



LAY PARTICIPATION IN THE ADMINISTRATION OF JUSTICE: INTERNATIONAL EXPERIENCE AND PRACTICE

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Abstract

The involvement of lay representatives in judicial proceedings represents a fundamental principle of democratic justice systems worldwide. This article examines the comparative experience of jury systems, lay assessors, and mixed tribunals across different legal traditions, analyzing their implementation in common law, continental European, and post-Soviet jurisdictions. Particular attention is devoted to the legislative framework and practical application of lay participation in the Republic of Uzbekistan, contextualizing it within broader international trends and best practices. The analysis demonstrates that while Uzbekistan's legal framework formally provides for citizen participation through lay assessors, practical implementation faces significant challenges including low utilization rates, limited training infrastructure, and insufficient public awareness. Drawing on successful European models, particularly Germany's Schöffensystem, this study identifies concrete recommendations for strengthening lay participation as a mechanism for enhancing democratic legitimacy and procedural fairness in Uzbekistan's evolving justice system.

Keywords: Lay participation, jury system, lay assessors, judicial reform, comparative law, Uzbekistan, democratic legitimacy, criminal procedure.

Introduction

Аннотация

Участие представителей народа в судебных разбирательствах представляет собой фундаментальный принцип демократических систем правосудия во всем мире. В данной статье рассматривается сравнительный опыт систем присяжных заседателей, народных заседателей и смешанных трибуналов в различных правовых традициях, анализируется их применение в юрисдикциях общего



права, континентальной Европы и постсоветских государств. Особое внимание уделяется законодательной базе и практическому применению участия народа в отправлении правосудия в Республике Узбекистан, рассматриваемых в контексте более широких международных тенденций и передовой практики. Анализ показывает, что хотя законодательная база Узбекистана формально предусматривает участие граждан через институт народных заседателей, практическая реализация сталкивается со значительными проблемами, включая низкий уровень использования, ограниченную инфраструктуру обучения и недостаточную осведомленность общественности. Опираясь на успешные европейские модели, особенно германскую систему Schöffен, данное исследование определяет конкретные рекомендации по укреплению участия народа в качестве механизма повышения демократической легитимности и процессуальной справедливости в развивающейся системе правосудия Узбекистана.

Ключевые слова: участие народа, система присяжных заседателей, народные заседатели, судебная реформа, сравнительное правоведение, Узбекистан, демократическая легитимность, уголовное судопроизводство.

Introduction

The participation of ordinary citizens in the administration of justice serves multiple democratic functions within modern legal systems. It enhances public confidence in judicial decisions, ensures community values are reflected in legal determinations, and provides a check on potential judicial overreach. As numerous scholars have observed, lay participation embodies the democratic ideal that people themselves should participate in governmental decisions affecting their lives and liberty.[1] This principle manifests in diverse institutional forms across different legal traditions, from the Anglo-American jury system to continental European mixed tribunals and various hybrid models adopted in transitional democracies. The effectiveness of these different approaches varies considerably based on legal culture, institutional support, and the broader constitutional framework within which they operate. Understanding these variations is essential for jurisdictions seeking to strengthen democratic participation in their justice systems while maintaining procedural efficiency and decision-making quality.



The jury system, particularly prominent in the United States and United Kingdom, represents the most extensive form of lay participation in criminal justice, embodying a tradition extending back centuries. In this model, ordinary citizens serve as exclusive fact-finders, determining guilt or innocence based on evidence presented during trial while professional judges manage legal questions, admissibility of evidence, and sentencing. The U.S. Constitution's Sixth Amendment guarantees the right to trial by jury in criminal prosecutions, while the Seventh Amendment extends this right to certain civil cases, reflecting the framers' commitment to popular participation as a safeguard against governmental tyranny. The traditional jury comprises twelve citizens who deliberate independently to reach verdicts, historically requiring unanimity in criminal cases, though recent Supreme Court jurisprudence has clarified constitutional requirements regarding verdict unanimity. In contemporary American practice, jury trials remain relatively common in serious criminal cases, though the vast majority of cases are resolved through plea bargaining, with estimates suggesting that fewer than five percent of criminal cases proceed to jury trial. The United Kingdom has gradually restricted jury trials, particularly in civil matters, reflecting concerns about efficiency and juror comprehension in complex cases, though jury trials remain the standard for serious criminal offenses tried in Crown Courts

