JOURNAL FOR LAW STUDENTS AND RESEARCHERS

DEVELOPMENT OF INDIAN LAW

Shivangi Sarda & Swapnil Sharma

Manipal University, Jaipur

INTRODUCTION

"Law and justice are not always the same"

Constitution of India uphold by Supreme Court and subordinated courts as "law of land", it aims of ensuring the political, social as well as economic forms of justice to each and every citizen of India. Citizens if having any grievance approaching courts to seek redressal as refraining from taking law in their hands as court of India follows the principle of "no innocent shall be convicted even at the cost of acquittal of hundreds of culprits" so justice could be delivered with impartiality, fairness, equality that is rule of law. The Supreme Court decision is followed by High Courts and subordinated courts and Interprets the Constitution of India if involved substantial question of law.3 pillars in India are legislature executive and the judiciary. Citizen is having belief behind the judgement of judge and also blind folded lady representing rule of law as well as that justice would be impart without fear and favour. Following the reformative theory that is no one is born criminal but various aspect made a person criminal. Indian Law treats such persons as sick who needs treatment. Execution of death penalty in India is by shooting according to The Army Act, Section 34 by Court Martial, a person can be shot to death and according to The Code of

Criminal Procedure, 1973, Section 354(5) a person hanging by neck until death. No conviction under Section 303 of IPC as it is declared unconstitutional in the case *Mithu Singh v. State of Punjab*[1]as it violates Article 14 and Article 21 of Indian Constitution, no reasonable classification of sentences in S. 302 and S. 303 and also taking away judicial review as judge cannot take mitigating factors in consideration as the sentence which he has to give is death, since 1983 no conviction is made under this section, it is dormant but not dead according to Doctrine of Eclipse unlike Doctrine of Severability, when part of statute is declared unconstitutional, then remove that part of legislation and not the entire legislation. Case of *AK Gopalan v S tate of Madras*[2], where Section 14 of Preventive Detention Act, 1950 struck down by Supreme Court as violating fundamental rights.

HISTORICAL BACKGROUND OF THE DEVELOPMENT OF INDIAN LAW

The development of Indian legal system was introduced by British company named as East India company starting from the charter of 1600 to charter of 1833, taken time to declared themselves having the territorial possession on India and being sovereign and declaring themselves as no more a commercial enterprise but a political government but at that time judges used to be layman, appeal from India laid before the Privy Council which became the source of harm rather than justice, deciding cases on non-prosecution and reject the cases, judges can't keep themselves above the temptations accepting Bribes and acquit offender, corruption was rampant, natives were exploited, atrocities and misdemeanour by company's servant. The ruling of the court was taken for grant as executive always assert superiority and there was no judicial independence. But after the independence and enactment of constitution the entire society working depends on the how efficient and sound the administration of justice is? India has a single stratified judiciary established headed by SC, having 1Chief Justice and 30 other

[1]Mithu singh v. State, A.I.R. 1983 S.C. 473
[2] A.K. Gopalan v. State, A.I.R. 1950 S.C. 27

judges appointed by President in consultation with judges of High court and Supreme court and can be removed by impeachment process under article 61 of Indian Constitution on grounds of misconduct and incapacity[3]. Supreme Court proceedings are in English[4]. It is court of record and can punish for it's own contempt[5] and has seat in Delhi. Below Supreme Court there is High Court[6] for each state and Union territories exercising supervision on all subordinate lower courts and directs, can issue writs, like SC is the court of record and below High court there is lower court like the administrative unit and first tier of Indian Judicial System.

A COMPARATIVE ANALYSIS OF INDIAN LAW

A comparative law, a study of similarity and difference of different laws of different countries, In India, Sati been the most rampant practice where the wife has to burnt to death at his husband's funeral pyre or burying her alive at his grave. In the case of *R v. Mohit Pandey* where husband died and at the very same time the sati was done and in the case of *Tej singh v. State of Rajasthan*[7] where after the husband died and people started shouting "*Sati Mata ki Jai ho*" abetting woman to commit sati and police don't stop the crowd as crowd was more and police constable were less. Prevention of sati act, 1987[8] came to criminalize the offence of sati as Article 19 Clause (2) let state to impose reasonable restriction if in interest of public order, public morality and also incitement to any offence. A petition against this act was filed in SC by Akhil Bharat Varshiya Dharma Sangh alleging that the impugned act is violating the fundamental rights that is article 19[9] and freedom of conscience

