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SUPERSTITIOUS BELIEFS RELATED TO WIDOWS IN INDIA AND KENYA

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ABSTRACT

The paper tries to bring into light the oppression and infringement of rights which the widows in India and Kenya face because of the customs and widowhood rituals in both the countries. Though there are different customs in these countries like Sati pratha, widow cleansing and drinking corpse's water which not only dehumanize the society but also infringe the fundamental rights of these widows. There is no historical proof that these practices must be followed by every widow even there is no contribution shown of Kenyan woman in their history which brings out the neglected and rejected status of woman in the society. In the Indian context where so much importance is given to Vedas and other epic and there being no mention of sati pratha in these books brings out an objection that are these customs for the benefit of the woman going to die or there because of wrong interpretation of these books.

Such is the condition of woman in a country like India which gives fundamental rights to its citizens irrespective of gender and also has ratified many international treaties for woman empowerment and human rights. Not only India Africa to has ratified many international conventions but even after that this type of practices take place commonly there, the reason being the lack of education and financial independence of woman in these countries. Many women even today are unaware of their rights and thus due to ignorance of these rights they are fooled by these customs and have to face hardships throughout their life.

INTRODUCTION:

We live in 21st century with thinking and beliefs of 17th century. It is proved when we see the traditions and customs harming dignity of same sect of people still existing in our society. Mostly this sect consists of woman because they are subjected to many rites' ritual right from the moment they are born till the end of their lives. These customs are not only limited to one place or country they are spread in many parts of world where woman have to undergo certain dehumanizing customs even after death of her husband and she enters widowhood. It breaks heart of every person who witnesses such rites being practiced even today. This paper will deal with these rites, their ideologies and status of widow in two countries India and Kenya. When a woman's husband dies she has to make her personal grief as a social grief as she need to show grief publicly by doing certain physical acts as a symbolism of widowhood, these include seclusion of women from society, giving up the luxuries of life, etc. while these are practiced commonly there are also many customs practiced which were so inhuman that they needed to be outlawed or given illegal status, these include Sati Pratha in India, widow cleansing and drinking water of corpse of husband in Kenya and African nations. Though sati pratha was criminalized approximately 200 years ago still there were many cases of sati reported in India until recent times but in Kenya these rituals were not given illegal status even till 2015 which shows that people have still not removed these rituals from their communities. The reasons presented for such type of practices are hard to believe and illogical as will be proved in the latter section. Also these practices do not present any valid historic importance still are believed by the people of community for the sake of them being treated as customs in those communities but these rituals in no way can be treated as customs as they lack the basic essentials of customs underlined by Jurisprudence. Not only are these customs

unethical for a modern society it is even hard to digest that a community can treat its woman in such a way.

In the Kenyan society the woman are required to fulfill the societal obligation so that they can have a place in society. The woman are required to undergo a sexual cleansing process after the death of her husband in which she need to perform sexual act with a male of her family or a professional cleaner and after which she has to shave her head publicly do that the society can witness that she is now pure. In many other communities the woman are alleged to have caused death to her husband and thus she is made to drink the water used for washing to prove her innocence.

In the Indian context sati was practices in which she was burned alive on the funeral pyre of her husband to wash off the sins of her husband. Also even today many women give up jewelry, bright cloths, and basic luxuries by themselves after she becomes a widow because of a social stigma to follow these customs. If we move towards the northern India, we will find that many of the widows are turned off from her homes as the family members treat a widow as a burden and thus, she is forced to take asylum in shelter homes. Though many off such practices are absent in modern Indian societies because of the literacy of woman and a knowledge of her rights which helps us to feel the importance of education for a widow because if she becomes self-reliant by educating herself she will know her rights and a financially independent woman can in no way be oppressed or made to follow orthodox customs.

