



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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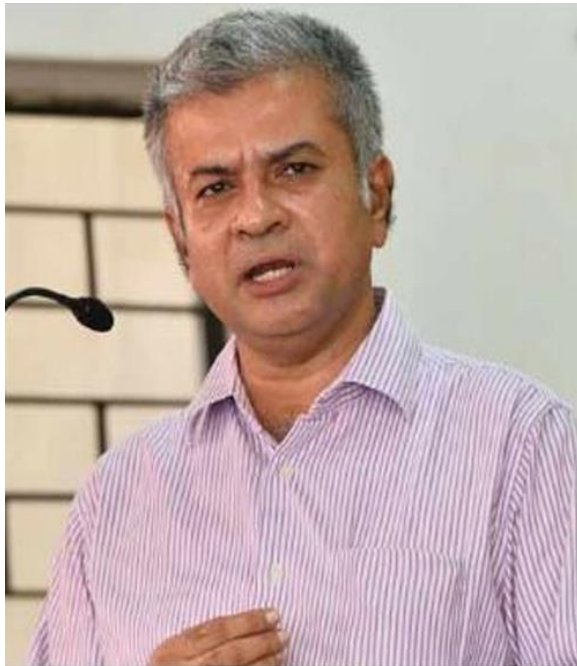
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## *ABOUT US*

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **JURY TRIALS IN TERMS OF INDIAN CONTEXT**

**Authored By-Akanksha**

British Administrators introduced the Jury System so that they can find a system of jurisprudence which can be matched with the Indian Polity as well as they can be enabled to rule the whole of India, being a colony. The system was complete different from the existing Panchayat system of arbitration. One of the main root cause was this itself and that's why the system could not bear much fruit when it was being planted on the Indian soil. In every society, punishment had been a very important part in order to punish the offenders and so that the justice is being served to those who suffered a lot because of those offenders. By each passing day the concept of punishment and the judgement process has gone through several changes. Punishment now does not constrains itself only to the traditional norms and also the monotonous ways to punish and thus is looking forward towards the new reforms with the introduction of the reformation of the offenders. There are many possibilities in order to bring reforms and also the judgement for the development of the society. The Jury System was being introduced in India by the Government but in the year 1872, some of the changes were being made that ultimately led to its complete loss of the power. But, in 1886, the resolutions were passed by the Indian National Congress for giving finality to the verdicts of the juries.

In 1960, the jury trials were again abolished by the Government of India on the grounds of an 8:1 acquittal of naval officer Commander Kawas Manekshaw Nanavati in K.M. Nanavati v. State of Maharashtra case. In the above case, K.M. Nanavati was tried on the charges of murder of the individual named Prem Ahuja, K.M. Nanavati's wife Sylvia's paramour. This case or the incident shook the entire nation and thus as a result the jury trials were abolished which used to held in India. The very main question which arised in this case was that whether K.M.Nanavati's gun went off accidently or whether it was a pre-decided murder of Prem Ahuja. In the court, Nanavati on his part pleaded not guilty and also his defence team argued that it the case of culpable homicide and thus it does not amount to murder. The prosecution in return argued that, it was not the culpable homicide but premediated murder.

K.M. Nanavati was pronounced not guilty with an 8:1 verdict by the jury in the Greater Bombay Sessions Court. The case was referred to the High Court by the Session's Judge. In turn, the prosecution argued that the jury was misled by the presiding judge on the four very important points. The very first point was that, it was an accident and not the pre decided murder. The second one is that, it was any specific incident or the Sylvia's confession in Ahuja's bedroom which actually provoked K.M. Nanavati. Thirdly, it was convinced by the judge in a wrong manner that the provocation can also come from the third person. The very fourth point was that, the instructions was not given to the jury that Nanavati's defence had to be proved, to the greater extent so that no one can have reasonable doubt in the mind of reasonable person. All the arguments were accepted by the court and then they dismissed the jury's verdict and the case was heard once again in Bombay High Court in a fresh manner. In the High Court, Nanavati was sentenced to life imprisonment and this was also upheld by the Hon' Supreme Court of India in the year 1961. Later, Nanavati was pardoned and released on the orders of the Governor. Therefore, from that time itself the jury was being influenced by the public support and the media standing by Nanavati and thus was misled, in return the Indian Government finally dismissed it in the year 1960.<sup>1</sup>

India had been weakened by the judge system in many a ways. If we take an instance, in the West the career crimes are not that much prominent if we compare it to India and this is because of the practice of judge system. All this is done because of the fact that this system helps in creating nexused Indian courts. The nexus also occurs between the lawyers and the judges and not only the criminals and the judges. As compared to the judge system the number of decisionmakers are larger in the jury system, it is thus impossible to create those many amount of nexuses. Corruption is the another factor which is much more prevalent in the judge system. It is quite difficult to bribe twelve jurors. In the case of judge system, once the judge receive the bribe he has to maintain his given commitment whereas in the case of jury trials, in every case the jury members changes. The jurors which are randomly selected do helps a lot in solving the problem of cross nepotism which occurs between the judges in the courts. Therefore, to reduce corruption, nexus proneness and cross nepotism in the Indian courts.



The rich and the poor are being treated equal on the basis to ensure the public control of public issues by the jury. In the functioning of judicial power the jury help to add their voice and also ensures that the court does not divert from the norms, values and the concerns so that they can give the fair judgements. In order to check the government, private sectors and corporate the jury plays the significant role, when they deal with the excessive power. In order to consider all the aggravating and mitigating factors before the death penalty is imposed so that to curb arbitrariness in order to impose the capital punishment and this special care by the jury is being taken. Thereby, all these factors contributing all together makes the jury system inevitable for the purpose of democratization



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<sup>1</sup> Kawas Manekshaw Nanavati v. State of Maharashtra, 1962 A.I.R. 605