

Friends, I will tell why we need Jury system in India in this talk.

Firstly, I will tell Why we need to fix the courts

When the citizens wrote the Constitution in 1951, it was clearly stated by the citizens to MPs, Supreme Court judges, IAS etc

1. The country will be run as per the Constitution of India
2. The country will be run as per the Constitution, as interpreted by the citizens of India
3. The Supreme Court judges' interpretation of Constitution will be above Ministers' interpretation of the Constitution, but citizens' interpretation of the Constitution will be final and supreme and above the interpretation of Supreme Court judges..

It was because of these decisions ; the citizens kept the words Democracy, political justice and equality in the Preamble. And the preamble clearly says that We the people of India , that is crores of citizens of India have made and enacted the Constitution of India. And this was the reason why MPs, who were supposed to represent the citizens, were given powers to impeach the Supreme Court judges, so that if and when Supreme Court judges interpret the Constitution differently from the citizens, the MPs can impeach the Supreme Court judges. India's Constitution borrows many ideas from United States Constitution and United States society.

The citizens in 1950 when they wrote Constitution of India had taken the meaning of word Democracy that was prevailing in United States of America. What was the meaning of word Democracy in United States? To understand that, one should read the Constitutions of US states. E.g. Maryland Constitution clearly says that "Jurors (i.e. common citizens) shall interpret the laws as well as the facts". The Constitution of 20 more US states speak the same. And so does US Supreme Court. In Other Words , in 1951 the word *Democracy clearly meant a regime where citizens make the laws and citizens interpret the laws* as well as facts in a case.

The Constitution has now been tore apart in High Courts and Supreme Courts. I will quote the following example : [the Link of which is given in description]

<http://www.boloji.com/wfs2/wfs238.htm>

Quote-Fun Place for Sex Crimes

The Marty couple had been arrested in December 2000 after they were caught red-handed while photographing minor girls picked up from the Gateway of India. The horror story of child sexual abuse by the Swiss couple was told in-camera to a sessions court in Mumbai. And in March 2003, Additional Sessions Judge Mridula Bhatkar convicted the couple. They were awarded a sentence of seven years rigorous imprisonment It was on their appeal against this conviction that the Mumbai High Court accepted their contention that if the matter was not expedited, the appeal would not be heard until after seven years, the term of their original sentence. The judge also

directed them to pay an enhanced compensation of Rs one lakh to each of the victims. The gravity of their offence did not figure anywhere in the Mumbai High Court judgment.

Their passports revealed that the couple had been visiting India every year since 1989. They operated in different countries and their laptop was stocked with photographs of children including those from Sri Lanka and the Philippines. Posing as a lonely, grandfatherly couple, they befriended street children and their parents, promising to give them a good time on the pretext of charity. Marty (who described himself as a general manager in a multinational pharmaceutical company) and his wife were well stocked with lubricants, condoms and penile sprays. Lily Marty, a trained nurse, would tend to the wounds the children suffered as a result of their abuse. ... But none of this, all recorded evidence, figured in the judgment of the Mumbai High Court. **The SC Bench headed by Chief Justice V N Khare granted bail to the two [convicted pedophiles]** in an order passed on April 5, 2004 !!... .
unquote

After obtaining bail from Chief justice of India Khare, the two wealthy Swiss pedophiles escaped from India. Such bail orders lower the morale of policemen and lower courts judges. They will think that their efforts to get criminals convicted went in vain and would feel sour about the bribes they had forgone. The acquittal or release order given by Mumbai High Court judge was against the Constitution. and the *bail order given by Chief judge Khare to the two wealthy Swiss convicted pedophiles was also clear violation of the Constitution*. Such violations of Constitution happen because we citizens do not have procedures to expel the judges who violate Constitution.

Now, What are the Effects of such unjust verdicts in society ?

