

WITCH HUNTING IN INDIA

By Jyoti Sharma

From Bhagat Phool Singh Mahila Vishwavidyalaya, Haryana

India is a developing nation where science and technology play an integral part in development. Along with this, Constitution of India guarantees protection to life and personal liberty to each and every one and provides adequate standards of safeguarding fundamental rights of people. In the present era, in spite of the enriched scientific, technological and developmental roadmaps and also the constitutional provisions, superstitious practices like witch hunting¹ prevail in the rural and tribal areas across the country, wherein there is absolute necessity of economic development, social and economic infrastructure, visualizing killing of a person into a

sacred act. Witch hunting is an age-old concept in India², still in practice in some states like Bihar³, Jharkhand⁴, Chhattisgarh⁵, Odisha⁶, Maharashtra⁷, Rajasthan⁸, Assam⁹, Madhya Pradesh, Andhra Pradesh, Gujarat, West Bengal and Haryana out of which only seven states have passed a legislation to tackle the problem of witch hunting. There is also a bill¹⁰ drafted by the legal team of HRDI¹¹ which is still pending unveils the miserable reality of today's society.

The concept of witch hunting initially aroused in Europe and till date, it is being continued with tragic consequences. In early Europe, the woman who was against the church were considered as witches, were regarded as one who brings misfortune and thus to protect the society those women were burnt. Later on, women were held responsible for all the calamities let it be famine, flood, and epidemic diseases which caused the death of livestock. And the only solution of

¹Witch hunting is a combination of religious practices, superstitious beliefs, and patriarchal norms results in women being accused of witchcraft. Witch hunting is widely seen to be used as a tool for suppressing women, their rights and to gain personal interest over theirs.

² It emerged in the Morigaon district of Assam, widely famous in the name of 'Indian Capital of Black Magic'. People come from distant or remote areas to learn the art of witchcraft. It is among one of the burning issues where predominantly women are the victims of this heinous crime.

³ Bihar's Prevention of Witch (Daain) Practices Act (1999)

⁴ Anti-Witchcraft Prevention Act, 2001

⁵ Chhattisgarh's TonahiPratadnaNivaran Act of 2005

⁶ Odisha Prevention of Witch-Hunting Bill, 2013

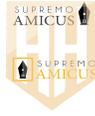
⁷ The Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013

⁸ The Rajasthan Prevention of Witch-Hunting Act, 2015

⁹ Assam Witch Hunting (Prohibition, Prevention, and Protection) Bill, 2015

¹⁰ The Prevention and Protection of Witch Hunting Bill, 2013. Bill to provide more effective measures to prevent and protect the women from witch hunt practices and to eliminate their torture, oppression, humiliation, and killing by the society by trial of offenses related to witch hunt practices and providing for punishment and, for the relief and rehabilitation of women victim of such offenses

¹¹ Human Rights Defence International, lead by Dr. Alok Sharma, Advocate JyotikaKalra, and Dr. Padmini Singh



coming out from this dismay was by killing them who was responsible for it.¹²

I have grown up in a state¹³ where schemes like 'Beti Bachao Beti Padhao (Save Girl Child, Educate Girl Child)¹⁴' are being introduced in the 21st century. With my own experience of being a woman in one of the patriarchal states of India, I very much empathize with the women across the states, what it feels like when one is aware of one's rights however claiming the same can land one in big troubles like acid attack or rape or also many a times branded as witches. Although education is a key to success and development, yet all this leads to further problems for women in even having access to education in the context of Haryana. Today, the female literacy levels in Haryana¹⁵ are 65.94% whereas the male literacy rate is 84.06%.¹⁶ In fact, people believe that more the education, higher the chances of disruptive marriage and family for women. It is quite hard to make people understand the importance of education where they still have faith in superstitious practices¹⁷ like witchcraft.