[3] INDIA CONST. Art.61
[4] INDIA CONST. Art 348, cl. (1)(b)
[5] INDIA CONST. Art 129
[6] INDIA CONST. Art 214
[7] Tej singh v. State , Cr.C Raj.134, 1979
[8] Hereinafter, 'the Central Act'.
[9] Article 19(1)(a)

and free practice and propagation of religion[10]. The petition also alleging that considering sati as suicide and being a criminal offence and having punishment prescribed by law, then the same punishment to be given to all kinds of suicide as there is no reasonable classification and unfair discrimination

The Supreme Court in the *Rathinam's* case[11]struck down Section 309 of I.P.C a penal offence as unconstitutional. On behalf of this judgement the petition also raising the question the impugned act is valid or not?

With respect to the first argumentthe court held that sati is violation of public order, public peace, tranquillity[12]. The court in the case *Virendra v. State of Punjab* held for societal interest a straight going public interest is necessary, acts which disorder such interest is not permissible and sati was disordering such interest as it was mandatory to women to commit Sati instead of her desire to live. Even if she wants to live and look for new life she has to practice Sati as society pressures her.

With respect to the second question of infringement of article 25, it was held all persons are equally entitled to profess, practice and propagate their religion and entitled to freedom of conscience subject to provisions which are implied, that such action should be in public order, morality and health and state is entitled to make any law for social reform and welfare. Studies shows that in earliest cremation sites the widow has to lay beside his husband and placed bow in his hand and when bow removed she has to return back.

With respect to third question arise that for same punishment for suicide and sati to be given, it was held that sati is distinguished from suicide. Suicide is self- destruction[13] whereas sati is because of physical coercion by someone[14]. Pressure

[10] Article 25
[11] P. Rathinam v. Union of India, (1994) 3 SCC 394
[12] Central Prison v. Dr. Ram Manohar Lohia, A.I.R 1957 SC 620
[13] Blacks Law Dictionary Minmesoto West Publishing Company, 5th edition, 1979
[14] Emp. v. Vidyasagar pande, A.I.R. 1928 Patna 497

by relatives who are desirous of her property or do not want to maintain her or both, or, crowd factor as stated in above cases. So if the nature of both the offences is different so how can same punishment can be given. Suicide is harming individual and suicide if not successful than harms more the individual. So court interprets reasonably as sati is spreading fear in community.
In fourth question of the *Rathinam's* case SC declared suicide as unconstitutional, if SC declared it there must be some interpretation done by judge. The question arises of euthanasia killing which let the human strive to die has to be taken into consideration and it is also clear that suicide is very much different in nature from sati, then views to both the situation to be taken into account separately and interpreted accordingly. So the question no-where arises of the concern case and it is out of domain and the commission and glorification of sati are both punishable[15].

The practice of sati was never the part of religion of Hindus[16] and practice of the same is not permissible at all and criminalizing the same is one of the efficient step towards the development of Indian law as it is a common saying sati was considered as a part of Nepal religion which was adopted by Hindus as women were always used to be considered lower than man in dignity, efficiency and priorities but it was first banned by Akbar and later by his successors but it was a failure, William Bentick who was the first Governor-General of India, his one of the main social reform were sati been abolished and privy council also has one of the major role of introducing educational reforms and also ensures the ban on sati. Johar Pratha is one of the other practice unlike sati but not very unlikely, followed by Rajput queens and princess when their husbands died in war so in order to safeguard themselves from a cruel king and world and for their self-respect and their self-esteem as well as to protect their dignity they jumped into the 'Kunds' along with ancillary and other queens. The famous story of Rani Padmavati, who had committed 'Johar' in order to protect her beauty from Allaudin Khilji.

[15] Shakuntala Narasimha, Sati: A study of woman burning in India
[16] Acharya v. Commr. Of Police, (1983) 4 SCC 522: AIR 1984 SC 51

IS INTERNATIONAL LAW HELPING IN DEVELOPMENT OF INDIAN LAW?

