Figure- 6: Prime obstacle to enforce jury system in Bangladesh

Question (5) - At least in important and serious cases, should jury system be adopted for ensuring fair and transparent trial in Bangladesh?

The data collected from survey presented that **88%** respondents argue that at least in important and serious cases, jury system should be adopted for ensuring fair and transparent trial in Bangladesh.

The finding of this question is shown in the following table:

Answer	Number of Respondents	Percentage
a. YES	22	88%
b. NO	3	12%

Table-5: Importance to adopt jury trial in Bangladesh in important and serious cases

The ratio can be understood from the following chart:

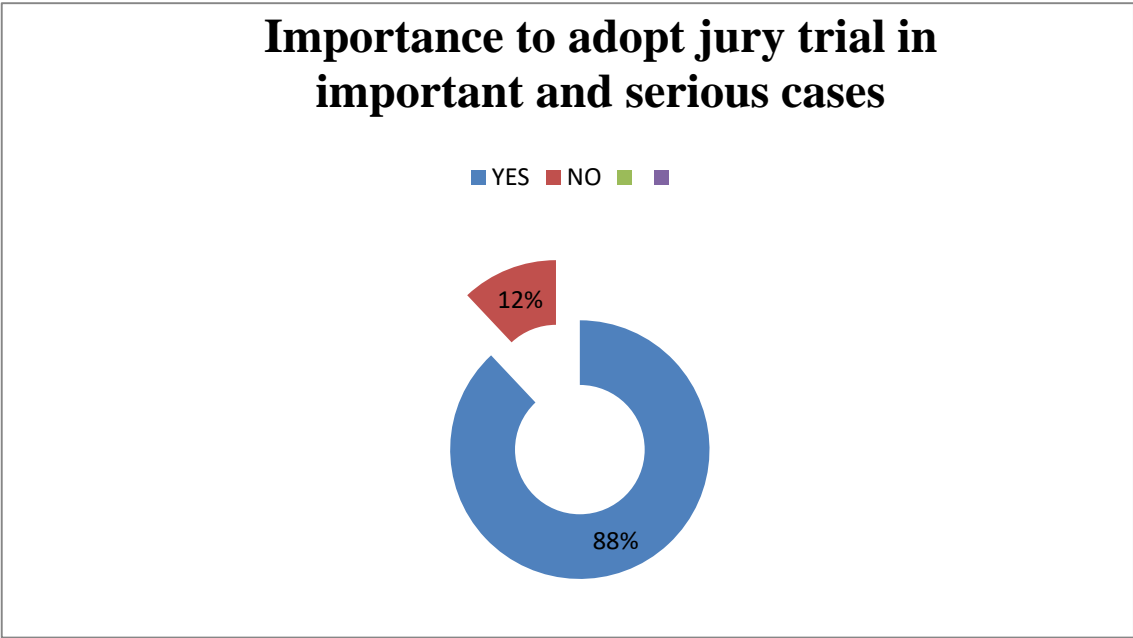


Figure- 7: Importance to adopt jury trial in Bangladesh in important and serious cases

8.3: Findings Of The Data Collected From The Persons In Law Related Profession By Interview

Finding-1: Opinion about the co-relation between ‘Jury trial system’ and ‘Democracy’. From the interviews conducted among the persons who are directly engaged in the law related professions, we found that they explain the co-relation between ‘Jury trial system’ and ‘Democracy’ in following way:

Md Ali Hayder Kamal says:
“to flourish democracy it is a vital question that others opinion will be considered or not. In this perspective jury trial paves the way of public liberty.” (Md. Ali Hayder Kamal, 2024)

With the opposite view **D H Khan** argues:
“I am confused how the jury system and democracy is interrelated. Democracy is a external matter of court and trial system.” (D H Khan, 2024)

Md Atikur Rahman Ovee states that:
“theoretically we found strong correlation between democracy and jury, rather than practically” (Ovee 2024)

Finding-2: Opinion about the complex, slow, prolonged and ambiguous nature of Jury system.
To give opinion about the complex, slow, prolonged and ambiguous nature of Jury system, **Sabuj Barai** states that-

“obviously jury trial creates dilemma in judicial process.” (Barai, 2023)

According to **Biplab Kanti Sarker-**

“Jury trial is largely criticized for its slow and prolonged nature.” (Sarker, 2024)

Adv Mizanur Rahman Shikder says-

“Jury procedure seeks extended time to reach justice.” (Shikder, 2024)

Finding-3: Opinion about the prime causes of avoiding jury system in 3rd world countries like Bangladesh.

According to **Abm Khairul Haque** “it is very hard to find out persons ‘*free from biasness and corruption*’ in Bangladesh to make jury.” (Haque, 2024)

Hosne Ara Akter states that:

“jury system is very expensive process and does not suit in 3rd world poor countries.” (Akter, 2015)

Alifa Begum thinks:

“Jury system will not be successful for biasness and influence of powerful parties.” (Begum, 2024)

Md Ali Hayder Kamal states that:

“**multiplicity of suit** is another cause of dilemma with jury trial.” (Kamal, 2024)

Finding-4: Scope or possibility to introduce jury system in Bangladesh

According to **Mr. Mahbube Alam,**

“the judicial process has been already complicated with large amount of pending cases and the system suffers from corruption and bribery.” (Alam, 2020) In this situation there is no scope or possibility to introduce jury system.

