A LOST CONSTITUTIONAL EXPERIMENT: WHY INDIA LEFT THE JURY SYSTEM BEHIND

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"A nation's legal system is a mirror of its trust; we once trusted the collective heart, now we rely on the disciplined mind."

INTRODUCTION

We have always grown up hearing these two words, "Judge and Jury." while the first word is still relevant in today's day-to-day litigation, the latter has lost its meaning. In fact, in a legal context the current generation may not even be familiar with the word 'jury' now or in the future. But what changed the judicial landscape today? The jury, which has been the foundation of the judicial system in India for two centuries, can't go as if it never existed. To understand this, we will have to examine the timeline of the history of the judicial system in India. Was it always part of the Indian Judicial system? When, why, and how did it get started? What were the prominent reasons to abolish or end it completely? Which new system came to replace this centuries-old justice delivery system? But how does a jury trial remain part of the legal system in several countries, particularly common law jurisdictions such as the United States, the United Kingdom, Canada, Australia, and New Zealand?

A judge is a person appointed as a public officer who not only decides cases and legal procedure in a court of law but also interprets the law by actively participating in the entire court proceedings. A jury, on the other hand is a group of different persons from different backgrounds that hears the evidence from both sides in a criminal trial and later gives the verdict based on the facts and evidence presented to it. Unlike the USA or Canada, where 12 jury members give their verdict unanimously, it was never a requirement in India for the verdict to be unanimous; a verdict rendered by the majority was enough to admit or deny the guilt of an accused.

For close to two hundred years, the idea that a person's guilt or innocence could be decided by a group of ordinary citizens who were not judges was very much a part of the Indian judicial

system. Today, it sounds downright alien, more the product of an American courtroom than an Indian courtroom. But the jury was in fact here, it was used legitimately and its failure actually reveals plenty about the way in which the Indian legal system got here to be the way it is today.

1. How It All Began under Colonial Roots of Jury Trials

The jury trial was never an Indian invention, and the history of ancient India was far from this. Ancient Indian society was based on four pillars, or *four Purusharthas,* which were considered to be the ultimate goal of human life – Dharma (righteousness), Artha (wealth), Kama (desire), and at last, Moksha (liberation), where Dharma was the foundation of everything. Dharma was considered not for religious grounds initially but more focused on moral guidance and righteousness. So, the ancient Indian dispute resolution methods primarily relied on a single respected figure who could be a ruler, an elderly person of a clan, village panchayats, or councils led by the locals, e.g., Sabha and Samiti in the Vedic period, to deliver a decision on the given matter.[1] Later in time, it shifted to kings across different historical timelines, notably from the 16 Mahajanapadas to the Maurya dynasty and from the Guptas to the Delhi Sultanate and then to the Mughals, when the empire was mostly centralized in India. We don't see any trace resembling a jury of ordinary citizens before the arrival of the British East India Company in India because trust and reliance on a single person for justice delivery was absorbed for ages by the socio-political fabric of India.

The concept was brought with hidden and mala fide intentions by the British East India Company to run the courts in a way they were accustomed to doing in their homeland. The earliest recorded use of an English style jury in India goes back to around *1687 in Madras*, functioning under Britain's initial charters given to its companies, responsible for colonizing the world at any cost.[2] Eventually, it became more definite and legally formalized in structure, with the Courts of the Recorder and the Supreme Courts being established in all three Presidency towns (Calcutta, Bombay, and Madras) during the late 1700s and early 1800s.[3]

1 J. Duncan M. Derrett, Religion, Law and the State in India (Faber & Faber 1968).
2 Madras Charter of 1687: Royal Charter granted by James II to the East India Company.
3 Charter of 1726 (establishing Mayor's Courts in Calcutta, Bombay, and Madras); further institutionalized by the Regulating Act of 1773 and the Supreme Courts of Judicature Charters (Calcutta, 1774; Madras, 1800 and Bombay, 1823).

A System Built on Racial Lines

What is important to understand is that the entire system was openly discriminatory against the Indian people. European residents had a guaranteed legal right to be tried only by a jury consisting entirely of fellow Europeans; the system was known as *"Exclusive Jury based on Racial Privilege."* Indians, on the other hand, had no comparable right and were shut out of jury service altogether.