1. EVOLUTION OF WIDOWHOOD PRACTICES IN KENYA AND OTHER AFRICAN COUNTRIES:

The evolution of widowhood practices dates back to time immortal and there is no significant theory on which we can rely to study the evolution or initial point from where this practice started. The one reason for such a situation where the African history is clueless

about the originating point of these inhuman widowhood practices in African countries are the neglect of women contribution in the History of Kenya and Africa. In the 8th volume of *General History of Africa* published by UNESCO in 1981 the author Awe summarizes that the African history says nothing about the contribution of female in its history. Awe maintains, *The Groundwork of Nigerian History*, the standard text on the history of Nigeria made no particular mention of the role of Nigerian Women in the development of their different societies.¹⁹⁴⁵ The neglect of women is not only seen in the History of Nigeria, Kenya and other African nations but it is also seen in recent time where the women are treated subordinate to men which reflects the patriarchal structure of Nigerian societies. The presentation of African Women in historical writing according to I. Imam (1988:30) has been characterized by four approaches. In the first (and most obvious) case women have simply not been presented at all: In the second, they have been seen as inferior and subordinate to men. The third trend has been a conception of women's roles as equal and complementary to those of men. Finally there has been a movement towards seeing women as active agents in the historical processes.¹⁹⁴⁶

Thus it is observed that due to lack of texts which give an idea about the women in the history of Kenya it is difficult to explain the evolution of these widowhood rituals in the Kenya and African societies. But these widowhood rituals practiced in African societies can be termed as customs as they are being practiced by various communities of the country, it can be dated back to a time immortal and also it is acceptable to the natives

During my research on the history of widowhood practices in the African countries especially in Kenya I observed that there is a variation in the types of rituals which every community follows i.e., there is no constant and

¹⁹⁴⁵ KORIEH, C., 1996. WIDOWHOOD AMONG THE IGBO OF EASTERN NIGERIA.

¹⁹⁴⁶ KORIEH, C., 1996. WIDOWHOOD AMONG THE IGBO OF EASTERN NIGERIA.

single tradition which can be listed. There is a no. of rituals which are common to different communities but there are even more rituals which are not common in all the communities. For e.g. : different communities practice different period of isolation for women, the Luo community of Kenya even practices of sexual cleansing/widow inheritance, some shave the heads of the women and some not and some of the communities even have the tradition of making the women to drink the water used for washing the dead body of their husband. Also there is also a variation in the belief system which different communities have regarding these rituals as some consider that the ritual is to clean the women as she becomes impure after the death of the husband, while some consider that the rituals are because the women are the reason behind the death of the husband and some of the communities of regions see it with the glasses of spirituality. Not only there is a difference in rituals and traditions in various communities there are differences in various practices related to widowhood practiced by different religions, thus it is difficult to date back the time from where all of these different traditions started in Kenya and other African nations.

1.1. RITUALS RELATED TO WIDOWHOOD IN KENYA:

WIDOW CLEANSING PROCESS:

Widow cleansing is a practice followed majorly in the Luo of Kenya which are a majority in Kenya perform such type of practices. This practice involves a widow to perform sex with either the deceased husband's brother or relatives or with a paid sex worker. The aim of the ritual being to make the women pure as a widow after the death of her husband is seen as impure and it is also believed that the widow is caught with a witch and to release her from the control of such black powers these type of practices are followed. The process of sexual cleansing traditionally involves the women having sex with

a male relative of the late husband or a paid sexual cleanser on the floor after which the women burn her cloth and her hairs are shaved mostly in open so that the neighborhood can witness and at the end of these 2-3 days process a chicken is slaughtered as mark of end of the ceremony. This practice is followed not only in parts of Kenya but also in Zambia, Malawi, Uganda, Tanzania, Mozambique, Angola, Ivory Coast, and Congo. This practice is followed by the people as they consider the widow impure and to give her a status of pure, she has to follow this ritual in Luo community failing or refusing to perform this ritual lead to her being discriminated in the society. In an interview a woman named Atema said that, "I felt humiliated, but I was told my children would die if I didn't go through with it."¹⁹⁴⁷ which shows that how these rituals are forced upon the widows. The worst part of this practice is that the women have to undergo the sexual activity with the cleanser without the use of condom or protection which makes these women vulnerable to HIV/AIDS for the appeasement of the spirit of the dead husband.¹⁹⁴⁸ Also the widows acknowledge that they face greater risk for HIV by engaging in cleansing and inheritance rituals, particularly with professional inheritors, but that they must balance this risk with cultural expectations and ensuring their livelihood needs are met.¹⁹⁴⁹ It can now be imagined how these women are forced directly or indirectly in this tradition and failing to such kind of rituals a woman is subjected to being boycotted in the society and also in some cases she has to leave her house and even gets deprived of her property inheritance rights. This ritual is not only inhuman or unethical for a society or country but also such type of relations lead to and growing no. of people

¹⁹⁴⁷ Donovan, L. and O' Neill, H., 2018. *These Kenyan Widows Are Fighting Against Sexual 'Cleansing'*. [online] TheWorld from PRX.