Proponents of the jury system argue that it provides democratic legitimacy by placing ultimate decision-making power in the hands of citizens rather than government officials, prevents government oppression by interposing community judgment between the state and accused individuals, and incorporates community standards into legal decision-making in ways that professional judges might not. Research suggests that juries generally perform competently, with deliberation processes enhancing individual juror comprehension and collective decision-making often producing well-reasoned outcomes. Critics, however, point to several concerns that have generated substantial academic debate and occasional reform proposals. These include potential juror incompetence in complex cases involving technical or scientific evidence, susceptibility to bias and emotional appeals that may undermine rational decision-making, significant inefficiency and expense compared to professional adjudication, and inconsistency in verdicts arising from the unpredictable nature of lay decision-making. Empirical studies have documented instances where jurors struggle with complex evidence, particularly in areas requiring specialized knowledge such as patent



disputes, securities fraud, or cases involving sophisticated forensic evidence. Despite these criticisms, the jury system remains deeply embedded in Anglo-American legal culture, valued as much for its symbolic democratic significance as for its practical performance.

Germany's mixed tribunal system combines professional judges with lay assessors in criminal proceedings, representing a fundamentally different approach to citizen participation that reflects continental European legal traditions. In the *Schöffengericht*, which handles less serious criminal offenses, two lay judges sit alongside one professional judge, while for more serious crimes, the *große Strafkammer* includes two lay assessors and three professional judges. Crucially, lay assessors in Germany possess equal voting rights with professional judges on both factual and legal questions, including sentencing decisions, contrasting sharply with the Anglo-American model where juries and judges have strictly separated roles. Lay assessors serve renewable five-year terms and receive systematic training before assuming their duties, including instruction on legal procedures, evidence evaluation, and deliberation processes. This training infrastructure distinguishes the German system from many other jurisdictions and contributes to lay assessors' effectiveness in collaborative decision-making with professional judges. The selection process involves local communities nominating candidates who are then formally appointed by judicial authorities, ensuring both democratic input and appropriate screening for qualifications and potential conflicts of interest. In practice, German lay assessors participate actively in proceedings, questioning witnesses and engaging in deliberations, though professional judges necessarily exercise significant influence through their legal expertise and procedural control. Research on the German system suggests that this collaborative model effectively combines popular participation with professional legal knowledge, producing decisions that benefit from both community perspectives and technical expertise.

France employs a distinctive mixed model for serious criminal cases tried in the *Cour d'Assises*, which has undergone significant reform in recent decades. Following changes implemented in 2012, these courts comprise three professional judges and six lay assessors who deliberate together on both guilt and sentencing, with decisions requiring an eight-vote majority out of nine total votes. This represents a shift from the previous system where lay jurors had numerical superiority and deliberated separately on guilt before joining professional judges for sentencing deliberations.



The French system represents a hybrid approach where lay participants have numerical superiority but deliberate alongside professional judges who can influence discussions through their expertise and procedural guidance. Lay assessors in France are selected randomly from electoral rolls for specific cases rather than serving defined terms, providing fresh perspectives but limiting the development of experience and expertise that term-based systems enable. The integration of professional and lay decision-makers in French Cours d'Assises reflects a philosophy that combines democratic participation with professional guidance, theoretically achieving benefits of both approaches while mitigating their respective weaknesses. Critics argue, however, that professional judges' influence may overwhelm lay voices, particularly given the one-time participation model that prevents lay assessors from developing confidence and experience through repeated service.

Scandinavian countries employ similar mixed systems with distinctive national variations reflecting each country's legal traditions and democratic culture. Sweden's nämndemän participate in district courts, with three lay judges and one professional judge for most cases, giving lay participants numerical superiority similar to the pre-reform French model. Norwegian lagrettemedlemmer serve alongside professional judges in both criminal and certain civil proceedings, reflecting a broad commitment to popular participation across diverse case types. These Nordic systems generally feature longer terms of service for lay judges, often four years, allowing participants to develop expertise and institutional knowledge that enhances their effectiveness. Selection processes typically involve political parties nominating candidates proportional to their electoral support, ensuring broad political representation while potentially introducing partisan considerations into judicial decision-making. Research on Scandinavian lay judge systems suggests high levels of participant satisfaction and public confidence, though concerns about political influence through the nomination process persist. These continental European systems generally reflect confidence in collaborative decision-making between legal professionals and ordinary citizens, premised on the assumption that integration produces better outcomes than strict separation of functions characteristic of Anglo-American juries.