If we do not fix the courts, the injustice from rich onto the bottom 99% of the citizens will keep on increasing. The unity of society and loyalty of common citizens towards the country decreases as members of elite throw more and more atrocities on commons. And the decrease in unity of society decreases the strength of administration and military. When individuals get open injustice in courts, they see no point in defending the nation and the society. Unfair treatment in police, courts etc decreases the sense of nationalism day by day, and weakens the whole society and nation and every organ of nation such as administration, police, military etc. Such chaos will weaken the nation and will result into re-enslavement.

How can citizens stops the unjust behavior of judges? How can we citizens stop destruction of Constitution in Supreme and High Courts? And how can citizens improve speed and fairness of courts?

Now, let us first see What are the Problems of integrity in Lower Courts, High courts and Supreme Court

The increase in number of courts will increase the speed, but we need structural changes in courts to address the following problems

1. First problem is Nepotism or favoritism to relatives--- lawyers and *aasils* , that is clients of lawyers who are judges' relatives are winning cases after cases due to this favoritism in judgements.
2. Second problem is judge-lawyer nexuses
3. Third problem is judge-criminal nexuses
4. Fourth problem is Corruption in judges
5. Fifth problem is Nepotism in appointments of judges

Now let us see What is the Jury System ?

We propose **The Jury System** as the solution to first four of the five evils mentioned before and recruitment by written exams to solve the fifth one. Sadly, most voters and even educated people in India know nothing about very concept of Jury System. That's because intellectuals of India are so hostile to Jury System that they never ever informed students or activists in general about the Jury System.

In the Jury System, EACH case goes to 12-15 different citizens or Jurors, who are randomly chosen from the district, state or nation. The 20-25 lakh cases in the whole country will be resolved by 3 crore citizens. The Jurors change with every case. A citizen cannot become Juror again for at least 5 years. If a District gets 5000 cases a year, and say 25000 cases in 5 years, in Jury System, they will be resolved by 3 to 4 lakh different citizens.

If we compare this with the judge system, Small number of Individuals, say 20,000 to one lakh individuals in India would decide all the 20 - 25 lakhs cases a year in India. If a District gets 5000 cases a year, and say 25000 cases in 5 years, in the judge system they will be resolved by some 25-50 judges.

The sheer increase in number by 1000-2000 times makes Jury System far less prone to nexuses, nepotism and corruption. Jury-lawyer-nexus is far less probable than the judge-lawyer nexus because numbers of Jurors are too high.

Let us see ,How nepotism or cross-nepotism becomes uncontrolled in judge system ?

To end nepotism, in judge system, a judge's relative is banned from practicing in the judge's courts. Now the eminent intellectuals insist that we must accept that this ban ends the nepotism in our courts. Well, this ban does not make any difference at all. Till now, every eminent intellectual I met is hostile to even discuss the problem of cross nepotism in courts. And till now, Jury System is the only known solution to this problem of cross-nepotism in courts. The cross nepotism has become so intense that criminals and industrialist just retain a few relative lawyers and get all favorable judgments and commons simply get crushed in the courts. Cross nepotism is important reason why Acts like SEZs did not get canceled in High and Supreme Courts.

Even if culture is nepotic, nepotism and cross-nepotism is structurally impossible in Jury System. It is similar to recruitment by written exams, where nepotism can not make much difference.

One judge has term of 3-4 years. This is long time for lawyers and organized criminals to approach the relatives of judges to cut a deal. In many court complexes, two or more judges will form a cartel. judge-A will give favorable judgement to relative lawyers of judge-B and judge-B will give favorable judgement to the relative lawyers of judge-A. This is what we call as **cross-nepotism**.

In Jury System, 12 Jurors are chosen from population of 5 lakhs to 100 crores. Since these Jurors have only one case, the case is over in 5 to 15 days in 99% of the cases. So first, it is highly unlikely that a lawyer would exist in world who would be a relative of these 12 Jurors or even 6 of them or even two of the Jurors. And finding him within 15 days make it further difficult.

