

AN OVERVIEW OF THE JURY SYSTEM IN MALAYSIA

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The students/ authors confirm that the work submitted is their own and appropriate credit has been given where reference has been made to the work of others.

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ABSTRACT

This research is about an overview of the jury system in Malaysia. Jury system was applied in Malaysia during the British colonial days until 1st March 1995. Jury trial is the traditional mode of determining issues of fact at Common Law. Its development dates back far into the sixteenth century.

Basically the roles of the jurors include listening to witnesses, determining documents and determining the credibility and weight of the evidence based upon common sense and experience. Jurors are required to follow the law of the case as the judge instructs, and apply the facts to the law, separating out relevant facts from unimportant material. Jurors, as determiners of the facts must be impartial and objective.

The application of the jury system is hotly debated recently. Some critics embrace the concept of jury trial. However due to the increase in courtroom technology, and complex litigation, some argue that the system is no longer able to deal with the complexities of modern litigation.

This research seeks to out the problems that arose behind the application of jury trial. The problems were encountered after evaluating the procedure of jury system. However it cannot be denied that jury trial may have its benefit and advantages. Beside that, criminal justice in Malaysia is also being analysed.

In conclusion, the elimination of jury trial had resulted in a positive impact in judicial system in Malaysia obviously.

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CHAPTER ONE

INTRODUCTION

1.0 INTRODUCTION

Jury trials have been a cornerstone of the English legal system. This system was also introduced to its colonial possessions.¹ The jury system was initially introduced in Penang in 1807, until after the independence in 1987 in the form of a Grand Jury comprising between 13 to 23 people.² In 1873, the Grand Jury was replaced by the seven-man jury which is still being used in Peninsular Malaysia for the trial of a murder charge for which the punishment is the death penalty.³ Other offences for which capital punishment may be imposed are governed by other statutes and trials by a single judge. Sabah and Sarawak never had a formal jury system. In these two states, a single judge tries a case with the advice of two assessors.⁴

Today, Malaysians are hotly debating the issue on whether to bring back the jury system or not. Pertaining to this issue, it had actually opened the eyes of society at large with different levels of background to give their thought on the relevancy of applying the jury system. With regards of this study, the definition of jurors and the procedure that jurors need to follow during the proceeding should be taken into consideration.

Initially, in all cases where punishment of death was authorized by law, the accused had to be tried by jury.⁵ The provision on trial by jury before the High Court in Chapter XXII (ss 199A-235) of Criminal Procedure code (Act 593) (Revised 1999) has been deleted by Criminal Procedure Code (Amendment) Act 1995 (Act A908) s 11 wef 17 February 1995. Therefore, juries are no longer required in the administration of Malaysian criminal justice: (2) 1 Criminal Law & Procedure.⁶ During those days, there

¹ Wu Min Au, *The Malaysian Legal System* (Longman Malaysia 1990) p 258

² Wikipedia website, at p 2, source available from, <<http://www.jurysystem/wikipediaonjurysystem.htm>> (8 August 2007)

³ Ibid

⁴ Ibid

⁵ The Annotated Statutes of Malaysia, 2001 Issue

⁶ A. Halim Sidek (ed), *The Annotated Statutes of Malaysia*, (Malayan Law Journal 2001)