

UK Supreme Court

Debate Day

Information Pack



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1. The UK Supreme Court

The Supreme Court is the highest court in the United Kingdom. It is the final court of appeal for all civil cases in the UK (including Scotland) and for criminal cases in England, Wales, and Northern Ireland (excluding Scotland). Any decision made in the Supreme Court sets the precedent for all of the lower courts.



The Supreme Court is also the final court of appeal for devolution issues, where its role is to see whether Scotland, Northern Ireland, and Wales are acting within their powers. These cases used to be heard by the Judicial Committee of the Privy Council.

The Supreme Court was established by the Constitutional Reform Act of 2005 which sought to establish a clear separation of powers between the executive, the legislature, and the judiciary. It also aimed to create a more transparent and accessible judicial process.

In October 2009 the judges (then called Law Lords) were finally moved out of the Appellate Committee of the House of Lords (the former highest court of appeal) and into the newly renovated Supreme Court.

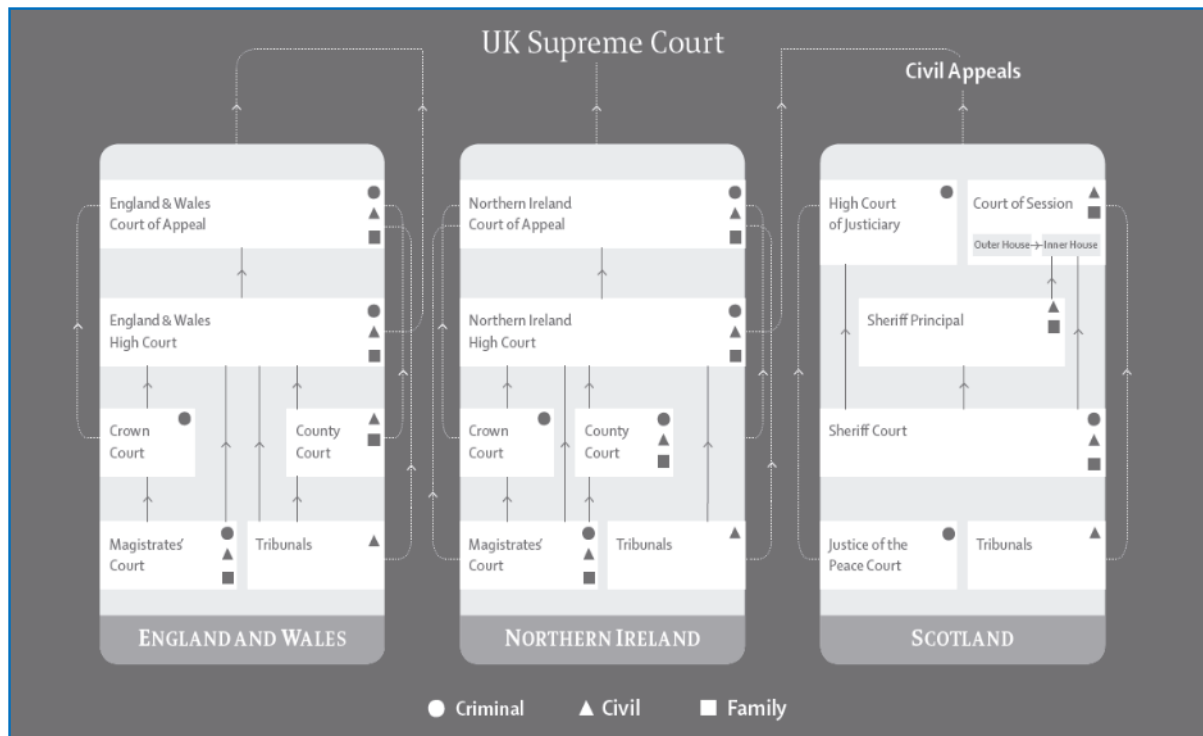
Today in the Supreme Court there are 12 Justices in total. They sit in panels of 5, 7, 9, or exceptionally 11 where they hear cases on arguable points of law of general public importance.

Some important cases that the Supreme Court has given rulings on include issues such as the government's ability to give notice to leave the European Union without a vote in Parliament, parents' rights to choose their child's medical treatment, whether the deportation of asylum seekers to Rwanda was lawful, and if Uber drivers are independent contractors or workers.

You can see more case examples and the significance they have on society, in a series of videos specially made by the Royal Holloway University of London.