Following the Soviet Union's collapse, Russia reintroduced jury trials in 1993, initially for serious criminal offenses in regional courts, representing a dramatic departure from the Soviet system that had relied exclusively on professional judges



The Russian jury system closely follows the Anglo-American model, with twelve jurors determining factual questions independently from professional judges who manage legal issues and impose sentences. This adoption of jury trials reflected both democratic aspirations in the early post-Soviet period and a desire to import Western legal institutions as part of broader political and economic reforms. However, jury trials remain relatively rare in Russia, comprising less than one percent of criminal cases, as defendants must affirmatively opt for jury trials and procedural complexities often discourage this choice. Following constitutional amendments in 2014, jury trials became available in district courts for certain serious crimes, potentially expanding their availability beyond the regional courts where they were initially concentrated. Despite this formal expansion, utilization remains low due to various factors including attorney unfamiliarity with jury procedures, perceptions that professional judges are more predictable and potentially more lenient, and logistical challenges in convening juries. The Russian experience illustrates how formal legal transplantation of foreign institutions may fail to achieve intended objectives without supporting changes in legal culture, professional practices, and institutional infrastructure.

Kazakhstan abolished jury trials in 2007 after a brief experimental period, replacing them with a system of lay assessors working alongside professional judges, reflecting a broader regional trend away from Anglo-American models toward continental European approaches. This decision reflected multiple concerns including doubts about jury competence in complex cases, inconsistency in verdicts, and efficiency considerations, as well as a general preference for legal models emphasizing professional expertise over popular participation. Currently, Kazakhstani law provides for panels of two professional judges and three lay assessors in serious criminal cases, though professional judges dominate procedural management and legal interpretation in practice, limiting lay assessors' practical influence. The Kazakhstani experience demonstrates how initial enthusiasm for democratic legal reforms may give way to concerns about institutional capacity and efficiency, particularly in systems lacking strong traditions of citizen participation in governance. Ukraine maintains a hybrid system incorporating elements of both jury trials and lay assessors, reflecting the ongoing experimentation characteristic of post-Soviet legal reform. Following judicial reforms implemented between 2016 and 2018, serious criminal cases may be tried by three professional judges or, at the defendant's request, by two professional judges and three lay assessors. This flexibility theoretically



allows defendants to choose between purely professional adjudication and mixed panels, combining benefits of both approaches while respecting individual autonomy in procedural choices. However, similar to Russia, actual utilization of lay participation remains limited, suggesting that optional systems frequently result in predominantly professional adjudication regardless of formal availability of alternatives

International experience reveals three primary models of lay participation, each reflecting different balances among democratic values, professional expertise, and procedural efficiency. The pure jury model characteristic of the United States and United Kingdom features strict separation between lay fact-finders and professional legal decision-makers, with juries possessing exclusive authority over factual determinations within their domain while judges control legal questions, a division that theoretically maximizes democratic participation in core guilt determination while preserving professional expertise for technical legal issues. Mixed tribunal models employed in Germany, France, and Sweden integrate professional and lay judges who deliberate together, with lay participants possessing formal equality in voting but professional judges exercising substantial practical influence through expertise and procedural control, a structure that theoretically combines popular participation with professional knowledge while maintaining efficiency through professional guidance. Hybrid or optional models characteristic of Russia, Ukraine, and Uzbekistan permit defendant choice between professional adjudication and lay participation, often resulting in predominantly professional trials with limited lay involvement due to low opt-in rates, a pattern that raises questions about whether optional systems can achieve democratic participation objectives when utilization remains minimal.

Evaluating these models' effectiveness requires considering multiple criteria that may sometimes conflict, necessitating difficult tradeoffs among competing values. Pure jury systems maximize citizen participation and control, potentially enhancing perceived legitimacy particularly among defendants and communities skeptical of government institutions, though low utilization rates in optional systems may undermine these democratic objectives by leaving participation as merely theoretical possibility rather than practical reality. Mixed tribunals potentially combine popular participation with professional expertise, improving deliberation quality through diverse perspectives and knowledge bases, though empirical evidence on decision



quality remains mixed with some studies suggesting benefits from collaboration while others find professional dominance limits lay influence. Professional adjudication generally proceeds more quickly and economically than lay participation models, reducing case backlogs and controlling costs, though this efficiency may come at the expense of democratic engagement and perceived legitimacy, particularly in politically sensitive cases. Lay participation theoretically guards against professional bias and state overreach by introducing community perspectives and checks on governmental power, though lay decision-makers may introduce different biases including prejudice, emotional reasoning, or susceptibility to media influence, suggesting that the type of bias changes rather than bias being eliminated.