People believe that women with evil powers are responsible for all the natural calamities and epidemic diseases. Women are branded as 'witches' or 'daayan' and are seen as well versed in performing black magic and consequentially may also be socially boycotted and outcasted by seizing their rights such as the right to property. The women who are categorized as 'Witches' are exposed to innumerable torture, beatings, coercively marched naked throughout the village, even forced to eat human excrement and depressingly sometimes even raped and killed. There are numerous cases which reflect upon this form of violence which goes unrecognized. Violence may include cutting of hair or body parts, pulling of teeth, hurling abuses. Witch hunting is widely seen to be used as a pretext for suppressing women and gaining personal interest.

In the tribal villages, due to unavailability of good doctors and health facilities, people rely on ojhas¹⁸. The village 'ojhas' swank their powers to detect a witch for a minimal price. If a woman rejects the sexual advances of powerful men or refuses to relinquish claim over her husband's property, she can be branded

¹²Everything you want to know about laws which prevent witch hunting in India, ipleaders, (Dec 27, 2017), <https://blog.ipleaders.in/laws-which-prevent-witch-hunting-in-india/>

¹³ Haryana, India

¹⁴A scheme viewed to bring gender equity in the society to uplift the position of the girl child and to put an end to disruptive practices like female foeticide. It will be effective only if implemented with dedication and diligence.

¹⁵ According to the Literacy Rate 2011 Census

¹⁶ Haryana Population Census data 2011, Census 2011, (Jan 7, 2017) <http://www.census2011.co.in/census/state/haryana.html>

¹⁷ People still have belief in 'Baba Ki Maafi' (Spiritual Leader Ram Rahim Case, Haryana, 2017) wherein the name of religious practices women were being sexually harassed and forced to meet the sexual pleasure of the leader and denying it would let one remain impure.

¹⁸ 'Bhej' or 'witch doctor' (known as 'sorcerers' or 'wizard')



as a witch to rip her off her property.¹⁹ This is the easiest way to appropriate someone’s property by murdering them which is not even recognized as an offense due to the dearth of any proof or witness²⁰. Women are branded as witches for economic gain or sexual vengeance. Patriarchal attitudes, opposition to women’s rights over the property²¹ as well as the inadequacy of education contributes to the continuance of such derogatory practices.

Provisions in Indian Constitution:The Constitution of India guarantees the protection of women and provides various safeguards and indirect relief to the survivors of witch hunting incidents.

S.No	Article	Case Laws
1.	Article 14: The State shall not deny to any person equality before the law or the	In case of Air India v. NargeshMeerza ²² , NargeshMeerza filed a writ petition. In this case, the air-

equal protection of the laws within the territory of India.	<p>Article 15(1): The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or place of birth or any of them.</p>	<p>hostesses of the Air-India International Corporation had approached the Supreme Court against, again, discriminatory service conditions in the Regulations' of Air-India. The Regulations provide that an air-hostess could not get married before completing four-years of service. If she married earlier, she had to resign and if after 23 years she got married, she could continue as a married woman but had to resign</p>
---	--	--

¹⁹Prem Choudhry, *The Veiled Women: Shifting Gender Equations in Rural Haryana, 1880-1990*, Oxford University Press, 1994

²⁰ In the case of **Tula Devi&Ors. v. State of Jharkhand, 2006 (3) JCR 222**, the Jharkhand High Court dismissed the case on the basis that the victim has failed to prove that she was accused of being a witch and harmed, due to lack of eyewitness available at the time. In **Madhu Munda v. State of Bihar,2003 (3) JCR 156**, there are very few incidents which are reported and that too after a long gap, due to societal pressure and lack of legal awareness among people, making the witness testimony unreliable, which was one of

the ground ground for not convicting the accused in this case.

²¹In **Madhukishwar v. State of Bihar, ((1996) 5 SCC 125)** the supreme court held that denial of right of succession to women of Scheduled Tribes amounts to deprivation of their right to livelihood under article 21;

An amendment to The Hindu Succession Act, 1956 in 2005 was indeed a progressive step towards equality between male and female, and making daughters coparceners equally with sons, providing equal birthright to a share in the parents’ property.