"The Jurors Act of 1826" changed this judicial arrangement only on paper, but nothing on the ground. It allowed Indians to sit on juries for the first time, but with a rooted restriction, i.e., an Indian juror could not sit in judgment if it came to adjudicate a matter related to a person of European or Christian ethnicity.[4]

Expansion after 'Revolt of 1857'

After mercilessly suppressing the revolt of 1857 (1st war of Independence in India and Sepoy Mutiny as called by the British), and the transfer of governance from the East India Company to the British Crown, the government of Britain got involved directly in the ruling of India. Besides this, to achieve their objectives, the Crown appointed Lord Canning as the first Viceroy in India. From that period onwards, jury trials spread more widely and rapidly but Indians couldn't witness the practical benefits of it in their favour. Decided by the Codes of Criminal Procedure 1861[5] and 1872,[6] whether an offence was to be tried by a jury or not was a matter solely left to the discretion of the provincial governments, as to which districts and which classes of offences were to be subjected to a jury trial. In areas where no such notification existed, judges used to take meetings with local assessors for better understanding, but their opinion was never binding on the judge.

In India, whenever a person faced trial, a judge could only decide whether a jury trial would take place and what the nature of the crime would be. The panel's composition was only shuffled, but whenever a person was tried in India on deciding the trial, the accused person could be judged by facing a jury, an advisory panel of assessors, or a judge sitting alone. The panel compositions were only shuffled, but the native assessors were routinely ignored by

4 The Jurors Act, 1826: An Act to regulate the appointment of Juries, and to allow Natives to serve on Juries, 1826 (7 Geo. IV c. 37).
5 Code of Criminal Procedure, 1861 (Act XXV of 1861);
6 Code of Criminal Procedure, 1872 (Act No. X of 1872).

European judges when their opinions clashed with colonial interests.

2. How an Indian Jury Actually Worked

The Indian Jury system was never a 12-member committee comprising diverse backgrounds, all casting a united verdict of guilty or not guilty like in the USA or Canada. In many respects, it was a weaker judge-led version specifically designed to contain English and European influence. The jury size varied with the size of the courts, with 9 members in the High Court sitting in the Indian presidency towns & from 5 to 7 members in the district and rural (mofussil) courts.

Unlike other countries, unanimity was never required. It was fine to have decisions such as 5:2 or 4:1 as long as the judge agreed. The Jury decision had to be referred back to the judge, who was within his rights to dissent if the decision seemed to be patently wrong. Under Section 307 of the Code of Criminal Procedure, 1898,[7] a Sessions Judge would have to record the jury's decision if the jury's verdict was reasonable considering the evidence presented before them. However, should a jury's decision seem "perverse," i.e., obviously against the weight of the evidence presented before the judge. The same jury verdict could be referred back to the higher courts, which could then review the evidence and set the verdict aside and re-issue a verdict contrary to that of the jury.[8] This indeed gave the judge a check on the proceedings and had to intervene in the Nanavati case, which indeed would later have had fatal consequences for the jury system.

3. K.M. Nanavati v. State of Maharashtra: Final nail in the Coffin

I doubt there is a discussion that will come anywhere near the Indian jury without mentioning this landmark judgment.[9] It is quite an understatement to say that no single incident did more to seal the jury's fate, and no discussion would be complete without this event, which changed the entire judicial system of India.

Brief Facts

The Appellant, K.M. Nanavati, was an Indian Naval Officer. He was shifted to Bombay with

7 District vs. High Court Jury Sizes & Assessors: Code of Criminal Procedure, 1898 (Act No. V of 1898), Chapter XXIII (Of Trials before High Courts and Courts of Session).
8 Ramanugrah Singh v. King-Emperor (1946) 48 BOMLR 768 (Privy Council).
9 K. M. Nanavati v. State of Maharashtra, AIR 1962 SC 605.

his wife Sylvia and their children. The Family met the businessman named Prem Bhagwan Ahuja (deceased) and his sister in Mumbai. When the Appellant was away from Bombay on his official duty, his wife fell in love with the deceased and developed Illicit relations with him. When the Appellant returned from his ship, the Appellant's wife confessed to him about her Illicit relationship with the deceased. In the heat of agony, the Appellant went to his ship to procure a loaded revolver, after which he went to the office of the deceased. On not finding him at the office, the Appellant drove to the deceased's residence and shot him dead.

