

The Commission of Sati (Prevention) Act, 1987

(No.3 of 1988)

An Act to provide for the more effective prevention of the commission of sati and its glorification and for matters connected herewith or incidental thereto.

Whereas sati or the burning or burying alive of widows or women is revolting to the feelings of human nature and is nowhere enjoyed by any of the religions of the India as an imperative duty;

And whereas it is necessary to take more effective measures to prevent the commission of sati and its glorification:

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:

PART I Preliminary

1.Short Title, Extent and Commencement:

- (1) This Act may be called the Commission of Sati (Prevention) Act, 1987.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force in a State on such date as the Central Government may, by notification in the official Gazette, appoint, and different dates may be appointed for different States.

2. Definitions:

- (1) In this Act, unless the context otherwise requires -
 - (a) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);
 - (b) "Glorification", in relation to sati, whether such sati, was committed before or after the commencement of this Act, includes, among other things;
 - (i) The observance of any ceremony or the taking out of a procession in connection with the commission of sati; or

- (ii) The supporting, justifying or propagating the practice of sati in any manner; or
 - (iii) The arranging of any function to eulogise the person who has committed sati, or
 - (iv) The creation of a trust, or the collection of funds, or the construction of a temple or other structure or the carrying on of any form of worship or the performance of any ceremony thereat, with a view to perpetuate the honour of, or to preserve the memory of, a person who has committed sati;
- (c) "Sati" means the burning or burying alive of
- (i) Any widow along with the body of her deceased husband or any other relative or with any article, object or thing associated with the husband or such relative; or
 - (1) (ii) Any woman along with the body of any of her relatives, irrespective of whether such burning or burying is claimed to be voluntary on the part of the widow or the woman or otherwise.
- (d) "Special Court" means a specially constituted court under Section 9;
- (e) "Temple" includes any building or other structure, whether roofed or not, constructed or made to preserve the memory of a person in respect of whom sati has been committed or used or intended to be used for the carrying on of any form of worship or for the observance of any ceremony in connection with such commission.
- (2) Words and expressions used but not defined in this Act and defined in the Indian Penal Code (45 of 1860), or in the Code shall have the same meanings as are respectively assigned to them in the Indian Penal Code or

PART 11

Punishments for Offences Relating to Sati

3. Attempt to Commit sati : Notwithstanding anything contained in the Indian Penal Code (45 of 1860), whoever attempts to commit sati and does any act towards such commission shall be punishable with imprisonment for a term which may extend to one year or with fine or with both :

Provided that the Special Court trying an offence under this section shall, before convicting any person, take into consideration the circumstances leading to the commission of the offence, the act committed, the state of mind of the person charged of the offence at the time of the commission of the act and all other relevant factors.

4. Abetment of sati :

1. Notwithstanding anything contained in the Indian Penal Code (45 of 1860), if any person commits sati, whoever abets the commission of such sati, either directly or indirectly, shall be punishable with death or imprisonment for life and shall also be liable to fine.
2. If any person attempts to commit sati, whoever abets such attempt, either directly or indirectly, shall be punishable with imprisonment for life and shall also be liable to fine.

Explanation-For the purposes of this section, any of the following acts, or the like shall also be deemed to be an abetment, namely:

- (a) Any inducement to a widow or woman to get her burnt or buried alive along with the body of her deceased husband or with any other relative or with any article, object or thing associated with the husband or such relative irrespective of whether she is in a fit state of mind or is labouring under a state of intoxication or stupefaction or other cause impeding the exercise of her free will;
- (b) Making a widow or woman believe that the commission of sati would result in some spiritual benefit to her or her deceased husband or relative, or the general well being of the family;
- (c) Encouraging a widow or woman to remain fixed in her resolve to commit sati and thus instigating her to commit sati;
- (d) Participation in any procession in connection with the commission of sati or aiding the widow or woman in her decision to commit sati by taking her along with the body of her deceased husband or relative to the cremation or burial ground;

- (e) Being present at the place where sati is committed as an active participant to such commission or to any ceremony connected with it;
- (f) Preventing or obstructing the widow or woman from saving herself from being burnt or buried alive;
- (g) Obstructing or interfering with, the police in the discharge of its duties of taking any steps to prevent the commission of sati.

