

The parliament of Sierra Leone recently voted to eradicate the trial-by-jury provision from the statutory laws in the country. In the legal proceedings of most countries, the trial process consists of two main formats: a bench trial, conducted with only a judge present, and a trial by jury, where a group of individuals known as jurors participate in the decision-making process. A crucial step in a trial by jury involves the judge and attorneys interviewing potential jurors to determine their suitability. These potential jurors are expected to possess strong moral character and be able to relate to the accused or defendant as peers. This selection process, known in many legal systems as *voir dire*, allows for a thorough examination of potential jurors and often leads to excluding certain individuals from serving on the jury. The procedure outlined in the Sierra Leone Constitution and the Criminal Procedure Act is designed to select individuals to serve on the jury, as in many other countries.

Trial by jury is a long-standing principle in the legal and democratic systems, dating back to the Magna Carta of 1215, established by King John I. The Magna Carta safeguarded the civil rights of English subjects and ensured the vital aspects of democratic society: representative government and trial by jury. Chapter 39 of the Magna Carta reads, “No freeman shall be taken or [and] imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or [and] by the law of the land.” In fact, the tradition of trial by jury extends beyond English legal heritage. Dating back to 2000 B.C., ancient Egyptians practiced adjudication through *Kenbet*, which consisted of eight jurors—four from each bank of the Nile.

The institution of the jury, within the context of the American legal system, is significant and a source of national pride. It symbolizes the principle of justice and the fundamental democratic values that permeate all aspects of society. The United States has enshrined the jury system as one of the two essential equal rights every American should possess, alongside equality at the ballot box. Regardless of political affiliations, these rights represent the essence of a free populace and should be fervently advocated by all. John Adams, the Father of American Independence, eloquently expressed this sentiment when he wrote, “Representative government and trial by jury are the heart and lungs of liberty. Without them, we have no other fortification against being ridden like horses, fleeces like sheep, worked like cattle, and fed and clothed like swine and hounds.”

The 1991 constitution of Sierra Leone allows for jury trials. Section 133(1)(b) states that the High Court of Justice can be constituted by either one judge or one judge and a jury. The 1965 Criminal Procedure Act and the 2024 Criminal Procedure Bill

provide for jury trials. Sections 142-148 specify that jury trials can be held in cases not punishable by death, either by the election of the accused person or through an application by the Attorney General. (sections 162 – 182) also outlines the conditions for jurors to serve, including any preemptory challenges. The extensive coverage of the jury system in Sierra Leone, spanning multiple sections, underscores the significance of trial by jury in upholding democratic principles within our country, providing a strong foundation for its retention.

I have no intention of contesting the tension among the provisions delineated in sections 144, 145, and 146 of the 2024 Criminal Procedure Bill; I would defer such contention for resolution through litigation. This opinion editorial emphasizes the significance of jury trials in Sierra Leone and the inherent challenges of this form of trial. The recent decision by the Sierra Leone parliament to eliminate trial by jury, in light of the prevailing argument that it is excessively burdensome, aligns with the trend observed in numerous African nations that have eliminated jury trials from their legal frameworks. However, upon closer scrutiny of the socio-political landscape in Sierra Leone, the retention of jury trials emerges as an imperative consideration. Even those advocating for the removal of trial by jury say it with some form of nervous excitement, and you can see the dispirited look on their faces. If you were to take the high end and say it should not be abolished, then you can see the paradox between free will and destiny.

Jury trials hold a significant role in upholding democratic principles by ensuring the representation of the community in the legal process. The varied backgrounds and perspectives of jurors selected from the local community contribute to a comprehensive case assessment. This diversity fosters a more nuanced and well-rounded decision-making process, enhancing the trial proceedings' fairness and equity. Jurors consist of peers from the community, bringing diverse perspectives and experiences to the trial process, thereby ensuring a fair and balanced decision-making process. Omitting a jury trial from the legal processes in Sierra Leone could constitute a significant and enduring mistake. This omission may pose challenges that will persist for an extended period. Some Sierra Leoneans will remember such decisions, with a silent tongue, clenched teeth, steady eye, and well-poised bayonet, that may be inked in suspicious consummation.

Over many decades, Sierra Leone's judiciary has faced significant challenges in garnering public trust and confidence. This lack of trust has been exacerbated by politicians' pervasive use of the judicial system to advance their agendas, often to the detriment of innocent individuals. Rather than removing the trial by jury

altogether, a fundamental overhaul of the justice system to incorporate a mechanism for a jury-trusted process could serve as a pivotal mechanism to enhance public trust. By embracing the democratic principle of involving ordinary citizens in crucial legal decisions, the judiciary could regain the public's confidence. John Adams said, "Representative government and trial by jury are the heart and lungs of liberty. Without them, we have no other fortification against being ridden like horses, fleeced like sheep, worked like cattle, and fed and clothed like swine and hounds."