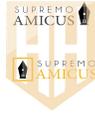
²²(1981) 4 SCC 335



		<p>on becoming pregnant. If an air hostess survived both these filters, she 'continued to serve until she reached the age of 35 years. It was alleged on behalf of the air-hostesses that those provisions were discriminatory on the ground of sex, as similar provisions did not apply to male employees doing similar work. The Supreme Court struck down the Air-India Regulations relating to retirement and the pregnancy bar on the services of Air-hostesses as unconstitutional on the ground that the conditions laid down therein were entirely</p>		<p>2. Article 15(3): Nothing in this article shall prevent the State from making any special provision for women and children</p>	<p>unreasonable and arbitrary.</p> <p>The Supreme Court in Govt. of A.P. v. P.B. Vijayakumar²³, held that reservation to the extent of 30% made in the State Services by the Andhra Pradesh Government for women candidates was valid. The Division Bench of the Supreme Court emphatically declared that the power conferred upon the State by Article 15(3) is wide enough to cover the entire range of State activity including employment under the State.</p>
		<p>were entirely</p>	<p>3</p>	<p>Article 21: No person shall</p>	<p>In Madhukishwar v. State of Bihar²⁴, the supreme</p>

²³1995 (4) SCC 520

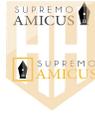
²⁴(1196) 5 SCC 125



	<p>be deprived of his life or personal liberty except according to procedure established by law.</p>	<p>court held that denial of right of succession to women of Scheduled Tribes amounts to deprivation of their right to livelihood under article 21; In Vishaka v. State of Rajasthan²⁵, the Supreme Court, in the absence of legislation in the field of sexual harassment of working women at their place of work, formulated guidelines for their protection. The Court said: "Gender equality includes protection from sexual harassment and right to work with dignity which is a universally recognised basic human right.</p>		<p>trafficking in human beings and forced labour.</p>	<p>the condition of prostitutes in general and the plight of their children, in particular, was highlighted. The Court issued directions for a multi-pronged approach and mixing the children of prostitutes with other children instead of making separate provisions for them. The Supreme Court issued directions for the prevention of induction of women in various forms of prostitution. It said that women should be viewed more as victims of adverse socio-economic circumstances than offenders in our society.</p>
<p>4.</p>	<p>Article 23: Prohibition of</p>	<p>In Gaurav Jain v. Union of India²⁶,</p>			

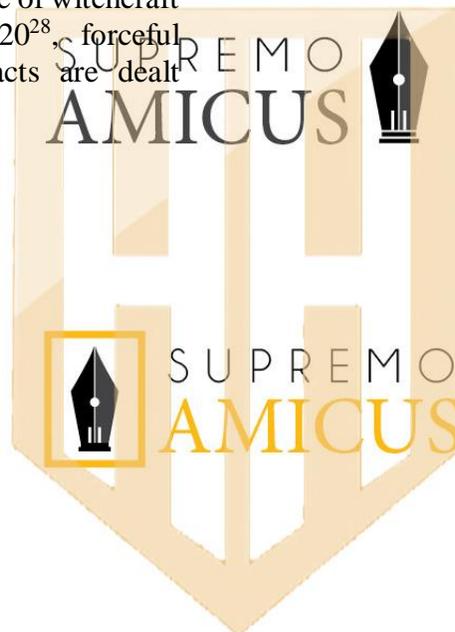
²⁵AIR 1997 SC 3011

²⁶1997 (8) SCC 114



Provisions in Indian Penal Code:

Indian Penal Code provides a certain provision against the perpetrators of witch hunting in different states across the country, where the states do not have any provisions or laws against this rising problem in order to provide relief to the victim and punishment to the accused. It responds to the threat, violence, intimidation, physical abuses and murder. The sections which deal with the registration of cases of witch hunting are, an act of murder in the name of witchcraft under Sec 302²⁷, Sec 320²⁸, forceful disrobing and parading acts are dealt



²⁷**Punishment for murder**— Whoever commits murder shall be punished with death or imprisonment for life, and shall also be liable to fine.