<https://www.youtube.com/watch?v=LhAvr-AgD7k>

Hierarchy of the court system



This court chart shows the route which many cases will take before they reach the Supreme Court.

A case will generally have been heard by at least two other courts before being heard at the Supreme Court. For example, an English civil (i.e. non-criminal) case will generally have been heard by the High Court and the Court of Appeal before it is considered by the UK Supreme Court.

In 2024/2025, the Supreme Court heard **61** cases in total.



For more information on the Supreme Court please watch our introductory video by clicking the following link: <https://www.youtube.com/user/UKSupremeCourt>

2. Joint Enterprise – What is it?

Three types of Joint Enterprise:

- 1) Where two or more people join in committing a single crime, in circumstances where they are, in effect, all joint principals**

Example: P1 and P2 go on a shoplifting spree together, both taking goods out of shops without payment. They are joint principals.

- 2) Where D assists or encourages P to commit a single crime**

Example: D provides P with a weapon so that P can use it in a robbery. P is liable as a principal; D is liable as an accomplice.

- 3) Where P and D participate together in one crime (Crime A) and in the course of it P commits a second crime (crime B) which D had foreseen he might commit.**

Example: D and P carry out a burglary (offence A). P acts as principal, entering the premises and stealing. D assists or encourages P by acting as a lookout. However, in the course of the burglary, P kills householder V. P is liable for murder of V as a principal.

D may also be liable for murder, as a secondary party, if D intended to assist or encourage this further criminal act (here, using unlawful force with intent to kill or do serious bodily harm) if the occasion arose. Evidence that D foresaw that P might do this may be evidence of such intent.

3. Background Information on UK Supreme Court Joint Enterprise Cases

Case Name: *R v Gnango* (Respondent) **Date of Hearing:** July 2011.

On 2 October 2007, a 26-year-old Polish care worker, Magda Pniewska, was walking home from work through a car park in New Cross, South London when she was shot and killed after being caught in an exchange of gunfire. The gun fight was between two gunmen, 'Bandana Man' and Mr Gnango, neither of whom had been aiming at Ms Pniewska, but at each other.



Scientific evidence showed that the bullet which killed Ms Pniewska had come from B's gun and not Mr Gnango's. But B was never caught and so could not be charged. Mr Gnango however was charged with murder under the 'joint enterprise' doctrine.

Mr Gnango was convicted of murder following a trial at the

Old Bailey (Criminal High Court) on the grounds of 'joint enterprise'. He was aged 17 at the time. He later appealed the ruling and the Court of Appeal decided to overturn his conviction.

The Court of Appeal held that the facts given at the Old Bailey could not add up to 'joint enterprise' liability for murder.

The Crown Prosecution Service appealed to the Supreme Court with the aim to restore Mr Gnango's guilty conviction.

The Supreme Court was asked to address the following question: "If D1 and D2 voluntarily engage in fighting each other, each intending to kill or cause grievous bodily harm to the other and each foreseeing that the other has the reciprocal intention, and if D1 mistakenly kills V in the course of the fight, in what circumstances, if any, is D2 guilty of the offence of murdering V?"

The Supreme Court ruled by a 6-1 majority in the case of *R v Gnango* that Mr Gnango's conviction for murder should be restored.

The Supreme Court agreed with the decision given by the trial judge in the Old Bailey for the following reasons:

- The trial judge (at the Old Bailey) had directed the jury that, in order to convict, they had to be satisfied that there was a plan or an agreement to have a 'shoot-out', whether this was made beforehand or on the spur of the moment (when Mr Gnango and B saw and fired at each other in the car park.)
- The jury's verdict indicates that they were satisfied that there was a planned shoot out.



- The Supreme Court stated that Mr Gnango and B Man had chosen to take part in a gunfight in a public place, each intending to kill or cause serious injury to the other, in circumstances where there was a foreseeable risk that this result would be suffered by an innocent bystander.
- It was a matter of fortuity which of the two men fired what proved to be the fatal shot.

R v Gnango's journey through the Courts



St Albans Crown Court

Gnango initially convicted



Old Bailey (Central Criminal Court)

Trial by jury: Gnango found guilty of murder and sentenced.



Court of Appeal

Appeal judges overturn his conviction.



UK Supreme Court

Reinstates Gnango's conviction.