The Appellant was charged under Section 302 as well as under Section 304, Part I of the Indian Penal Code (IPC). He was tried by the Sessions Judge with the aid of a special jury. The jury gave the verdict of "not guilty" by 8:1 under both sections. The Sessions Judge, being unsatisfied with the verdict of the jury, has submitted the case under Section 307 of the Code of Criminal Procedure, 1898 (CrPC) to the Bombay High Court. The said reference was heard by a division bench of the High Court. The two learned Judges have given separate judgments, but agreed that the accused was guilty of the offence of murder under Section 302 of the IPC and sentenced him to undergo rigorous imprisonment for life. Both the Judges agreed that no case had been made out to reduce the offence from murder to culpable homicide not amounting to murder. Hence, the present appeal has been preferred against the said conviction and sentence.[10]

The case was an open and shut one. For a start, there was plenty of documentary and circumstantial evidence to demonstrate clearly that the shooting had been carried out under malicious intent. The defence sought to play it differently by saying that in the sudden confrontation, what resulted in the unfortunate shooting was a matter of 'grave and sudden provocation' which would reduce a charge from "murder" to the less serious "manslaughter" or equivalent to it.

The Media Trial

The trial sparked a sensationalist spree of tabloids and newspapers which lambasted Ahuja with propaganda and painted Nanavati as a wronged yet noble husband. What made it more interesting was that before the proceedings had been completed, the public had already taken sides and, through intense media coverage, chiefly from Blitz, the story was emblazoned

10 K. M. Nanavati v. State of Maharashtra, AIR 1962 SC 605; Manupatra Academy (MANU/SC/0147/1961)

around the country with public sympathies firmly on his side.

The Judicial Overrule

However, a jury composed of nine members went about it the wrong way by returning a verdict of "not guilty" by 8 votes to 1. The **judge, R. B. Mehta,** an experienced hand, found the jury's verdict to be 'perverse' given the evidence led, and he declared the verdict invalid under Section 307 of the Code of Criminal Procedure.[11] He thus referred it to the Bombay High Court.[12]

A court ruled that Nanavati indeed murdered Ahuja and sentenced him to imprisonment for life. Thus, under this verdict, he was tried for murder, but his case went back to court as the evidence clearly proved, without any shadow of a doubt, that Nanavati indeed had malicious intent on murdering Ahuja. The Supreme Court re-endorsed the conviction.[13] The sensationalist case thus highlighted all too effectively exactly how a jury, untutored in the subtleties of the law and potentially out of their depth, could be swayed by emotions and sentiment, thereby delivering an unjust verdict. For the prosecutors of this case and indeed anyone who opposed the jury system, it provided perfect justification for ending the jury system.

The incident demonstrated in the most obvious way how easily an unprofessional jury can be influenced by the media and the society around it while trying a specific case. Thus, it became one of the biggest arguments for the opponents of the judiciary system.

4. Why the Jury System Was Eventually Shut Down

Why was the jury system in India abandoned gradually in India, in the context of practical, legal, and sociopolitical grounds? What were the reasons that can be followed based on cases, law reports, reference materials, and journal articles:

Colonial legacy and partial use: The Jury System was introduced by the British in India in the 19th century, e.g., the Jury Act of 1827 and subsequently, the Criminal Procedure Code of 1861 or 1862. Its application was limited to some of the high court districts and in respect of

11 Judge's Power to Overrule Perverse Verdicts: Code of Criminal Procedure, 1898, Section 307
12 State v. K. M. Nanavati, 1960 Cri LJ 1558 (Bom) / (1960) 62 BOMLR 383.
13 K. M. Nanavati v. State of Maharashtra, AIR 1962 SC 605.

special categories of cases, including major criminal offences, as it was not adopted nationwide, so its displacement was less difficult for the system.

System inefficiency in Delay and cost: Based on the examinations of jury trials during the 1950s- 60s, studies have shown that Jury trials take substantially longer and cost a lot more to conduct if we compare them to the judge-only trials. The main reason for that was the complicated process of preparing jury rolls, screening of potential jurors, processing juror refusals and exclusions, and instructing juries on the law. It eventually contributed to an increase in the backlog of cases.

Logistical problems: The process of selecting and serving the jury, comprising a representative cross section of a large, multisectoral society and its attendant costs and value problems in the rural sector, is a source of administrative burden and costs.

Bias and prejudice: Critics of the jury system have argued that ideas and decisions will always be susceptible to community, caste, religion, class and other prejudices and side effects and damage the system of judgment and so could not work in the interest of people.