²⁸**Grievous Hurt**—The following kinds of hurt only are designated as “grievous”:
 First—Emasculation.
 Secondly—Permanent privation of the sight of either eye.
 Thirdly—Permanent privation of the hearing of either ear.
 Fourthly—Privation of any member or joint.

Fifthly—Destruction or permanent impairing of the powers of any member or joint.
 Sixthly—Permanent disfiguration of the head or face.
 Seventhly—Fracture or dislocation of a bone or tooth.
 Eighthly—Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.



under Sec 323²⁹, Sec 351³⁰, Sec 354³¹, Sec 364a³², Sec 376³³, Sec 503³⁴.

Notwithstanding the constitutional provisions³⁵, penal provisions, Covenants and declarations³⁶, Statutes³⁷ for the

safety of women, disparaging practices are still prevailing and violating women's right to live a dignified life³⁸. These practices are harming the dignity of women by violating their right to live a dignified life. Where the fault lies?

²⁹**Punishment for voluntarily causing hurt—**Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

³⁰**Assault—**Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

³¹**Assault or criminal force to woman with intent to outrage her modesty—**Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, [shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine].

³²**Kidnapping for ransom, etc.—**Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction, and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or [any foreign State or international inter-governmental organisation or any other person] to do or abstain from doing any act or to pay a ransom, shall be punishable

with death, or imprisonment for life, and shall also be liable to fine.]

³³**Punishment for rape—**Whoever, except in the cases provided for in sub-section (2) of Sec 376, commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

³⁴**Criminal intimidation—**Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

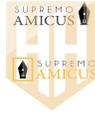
Explanation—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

³⁵ Art 14, 15(1), 15(3), 21, 23, 39(a), 39(d), 42, 51(A) (e) of Indian Constitution

³⁶The Universal Declaration of Human Rights (UDHR), 1948; The International Covenant on Civil and Political Rights (ICCPR), 1966; The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

³⁷The Family Courts Act, 1954; Immoral Traffic (Prevention) Act, 1956; The Maternity Benefit Act, 1961 (Amended in 1995); Dowry Prohibition Act, 1961; The Medical Termination of Pregnancy Act, 1971.

³⁸ Art 21: Right to life also includes right to live with dignity.



Apart from the legislation for the protection of women, there are some international as well as national agencies working for the safety and promotion of women's dignity.

Numerous International Human Rights organization are currently active to eliminate the scourge of witch-hunting across the world such as United Nations Special Rapporteur on Violence Against Women, the United Nations Special Rapporteur on Extra-Judicial Killings, UNHCR³⁹, UNICEF⁴⁰, the European Parliament, etc. CVICT⁴¹, FWLD⁴², and INSEC⁴³ are some of the organizations active in Nepal. CRARN⁴⁴ is another Nigeria-based NGO which educates people about the witchcraft epidemic. Another such organization working in this field is Human Rights Watch⁴⁵ a nonprofit, nongovernmental human rights organization.⁴⁶

At the National level, there are several agencies working for the upliftment of women in claiming their rights and entitlements.

All-India Democratic Women's Association (AIDWA)

It addresses the problems of women from a gender perspective and facilitates access to justice to the women. AIDWA works for the equal rights for women of all communities. AIDWA believes that the emancipation of women in India requires fundamental systemic change. Women's concern is thus an integral part of a larger socio-political and economic system and cannot be addressed in isolation or only within the framework of the male-female relationship.⁴⁷

Centre for Alternative Dalit Media (CADAM)⁴⁸

CADAM vision is to build an enlightened society. It highlights the violence against the women especially Dalit women who are widely exploited. In its report on "Violence against Dalit Women in Different States of India by studying the Sources of Materials that are Available and Conducting Interview of the Perpetrators, Victims and Witnesses"⁴⁹ it was suggested that "The practice of witch

³⁹ United Nations High Commissioner for Refugees, (Jan 4, 2018) <http://www.unhcr.org/>