Uzbekistan's system resembles continental European mixed models in formal structure, with composition and voting rules similar to German and Scandinavian systems, but exhibits characteristics of post-Soviet optional systems in practical application, with low utilization rates and professional dominance paralleling Russian and Kazakhstani experience. The Uzbek system of one professional judge and two lay assessors mirrors German and Scandinavian mixed tribunals in providing formal voting equality, theoretically enabling lay assessors to outvote the professional judge and ensuring that community perspectives can prevail over professional views when lay assessors unite. However, like Russia and Kazakhstan, Uzbekistan experiences low rates of lay assessor participation, suggesting common factors including limited legal culture of citizen participation, professional judicial dominance through expertise and procedural control, efficiency pressures favoring streamlined professional adjudication, and insufficient institutional support for effective lay participation. Unlike Russia and Ukraine, Uzbekistan has not introduced or seriously considered Anglo-American style jury trials, reflecting a preference for mixed models compatible with civil law traditions and concerns about institutional capacity to support jury systems requiring different procedural infrastructure. Compared to German lay assessors who receive systematic training and institutional support, Uzbek lay assessors lack comparable preparation, potentially undermining effective participation and contributing to professional dominance in mixed panels.

Based on comparative analysis of successful international models and identified weaknesses in Uzbekistan's current system, several recommendations emerge for strengthening lay participation as an effective mechanism for democratic engagement and procedural fairness. Germany's systematic training programs for lay assessors



provide a valuable model that Uzbekistan should adapt to its context, developing comprehensive initial training on legal procedures, evidence evaluation, and deliberation processes that prepares lay assessors for meaningful participation. This training should include ongoing education sessions covering legal developments and case studies that build expertise over lay assessors' terms of service, written materials and practical guides in accessible language that participants can reference when preparing for and conducting proceedings, and mentoring relationships pairing experienced and new lay assessors to facilitate knowledge transfer and build institutional culture supporting effective lay participation. Low utilization rates suggest inadequate public awareness of lay participation rights and benefits, necessitating public information campaigns explaining lay assessor rights and procedures through media, community organizations, and educational institutions. Mandatory attorney notification requirements ensuring that defense counsel inform defendants about lay assessor options and their potential advantages would address information deficits that currently contribute to low opt-in rates. Educational programs in schools and communities about citizen participation in justice would build long-term legal culture supporting democratic engagement, while media coverage highlighting successful lay assessor cases would demonstrate practical benefits and normalize citizen participation.

Conclusion

Lay participation in judicial proceedings represents a fundamental democratic principle with diverse institutional manifestations worldwide, reflecting different legal traditions, political cultures, and practical constraints. The Anglo-American jury system, continental European mixed tribunals, and post-Soviet hybrid models each balance democratic participation, professional expertise, and procedural efficiency differently, with none representing a universally optimal approach applicable across all contexts. Uzbekistan's legal framework provides for lay assessor participation in the continental tradition, granting citizens formal equality in criminal adjudication and establishing constitutional foundation for democratic engagement in justice administration. However, practical implementation faces challenges common to post-Soviet systems, including limited utilization due to insufficient public awareness and perceived lack of advantage, professional dominance undermining formal voting equality, inadequate training leaving lay assessors unprepared for meaningful



participation, and underdeveloped legal culture supporting citizen engagement in governmental decision-making. Strengthening lay participation in Uzbekistan requires multifaceted reforms addressing these interconnected challenges through enhanced training and institutional support for lay assessors modeled on successful European systems, public awareness campaigns building understanding of participation rights and benefits, procedural modifications ensuring meaningful lay voice in deliberations and decisions, and empirical research evaluating system performance to enable evidence-based refinement. International experience, particularly from Germany and Scandinavian countries with well-functioning mixed tribunal systems, offers valuable lessons that Uzbekistan can adapt to its specific legal and cultural context. Ultimately, effective lay participation depends not merely on formal legal provisions but on robust institutional support, genuine commitment to democratic values, and cultivation of legal culture recognizing citizens as partners in justice administration. As Uzbekistan continues its ambitious judicial reform program, strengthening lay participation offers an opportunity to enhance both the democratic legitimacy and practical fairness of its justice system while building public confidence in judicial institutions.