The countries like Europe and north America has legislation passed for the compensation for who are the victims of crime. The UN General assembly adopted the "Declaration of Basic Principles of Justice for Victims and Abuse of Power" while India was on the position of punishing for law of wrongs and not crimes and only compensation to be recovered and nothing more as a punishment but with the passage of time Indian Legal System grows influenced by the UN as it has it's major role in setting the international standards in compensating the victims for the domestic legislations.[17]

Another aspects are treaties are often a implied or express obligation between countries and a legal contract between them, when signed. As international scenario is not constant and having it's influence in all social, political, economic aspect of individual and foreign policy aspect of each nation. As individual comprises makes a society and Indian legal system is societal welfare centric, so it need some changes which has been questions and debates since long time. The dualistic and monism theories of which former believes that international and national legal system are totally different and they both are supreme in their own sphere whereas latter believes that international law always have some supremacy and authority over national law. But the question arises is international law to be taken into consideration while administering justice. The view is not to let dominate the international law over national law but subjects like terrorism, human rights, global warming etc. has to be decide by countries together in order to counter such issues. The Indian constitution symbolically attached to the international legal obligations under article 51. Parliament does vests with power to enact law within legislative competence including international treaties as well and union territories have their separate power to enact law on the same. India has always follow the British and English law in absence of any particular law and legislature work is to ensure the legislation to

[17] Adesh kumar: compensation for victims of crime under Indian Legal System (2012), 3

come to effect and executive work is to facilitate and ratify that legislation to come into effect or not? India's one of the essential factor of foreign policy is that member of the commonwealth nation and supporting the UN policy. At the time of Independence, Indian Independence Act gave power to India whether to stay with commonwealth nation or opt out of the same. India chose to stay which is one of the reasons why India still more or less influenced by English law and even the Constitution features has also been adopted by different countries.

The judicial work in interpreting the legislation of any treaty and in case of dispute having endeavour to analyze the legislation in such a manner so that it can co-exist peacefully as well as ensuring that no law should dominate over one another. The doctrine of '*pacta sunt servanda*'[18] . Every treaty signed is binding and to be performed in good faith and cannot be failed as a cause of internal law, now the question arise of nation to take 'sovereignty' to comply with these international obligation and also that international law in order to be binding has to face the test of part 3 of Indian constitution. So the answer to such question is judiciary having no role in implementation of the legislation but if it is violating any of the constitutional provision than judiciary comes into the scene and as international law is not binding which is one of the major drawback of it, the question is not of the conformity of it but of international obligation which are made to be binding so nation can take 'sovereignity' as consideration and also international obligations has to conform to face the test of part 3 of the constitution.

In *KeshavanandaBharati v. State of Kerala*, Sikri C.J. held that the doors are open for the UN to play a vital role in development of human rights. Article 51 has been for courts in order to interpret the international agreements in accordance with the Indian law and development of Indian legal system. In the case of *A.D.M Jabalpur v. Shivkant Shukla*[19] the court to harmoniously interpret the national legislation and international treaty obligation in order to prevent any conflict regarding any provision of the constitution not complying with international law. Another case of Kerala High Court, "*Xavier v. Canara*

[18] Vienna convention, 1980, Art.26 and Art.27
[19] A.I.R. 1976 S.C. 1207

Bank Ltd"Article 11 of the International Covenent on Civil and Political Rights,1966 was taken into consideration held to minimize the punishment of non-payable of civil debts along with that international law will not dominate over law of the land. The landmark judgements given by Hon'ble judges taking the international covenant as a source of inspiration in the following cases hereinafter,

D.K. Basuv. State of West Bengal recognized that article 9(5) of International Convention on Civil and Political Rights, 1966 that "anyone who has been the victim of unlawful arrest or detention shall have enforceable right to compensation. Indian Legal System does not recognize such right and there is no express law regarding to grant compensation to citizen if their fundamental rights are infringed but still since so many years they are granting the same, this is implied ratification by SC to ratify and recognize such law to land and accepting and referring international law .

Githa Hariharan v. Reserve Bank of India, of CEDAW and Beijing Declaration where all states were comply to reduce discrimination against women and domestic courts are under obligation to give effect to international convention especially when there is no no instability between them.

PUCL vs. Union of India, SC depending on the treaties and obligation especially on the environmental and human rights which clarify and put into force under article 21 of the Indian Constitution, as reference by international law and incorporated in the domestic law which being not recognized by Indian legal System yet.

Vishaka v. State of Rajasthan held that gender discrimination is against the human rights and justice and need no specific legislation to come to effect.

Treaties which can be elucidate and effectuate in Indian law which is important development and can be incorporated without the recognition by parliament giving it legal effect[20].