¹⁹⁴⁸ Ayikukwei, R., 2020. *HIV/AIDS And Cultural Practices In Western Kenya: The Impact Of Sexual Cleansing Rituals On Sexual Behaviours*.

¹⁹⁴⁹ Perry, B., Oluoch, L., Agot, K., Taylor, J., Onyango, J., Ouma, L., Otieno, C., Wong, C. and Corneli, A., 2014. Widow cleansing and inheritance among the Luo in Kenya: the need for additional women-centred HIV prevention options. *Journal of the International AIDS Society*, 17(1), p.19010

getting affected by HIV/AIDS due to unprotected sex and thus producing and new epidemic.

1.2. PRACTICES FOLLOWED IN OTHER PARTS OF AFRICA:

The widowhood rites though different for different communities, are still followed in other parts for the continent too with 250 ethnic groups alone in Nigeria there can be listed are many as hundreds of different rites related to widowhood. Most of them are predominant in the Igbo and Yoruba community where the widowhood practices are followed so as to prove the innocence of the widow as she is suspected of being the reason for her husband's death. The Yoruba community follows various different rituals some of which being the women must wear black clothes only, she has to seclude herself for 7 day or time may vary and in such a seclusion period she should not take bath and change her clothes, have to eat in broken plate and pots, remain barefoot and in some cases, they are even asked to shave their heads. In the Igbos the widow has to wear a wrapper around her breast without a blouse and her head is also shaved by woman and is allowed to bath only after her husband is buried.

A common ritual which the Igbo, Yoruba and other groups follow is to make the widow to prove her innocence by either swearing on the Holy textbook of Bible or Quran according to the religion or she has to drink the water used for washing the corpse of her husband. In fact, there is no end to the humiliating punishment encountered by widow under the cover of native laws and customs. Such dehumanizing traditions are most commonly followed by uneducated and financially weaker women who cannot afford to refuse to such kind of dehumanizing traditions as not obeying to them will lead to her being out casted of thrown out of the family with her children. Apparently oblivious of the tragic loss which every widow suffers on the death of their husbands, callous in-laws conspire to apply vicious burial rites to

dehumanize the embattled widow. Nzewi (1981) found that among the Igbo people of Nigeria, the relatives demand for document relating to the deceased properties including lands, investment and bank account and the widows were required to take oaths as proof that the knowledge of relevant land and personal property of the deceased were not concealed.¹⁹⁵⁰

1.3. REASON FOR CONTINUATION OF WIDOWHOOD RITUALS:

Different communities, regions, groups etc. give different ideologies for following the widowhood rites by them, some common reasoning being:

1. **Superstitious Beliefs:** The most common reason given for the inhuman treatment in the name of rites and rituals designed for widows is for superstitious beliefs of different communities which involve that the widows haunted by a spirit after her husband's death and to make her free from the spirits she is made to undergo these rituals.
2. **Proof the wife's guilt:** In different parts of Africa especially in Nigeria and Kenya the rationale given to for this rituals is to prove the wife's guilt or innocence of the allegations that she is responsible for the death of her husband, thus in following this she is even made to drink the water used for bathing the corpse of the husband and if she drinks it, she is proved innocent and if she refuses it, she is believed to be guilty of her husband's death.

Its 21st century and still we see people believing in spirits and ghosts which would haunt a widow but we forget that for saving woman from the spirits and other believes we humans ourselves haunt her so nothing much is left for a spirit to. Making this point I would argue that the idea around which this tradition revolves is completely irrational and it becomes more firm by a second picture which emerges out which is

¹⁹⁵⁰ Olukayode, J., 2015. *Widowhood Practices In Some Nigerian Societies: A Retrospective Examination*

that these traditions are forced upon on a woman by the society and the family and the rituals are administered by the elder widows of the community which implies that woman are an enemy of woman themselves and it can be observed that such rituals though not having any historical and rational reasoning the other reason which can be seen that these incessant rituals are still practiced is because of the greed of in-laws for property of the deceased and also to have a superior hand over the widow after her husband has died so that she becomes incapable of demanding any right over the property.