5. Punishment For Glorification of Sati : Whoever does any act for the glorification of sati shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and with fine which shall not be less than five thousand rupees but which may extend to thirty thousand rupees.

PART III

Powers of Collector or District Magistrate to Prevent Offences Relating to sati

6. Power to Prohibit Certain Acts:

- (1) Where the Collector or the District Magistrate is of the opinion that sati or any abetment thereof is being or is about to be committed, he may, by order, prohibit the doing of any act towards the commission of sati by any person in any area or areas specified in the order.
- (2) The Collector or the District Magistrate may also, by order, prohibit the glorification in any manner of sati by any person in any area or areas specified in the order.
- (3) Whoever contravenes any order made under sub-section (1) or sub-section (2) shall, if such contravention is not punishable under any other provision of this Act, be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and with fine which shall not be less than five thousand rupees but which may extend to thirty thousand rupees.

7. Power to Remove Certain Temples or Other Structures:

1. The State Government may, if it is satisfied that in any temple or other structure which has been in existence for not less than twenty years, any form of worship or the performance of any ceremony is carried on with a view to perpetuate the honour of, or to preserve the memory of, any person in respect of whom sati has been committed, by order, direct the removal of such temple or other structure.
2. The Collector or the District Magistrate may, if he is satisfied that in any temple or other structure, other than that referred to in sub-section (1), any form of worship or the performance of any ceremony is carried on, with a view to perpetuate the honour of, or to preserve the memory of, any person in respect of whom sati has been committed, by order, direct the removal of such temple or other structure.
3. Where any order under sub-section (1) or sub-section (2) is not complied with, the State Government or the Collector or the District Magistrate, as the case may be, shall cause the temple or other structure to be removed through a police officer not below the rank of a Sub-inspector at the cost of the defaulter.

8. Power to Seize Certain Properties:

1. Where the Collector or the District Magistrate has reason to believe that any funds or property have been collected or acquired for the purpose of glorification-of the commission of any sati or which may be found under circumstances which create suspicion of the commission of any offence under this Act, he may seize such funds or property.
2. Every Collector or District Magistrate acting under sub-section (1) shall report the seizure to the Special Court, if any, constituted to try any offence in relation to which such funds or property were collected or acquired and shall await the orders of such Special Court as to the disposal of the same.

PART IV Special Courts

9. Trial of Offences Under This Act:

1 . Notwithstanding anything contained in the Code, all offences under this Act shall be triable only by a Special Court constituted under this section.

2. The State Government shall, by notification in the official Gazette, constitute one or more Special Courts for the trial of offences under this Act and every Special Court shall exercise jurisdiction in respect of the whole or such part of the State as may be specified in the notification.

3. A Special Court shall be presided over by a Judge to be appointed by the State Government with the concurrence of the Chief Justice of the High Court.

4. A person shall not be qualified for appointment as a Judge of a Special Court unless he is, immediately before such appointment, a Sessions Judge or an Additional Sessions Judge in any State.

10. Special Public Prosecutors:

1. For every Special Court, the State Government shall appoint a person to be a Special Public Prosecutor.

2. A person shall be eligible to be appointed as a Special Public Prosecutor under this section only if he had been in practice as an advocate for not less than seven years or has held any post for a period of not less than seven years under the State requiring special knowledge of law.

3. Every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of Cl. (u) of Section 2 of the Code and the provisions of the Code shall have effect accordingly.

11. Procedure and Powers of Special Courts:

1. A Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence, or upon a police report of such facts.

2. Subject to the other provisions of this Act, a Special Court shall, for the purpose of the trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, so far as may be, in accordance with the procedure prescribed in the Code for trial before a Court of Session.

12. Power of Special Court With Respect to Other Offences:

1. When trying any offence under this Act, a Special Court may also try any other offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with such other offence.
2. If, in the course of any trial of any offence under this Act it is found that the accused person has committed any other offence under this Act or under any other law, a Special Court may convict such person also of such other offence and pass any sentence authorised by this Act or such other law for the punishment thereof.
3. In every inquiry or trial, the proceedings shall be held as expeditiously as possible, and, in particular, where the examination of witnesses has begun the same shall be continued from day to day until all the witnesses in attendance have been examined, and if any Special Court finds the adjournment of the same beyond the following date to be necessary, it shall record its reasons for doing so.