Another issue of parallel imports is ultimately to be decide by the national law yet, international treaties form the borders in which national legislation grant IP right to owners, it is fruitful to examine the international copyright treaties to the treatment of parallel importation[21]. The issue of parallel imports relate to trade and because it involves an element of import as well, it was subjected to to extensive debates at the forum of World Trade Organization. However, contracting parties could not come close to agreeing upon a single set of exhaustion rules for all members. Parallel trade was one of the most contentious issues under the TRIPS negotiations where most of the developing countries like Indian law supported parallel imports. Some developed countries like New Zealand Australia strongly agreed for the freedom to import appropriate parallel import regimes as this would grant them freedom to offer range of goods to foreign buyer.

INTERDISCIPLINARY APPROACH TO RESEARCH IN LAW

The law does not grow alone, factors and subjects are there in order to give push to law, forces law to think and interpret in a certain specified manner, to act in a particular manner, to give orders in each and every manner, not hostile to anyone. Here are some of the approaches to research in law,

LAW AND PSYCHOLOGY

Law and Psychology are interconnected as law is the regulation of human behaviour while psychology is the study of human behaviour. Psychology is advising the law for formation, execution and compliance. There are psychologists which studies the behaviour of criminals insane or not insane, or both. They are capable of analysing and often called for custody-decisions as

[20]Narendra Kadoliya, A Paradigm Shift In The Role Of Domestic Courts In Implementing International Treaty Provisions: An Indian Perspective, Manupatra

[21] ILI, vol.55, No.4, Oct-Dec 2013,506

experts in analysing human attitude in courts and also helps as writing insights to the issue of case even being not the party. In India the conviction to jail can be made by anyone's confession or eyewitness which appears to be sometime false but still the execution of punishment is only after the DNA and then only exonerate but how can someone made false statement by saying they did not remember the exact scene of crime which is so strong and illegal or bad forensic evidence or testimony and misidentification? Various psychologists has been researching on this question since long and which come to major issue in upcoming years, my view regarding the same question is that authority should be placed on all examining the witness, forensic science and check on machinery to be done so there would be no corruption of and form and taking of illegal gratification in order to the acquittal of the offender but this is only a general step that one can take but we need prominent steps in order to handle this issue. Relation of law and Psychology is vast beyond courts also, like dominating organ, dividing property among children or feeling of ownership. The reasonable classification is tough. The first law commission of India also gave report of the human attitude towards particular legislation.

LAW AND ECONOMICS

Another interdisciplinary approach of law along with economics, interface between them, state make laws which will regulate industry and economy and the legislation will be interpret by taking economic analysis into consideration and judiciary will regulate the balance between them mostly in developing countries like India, as economy of such countries is a road of economic growth and development. Various branches of law like monopoly law, competitive law, corporate law, bankruptcy law and the court has to interpret the economic analysis and impact of the decision. Economic interest of nation can take precedence over technical violation of law. In the case of *Shiva Shakti Sugars Limited v. Shree Renuka Sugar Limited*[22] and Others the factory has generated employment of 377 persons directly and 7000 persons indirectly and it is also a co-generation plant which supplied 37MW of electricity so his factory let allow to run as for economy technical violation of law can be done,

[22] (2017) SCC 729

analysis of law will be on ad hoc basis. The relation of law and economics has an intense movement on sustainable basis as country is into the era of economic liberalisation that is globalisation and India is the developing economy growth road and efforts in all sector has been made to make it a developed economy. Economic considerations have impact in all the sectors and some even recognized as legal principles such as "judicial wing". There is growing role of economics in labour laws, competitive laws, monopoly laws, environmental laws, bankruptcy laws, corporate, tax and other fields. The court in all such cases primarily applying the statutory provision and secondary the economic effect of it's decision and court gives the decision which does not have power to create adverse effect on employment and economy so economics is imperative for law.

LAW AND SOCIOLOGY

Every society follows certain laws, whether made by authority or by individual for smoother going as if law does not exist the society would not be less than a jungle, as a famous saying "Human is a social animal", and something must be there in order to let human co-ordinate and live with certain track not hostile to anyone and also for harmonious society. Human for his own sake made law and also institutionalizing fear in one's mind that if one goes against the law what deter will be instituted to him and set as an example to other for the same consequences so that crime could be prevented and one could not even think of executing a crime. As law develops as society develops and changes how society wants it to be changed and it is not constant. Various sociologists have different views regarding law and hence there is famous saying "All collective human life is directly or indirectly shaped by law. Law is like knowledge, an essential and all-pervasive fact of the social condition".