Only way cross-nepotism will work is when 12 Jurors of Jury-A and 12 different Jurors of Jury-B form nexuses. Jury-A would favor lawyer with relatives in Jury-B and Jury-B will favor lawyer who has relative in Jury-A. Finding such pair of lawyers, pair of Juries and managing deal within 5 to 15 days is a mathematical impossibility.

In Other Words, while the judge system is full of nepotism and cross-nepotism, the Jury System is immune to nepotism and cross-nepotism.

Let us talk about How career crime increases in judge system due to cross-nepotism

Consider a specific kind of crime --- street criminals (commonly called as Bhaai or Daadaa) or any career criminals who collect protection money from small shop-keepers etc every month, openly and fearlessly. There are places in US and Europe with high crimes, but

nowhere can one see criminals openly looting money from shop-keepers. One of the factor why career crime is uncontrolled in India, and less seen in West is the that India uses judge system, while the West uses Jury System. The judge system makes India's courts very nexused, while the Jury System has drastically reduced the nexus-proneness in Western courts.

Let us see how Jury System reduces the nexus-proneness in Western Courts. Consider a mid-level career criminal with a gang of 50-100 criminals. He may be operating in some 5-10 areas. Now to sustain their operations, he and his gang members would need to pay monthly bribes to many MLAs, MPs, police officers, other officers, government lawyers, judges etc and would also need money to hire lawyers, gangster etc on time to time basis. All this, means a monthly FIXED COST of lakhs of rupees. Now such career criminal CAN NOT always find 5-10 victims that would cover all the costs and give profits every month. So almost always, a gang of career criminals has to victimize 100s of victims a month. In short, a career criminal and his gang-member has to commit 100s of crime a month. Out of so many crimes, some 20-30 of victims would end up filing complaint in the courts. This would generate some 300-400 court cases per year. Now this is where judge system and Jury System would create difference in combating career crimes.

Now let us see Career criminal in judge system Versus. Career criminal in Jury System

In the judge system, say 1000 cases that get filed in 4-5 years against a ganglord. All will go to just 5-10 judges. So in order to delay the case to frustrate the witnesses or get outright acquittals or release, the gang leader has to cultivate nexuses with ONLY 5-10 judges. If the ganglord manages to cultivate nexuses with 5-10 judges, he can manage an acquittal or delay in 99% of the cases.

In the Jury System, EACH case goes to 12-15 DIFFERENT Jurors, randomly chosen from the district, state or nation so these 1000 cases will go to 12000 to 15000 jurors chosen from district, state or nation. Long delay in Jury Trials are rare as each Jury is given ONLY one case, hearings are from 11am to 4pm on one and only one case, and mostly next date is next day. And the ganglord will have to make nexuses with 12,000 Jurors. So to get acquittals in 1000 cases in 5 years, the gang leader will need to cultivate nexuses with 12,000 Jurors.

So managing acquittals in even 10-20 percent cases in Jury System is next to impossible. In Other Words, since a large number of cases in Indian courts are resolved by a small number of individuals (i.e. judges) the career criminals have cultivated nexuses and are having a good time. While West uses a very large number of individuals to resolve court cases, which makes establishing nexuses in a larger number of cases difficult to the extent of impossible. So career crimes, such as extortion or open looting, in West have vanished.

Let us talk about judge-lawyer nexus and jury-lawyer nexus

The courts in India are full of judge-lawyer nexuses. The nexus between judges and relative lawyers is now a law rather than exception. But even apart from that, the judges have nexuses with many non-relative lawyers as well. How does judge-lawyer nexuses come into existence? No one in Western courts has even seen Juror-lawyer nexus. The reasons are structural and not cultural.

Say 5 senior lawyers have 20 junior lawyers working for them. Say they are together taking say 1000 cases in a 4 year period year in a district. Most of these cases would go to some 20 judges posted in that district. One judge would get many cases from them.

Within 3-6 months these 5 lawyers can cultivate nexuses with these 10-20 judges

Now, if there is Jury system ,The cases will go to 12,000 Jurors in a year.