3. EVOLUTION OF WIDOWHOOD PRACTICES IN INDIA:

3.1. SATI PRATHA:

With the study on African and Kenyan rituals it becomes more interesting for a person to also study the famous widowhood ritual practiced in the Indian Hindu religion that is *SATI PRATHA* or in other words widow burning. The hardships faced by a woman after her husband's death are not only limited to one community, religion or even one country but it also has its roots in other countries as well, and when talking about widowhood one cannot ignore the dehumanizing and excruciating tradition of burning a live woman on the pyre of her husband. When we look down to the evolution and history of sati pratha in the Hindu religion it comes to light that there is no specific mention of sati pratha in any of the three Vedas of the Hindus that are Rig ved, Athrva ved and Yajur ved also there is no such specific mention of the sati pratha in any of the earlier dharma shastra. But there is a mention of saha gamana in the Visnu Smrti and the Parasara Smrti. In these Smritis there is mention of Ascetic celibacy (brhamacharya) as an alternative to saha gamana, but the saha gaman process is

considered a superior option of the two.¹⁹⁵¹ But it should be taken into consideration that saha gamana is different from the of sati pratha. While sati pratha is limited to a woman's burning on husband's funeral pyre, saha gamana is an idea which was first acknowledged in the epic of The Mahabharata when three people together i.e., Kunti, Dhritrashtra and Gandhari gave up their life together in a forest, which gives us the idea that sati pratha was still not existent even when the Mahabharata was written that is till 400 BC and even in the Mahabharata there was seen Saha gamana and not Sati. There is even no mention of Sati in Ramayana and even in Geeta which are also three most reliable and acknowledged books in Hindu mythology. Also even if there was saha gamana practice shown in Mahabharata it was not mentioned as obligatory for anyone. When Krishna dies, one of his two chief wives, Rukmini, commits sati, while the other, Satyabhama, retires to the forest for penance.

Also Megasthenes, the Greek ambassador to the court of Chandragupta Maurya (circa 324-300 B.C.), wrote extensively on Indian customs; his silence on sati indicates its nonexistence. Kautilya's contemporary work on polity, which contains much information of cultural significance, likewise says nothing about sati. *The Laws of Manu* (circa A.D. 100/200) laid down detailed rules regarding the duties of women and of widows; clearly sati did not exist at the time it was written.¹⁹⁵²

So from where from these practice came of sati burning?

The answer of this question lies in the 700 AD, where a new idea evolved according to which it was suggested that a wife could purify her husband from the deadliest of sins if she burned herself on his funeral pyre; her reward would be to dwell happily with him in heaven for eons.

The practice of sati does indeed seem to have been, in origin, a *kshatriya* custom. A late

¹⁹⁵¹ Brick, David. "The Dharmasastric Debate on Widow-Burning." *Journal of the American Oriental Society* 130(2010): 203.

¹⁹⁵² Hawley, J., 1994. *Sati, The Blessing And The Curse*. New York: Oxford University Press.

chapter of the *Padma Purana*, written around A.D. 1000, extols the practice but prohibits it for Brahmin women, and actually declares that a person who helps a Brahmin widow to the pyre is guilty of murder (*brahmahatya*). It is intriguing that, in the Rajput tradition of later times, too the practice was largely confined to the warrior clans. The Mughal emperor Akbar found the practice in vogue in the sixteenth century; without interfering with a Hindu custom, he appointed inspectors to ensure that no force was used.¹⁹⁵³

The term sati means an ideal wife loyal and devoted to only her husband and in Hindu religion the wife is considered a to play an important role on the health and well-being of her husband it is that's why this idea evolved which said that a woman performing this practice would eventually free his husband of all his sins. This practice thus gained popularity in 12th century.

While there is never and perfect or ideal point in history which gives the idea that a particular custom originated or started on this date it can be noticed the same is with the Sati pratha tradition which has various vague ideas of its originating date but some things which become clear are that this tradition is not mention anywhere in either the Vedas or the epics or Hindu religion, neither there is an obligation placed on a woman to perform this tradition in any of the reliable text books thus it forces us to believe that the Sanskrit material that articulates-primarily through examples-traditional prescriptive codes of conduct for women has been misread and misinterpreted by the once interpreting it. Also its popularity in the Rajput community can be attributed to the Mughal era where the Rajput put woman performed "Johar" or "Sati" to save themselves from getting rapped by the Mughal soldiers because for them dying with dignity was more better option than getting rapped. It becomes clear from all the discussions that the reason for

which sati was introduced by the way of saha gamana is more or less for the benefit of the husband who died but as the India society was completely patriarchal it never thought of knowing the view of the woman, as it was more logical for them to burn a woman alive for washing away the sins of a dead. But it regained its popularity in the way sati was celebrated and worshiped as it was believed that sati brings prosperity to the family and the village and there have also been cases where sati was performed out of fear of being cursed.