LAW AND PHILOSOPHY

The relation of law and philosophy is to provide a general conceptual to normative relation along with the question of morality to law relation and nature and justification of various legal institutions. A political philosophy is different from legal philosophy, the former is like interpreting the Chinese monarch system with India's democracy whereas the latter is being dependent on ethics whether giving death penalty in rarest of the rare is morally correct or not? It has been a saying that "law is

blind" and it does not think of emotionally but legally but the question is is it so? If it is then law would be as much hostile or giving injustice. In my view law is not blind but we are blind to law because we have a blind faith in law after god. Law and philosophy is analysis of jurisprudence that is analyse of the spirit of law that what differentiates it from the common law that is norms and individual-made rules and normative is evaluation of some issues of law, such as restriction on freedom, grounds of punishment what obliged individual to follow law, a prescriptive analyse completely and critical analyse follow the traditional form of legal philosophy critically such as feminist jurisprudence, and nature of human action and intentions, relation of knowledge and truth etc.

CORE ISSUES OF CONCERN REGARDING INDIAN LAW IN PRESENT SCENARIO

The Indian legal system is been and being the inheritance of British some-how, and it is not being capable of fulfilling the aspirations of people.

1. **Corruption:** One of the major challenge in the India's legal system is corruption because of which the image of Indian law is suffering a stain on it because of the illegal gratifications by some of the high integrity members, by accepting pecuniary benefits and get lured with money and completely destroyed it by political influences as it become a inevitable society's norm, also lower court is facing to much interference by higher courts as adverse remarks on their judgements and reversing their decrees and because of which the judges are under the burdened pressure and also there is another problem of no provision of FIR against any judge taking bribe without the permission of CJI. Also there are various scams of which media does not show clearly out of fear and moulds the truth, like government the judiciary is also corrupted equally and politics has been entered in judiciary.
2. **Lack of transparency:** The Collegiums system in the recent past, born in the case of *Supreme Court Advocate on Record Association v. Union of India* vouching for independence of judiciary and appointment of judges but however it was struck

down by 99th amendment which added NJAC of which along with judges, the executive and opposition will also appoint judges, however the collegiums system was again restored as violating the basic structure of the constitution and tampering independence of judiciary but still none of the system appeared to be more transparent and clear to general public. The today's scenario is also that Right to Information but it stand out of ambit of Indian Legal System which is not accountable and not transparent. The present government in India is supporting NJAC while Supreme Court denied the same and both government and judiciary stand face to face and question is still unanswered!

3. **Case backlog and judicial vacancies:** There is famous proverb of "justice delayed is justice denied" and India's legal system is one of the largest stock of pending cases and day by day the list of cases are increasing and it itself is inadequacy of system and the problems of the offenders waiting long for their trials and spending more time than the actual trial and had to face the pain and agony and expenses and after that also, justice would be served to them or not is not sure because rich by giving money, mould the justice in their favour as corruption is rampant. This problem exist due to various reasons such as unfilled vacancies as lack of judges is one of the major reason for pendency as the ratio of judges in India is much less than the other countries, misuse of the procedural law as unreasonable adjournment by the lawyer because of his attitude towards the particular case as unwillingly to put the end to case and ensure justice to his client, state is one of the largest litigator, largest number of appeals to higher courts against the orders of lower court, indiscriminate and inadequate system to monitor the bunch of cases. The process of court is lengthy, rigid and more formal. The problem is quite alarming.
4. **Problems in criminal justice:** In India the rate of convictions is so low that only 12 to 15 percent of the offenders are actually convicted and the rest has opportunity to escape from punishment and this is where legal system lacks in bringing culprit to justice and quality not only lacks when there is innocent suffer and offender exonerate but also the delay in dispensation of such justice and the problem of competent lawyer from both the parties is another problem and if one of the party is prosecution then all the burden of proof lies on it because the accused will seek the competent lawyer of his own

choice and if the lawyer of prosecution is not as much competent, it will lead to another sort of problem as system is quite insensitive to victim as he being ignored as all focus is on accused and it appears to be poor and illiterate system, the reason why people running away from court proceedings. The another question of article 20(3) of Indian Constitution which protect offender from making any statement against himself but this right appears more than defence, the source for harm for the system itself because the question is offender has to get some force in order to speak truth and why would anyone will speak against himself and there is no harm in forcing the offender to let him speak truth as it is not against the public policy and not against the society also because crime harms the society but this right has been recognized internationally also which is another problem of legal system.