No Juror would get repeated.

There is no time to cultivate nexuses with even 2% of them.

When a lawyer makes a nexus with a judge during the trial of a case, that nexus with that judge will be CERTAINLY be useful to that lawyer in ALL his cases which will come up before that judge. Even if a lawyer manages to form nexuses with say 7-8 out of 12 Jurors during the trial of a case, those nexus with those Jurors will be of NO USE at all in ALL other cases of that lawyer, as Jurors change with each and every trial.

Now let us see How corruption reduces in Jury System

Much of the corruption in judge system is via organized criminals or large corporates who have 100s of cases in a state against them. These cases go to some 100-300 judges in lower courts. So the big time criminals and corporates hire some 15-50 lawyers who are close relatives of these judges or are otherwise close to these judges. Now in Jury System, these 100s of cases will go to 1000s of Jurors. eg if there are say 100 cases against a ganglord and his members or there are 100 cases against a company in a state, these cases will go to 12000 Jurors. A nation-wide corporate would be having 1000 cases a year against it all over India and would end up confronting 12,000 Jurors a year all over India No ganglord or company owner is capable of bribing so many citizens. So they give up.

Further, in judge system, a judge has to keep a commitment after taking bribe or else he will not get repeat business. In the Jury System, the Jurors change with every case and a Juror cannot come back in Jury for next several years. So the bribe-giver has no assurance that Juror will keep the commitment, and very often, due to hatred against criminals, Jurors

will still punish a person even if he has taken a bribe since After taking a bribe, he has nothing to lose.

Let us see How corruption in police , administration reduces in Jury System

Most policemen, officers come into contact with judges due to years of services. Almost every policeman, officer knows which relative lawyer to contact if there is a case against him in a particular judge's court. And they have years of relations and nexuses. The relative lawyers trade favors for the favors they would get from policemen, judges. And so policemen, officers get away in the cases against them easily.

However, in Jury System. they confront Jurors who are angry against corrupt policemen, officers. And they have no nexus with 1000s of Jurors. So chances that a corrupt policeman, officer gets punished are far higher in Jury System. This is why Jury System reduces corruption in other departments such as police, revenue, education, health etc.

Let us see which countries have Jury System

There are about 15 major countries which use Jury System – Canada, US, UK, France, Denmark, Norway, Sweden, Finland, Germany, Spain, Portugal, Italy, Hong Kong, Australia and New Zealand. Three countries are added in this list --- some 25% of Russia's Districts now uses Jury System and China, Japan have also now started Jury System. And some 90 countries use judge system. Each and every country which uses judge system have corrupt courts, corrupt police and corrupt polity (4 exceptions are Singapore, South Korea, Taiwan, Israel, where corruption is much higher than the 15 countries which have Jury System). China, Russia and Japan too had to move to Jury System due to problem of corruption and nepotism in courts. And so did South Korea in Apr-2008. In Other Words, if there is anything that shows 100% correlation, it is that Jury System always reduces corruption and judge system always increases corruption and nepotism.

Now let us see History of Jury System

In ancient times, there are indications of Jury System procedures present in our country. Satyaarth Prakash written by Danayand Saraswati says that ` Rajaa, that is the administrator, should be Prajaa adhin or he will devour and destroy the public just like a lion eats a small animal. `

Here , Rajaa means Rajvarg or the admistrator, like Prime minister, Chief Minister, judges , officials etc. and `adhin` means that the common citizens should be able to replace or punish the corrupt officials running the country. Jury system and other democratic procedures were responsible for the then prosperity of our country which later reduced as these systems vanished.

Rome had elected Magistrates and used Jury System for high crimes, which created a far less nepotistic and less corrupt regime than its neighbors. This is why Rome became much stronger than the rest. Rome collapsed and main reason was that later a large chunk of population (that is slaves) did not have right to vote and could not become part of Jury due to which they faced atrocities and later revolted against the country.