3.2. OTHER COMMON TRADITIONS:

Though sati pratha is history today but still the widows have to face oppression in some way or other in India. the woman in India face celibacy, ostracization, forbidden vanity, have to wear white sari, have to live the rest of the life in ashrams and in some cases even have to shave her head and many more such rituals which deprive her of happiness and joy in her life. The idea behind these rituals is that a woman who has lost her husband must spend rest of her life in the sorrow of her husband. The women even today in some Indian societies have to wear a white sari all time as white is representation of sorrow in Hindu religion and by wearing this she shows her grieve over the deceased's death. The same ideology lies behind her sacrificing her jewelry and all the bright colored cloths for her life. Besides this ideology there is another belief system in India which believes a widow to be bad luck as in some of the communities even today a widow is not allowed to attend marriage or any other occasions, she is made to confine herself to a particular room or place and even given different utensils for her use. It has been a utter shock to know that the tradition of shaving a widow after her husband's death is even practiced even today in some of the communities. The above discussion on sati pratha also highlights the need for a woman to perform various vrats for long life of her husband whereas a husband is never obliged to keep these vrats for her wife or family, which

¹⁹⁵³ Hawley, J., 1994. *Sati, The Blessing And The Curse*. New York: Oxford University Press.

brings to light how gender biased these laws and customs actually are.

In some parts of Haryana and Punjab a ceremony known as Karewa or chaddar-dalna or chaddar-andazi. It was primarily exercised among the Jats who married their deceased brother's widow to uphold the name of the family. In Karewa the ceremony was not accompanied by any religious ritual. A white sheet or red sheet (generally a phulkari) was thrown over the widow's head by a man which was enough to signify his acceptance of her as his wife. This ceremony was not necessarily needed to be made public. The wearing of a red sheet and of colored bangles would by itself signify the consummation of marriage. The women had no right to exercise her options. The children of such marriage were regarded as legal heirs.¹⁹⁵⁴ The practice of widow-remarriage among the Jats should be understood as closely linked up with the idea that the landed property remain within the family and woman's productive and reproductive potential was not allowed to go waste especially when there was adverse female/ male sex ratio.¹⁹⁵⁵

4. A COMPARITIVE ANALYSIS OF WIDOWHOOD IN KENYA AND INDIA:

As the widowhood rituals of the two countries are highlighted in above discussions and it has been observed that both have their own rituals and traditions with some similar ideologies and some different ideologies, and in an attempt to have a comparative study of the two nations we would have a study on three grounds that is based on their origin, practices and rational given behind such practices.

While the comparing the origin of the various practices related to widowhood in Kenya and India it can be seen that in both cases there is no exact or accurate mention of these practices and traditions in any reliable source of

knowledge. While studying the Kenyan case (including other parts of Africa) it can be seen there is no mention of such practices in these text books because there is not even any acknowledgement of the work of African woman in their historical textbooks as women are given a very low status in this country and while finding the origin of sati pratha in India it has become evident that there is no mention of Sati in any of the Vedas or 3 famous epics of Hindu mythology, though there is mention of certain other traditions such as celibacy for widow in some of the latter scriptures or shastras translated by humans but it has to be taken into considerations that those customs are not obligatory they only are optional for a woman but the way it is today it can be seen that these customs are forced upon the widow by others which include mainly her family. As is the case in both these countries patriarchy has been dominant and all the widowhood rites are only limited to woman only and no such harsh or dehumanizing rituals are mentioned for a widower which bring the gender biasness of both the countries because of which it becomes irrational to think that this rituals are for the betterment of the society as a society in which the man and woman are given rights and duties can only progress but in these rites there is nothing seen as equal or justifying as all of these are inclined towards male superiority it becomes more easy to scrap out these rituals as there is no origin for the widowhood rites followed in both the countries.