⁴⁰ United Nations Children's Fund, (Jan 4, 2018) <http://unicef.in/>

⁴¹ Centre For Victims of Torture, Nepal, (Jan 4, 2018) <http://cvict.org.np/>

⁴² Forum for women, Law and Development-Working for Non-Discrimination and Equality, (Jan 4, 2018) <http://fwld.org/>

⁴³ INSEC Online Human Rights A WINDOW TO NEPAL, (Jan 4, 2018) <http://inseconline.org/en/>

⁴⁴ Child's Right and Rehabilitation Network, (Jan 4, 2018) <http://www.crarn.net/>

⁴⁵ Human Rights Watch; <https://www.hrw.org/>

⁴⁶ Efforts of governmental and non-governmental agencies, Shodhganga, (Jan 4, 2018) <http://shodhganga.inflibnet.ac.in/bitstream/10603/152219/3/12%20chapter%205.pdf>

⁴⁷ What is AIDWA'S Perspective of Women's Oppression?, All India Democratic Women's Association, (Jan 5, 2018) <http://aidwaonline.org/post/what-is-aidwas-perspective-of-womens-oppression>

⁴⁸ Centre for Alternative Dalit Media, (Jan 6, 2018) <http://www.cadam.org/in/>

⁴⁹ Research Study on Violence against Dalit Women in Different States of India by studying



hunting in India is more prominent among the socially educationally excluded Dalits and Adivasis who usually inhabit the secluded areas within the country characterized by limited access to livelihood opportunities.”

Partners for Law in Development (PLD)⁵⁰

It is a legal resource group, which is committed to the realization of social justice and equality for women. PLD has been involved in capacity development on human rights and women’s equality through training programmes, perspective development, information dissemination, and platforms for sharing and exchange. Partners for Law in Development (PLD) conducted a field study in three states, Jharkhand, Bihar and Chhattisgarh, with support from the Ministry of Women and Child

Development (MWCD) to document and analyze trends in the contemporary practices of witch hunting as well as their interface with the law.⁵¹

People’s Vigilance Committee on Human Rights (PVCHR)⁵²

It is an Uttar Pradesh based organization which endeavors to provide psychological support to the witch-hunting victims through testimonial therapy⁵³. It aims at rehabilitating the survivors of witch hunting by organizing honor ceremonies from time to time. On the behalf of the PVCHR, a letter was written to Prime Minister to frame the national legislation on Witch Hunting and awareness program must be conducted in rural and tribal areas.⁵⁴

Rural Litigation and Entitlement Kendra (RLEK)⁵⁵

It works to enhance the status of women in social, economic, and political spheres

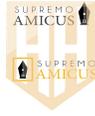
the Sources of Materials that are Available and Conducting Interview of the Perpetrators, Victims and Witnesses, Centre for Alternative Dalit Media (CADAM) New Delhi, NCW, (Jan 6, 2018)
<http://ncw.nic.in/pdfReports/ViolenceagainstDalitWomen.pdf>

⁵⁰ Partners for Law in Development, (Jan 5, 2018), <http://pldindia.org/>
⁵¹Contemporary Practices of Witch Hunting :A Report on Social Trends and the Interface with Law, (Jan 5, 2018), <https://www.academia.edu/15475888/Contemporary Practices of Witch Hunting A report on Social Trends and the Interface with Law>

⁵²People’s Vigilance Committee on Human Rights, (Jan 6, 2018), <http://pvchr.asia/>
⁵³Testimonial therapy is an individual psychotherapy method for survivors of human rights violations. It is a brief psycho-legal approach to trauma, which involves the narration of survivors’ traumatic experiences. Source:
<http://journals.sagepub.com/doi/pdf/10.1177/1363461512447138>

⁵⁴Witch Hunting Presentation-PVCHR, PVCHR, (Jan 6, 2018), <http://pvchr.asia/?page=42>

⁵⁵Rural Litigation Entitlement Kendra <http://www.rlek.org/>



through a process, which aims at changing the nature and direction of the systemic forces that marginalize women and other disadvantaged groups.