After that, in every regime, the punishment was given by King or Lords appointed by the King. In 1200 AD, Britain was the FIRST European nation which reversed this --- and declared in Magna Carta that the King's agents shall only make allegation and citizens (that is Jurors) would decide the guilt and punishment. This was a historical change, that changed to reverse the relation between rulers and subjects. The ruler was no longer in charge of deciding imprisonment or even fines. It was after this Jury System, the craftsmen and traders could protect themselves from the arbitrary rule of Lords and progress started. It was only this reason, why craftsmen became prosperous in Britain and some of them later became industrialists.

The industrial revolution in Britain was only because of this Jury System – the Jurors protected the craftsmen, traders and industrialists from the arbitrary fines of Lords and the Kings and thus Jurors enabled these craftsmen to become wealthy. The so called Renaissance had no role to play. If Renaissance was responsible for the progress UK made, well, why didn't Italy make such progress, where Renaissance came first? The intellectuals have deliberately suppressed the role of Jury System in explaining why Europe overtook rest of the world as they do not want students to know about Jury System, lest they would demand for it also.

Now let us see The relation between Jury System and the information factor

Law is only common sense. The intellectuals would want us to believe that law is only for lawyers and judges but even an illiterate can understand law.

One objection often cited by anti-Jury pro-judge individuals is that Jurors have less information about the law. This objection is incorrect --- both jurors and judges have same information about basic concepts of fairness, right and wrong etc. The one and only difference is that judges have more information about section numbers and exact length of punishment. Eg both judges and Jurors know that violence is crime, a murder done with monetary motive is more evil or bad than spontaneous violence borne out of rage and anger. But Jurors may not be aware of specific details like such action falls under which section and such act carries maximum punishment of say 5 years or 14 years or 6 months and so forth. Such specific details are easy to grasp and apply or will be told by the case lawyers.

The pro-judge anti-Jury people do not mention the other point --- i.e. judges progressively get more and more nexused with lawyers and rich, and also take bribes via relative lawyers.

Now, let us see stand of All Political parties, intellectuals on the Jury System

We want all citizens of India to note that all existing parties' MPs and all intellectuals of India have opposed Jury System, and insist that only judges will give judgment thereby ensuring that nepotism in courts will continue. We want all citizens and all genuine activists, of India to note that we are the ONLY group interested in curbing the nepotism in judges. Other Group or party's leaders do not even bother to mention this problem of nepotism in courts in their manifesto.

It is not difficult to see why party leaders and intellectuals support judge system and oppose Jury System and recallable judges. Many intellectuals' relatives are judges and so these intellectuals support judge system. That apart, corrupt elite-men want centralized judge system and do not want a decentralized Jury System. Currently India has 13000 judges and they resolve about 13 lakh cases a year. Now say an elite-man is operating in a District or State. Say he has 20 cases against him in a year or 600 cases in a period of 30 years. That law-breaking elite-man now needs to manage only 10-20 judges to deal with this 600 cases. If the Jury System comes, he will have to manage 7200 Jurors which is almost a impossible task. In Other Words, the law-breaking elite-man's life will become far more difficult in Jury System. *The intellectuals are agents of these elite-men, and so support judge system and oppose Jury System.*

Almost all party's leaders have refused to even discuss the issue of nepotism, corruption in courts, forget solving it. We request all citizens to ask their favorite party's leaders on this issue of nepotism in judges, corruption in judges and see if they are worth voting for. And we request activists to ask intellectuals on this issue, and decide if they are worth following.

Let us talk about The historical Nanavati case

The British realized long back that their own Collectors and judges were corrupt to the core, and population would get crushed to the point of rebellion if their powers are not curbed. Which is why, in 1870s, British enacted Jury System in India. But in 1956, Jawaharlal Nehru and the then Supreme Court judges abolished the Jury System by citing Nanavati case as reason. This was utter nonsense.