In nations governed by democratic principles, such as Sierra Leone, the institution of the jury system functions as a vital mechanism for overseeing governmental authority. Within the realm of jurisprudence, jury trials allow citizens to engage directly in the legal process, particularly in cases of a criminal nature where an individual's freedom is in jeopardy. The expectation that jurors exhibit impartiality in rendering their determinations, exclusively founded upon the evidence presented in the court of law, counteracts the potential influence of personal biases and extraneous motivations inherent to professional judges. The involvement of multiple jurors in the deliberative process mitigates the prospect of erroneous judgments or prejudicial inclinations affecting case outcomes, given that decisions necessitate consensus among the assembled jurors.

In legal systems that employ judge-alone trials, also known as bench trials, there exists an elevated potential for corruption, notably in countries with a fragmented political landscape such as Sierra Leone. The unchecked authority granted to a sole judge in adjudicating significant cases creates a predisposition for undue influence from the governing. This susceptibility to external pressures raises concerns regarding the impartiality of judicial determinations, exerting considerable influence on the nation and its populace. Additionally, a unipolar legal system for trial adjudication poses a notable threat to the operational freedom of opposition entities within the country. Conversely, a jury trial effectively alleviates the tensions or doubts that may arise among opposition parties, primarily due to the apprehension that they may not receive fair judgment in a judicial system influenced by the actions of the ruling government.

While the trial by jury is a cornerstone of democratic justice systems, it can occasionally give rise to several significant drawbacks that deserve careful consideration. Numerous legal experts assert that excluding jury trials leads to greater predictability in applying the law. They contend that judges' rulings tend to be more consistent than juries, where emotions and personal biases may exert

influence. In circumstances where a judge is known for demonstrating leniency towards mitigating factors, legal counsel may recommend forgoing a jury trial. Following the conclusion of a trial, the judge imparts instructions to the jury concerning the relevant legal principles. The jury must adhere to the judge's directives about the law. However, it is incumbent upon the jury to independently ascertain the factual elements of the case from the conflicting accounts presented by the litigants during the trial. This may lead to unpredictability of outcomes.

Sierra Leone is home to approximately eight million people. Selecting impartial jurors without preconceived opinions about the case often poses significant challenges. In adherence to the jury system, potential jurors are expected to possess minimal knowledge of the case and withhold any opinions before the jury's final decision. Consequently, jurors must maintain a neutral stance with minimal familiarity with the case. Notably, lawyers are afforded preemptory challenges to exclude any potential juror demonstrating prior knowledge or bias toward the case. Such stringent requirements present a formidable challenge, particularly in a closely interconnected and comparatively small nation such as Sierra Leone.

As discussed earlier, one crucial aspect of jury trials is their immunity to public sentiment. In high-profile or contentious cases, choosing a bench trial can avoid the potential influence of public opinion on a jury. Judges must base their decisions solely on the law and the evidence presented, regardless of public sentiment. This is particularly important in cases involving heinous or violent crimes, as jurors may need help to remain unbiased. Jurors may struggle to set aside their emotions and instead place themselves at the center of the trial, forgetting the fundamental principle of fairness to every accused, regardless of personal opinions. In Sierra Leone, maintaining jury impartiality poses significant challenges, mainly due to the procedural aspects of jury selection. Therefore, a trial with only a judge may be a very effective way to ensure judicial impartiality.

In summary, my op-ed refrains from taking a definitive stance and instead presents a comprehensive legal analysis of the merits and drawbacks of the jury system. Readers are encouraged to judiciously evaluate its legitimacy and significance. I emphasize the importance of preserving my intrinsic human sensibilities without yielding to external persuasion or detachment. In order to maintain ethical consistency, it is imperative to employ an impartial approach in distinguishing between objective truth and conjecture.

As frequently posited by legal professionals, the law represents a governing

mandate endowed with legitimate authority, while morality encompasses the ethical standards established by religious institutions to regulate their activities. Thus, it is evident that the law does not equate to morality. Nevertheless, a complete disassociation of law from moral considerations may yield severe repercussions. As an optimistic individual, I am averse to impulsive decision-making, considering it to be unsettling. Legality does not inherently denote moral rectitude, particularly in light of the ability of politicians to subvert truth with fallacious narratives, thereby conferring a guise of legitimacy steeped in ostensible principles. The proposition of discarding the jury system, a structure that has historically upheld coherence, dynamism, and a crucial sense of equity in the eyes of the general populace of Sierra Leone, would undoubtedly necessitate a considerable degree of fortitude.

Author



[Dr Emmanuel Allicious Macpherson Sam](#)

Dr. Emmanuel Allicious Macpherson Sam is a distinguished figure in the legal realm, recognized for his expertise in human rights, environmental law, and corporate governance.

Holding a corporate and compliance law doctorate, Dr. Sam combines academic rigor with practical advocacy to pursue justice.

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