Reports of witch hunting—Stark Reality

For those who think witch-hunts are a thing of the past in India, here is the stark reality.

The National Crime Records Bureau says 2,097 murders were committed between 2000 and 2012 where witch hunting was the motive. Out of these, 363 were reported from Jharkhand and this figure does not include the murders in 2000 when Jharkhand was a part of Bihar.⁵⁶ Jharkhand ranks highest in these crimes against women (and in certain cases, also men and child victims) in which “witchcraft” is the only charge against the victims. Other states such as Chhattisgarh, Rajasthan, Assam and Bihar also report witch-hunting deaths, though under-reported. An analysis of NCRB data between 2010 and 2012 reveals that while there were 77 instances of death, only nine cases were registered in Jharkhand. The figures also don’t take into account other kinds of “vengeance” exacted by a village, like forcing the victim to parade naked in the village

square, to eat faeces, banishment and ostracisation; none of these acts of violence warrants police action.⁵⁷

National Crime Records Bureau (NCRB) data state that 26, 54 and 47 cases were reported in Jharkhand in 2012, 2013 and 2014 respectively in the name of “murder for witchcraft”. NCRB data for 2014 reveals that tribal-dominated Jharkhand accounted for over 30% of ‘murders for witchcraft’ in India. Jharkhand reported 156 murders followed by Odisha with 32, Madhya Pradesh with 24, and Chhattisgarh with 16.⁵⁸

In Chhattisgarh, there were 1500 witch trials and 210 associated murders between 2001 and 2013. Often, the attacks are just an excuse for some form of discrimination or denial of rights.⁵⁹ National Crime Records Bureau Report 2010 says Haryana contributed 32.0% of murders due to ‘Witchcraft’, and the bureau’s 2012 report Crimes in India says Odisha accounted for 26.9% of murders due to ‘witchcraft’. Under culpable homicide not amounting to murder Odisha accounted for 75.0% cases due to ‘Witchcraft’.⁶⁰

⁵⁶Witch hunting | Victims of superstition, Livemint,(Dec 29, 2018),

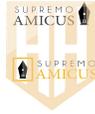
<http://www.livemint.com/Politics/Nnluhl4wjhiAAUklQwDtOL/Witch-hunting--Victims-of-superstition.html>

⁵⁷ Patriarchy And Superstitions In Rural India Continue To Cause Death Of Women Branded As ‘Witches’, The Logical Indian, (Dec 29, 2018), <https://thelogicalindian.com/story-feed/awareness/witches/>

⁵⁸Witch hunts killed 156 in India in 2014, The Times of India, (Dec 25, 2018), <https://timesofindia.indiatimes.com/india/Witch-hunts-killed-156-in-India-in-2014/articleshow/51434574.cms>

⁵⁹Why India struggles to tackle 'witch-hunting', DW Made for Minds, (Dec 29, 2018), <http://www.dw.com/en/why-india-struggles-to-tackle-witch-hunting/a-18603450>

⁶⁰ Witch Hunting On The Rise Across Several Indian States; India times; (Dec 29, 2018), <https://www.indiatimes.com/news/india/witch->



CONCLUSION

Seeing this stark reality and absence of legislation, there is an **urgent requirement of national legislation with strict implementation and enforcement** to address this issue, including strict punishment provisions for the violators. One more aspect which needs attention is the working of police officials. This practice is woven with major legal and social issues, and transgression of Human Rights needs adequate consideration and attentiveness. To approach the matter with sensitivity and care, **rehabilitation centers** should be the call for the survivors of witch hunting. For the efficiency of law, it is required that people should be aware of the laws which are binding on them. With the enactment, it must be the duty of the state to ensure that people are well versed with the availability of Law, under which victims can seek protection without any fear. Sensitization is required among the masses, and vulnerable groups must be provided with the legal education, aid and protection to which they are entitled. With new scientific developments, people need to realize the fallacy of superstitious beliefs and disruptive customary practices curtailing women's rights, and this will surely provide a way to enjoyment of rights and entitlements by women's independently.