Inappropriateness in legal expertise: Jurors lacked specific training in the legal domain, e.g., the distinction between culpable homicide and murder because they used to come from different strata of society with experience in various sectors but not law. This ultimately resulted in judgments inconsistent with the law and, in some instances, overturned decisions based on the evidence.

Contradictions for a professional judge: senior judges and the Indian Law Commission (e.g., 14th Law Commission Report, 1958) had argued that only a specialist judge could interpret extensive evidence.

Legislation reform: The new Criminal Procedure Code (CrPC), 1973 did not refer to juries. Section 26 of the now repealed CrPC provided for jury trials in certain circumstances in criminal trials. Civil jury trials had previously largely disappeared, while the 1973 Criminal Procedure Code recognized the decline of all jury trials.

Socio-political context: The notion of "nation" in India rapidly developed in the immediate post-independence state, and consequently, the system of the Indian legal system increasingly needed an independent system.

Bribery and Intimidation: Judges were protected by law and secured by tenure, whereas private jurors had been much more readily subjected to social coercion, intimidation, and the allure of personal enrichment, so they frequently achieved their motives under the influence of wealthy litigants.

Media & Public Pressure: Juries began to be heavily influenced by newspapers and tabloids and the fear of public shaming and social backlash, which proved almost impossible to resist, ultimately leading to a number of verdicts based on emotion amplification.

Absence of Constitutional Impediment: Unlike the United States, the Indian Constitution did not guarantee the right to a trial by jury. So, Parliament was completely free to abolish it without any constitutional barrier. Accordingly, once the recommendation was made in Parliament, abolition was not a constitutional matter but only an ordinary legislative matter.

Therefore, the emphasis was now on a unified, codified legal system overseen by a professional and legally trained judiciary. Nanavati's case was the spark but not the whole fire because it was not the last reported case on jury trial but a case in Kolkata, West Bengal. During the election time, an incident occurred where two communist activists named 'Prakhar Chandra De' and 'Rabindranath Chandra De' were accused of the murder of Dipak Sarkar in 1967. Prakash and Rabindranath were absconding and were caught in the month of October. Later on, a trial by jury was conducted where all the 5 individuals were accused of jointly intending to kill under Sections 302 and 304 of the IPC.

Therefore, the last jury trial was the trial of the accused in 1973, where Prakash and Rabindranath were retried at the Calcutta High Court Sessions. A special jury of one hundred, consisting of 'highly qualified persons', was constituted. The accused were charged with murder, acid attack, inciting riots and a lot more. Twenty-four witnesses and five eyewitnesses testified before the jury, which was of the opinion that the accused were not guilty of the charges framed against them. The judges, following the jury, awarded not guilty and set them free.[14]

The problems with the jury system in India had been building for decades, and they were structural, not incidental. It was a situation that could be delayed but could not be stopped.

14 'The Jury System in India and Its Decline' (https://blog.ipleaders.in/the-jury-system-in-india-and-its-decline).

5. The 14th Law Commission Report and the Final Legislative Push

Even before the verdict on the Nanavati case was announced a verdict that would come in 1964- the Law Commission gave its recommendation, following which a recommendation was passed on to Parliament via its 14th report in 1958.[15] The 14th Report recommended the termination of all jury trials on grounds of increased proceedings, their inability to reach a satisfactory verdict, and a lack of public trust, and also put forward evidence received from judges, lawyers, and other police officials working in India at that time who echoed the same concerns. India's first Attorney General, M.C. Setalvad, chaired this committee.

The argument that Indians were not inherently capable of being jury members has been criticised both at that time and by modern legal historians as the post-colonial prejudice of the colonial era draped as an institutionalist argument.

Nevertheless, the jury's inefficiencies regarding jury members' political differences & biases in society and lack of familiarity with the law, presented by this committee held sway through the public debates on criminal proceedings during the 1950's.[16] The verdict delivered in the Nanavati case added fuel to the fire and finally accepted by the Indian government with the introduction of the Code of Criminal Procedure of 1973 which got rid of and repealed the sections dealing with Jury trials and incorporated professional judges and magistrates alone conducting trial proceedings.[17] The present system of Trial Courts now involves only professional judges and magistrates to do so.