Nanavati had killed a person named Abuja. The Jurors had accepted that as a fact. Nanavati was a Navy officer and citizens have tremendous respect for military officers. The respect doubles when they see that a young man from wealthy family leaves posh comfortable life and accepts harsh life of Navy. And Abuja was a proven adulterer, and back then when paternity tests did not exist, adultery was considered as bad as murder. The Jurors were in a dilemma – if they convict Nanavati, the judge would hang him . If the Jurors had power to decide the punishment, the Jurors would have surely issued some punishment like a

few years of imprisonment. But Jurors had only one power --- to call him guilty which may mean his death or call him innocent. The crime of Nanavati was not motivated for economic gains nor was Nanavati a career criminal. And Jurors believed that he did not deserve death for his crime out of anger. So Jurors took right decision in saving his life. Their wrong decision was of “zero punishment” because they did not have powers to imprison him for a few years and was not *an error in wisdom*. Which is why in the system I have proposed, the Jurors decide punishment so that Jury is not forced by their inner conscious to give “not guilty” verdict when person is guilty, but not guilty enough for highest punishment that the judge might throw. So Nanavati case shows that Jurors took a very reasonable decision, and what was needed was to increase the powers of Jurors and let them decide punishments instead of judges. Despite this, Nehru (due to his nexuses with the corrupt landlords) and judges canceled Jury System in India without any debate by citing one “Nanavati Trial” as reason.

Nehru used Nanavati case as excuse to abolish Jury System in India, and all MPs of Congress, Communist Party etc. back them supported him. Nehru had taken this decision to support the landlords who were using criminals to beat the landless, so that they do not demand land-reforms. Due to Jury System, the criminals were getting prison sentences and so landlords were finding it difficult to ask criminals to beat the landless. So Nehru cancelled the Jury System in India so that landlords can beat the landless and block the land reforms.

Let us now see why National judocratic Commission (or NjC) is a useless idea

The eminent intellectuals have demanded National judocratic Commission, wherein some 10-15 people will have powers to appoint and expel High Court judges and Supreme Court judges. These 10-15 people will sell out to Multinational companies and Indian elite-men and all the courts will become fiefdom or property of Multinationals and Indian elite-men after National judocratic Commission comes. We support “Right To Recall Supreme Court judges”, Jury System and oppose National judocratic Commission proposal. Furthermore, in the National judocratic Commission proposal as demanded by the eminent intellectuals, there is no procedure by which we commons can expel/replace National judocratic Commission (or NjC) members. And the eminent intellectuals have opposed procedure to replace NjC members in their NjC proposal. So NjC members will only act as corrupt puppet of elite-men.

The NjC proposal is because the old elite-men want to block the judges who have nexuses with new elite-men from getting too much power. In Other Words, NjC proposal is old elite-men vs. new elite-men game and there is nothing for commons.

Now, let us see How can we common-citizens bring Jury System in India?

The quickest and easiest way to bring all good laws in the country is to first bring Transparent Complaint / Suggestion procedure or TCP. Once few lakhs citizens tell all the 120 crore citizens about the pro-common laws, like Jury System, Transparent Complaint procedure, Right to recall procedures, the people will then demand them . Now, we need 100 or more separate laws to improve the administration of the country but instead of doing 100 different mass-movements or andolans , if we do just one mass-movement for Transparent complaint procedure, and force the Prime Minister to sign the three line law and put it in Gazette notification, then next day I and others can go and put drafts of Jury System, RTR-PM, RTR-judges, etc. pro-common drafts as affidavit on Prime Minister website by going to the collector office and when the crores of people will come to know about these pro-common drafts , they will support these drafts by going to their nearby patwari or village officer office, sufficient pressure will be built to force the Prime Minister to sign and pass these laws and print them in the gazette notification which is issued every month or so.

You can see the drafts of the Transparent complaint / Proposal procedure, Jury system, RTR-judges, RTR-PM in chapters 1, 6, 7 and 21 in www.righttorecall.info/301.pdf . So, please inform these pro-common procedures to as many people as possible so that people can get fair and quick judgments and the country progresses.

Thank you.