



The Intersection of Constitutional Law & Transitional Justice

June 12, 2025

Angela A. Allen-Bell

B. K. Agnihotri Endowed Professor

Southern University Law Center

ABell@sulc.edu

I. What Rights are Found in the Bill of Rights?

II. Constitutional Drafting

6th Amendment

In all criminal prosecutions, 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, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

7th Amendment

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

U.S. Constitution- Article III

Section 2.

- The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;--between a State and Citizens of another State;--between Citizens of different States;--between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

III. Deliberations/Deliberative Process Research¹



Four Ingredients

Size of the Jury

Contours Within Which the Jury Works

Nature of Deliberations

Who Is on the Jury

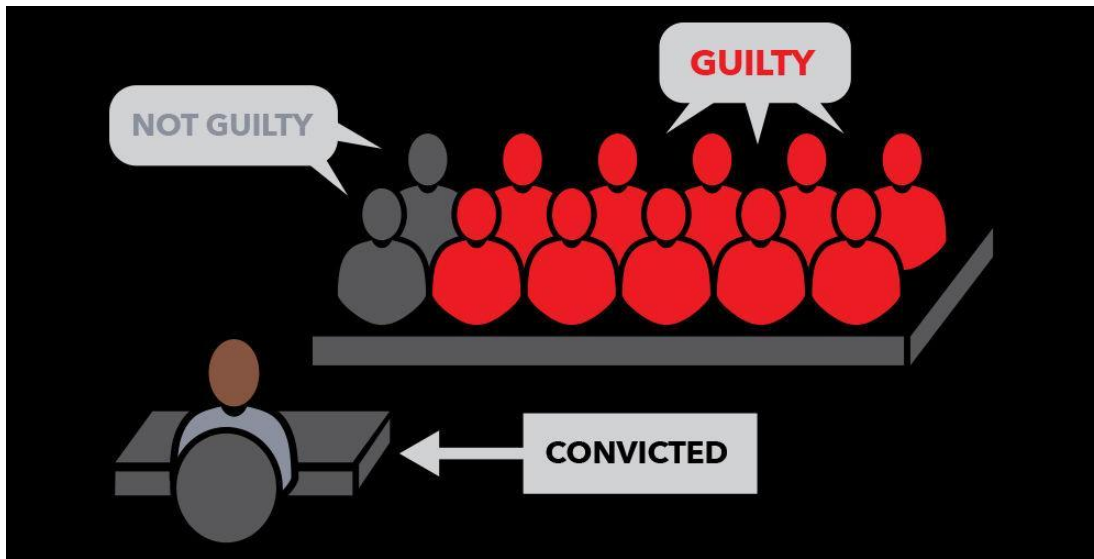
Deliberation Styles

Verdict Driven

Evidence Driven

¹ Angela A. Allen-Bell, *Diversity in the Jury Box and Beyond: A Formula for Transforming Louisiana's Legal System* 20-90 (2024); See also Angela Allen-Bell, *How The Narrative About Louisiana's Non-Unanimous Criminal Jury System Became a Person of Interest In the Case Against Justice in the Deep South*, 67 Mercer L. Rev. 585, 606-608 (2016).

IV. Your Guess About This Jury's Verdict?



V. Alternative Forms of Justice

Retributive Justice:

- When an offender breaks the law, this theory requires that he or she suffer in return.
- Retributive justice is primarily concerned with punishment.

Restorative Justice:

- A way of dealing with victims and offenders by focusing on the settlement of conflicts arising from crime and resolving the underlying problems which cause it. It is also, more widely, a way of dealing with crime generally in a rational problem-solving way. Central to RJ is the recognition of the community, rather than criminal justice agencies, as the prime site of crime control (Tony Marshall, author and researcher from Great Britain).
- Focuses on people and relationships. It involves looking at the harm caused by the incident: harm to the person(s) who were victimized; harm to the instigator/aggressor(s); and, harm to the larger community and asks "How can this harm be repaired?"

Restorative Justice



Transitional Justice (TJ)

- TJ employs a “range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, enhance equity, inclusion and belonging, establish independent oversight of the security system, restore confidence in the institutions of the State and promote the rule of law.”²
- TJ originated in responses to some challenging questions: How should a society face the legacy of grave crimes against humanity? Should it punish perpetrators? Should it forget atrocities in order to favor reconciliation?