6. Jury in the Modern Era: The Parsi Matrimonial Courts

Criminal trials in India today are decided exclusively by professional judges. However, there is one narrow and rather unusual survivor of the old lay participation model, tucked away in matrimonial matters law rather than criminal law.

Parsi Matrimonial Court is just like almost everything in life where there are exceptions, even to Jury trials. The only current Indian example of civilian input being used in judging a trial process for both civil and criminal procedures take place in small family-owned matrimonial

15 14th Law Commission Report: Law Commission of India, Reform of Judicial Administration, Vol. 1, Chapter14(Jury Trials), chaired by M. C. Setalvad (1958)
16 Law Commission of India, 41st Report: The Code of Criminal Procedure 1898 (1969)
17 Legislative Scrapping: The Code of Criminal Procedure, 1973 (Act No. 2 of 1974)

courts dealing exclusively with the Zoroastrian (Parsi) community. Using Sections 19 and 20 of the Hindu Marriage and Divorce Act, 1936, reference is needed for Muslim personal laws, which are also a separate system, in a small family court designated specially for this community for the sole purpose of ensuring that disputes for marriages and divorces get sorted out within community bounds as much as possible.[18] A judge works alongside 5 additional members who represent the Parsi community and are tasked with evaluating the merit of evidence before giving their verdict, and their role can be likened to a jury, as they go into deliberations just like the Jury does after the legal proceedings are done by a judge who is always a Parsi himself.[19]

7. How Other Countries Handle Citizen Participation in Trials

India is unusual in having tried the jury system and then abandoned it outright. Elsewhere in the world, citizen participation in criminal trials has taken very different shapes. While some countries kept the classic jury, others adopted hybrid 'mixed panel' models by blending lay citizens with professional judges. A quick comparative look is useful context for anyone studying why India's own experiment failed where others succeeded.

United States: The USA has the most citizen-driven model in the world. A panel of typically twelve jurors decides guilt or innocence, and a unanimous verdict is generally required in criminal cases. Trial by jury is a constitutional right under the Sixth Amendment.

United Kingdom: The UK is the historical source of India's own jury system. Juries of twelve members are still used for serious criminal trials in England and Wales. However, majority verdicts, usually ten out of twelve, are permitted if unanimity cannot be reached after a set period of deliberation.

Japan: Japan introduced the Saiban-in, or lay judge system, in 2009. Under this system, six citizens sit together with three professional judges for serious offences, including those carrying the death penalty. Decisions are reached by majority vote, but that majority must include at least one professional judge; that means lay citizens alone can never convict or acquit.

18 Parsi Marriage and Divorce Act, 1936 (Act No. III of 1936), Sections 19 & 20 (Parsi Matrimonial Courts).
19 Marc Galanter & Jayanth K. Krishnan, Personal Law and Human Rights in India (Indiana Forum for Legal Studies 2000).

South Korea: The Republic of Korea adopted a citizen participation system in 2008. Depending on the severity of the offence, seven or nine jurors are involved in any given matter. Unlike Japan's model, the jury's verdict is technically only advisory and does not bind the judge. But judges follow this system of justice delivery in the majority of cases.

Spain: Spain reintroduced jury trials in 1995 for specific serious offences such as homicide and certain public office crimes by using a nine-member citizen jury that operates closer to the Anglo-American model, deliberating separately from the judge.

China: China uses a system of people's assessors under which lay citizens sit alongside professional judges in a mixed panel for many categories of cases. This is somehow similar in spirit to India's old assessor system, though on a far larger and more institutionalised scale today.

The common thread across the more successful modern models Japan, South Korea, and Spain in particular is that none of them handed citizens the sole and final word. Every one of these systems keeps a professional judge in the room, either sharing the vote or retaining an override power, which is precisely the kind of safeguard that India's old Section 307, CrPC power was meant to provide and precisely the safeguard that still failed to prevent the Nanavati controversy.

8. Should the Jury system be revived?

The idea of reviving jury trials in India resurfaces periodically in academic writing and legal commentary, even though it has never gained real, political or judicial traction. It is worth setting out both sides fairly to come to understand a modern perspective.

Arguments in favour of reviving the jury system

- **Democracy in justice**: The ordinary citizen's jury can inject community values into the verdict, in consonance with the maxim that "*Justice must not only be done, but must also be seen to be done*". This dictum was laid down by **Lord Hewart**, the then Lord Chief Justice of England. So, it should be done by the people who matter rather than being confined to the legal community.