5. **Problem in dealing with land disputes:** Indian peasant society did not accept the basis of court system and hence use courts not to settle disputes but to further them and the nature of Indian courts is more of negotiation rather than adjudication, courts could not effectively settle them because of 2 reasons that is lack of an effective enforcement mechanism and secondly the complex litigation process with all its rules and procedure.

SOME SUGGESTIONS TO IMPROVE THE SYSTEM

1. In the majority of law school programmes, administration of justice is not a taught subject in Indian law schools. A mandatory course on various aspects of administration of justice may help in sensitising and training law students on the real causes of the problem and relatively simple solutions.
2. Only certain decisive steps address the problem of backlog in the Indian judicial system.This would entail fewer lectures and additional implementation plans, fewer legislation and focusing on basic achievement because if we

take care of the small things, the big things will take care of themselves so implementation must be done with common sense, simple and taking micro solutions in consideration.

3. Plan of the legal reform must be holistic and not piecemeal, multi-pronged and not partial, curative as well as preventive and for successful implementation, the change must be bold, surgical and unconventional and attitude change is central to any judicial reform.
4. Alternate Dispute Resolution is another important method to embed the ethics of legal reform into the education of judges and lawyers alike[23]
5. The status of emergency service to be introduced in Indian legal system because we are carrying the baggage of indefinite number of cases which need to be adjudicated and night shift to be introduced and the summer and winter vacations to courts should be stop because the person can't wait when the courts will open and he will seek justice.
6. A digitalized society is what the running government aim for and it work for it also but unfortunately the Indian judiciary does not attain the status of digitalization, if it attains it will save a lot of time of paper work, so efforts to make it a digitalized judicial system to be made.
7. A fast-track court need to be introduced from which the appeal will directly go to Supreme court and the case should contain a important interpretation of Constitution or serious again society's peace or of immense importance to be adjudicate by these courts and judges in these courts to be appointed as appointment would have done for High Court judges.
8. The Indian judiciary has to go with the present society's condition and not only the British made laws and judges to have clear instructions of what kind of cases to be admitted in the court of law and the citizen should also not false cases for their personal gains.

[23] Abhishek singhvi, reforms in administration of justice: Beating the backlog,IIL, Jan-Mar.2016,116

9. Politicians has one of the major role in corruption so the politicians to be entered in politics only after some sort of entrance exam and certain qualification also and one who has any case pending against him, should be disqualified and held not to hold any government project.
10. Corruption can be reduced when people are educated, when they know about their rights, instead of fear of corrupt and dishonest officer, they can drag them to the courts and the courts also should treat them as normal citizen and not to take bribe and acquit on the status of position.
11. Attitude, not aptitude, determines altitude, the quote by Zig Ziglar, captures the requirement of attitude change in the Indian judiciary and also to ensure changes that the importance of teamwork cannot be under emphasised.
12. The Indian law also lacks as the size that India and Indian population has, increase in the number of judges and filled the vacancies can be a effective solution, though it is not easy process but efforts to develop the system has to be done.

CONCLUSION

In this fight against arrears, the entire India law, and the entire judiciary has to function as a seamless web. The role of judge and judiciary as a whole and particularly of the Supreme Court is vital since it act as catalyst and role. Neither the problem nor the solution associated with Indian law are new, however, immediate focus of will and determination are key to addressing the problem. The large number of arrears should not be deterrent. If simple solutions are implemented correctly then it is certain that there shall be significant reduction in the backlog of cases. Our entire perspective regarding judicial reform has to change. It is imperative to see ourselves as a service industry. One cannot indefinitely continue to see the legal system from the point of view of convenience and earning of the lawyer of the statute and pomposity of the judge. In comparatively analysing, the practice of sati was

never a essential part of Hindu religion and it has been assumed by Indian courts that it is not permissible as it commission is opposed to both these restriction on freedom to profess, propagate and practice their religion. The law cannot grow alone, as study of other subjects like sociology, philosophy, economics and various other gave a wider context to Indian law to develop it in economic, social and cultural field. As international law cannot be the "law of land" until and unless determine by Indian law officially but this assumption prove to be wrong as if any treaty is entered by India can be take into consideration in courts and does not require separate parliament legislation and treaties are always vulnerable. The problem with the Indian law is no less as judicial problems exist and all those problems are interconnected, underfunding as compared to other branches of the government, no uniformity and lack of rational policy for public institution and various others but all these can be changed by changing our perspective to Indian law, when we can make it worst, we can make it best too, it is imperative to see us as a service industry by adopting the Mahatma Gandhi's approach to reform of "indifference, ridicule, abuse and repression".