Secondly when we compare or analyses the practices followed by different groups in these 2 countries collectively, we draw a similarity in most of the rituals followed in these countries are almost same, while there is still a huge difference in some of the rituals like that of widow cleansing in Kenya and sati pratha. The similar practices followed in these countries include the custom of celibacy by women, her being secluded from others, shaving of head in some communities, wearing only one color i.e., black and white for Kenya and India respectively. Also the custom of marry the

¹⁹⁵⁴ Om Prakash Aggarwal, A Treatise on Customary Law in the Punjab

¹⁹⁵⁵ Sharma, Harish C. "CUSTOM, LAW AND THE WOMEN IN THE COLONIAL PUNJAB." Proceedings of the Indian History Congress 62 (2001)

brother of husband after the husband dies is common in both the cases and also the reason for which these custom is followed i.e., to keep the inherited property in the family only is also similar in between some of the communities of these countries.

Thirdly a comparison between the ideologies will be presented in this part which is the most important part when you compare two customs. Starting with Kenya the Kenyan ideology behind these rituals and customs lies in the superstitious beliefs of the communities, though there is a difference in the beliefs in the communities as well but a basic idea is that related to ghosts and spiritual beliefs. The people think that a spirit will haunt the widow and to save her from the spirit these traditions are followed. Also there is and another group which beliefs the widow guilty of her husband's death and thus to prove her innocence a widow has to undergo these customs. While in the Indian context the Sati pratha was followed to wash the sins of the husband by burning the widow on the funeral pyre which is very different from the ideology followed in Kenya. There is also a concurrence of ideology between these two different traditions in some customs which are the celibacy of widow, her being dissocialized from the outside world, cloths they were, shaving of head and all other similar traditions which they follow so as to bring out and show the society that the women has a grief over her husband's death. Whatever be the ideology be given by this communities but the picture turns out be different from another perspective which is that so that the family member of the husband after the husband's death can overpower the widow or have and upper hand or a control over her so that she does not demand her rights over the property or any valuable thing. This is why they are not given proper inheritance rights in the family too. This can be proved by the ceremony of marrying the widow to her brother-in-law in some of the communities of both the countries so that the property inherited remains in the family itself.

5. CURRENT STATUS OF WIDOWS IN INDIA AND KENYA:INDIA:

In India sati was made illegal in 1829, social reformers such as Ram Mohan Roy, ultimately led the British Governor-General of India Lord William Bentinck to enact the Bengal Sati Regulation, 1829, declaring the practice of burning or burying alive of Hindu widows to be punishable by the criminal courts. These were followed up with other legislation, countering what the British perceived to be interrelated issues involving violence against Hindu women, including: Hindu Widows' Remarriage Act, 1856, Female Infanticide Prevention Act, 1870, and Age of Consent Act, 1891. Which were initially opposed by various Hindu communities as they considered it as an interference of EIC in their religious rites. Also the government of India after independence brought legislation against the practice of sati in 1987 as Sati (Prevention) Act, 1987 with the enactment of The Commission of Sati (Prevention) Act, 1987 in 1988. The Act seeks to prevent sati, the practice of voluntary or forced burning or burying alive of a widow, and to prohibit glorification of this action through the observance of any ceremony, participation in any procession, creation of a financial trust, construction of a temple, or any actions to commemorate or honor the memory of a widow who committed sati. But even in the 21st century the cases of sati were reported, in a recent incident where Lalmati aged seventy-one, resident of Chechar village in the Raipur district in Chhattisgarh, had come to the funeral pyre of her husband Shivnandan Verma, and dressed in a new sari. When the husband's body had been almost burnt and the villagers were about to leave, Lalmati jumped into the pyre and was reduced to ashes in moments. It is yet not known whether Lalmati chose to do this voluntarily or was pushed by someone. A police case has been registered and investigation is ongoing. But the incident is a glaring example of how such incidents continue to occur in rural

India.¹⁹⁵⁶ Besides from sati practice the other practices which are still present in the Indian societies where women are still forced to leave their houses after the husband's death because of which many women have to leave the house and take asylum in shelter homes. As per a report around 40 million widows are turned out of their houses violently each year. In an interview Nirmala Maheshwari, a widow, said she was abused by her family after her husband died. Ms. Maheshwari said she had lost her social value in the eyes of her family, and her son and other relatives starved and beat her, because of which she had to leave her house.¹⁹⁵⁷ Besides these violent actions against these women do not prefer to file a case against such people as if the case will be filled, they will be given justice if their claim is proved as India has many laws which can save such women from these actions of domestic violence. Apart from these, many trivial acts of not wearing jewelry and wearing plain clothes are most commonly followed by women themselves because of the social stigma attached with widowhood.