- **Checks against institutional capture and corruption:** Being external to the

profession, a jury can be better insulated from political coercion, capture, and corruption than an individual judge or investigation agency, as exposed by the 2002 Best Bakery case (*Zahira Habibullah Sheikh v. State of Gujarat*), which was remanded for a trial outside the state after witnesses became unwilling to stand due to political intimidation.[20]

- **Presumption of innocence and collective burden of proof:** An adequately trained jury (its composition being duly screened) exercises the innocence beyond reasonable doubt rule collectively, preventing undue reliance on a lone judge's assumptions or an over-burdened docket.

- **Restores public faith and legitimacy:** Verdicts based on a representative cross-section of society carry a stronger imprimatur than judgment by the state judiciary. Consistency of common law: India's largely adopted English common law study and adversarial process, where jury trial continues to be seen as a bulwark and not an archaic practice in other signatory common-law countries like America and England.

Arguments against Reviving the Jury System

- **Historical reasons for junking the system:** The four reasons (media spectacle, unreliable verdicts, logistical constraints) put forth by the Law Commissions in the 14th and 41st reports for abolishing the jury - namely media and press hostility, widely variable verdicts, the jury system overburdening the system, and slowing down trials were not transient political polls but institutional documents; it is countered that India has not changed so much.

- **Caste/Class/Communal bias of juries:** Said to be a major concern from the 1930s itself (in Gandhi's writings in *Young India*) and emerging elsewhere, there is a feeling that lay adjudicators might substitute experienced judges and their inter-judicial fatigue for community bias that still plagues India's social setup.

- **Sensitivity to intimidation and hostile witnesses:** India's experience in cases of great political sensitivity (again, Best Bakery case) demonstrates that, unlike professional judges, lay jurors, perhaps without institutional and legal protection, could be especially

20 Zahira Habibullah Sheikh & Anr. v. State of Gujarat (2004) 4 SCC 158 (Best Bakery Case).

vulnerable to threats or inducements and to certain cases of media risk than official judges.[21]

- **Lack of legal literacy and training:** Lay jurors might not be equipped to judge complex evidentiary and procedural law, especially the more technical measures, resulting in erratic or legally incorrect findings.

- **Cost, delay and logistical issues:** Voir dire, sequestration, and unanimity or super-majority requirement make jury proceedings more protracted and expensive than regular trials - arguably a major flaw in a system that faces several crore pending cases today.

- **No obligation of reasoned verdict:** Most classical jury verdicts have been observed to typically lack reasons, and even where reasons were tendered, they might be too weak for appellate courts to accept, not least in the Indian context.

- **Global backsliding from jury trials:** Sources mention that even in other traditionally common law systems such as South Africa (1969), and Singapore (not on all offences, but most), jury systems have been curbed or abolished altogether.

9. Modern Problems require Modern Solutions (Alternate Methods)

Modern and hybrid procedures for India given the present scenario. Instead of bringing back a classical jury, most modern proposals favour a reform-oriented and contemporary judge-led form of trial:

A) Hybrid / Lay-integrated Alternatives (to full jury trial)

Mixed tribunals of the French/Japanese sort: Jury systems currently exist in France (cour d'assesses) and Japan (saiban), which was introduced in 2009. In these systems, randomly selected lay jurors deliberate alongside professional judges to determine both guilt and sentencing, always under the direction of a presiding professional judge. Proponents argue that this hybrid solution maintains citizen participation while solving the jury composition problem.

Assessors or advisory panels: The next lower step suggested would be engaging lay

21 Zahira Habibullah Sheikh & Anr. v. State of Gujarat (2004) 4 SCC 158 (Best Bakery Case)

individuals, as non-binding advisors, in one or more of a handful of suitable cases.

B) ADR and pre-trial techniques to cut back on trials

Lok Adalat: Enacted in the 1980s under a statutory forum known as the Legal Services Authorities Act, 1987, which ended up trying thousands of crores of old and pending pre-litigation cases without any cost to litigants, especially in cases involving compoundable or claim-based offences and settled parties within one or two hearing periods.

Mediation Act, 2023: Institutionalised pre-docketed/sisyphean and *as-you-like-it style* mediation in civil and commercial cases aiming at crowding out some litigation altogether.

Arbitration and Conciliation Act, 1996: Settles parties' arbitration claims faster than individual civil rights-assertion suits.