Md Akramul Hoque says:

“there is no probability to change the existing system.” (Haque M. A., 2021)

9. Research Analysis: From this research we have got many opinions and arguments, which have given a clear idea about the multi dimensional aspects and its role around the world through a comparative analysis.

Now the prime findings and assumptions got from the study are analyzed below:

Jury trial system ensures transparency and accountability of criminal justice system and flourishes democracy: In this research by searching the view of respondents we found jury system has positive features to ensure transparency and accountability of criminal justice system and flourishes democracy.

In the survey we can see 72% respondents think jury trial system is helpful to preserve justice and ensure fair trial.

In the interview we can see, many of them think that, as the jury people are selected from intellectual group and civil society jury represents ‘public opinion’. They are the mirror of

sentiment and demand of mass people. They reflect the citizen rights and liberty of speech for fair trial.

Juries are one of the most democratic aspects of the public life. There is no other right that is so open to the public, where ordinary people participate in decisions of such immediate importance and wield real power. It ensures democracy in right meaning.

Jury system has also been criticized for its complex, slow and prolonged nature: From the opinions collected from interview and survey, the respondents have expressed that, the main fault points of jury trial is its complex, slow and prolonged nature. 60% law student participants in survey think jury trial system seek long term proceedings to dismiss the case. In this study, we can see jury system is not fared well in *‘inquisitorial environment’*, but results from a *‘lack of enthusiasm’* for jury trial. Jury likely to be selected in a lengthy trial would be unable to grasp the issues, evidence and detailed law, which makes it complicated.

Multi dimensional mechanisms work behind the lack of adoption of jury system in the 3rd world countries like Bangladesh: The findings of this research show that, because of multi dimensional mechanisms jury trial fails to reach its goal to ensure fair and proper trial in the 3rd world countries like Bangladesh. *‘The large expenses of jury system’*, *‘lack of knowledge of jury about judicial procedures’*, *‘probability of influencing trial by media’*, etc as the prime causes of avoiding jury system.

We can see the time and costs of jury verdicts are greater relative to bench verdicts. In the 3rd world country “Corruption in Judicial Branch” is a prime obstacle of proper justice. According to **Abm Khairul Haque**, it is very hard to find out persons *‘free from biasness and corruption’* in Bangladesh to make jury. (Haque A. K., 2024) In 3rd world countries there is a probability to influence judicial process by *‘corporate entity’* to maximize their interest by juries.

Md. Ali Hayder Kamal identifies that *‘multiplicity of suit’* is another cause of dilemma with jury trial. (Kamal, 2024)

There is no scope and Possibility to enforce jury trial system in Bangladesh: Jury trial system is not enforced in the judicial system of Bangladesh. From the interview of legal experts, we found that there any scope or possibility to introduce jury system in Bangladesh.

In the present context, jury trial cannot be introduced in Bangladesh. Jury trial can be a great hindrance to the speedy disposal of justice delivery.

According to **Mr. Mahbube Alam:**

“the judicial process has been already complicated with large amount of pending cases and the system suffers from corruption and bribery.” (Alam, 2020)

In this situation there is no scope or possibility to introduce jury system.

Opinions to adopt jury system at least in important and serious cases: In this study we seek to know the importance of jury adoption at least in important and serious cases. Only 36% respondents of survey thinks, jury trial can be used in important and serious cases.

On the other hand, many legal experts argue it will make the system more ambiguous. Samir Mollick, says: the probability of influence in serious cases by media with ‘Yellow Journalism’ and rich people will be increased. (Mollick, 2024)

10. Conclusion: Jury trials, as a form of participatory justice, have seen diverse evolution and application across different jurisdictions, reflecting the distinct historical, cultural, and legal frameworks within Bangladesh, India, and Europe. While the jury system is largely obsolete in Bangladesh and India, it remains an integral component of the justice system in several European countries. This divergence is a result of varied socio-political realities, institutional structures, and public perceptions of fairness and efficiency.

In Bangladesh and India, the discontinuation of jury trials stems from concerns about jury impartiality, susceptibility to influence, and the complexities of managing a lay jury in a system dominated by procedural intricacies. The infamous Nanavati case in India, for instance, highlighted the potential for emotional or media-driven verdicts, leading to diminished trust in jury trials. Similarly, in Bangladesh, the challenges of socio-economic disparity and potential manipulation undermined the jury system's credibility, leading to its eventual abolition.

In contrast, several European countries, such as the United Kingdom and France, have retained jury trials, albeit with modifications to address modern-day challenges. The jury system in these jurisdictions is supported by robust legal frameworks, effective juror selection processes, and public trust in judicial institutions. European systems often balance professional and lay participation, ensuring that juries contribute community perspectives while maintaining judicial oversight to ensure legal coherence.

The comparative analysis highlights that the effectiveness of a jury system is not universal but is instead contingent on contextual factors. Countries like Bangladesh and India have adapted their systems to prioritize professional adjudication, emphasizing efficiency and legal expertise. Meanwhile, European countries have sought to preserve the democratic ethos of jury trials while addressing contemporary challenges. Moving forward, the lessons from these jurisdictions underscore the importance of aligning judicial mechanisms with societal values, institutional capacities, and the overarching goal of justice. For nations considering reforms, it is imperative to evaluate whether jury trials can serve their justice systems' specific needs or if alternative mechanisms are better suited to ensure fairness, efficiency, and public trust.

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