A UK Supreme Court case which changed the law

Case Name: *R v Jogee* (Appellant)

Date of Hearing: October 2015

On the 9th June 2011, around midnight, Mr Jogee along with his friend Mr Hirsi visited Miss Reid at her home in Leicester. They had spent the previous evening at various places and, having consumed drugs and alcohol, they had become increasingly aggressive and intoxicated.

During their visit, Mr Jogee picked up a knife from the kitchen and spoke about how they should go and stab another man that he had had a disagreement with that evening. After being talked down, Mr Jogee returned the knife. Mr Jogee and Mr Hirsi left Miss Reid's house after she asked them to leave before her boyfriend, Mr Fyfe, arrived home.

At around 2:23am, both Mr Jogee and Mr Hirsi returned to Miss Reid's house. Mr Hirsi entered the premise while Mr Jogee stayed outside by the front door and is alleged to have also caused damage to Mr Fyfe's car. There were heated exchanges between Mr Hirsi and Mr Fyfe, after which Mr Fyfe went upstairs. In the meantime, Mr Hirsi entered the kitchen and grabbed a knife. He and Mr Fyfe continued their exchange, and Mr Fyfe insisted that both Mr Hirsi and Mr Jogee leave. Miss Reid alleged that despite this, whilst outside the property Mr Jogee threatened to hit Mr Fyfe over the head with a brandy bottle and also shouted to Mr Hirsi to "do something" to Mr Fyfe, encouraging him to harm Mr Fyfe.

Mr Hirsi stabbed Mr Fyfe with the kitchen knife. His wound proved to be fatal. Both Mr Hirsi and Mr Jogee were found guilty of Mr Fyfe's murder under the doctrine of joint enterprise and sentenced to life imprisonment at Nottingham Crown Court. Mr Jogee appealed against his conviction for murder, on the grounds that foresight of the possibility that Mr Hirsi would use the kitchen knife with the intention of committing at least serious bodily harm to Mr Fyfe was not enough to warrant a conviction for murder. He lost his case at the High Court. The Court of Appeal also dismissed his appeal despite allowing his sentence to be reduced to 18 years. Mr Jogee then applied to the Supreme Court, and his case was heard in October 2015.

Previously the law had said that Mr Jogee was guilty of murder on grounds of "foresight", i.e. having foreseen that his accomplice could have committed harm to the extent of murder. Mr Jogee's lawyers successfully argued that, for a defendant to be found guilty of murder, the prosecution must prove a "mental element of intent to assist or encourage". The Supreme Court sent Mr Jogee's case back to the Crown Court for reconsideration based on the correct test. He was later convicted and sentenced to the lesser crime of manslaughter.

4. Further Case Examples

A recent case applying the law in *R v Jogee*: *R v Ayre* (2025)

Three appellants A, H, and T were passengers in a car that was driven, by D, deliberately at a group of pedestrians. One pedestrian was killed, one was seriously injured, and two more suffered minor injuries.

D was convicted of murder, causing grievous bodily harm with intent, and two counts of attempting to cause grievous bodily harm. A, H, and T were convicted of manslaughter, inflicting grievous bodily harm, and two counts of assault occasioning actual bodily harm.

The Court of Appeal upheld the trial judge's decision that it was sufficient for the prosecution to prove that the secondary party intentionally encouraged or assisted the principal to *commit the crime* but they did not need to intend to encourage or assist the principal to commit the crime in the *particular way* it was committed. The Court of Appeal held that they intended to assist or encourage the principal to act with the particular intent required by the crime.

This case helps to illustrate the impact of the Supreme Court's decision in *R v Jogee*. Pre-*Jogee*, the law of joint enterprise frequently required judges to “split hairs” and decide whether the offence inflicted by the principal offender was “fundamentally different” to that expected by the secondary offender (e.g. whether injuring someone with a knife or a car was fundamentally different to injuring someone with a wooden pole).

A common purpose: *R v Swindall and Osborne* (1846)

In English law, the doctrine of joint enterprise derives from *R v Swindall and Osborne* (1846) where two cart drivers engaged in a race. One of them ran down and killed a pedestrian. It was not known which one had driven the fatal cart, but since both were equally encouraging each other in the race, it was irrelevant which of them had struck the man, so both were held jointly liable.

Thus, the parties must share a common purpose and make it clear to each other by their actions that they are acting on their common intention so that each member of the group assumes responsibility for the actions of other members in that group.