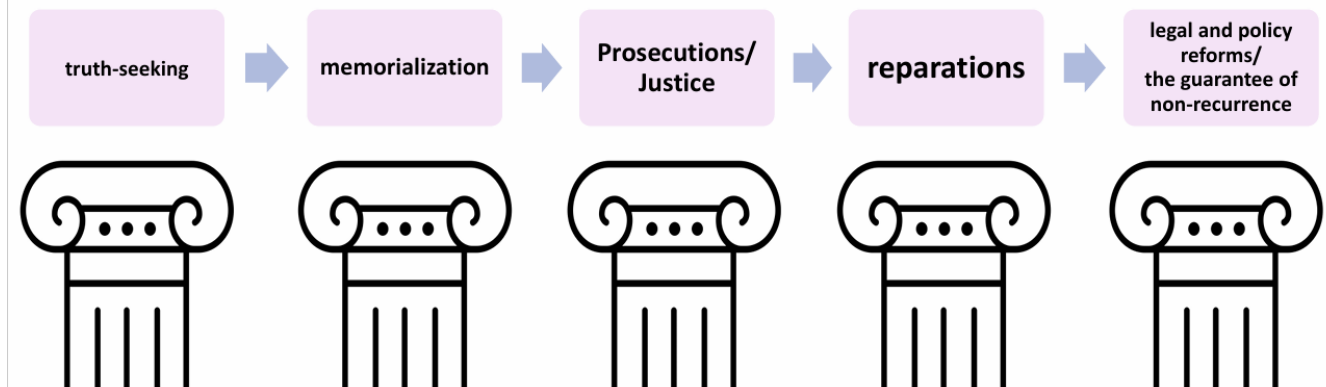
² Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, *Human Rights and Transitional Justice*, Rep. No. A/HRC/49/39, p. 2 (Jan. 12, 2022) (citing General Assembly resolution 67/1, para. 21; and S/2004/616, para. 8.), available at [G2200465.pdf \(un.org\)](#) (last visited May 19, 2022).

- TJ is an instrument for finding a middle point between full retributive justice and absolute impunity. TJ is about providing acknowledgement to victims and affected communities not just of their suffering but also of the fact that they were wronged. It contributes to restoring their dignity and to recognizing them as right holders and full and equal participants in society. TJ emerged as part of a recognition that dealing with systematic or massive abuses requires a distinctive approach that is both backward and forward looking; that dignify victims, but prevented similar victimhood in the future. The long-term goals of TJ measures are to promote peace, democracy and reconciliation, with the idea that these conditions help to prevent the systematic or massive violations of human rights.
- TJ must happen not only at an individual level, but at the level of social structures and institutional policies. This is normally applied when a jurisdiction is attempting to address the legacies of a violent past or collective trauma.

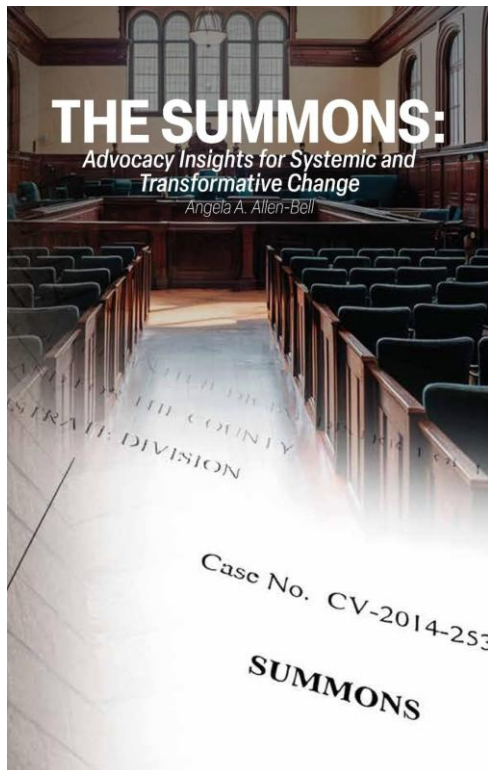
Transitional Justice

Aims to both redress legacies of atrocities and to promote long-term, sustainable peace.

Five Pillar Transitional Justice Model



VI. The Three Forms of Justice on Display



Introduction

Louisiana is the only state in the United States (U.S.) to operate under a civil law system of government. The other states use a common law system that allows judges to have far more power than they do in a civil law jurisdiction. While codes are used under the common law system, they are not the starting point for law like they are in a civil law jurisdiction. Common law jurisdictions operate largely on precedent (prior judicial decisions). Judges determine the precedent to be applied and are, therefore, quite powerful. In Louisiana, we intend for power to remain with the people and for them to express their will to members of the legislature who, as an extension of the people, enact the laws that go into our codes.⁵ Legislation is sacred here.



Watch Party Video Link:

[Ben Donnellon's Non Unanimous Jury Video \(youtube.com\)](https://www.youtube.com/watch?v=...)



Please believe me, I'm very grateful for the work that you and countless others have put in to get us where we are today, so I'm appealing to you, that you won't stop here.. At the closing of your presentation, you encouraged us in the audience to be like Students United, which they never stopped fighting. With all due respect Professor Bell, I ask that you take your own advice, and be like Students United, and continue to fight for us.. You got us this far, Get us Home..

Objectives: (1) Constitutional Drafting; (2) Jury Trial; (3) Non-Unanimous vs. Unanimous vs Jury; (4) Forms of Justice; (5) Advocacy; and, (6) Deliberations/ Deliberative Process Research.