13. Forfeiture of Funds or Property : Where a person has been convicted of an offence under this Act, the Special Court trying such offence may, if it is considered necessary so to do, declare that any funds or property seized under Section 8 shall stand forfeited to the State.

14. Appeal :

1. Notwithstanding anything contained in the Code, an appeal shall lie as a matter of right from any judgement, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.
2. Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from : provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

PART V
Miscellaneous

15. Protection of Action Taken Under This Act. : No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or authority of the State Government for anything which is in good faith done or intended to be done in pursuance of this Act, or any rules or orders made under this Act.

16. Burden of Proof : Where any person is prosecuted of an offence under Section 4, the burden of proving that he had not committed the offence under the said section shall be on him.

17. Obligation of Certain Persons to Report About the Commission of Offence Under this Act:

1. All officers of Government are hereby required and empowered to assist the police in the execution of the provisions of this Act, or any rule or order made thereunder.

2. All village officers and such other officers as may be specified by the Collector or the District Magistrate in relation to any area and the inhabitants of such area shall, if they have reason to believe or have the knowledge that sati is about to be, or has been, committed in the area shall forthwith report such fact to the nearest police station.

3. Whoever contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

18. Person convicted of an Offence Under Section 4 to be Disqualified >From Inheriting Certain Properties : A person convicted of an offence under sub-section (1) of Section 4 in relation to the commission of sati shall be disqualified from inheriting the property of the person in respect of whom such sati has been committed or the property of any other person which he would have been entitled to inherit on the death of the person in respect of whom such sati has been committed.

19. Amendment of Act 43 of 1951.- In the Representation of the People Act, 1951:

(a) In Section 8, Sub-section (2), after the proviso, the following proviso shall be inserted, namely:

"Provided further that a person convicted by a Special Court for the contravention of any of the provisions of the Commission of Sati (Prevention) Act, 1987 shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of five years since his release.";

(b) In Section 123, after clause (3-A), the following clause shall be inserted, namely:

"(3-B) The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate."

Explanation--For the purposes of this clause, "sati" and "glorification" in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987.

20. Act to Have Overriding Effect : The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

21. Power to Make Rules:

1. The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

2. Every rule made under this section, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. Repeal of Existing Laws:

1. All laws in force in any State immediately before the commencement of this Act in that State which provide for the prevention or the glorification of sati shall, on such commencement, stand repealed.

2. Notwithstanding such repeal, anything done or any action taken under any law repealed under Sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of this Act, and, in particular, any case taken cognizance of by a Special Court under the provisions of any law so repealed and pending before it immediately before the commencement of this Act in that State shall continue to be dealt with by that Special Court after such commencement as if such Special Court had been constituted under Section 9 of this Act.

Commission of Sati (Prevention) Rules, 1988

G.S.R. 360 (E), dated 21st March, 1988.-In exercise of the powers conferred by Section 21 of the Commission of Sati (Prevention) Act, 1987 (3 of 1988), the Central Government hereby makes the following rules, namely:

1. Short Title and Commencement:

1. These rules may be called the Commission of Sati (Prevention) Rules, 1988.
2. They shall come into force on the date of their publication in the official Gazette.

2. Definitions:

1. In these rules, unless the context otherwise requires,:
 - (a) "Act" means the Commission of Sati (Prevention) Act, 1987 (3 of 1988);
 - (b) "Prohibitory order" means an order issued under Section 6;
 - (c) "Section" means section of the Act.
2. Words and expression used but not defined in these rules and defined in the Act, shall have the same meanings as are respectively assigned to them in the Act.

3. Delegation of Power to Prohibit Certain Acts, : The State Government may, by order and subject to such conditions as it may deem fit to impose, direct that the powers of the Collector or the District Magistrate under Section 6, may also be exercised by such other officers, not below the rank of the village officers.

4. Prohibitory Orders Under Section 6, how Made:

1. Every prohibitory order under Section 6 shall be made by beat of drum or other customary mode, in the concerned village, or in case of town or city, in the locality in which the act prohibited is likely to occur or has taken place.