KENYA AND OTHER AFRICAN NATION:

Though sexual cleansing process was outlawed by Kenya in 2015 by the domestic offence bill there are many other customs which have still not been given illegal status. There are some states of Nigeria like Enugu, Edo and Oyo state have passed laws against punitive widowhood rites, but mourning still exists there.¹⁹⁵⁸ While there are still laws at the international, regional, and national levels to address gender inequality, women have continued to face discriminatory practices in almost every facet of human endeavor. Under the African Charter, Article 5 recognizes an individual's right to dignity. It provides that 'Every individual shall have the right to the respect of the dignity inherent in a

human to the recognition of his legal status'. It further prohibits all forms of cruel, inhuman, and degrading treatment against any human being. Also, Article 3 of the African Women's Protocol guarantees women's rights to human dignity. It provides that 'Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights'. Article 3 further provides that 'Every woman shall have the right to respect as a person and to the free development of her personality'. The African Commission on Human and People's Rights (African Commission) in *Curtis Francis Doebbler v Sudan*¹⁴ has given a broad interpretation to the legal obligations imposed by Article 5 of the African Charter on states. Even Article 21 of the African Women's Protocol provides that widows shall have the right to an equitable share in the inheritance of the property of their husbands.¹⁹⁵⁹ Even after the existence of these many laws and statutes women still face oppression in the African society due to the patriarchal structure and lack of education amongst the women because of which they do not even try to revolt against these customs and a shocking sight is seen when we come to know that all these customs are administered by widows who have suffered all these customs in their time, which is significant to show the reason for which such practices are still existent in Kenya.

6. CONCLUSION:

After having studied and mentioned all the important aspects of widowhood rites in India and Kenya a point can be made that these widowhood rites are no good for a widow instead these dehumanizing practices which we 21st century human beings still believe. Moreover, these rites are not harmful and traumatizing for a widow who has just lost her better half and also in many cases a sole bread earner has to undergo these customs as well to appease the society so that they do not boycott her. The widows in both the countries are subjected to a

¹⁹⁵⁶ Ahmad, D., 2009. *Sati Tradition - Widow Burning In India: A Socio-Legal Examination*.

¹⁹⁵⁷ Schultz, K., 2019. *India's Widows, Abused At Home, Have Sought Refuge In This Holy City For Centuries* (Published 2019). [online] Nytimes.com

¹⁹⁵⁸ Refugees, U., 2005. *Refworld | Nigeria: Ritual Whereby A Widow Drinks The Water Used To Clean Her Husband's Corpse; Consequences For A Widow's Refusal To Drink The Water; Whether A Widow's Refusal Is Interpreted By Others As Responsibility For Her Husband's Death*. [online] Refworld

¹⁹⁵⁹ Durojaye, E., 2013. 'Woman, But Not Human': Widowhood Practices and Human Rights Violations in Nigeria. *International Journal of Law, Policy and the Family*

numerous customs and practices which mainly included Sati in India and widow cleansing in Kenya which though now are made illegal and outlawed but still there were many cases of these practices even reported or heard in modern era. There to be a custom is a different thing and the custom being morally right is a different thing. While in both the countries there is provision for making customs law but it is to be taken into consideration the normal jurisprudence which says that to adopt a consideration it is important that the custom is morally right and does not cause injustice to others. Further while studying the conditions of widows in the two countries it becomes equally important to also take into consideration the condition of woman and girls to in the countries which will help us to know the reason for such customs in these societies. The lack of education amongst woman is the foremost reason for such condition for widows and even woman in both the countries. Education is not preferred for girls even today in both countries who make them unworthy of any jobs and thus, they face financial problems because of which widows have to obey all the customs and rituals to survive. To uplift the status of widow it is foremost important that the woman become self-reliant and independent so that they need not too dependent on any other person and that will be in true sense woman empowerment. The lack of education is considered a cause for deteriorating conditions of widow because it is noticed that these rituals are followed mostly in all cases in backward uneducated and orthodox communities where woman are not given equal status than that of a man and while where the woman are independent and self-reliant, they do not follow these rituals and also are not afraid of opposing the community belief. Thus if we want to uplift the status of woman, we need to empower them by giving equal rights which will help them to become self-reliant and independent, the effect of which is seen in the Indian society where steps are taken to give woman equal rights which is eventually helping Indian woman to make her

own way gradually.

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