Plea Bargaining: Chapter XXIA of the CrPC, now Chapter XXIII under sections 289 to 300, BNSS - An option to settle certain lesser criminal disputes through plea bargaining.

C) Structural and institutional changes to clear backlog

Fast-track courts: Separate tribunals dedicated to long-pending cases, elderly litigants, women and children as victims and accused, and especially in case of heinous offences, to declutter long-pending proceedings in high-tariff subjects.

Gram Nyayalayas: Rural or frontier courts created to provide justice locally and mainly in nearby areas where they live to lay litigants in common minor civil and criminal subject matter.

Filling vacancies and building infrastructure: Argued to be the single-most important factor in clearing the 3-4 crore list of backlogged cases is filling back judicial vacancies and improving infrastructure.

Investigational witness schemes: Particular emphasis has been laid on strengthening witness protection and allowing for off-the-record hearing of inconvenient witnesses to combat the problem of hostile witnesses in sensitive political cases (*Zahira Habibulla H. Sheikh and Another v. State of Gujarat and Others 2004 Best Bakery*), though this may be a broader approach than just bringing back the jury system.

D) Tech-based Reforms e-Courts (Phase III):

An agnostic (not to use the 'AI' buzzword) project to digitize and disseminate cases and case management, and enable video hearings in most courts and tribunals to reduce backlog. AI tools and case management: The government, in a variation of the AI tools for 'adjudication' from Singapore and elsewhere, has deployed in-house one such tracking and translation tool to the IIT state machine Adalat.AI (which transcribes audio files into English text at a fraction of the time, and converses with lower court judges on queries) and the Supreme Court's SUPACE and SUVAS, which are designed for transcriptions, translations, and prioritisation of matters, but not for prediction/drafting of judgments.

AI-augmented Lok-Adalat: The Rajasthan state experimented with an online AI-enabled Lok-Adalat that allowed you to resolve hundreds of cases of arrears without hiring a lawyer, through a language-based questionnaire that generates a resolution.

E) The balanced perspective

The collective implications of all proposed reforms for India point to slow, incremental, tech-assisted, institutionally integrated, legislatively-supported, and lite reform-oriented, judge centred reform. Filling judicial positions, strengthening ADR and Lok Adalats, handling priority cases with distinction, and cautiously (non-expert AI use for administrative tasks) improving judicial efficiency - rather than re-implanting a classical jury, with the French or Japanese hybrid being the only serious revivalist endeavour.

10. Closing Thoughts

The abolition of the jury system was not a haphazard decision. There was by then the accumulated evidence over the preceding many decades to which a jury trial in India added a striking and seemingly decisive new element: in the face of the appeal of democracy, the complex and interacting forces of media, social groupings, low levels of legal education in the population, and such like, lay participation in justice could not cope with the situation. Nanavati was the final straw, not the only reason, yet a prominent one. Public opinion going India's way again-like Aurangzeb's religious policy, which precipitated the decline of the Mughal empire-made sure of it.

At the same time, the global picture shows that lay participation in justice has not disappeared

everywhere it has simply evolved elsewhere into more carefully balanced hybrid models, with professional judges retaining a check on the outcome. Whether India ever revisits that idea in some modified form remains an open, if largely dormant, question. For now, the professional, judge-led model that replaced the jury in 1973 continues unchanged in substance under the Bharatiya Nagarik Suraksha Sanhita, 2023.

Taken together, these factors explain why, notwithstanding a genuine and recurring academic debate, there is no meaningful institutional movement in India today toward reinstating jury trials, and the retention of a purely judge-led model under the new Bharatiya Nagarik Suraksha Sanhita, 2023 is a fairly clear signal of where current legislative thinking stands.[22] However, by taking the history of jury trials into consideration and now with all the evolved methods, we can simply strengthen the system with ADR and public participation at the levels possible. In addition to that, the role of judges in modern trials is increasingly vital, as they can adopt a more active stance under Section 165 of the Indian Evidence Act, 1872, which corresponds to Section 168 of the Bharatiya Sakshya Adhiniyam, 2023. These provisions empower judges to question any witness or party and to order the production of any document in the pursuit of truth. Unfortunately, these powers are rarely utilized in modern day practice.

22 The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act No. 46 of 2023), replacing the CrPC, 1973 (effective 1st July 2024 onwards).