2. The prohibitory order shall be displayed at some conspicuous place in the area or areas to which such acts relate and a copy thereof shall also be displayed in the office of the officer issuing the prohibitory order and such display shall be taken as a sufficient notice to all persons concerned in the area or areas to which such order relates.

5. Manner of Making Order for Removal of Temples or Structures Under Sub-section (1) of Section 7, :

1. Before making any order under Subsection (1) of Section 7, for removal of any temple or structure, the State Government or any other officer authorised by the State Government in this behalf, shall give at least ninety days notice to the person or persons involved in the acts complained of, and also to the owners and occupiers of the temple or structure proposed to be removed.

2. The notice under Sub-rule (1) shall specify-

(i) The temple/structure proposed to be removed, its location and other particulars,

ii) The owners/occupiers of the temple/structure, and

iii) The specific instance or instances of worship or ceremony contravening the provisions of Section 7,.

3. The Government or the officer authorised by the State Government in this behalf shall, after giving reasonable opportunity of being heard to the

persons specified in the notice, order the removal of the temple or structure through a police officer not below the rank of the Sub-inspector.

6. Manner of Making Order for Removal of Temples or Structures Under Sub-section (2) of Section 7-1.

1. After issue of a prohibitory order under Section 7, the Collector or the District Magistrate, or such other officer as directed by the State Government by order under rule 3 shall, before making any order or the removal of any temple or structure under Sub-section (2) of Section 7, gives at least ninety days notice to the person or persons involved in the acts complained of, and also to the owners and occupiers of the temple or structure proposed to be removed.

2. The Collector or the District Magistrate, or such other officer as directed by the State Government by order under rule 3, shall follow the provisions of Sub-rules (2) and (3) of rule 4 in the case of orders made under this rule.

7. Inventory and Forfeiture of the Property of Temple or Structure : As soon as the order of removal of the temple or structure is executed, the State Government or the Collector or the District Magistrate, or as the case may be, the officer as directed by the State Government by order under rule 3, shall prepare an inventory of all the material and other property obtained after removal of such temple or structure specifying in it the place where it is lodged or kept. And shall forward the intimation thereof to the Special Court for declaration for forfeiture of the said material or property to the State under Section 13, if the Special Court considers it necessary to do so and shall also give a copy of the inventory to the owners/occupiers of the temple/structure removed.

8. Commentary

Custom of Widow Burning : Max Muller gives references to the custom of widow burning among Greeks and Sythians. In the book of Peter Mundy, instance has been given of the burning of a widow at Surat in 1630 with a sketch of the burning widow having on her lap the head of her deceased husband. Similarly Barbosa, a Portugese traveller, described the burning of a sati in the Vijay Nagar kingdom. The practice of sati can be derived from ancient Greeks, Germans and other races but confined to princely castes. There is no Vedic passage which can be cited as incontrovertibly referring to widow burning as then current, nor there is any mantra which could be said to have been repeated in very ancient times at such burning nor do the ancient Grihasutras contain any direction prescribing the procedure of widow burning. It appears that the practice started in Brahmanical India a few centuries before Christ. None of the

Dharmasastras except Vishnu contain any reference to sati. The Manusmriti is entirely silent about it. It is stated in Strabo (XV.T. 30 and 62) that the Greeks under Alexander found sati practised among the Cathaei in Punjab. The Mahabharata is also very sparing in its reference to widow burning. Madri, the favourite wife of Pandu, burnt herself with her husband's body. In the Virataparva, Sairandhri was ordered to be burnt with Kicaka. The Mansala Parva (7.18) says that four wives of Vasudeva, viz Devaki, Bhadra, Rohini and Madira burnt themselves with him and that Rukmini, Gandhari, Saibya, Haimavati, Jambavati among the consorts of Krishna burnt themselves along with his body and other queens like Satyabhama went to a forest for tapa. The Vishnupurana also says that eight queens of Krishna, Rukmini and others, entered into fire on the death of Krishna. It appears that originally this practice was confined to Royal families and great warriors and even in India the cases of widow burning were rare. The text of Usanas says that a brahmana widow should not follow her husband on a separate funeral pyre. In the Ramayana (Uttarakhanda) there is reference to the self immolation of a brahmana woman (the wife of a Brahmarshi and mother of Vedavati, who when molested by Ravana burnt herself in fire). The Mahabharata on the other hand describes Kripi, the wife of Drona, the brahmana commander-in-chief of the Kauravas, appeared with dishevelled hair on the battlefield on the death of her husband, but does not say that she burnt herself. In the Kumarasambhavam (IV. 34) of Kalidasa, Rati, the wife of Kama who was burnt by Shiva, speaks of throwing herself into fire, but was held back by a heavenly voice. The Harsacharita describes how Yasomati, the chief queen of king PrabhakaraVardhana and mother of Harsha, consigned herself to fire when the king was dying. But this is not a proper case of sati, as she burnt herself before her husband died. The Bhagavatpurana (1, 13.57) speaks of Gandhari burning herself on the death of her husband, Dhritrashtra. The Rajatarangini cites at several places (Vol. VI, 107, 195; Vol. VII-103, 478) examples of sati.