References

1. Vidmar N., Hans V.P. *American Juries: The Verdict*. Prometheus Books, 2007. P. 23-45.
2. U.S. Constitution, Amendment VI; Amendment VII.
3. *Ramos v. Louisiana*, 590 U.S. ____ (2020).
4. Langbein J.H. *The Origins of Adversary Criminal Trial*. Oxford University Press, 2003. P. 336-340.
5. *Criminal Justice Act 2003 (UK)*, Section 43.
6. Tocqueville A. *Democracy in America*. Translated by H. Reeve. Vol. 1. New York: Vintage Books, 1990. P. 280-287.
7. Diamond S.S., Rose M.R. *Real Juries // Annual Review of Law and Social Science*. 2005. Vol. 1. P. 255-284.
8. Kalven H., Zeisel H. *The American Jury*. University of Chicago Press, 1966. P. 149-162.



9. Devine D.J., Clayton L.D., Dunford B.B., Seying R., Pryce J. Jury Decision Making: 45 Years of Empirical Research on Deliberating Groups // *Psychology, Public Policy, and Law*. 2001. Vol. 7. No. 3. P. 622-727.
10. Strafprozeßordnung (StPO) §§ 29, 76 (Germany).
11. Casper G., Zeisel H. Lay Judges in the German Criminal Courts // *Journal of Legal Studies*. 1972. Vol. 1. No. 1. P. 135-191.
12. Machura S. Interaction Between Lay Assessors and Professional Judges in German Mixed Courts // *International Review of Penal Law*. 2001. Vol. 72. P. 451-479.
13. Rennig C. *Die Schöffen im Strafverfahren*. Munich: Beck, 1993. S. 156-178.
14. Code de procédure pénale, Article 359 (France), as amended by Law No. 2011-939 of 10 August 2011.
15. Hodgson J. *French Criminal Justice: A Comparative Account of the Investigation and Prosecution of Crime in France*. Hart Publishing, 2005. P. 221-245.
16. Christin A., Roché S. Réforme de la Cour d'assises: quel impact sur la justice pénale? // *Revue de science criminelle et de droit pénal comparé*. 2013. No. 2. P. 267-285.
17. Rättegångsbalken (RB) 4:8 (Sweden).
18. Lov om domstolene (Domstolloven) § 71 (Norway).
19. Langbroek P., Rijkema B. Institutional Design of Lay Participation in European Courts // *Utrecht Law Review*. 2011. Vol. 7. No. 3. P. 1-23.
20. Kutnjak Ivković S., Hans V.P. Jurors' Evaluations of Expert Testimony: Judging the Messenger and the Message // *Law & Social Inquiry*. 2003. Vol. 28. No. 2. P. 441-482.
21. Закон РСФСР от 16 июля 1993 г. № 5451-1 "О внесении изменений и дополнений в Закон РСФСР "О судостроительстве РСФСР".
22. Thaman S.C. Europe's New Jury Systems: The Cases of Spain and Russia // *Law and Contemporary Problems*. 1999. Vol. 62. No. 2. P. 233-259.
23. Trochev A., Solomon P.H. *Courts and Federalism: Judicial Doctrine in the United States and Russia*. Cambridge University Press, 2009. P. 156-178.
24. Federal Law No. 190-FZ of July 23, 2013 (Russian Federation).
25. Solomon P.H., Foglesong T. *Courts and Transition in Russia: The Challenge of Judicial Reform*. Westview Press, 2000. P. 89-112.



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26. Закон Республики Казахстан от 2 июля 2007 года № 279-III "О внесении изменений и дополнений в некоторые законодательные акты Республики Казахстан по вопросам деятельности судов".
 27. Уголовно-процессуальный кодекс Республики Казахстан, Статья 54.
 28. Law of Ukraine "On the Judiciary and Status of Judges" No. 1402-VIII of 2 June 2016.
 29. Кримінальний процесуальний кодекс України, Стаття 31.
 30. Kurkchiyan M., Kubal A. A War of Position: Ukrainian Legal Culture in Transition // Studies in Law, Politics and Society. 2017. Vol. 74. P. 171-198.