Jointly Responsible?

The joint enterprise doctrine was used in 1952 to convict Derek Bentley for the shooting of a police officer. The actual murder was committed by an accomplice, Christopher Craig, who escaped the death penalty because he was 16 at the time.

Bentley was convicted after he said the words “let him have it” which formed a key part of the evidence of joint enterprise, holding him jointly responsible for the murder. It was disputed whether this statement meant “let him have the knife” or was encouragement to cause harm.

Bentley was hanged for the crime in 1953 despite protests that his mental age was 11, a fact which the jury was not told.

In a normal murder case, the prosecution have to prove that the defendant either intended to kill or cause serious bodily harm. But the law of joint enterprise is much wider, and can allow for someone to be prosecuted for murder if they foresaw that another member of the group might kill or inflict serious harm and were considered to have the necessary intent to assist or encourage.

Some have taken the view that this sets the bar too low for the prosecution, and in some cases could lead to people on the fringes of a group being prosecuted when they are too morally remote from the murder to be charged with it.

In July 1998, the Court of Appeal quashed Bentley's conviction for murder.

5. Debate Topic



Debate Question:

Is it fair that you could be charged with murder if your presence, knowledge, or actions resulted in someone being killed, even if you did not commit the fatal act yourself?

You must form an argument based on the UK Supreme Court cases provided and the wider debate around Joint Enterprise.

Before you come to the Debate Day, please have a think about the different issues which are linked to this debate question:

- Is the doctrine of Joint Enterprise a good deterrent to serious crime?
- Is Joint Enterprise a good way to ensure that guilty parties do not escape conviction?
- Should the criteria for Joint Enterprise be defined differently?
- Is it always possible to determine the intentions of an individual involved in a crime (where *mens rea*, the mental intent element, is separate from the *actus rea*, the physical actions)?
- Some say the doctrine of Joint Enterprise may result in the conviction of innocent people or people who were simply in the wrong place at the wrong time. Do you agree? Why/Why not? Is the doctrine therefore reliable?

6. Debate Rules

During the Debate Day, your group will be split into three teams: **For**, **Against**, and the **Judges**.

All groups should prepare for the debate with the intention of debating the fairness of the Joint Enterprise rules, referring to Supreme Court cases as well as looking at the wider debate.

For:

IT IS FAIR that you could be charged with murder if your presence, knowledge, or actions resulted in someone being killed, even if you did not commit the fatal act yourself.

Against:

IT IS NOT FAIR that you could be charged with murder if your presence, knowledge, or actions resulted in someone being killed, even if you did not commit the fatal act yourself.

The Judges:

The Judges will listen to the arguments of both sides and can ask questions. They will then decide which side has given the strongest argument and present the decision to everyone else.

Before you come to the Debate Day, please have a think about the two main cases and the issues surrounding them in relation to this debate question. You should prepare some notes beforehand so that you can bring these with you on your Debate Day.

Timetable for Debate
50 min debate preparation
Team A (for): 10 min
Team B (against): 10 min
Break 4 minutes
Team A: 3-minute summary
Team B: 3-minute summary
Judges 10 min to consider and deliver judgment

7. Useful Links:

For more information about the UK Supreme Court Cases:

R v Jogee: <https://www.supremecourt.uk/cases/uksc-2015-0015.html>

R v Gnango: <https://supremecourt.uk/cases/uksc-2010-0165>

Wider News Articles on Joint Enterprise:

BBC News Article – “Joint enterprise: What is it and should it be changed?”:
<http://www.bbc.co.uk/newsbeat/28198641>

BBC Radio 4 – “Joint Enterprise – what is it and why is it controversial?”: [here](#)

Guardian Opinion Article: “If you encourage someone to kill, are you guilty of murder”: <http://www.theguardian.com/commentisfree/2015/jul/14/kill-guilty-murder-supreme-court-law-joint-enterprise-offence>

APPEAL (a charity targeting wrongful convictions) – “Joint Enterprise on Trial”:
<https://appeal.org.uk/jointenterpriseontrial/>

Guardian News Article on R v Gnango:
<http://www.theguardian.com/law/2011/jul/25/joint-enterprise-supreme-court-gnango>

Guardian News Article on R v Jogee:
<http://www.theguardian.com/law/2015/oct/27/man-challenges-joint-enterprise-conviction-in-supreme-court>