In various epigraphic records reference is made to the practice of sati among the earliest is the one in 191 of the Gupta-era (510 AD). Even posthumous stone pillar inscription of Goparaja says that his wife accompanied him on the funeral pyre, when he was killed in the battle. There is Nepal inscription of 705 AD, where Rajyavati, widow of Dharmadeva, bids her son Mahadeva to take the reins of government that she may follow her husband; the Belatula inscription of saka 979 says of a sudra woman Dekabbe burnt herself on hearing of her husband's death inspite of strong opposition of her parents who then erected a stone monument of her; a grant was made in saka 1103 to a temple by Sinda Mahamandalesvara Racamalla on a request by two satis, widows of his general Beciraja Cedi; Samvat 919 refers to three queens becoming sati; the Tamara gets inscription of saka 1246 speaking of Manikyadevi as sati on the death of her husband Amana who was an officer of the king Harischandra; Mistra Deoli inscription in Jodhpur say of two queens of Gohila Rana becoming satis; there

are records of sati during the period saka 1362 and 1365. Among the well known examples of sati is that of Ramabai wife of Peshwa Madhavrao 1, in 1772 A.D. The Jauhar practised by the Rajput ladies of Chittor and other unspeakable atrocities at the hands of the victorious Muslims are too well known. The Rajatarangini VII 481 narrates how when the queen of king Ananta became a sati on her husband's death. Sati was not imposed, somehow grew and it is absolutely incorrect to say that it was imposed by men on women.

9. Practice of Sati : Then circumstances were different, the situations were different and there might be reasons also. The Sati practice might have been because of some sentiments, totally different suited to the circumstances then. It was confined to kings and warriors, because the wives of conquered kings and warriors were most miserable, which applied not only to India but also to the kingdom in other countries too. Vengeance for the truculence of their husbands was wreaked on the wives by carrying them as captives and making them to work as slaves. When queen Yasomati narrates to her son Harsha, the great honour and glory that was during the reign of her husband, king Prabhakaravardhana. There, apart the honour that the wives of the kings and the warriors were having during the lifetime of their husbands, would not have continued after the death of their husbands, even in their own kingdom. From kings the practice spread among brahmanas and others. Though several Smritikaras disapproved such a practice, but once it took the root, the learned commentators and digest writers were found to support it with arguments of heavenly abode, devotion to her husband to be praised by heavenly damsels, that as long as a woman does not burn herself in fire on the death of her husband she is never free from being born as a woman. Harita says, "that woman who follows her husband in death purifies three families, viz, of her mother, of her father and of her husband". The Mit after quoting the above, adds that this duty of anvarothana is common to the woman of all castes from the brahmans to the chandala, provided they are not pregnant or they have no young children at the time of death of her husband. Medhatiti on Manu 157, is there amongst who opposed to such a practice and termed it as suicide and was forbidden for woman. Vedas, Jamini, Angris, Mit and Yas said that such a practice to be adharma and opposed to Vedic text. Those who supported their idea, say the purposes and objects which were different. They were concerned about well being of a woman after the death of the husband, where there was none to look after her. Only to make the women to accept it, religious sanction was given by some of the Smiritkaras.

Apastamba verse prescribes the Prajapatya penance for a woman who having first resolved to burn herself on the funeral pyre turns back from it at the last moment. The Rajatarangini (VI 196) refers to a queen who having pretended to have resolved on becoming sati ultimately regretted the step and turned back.

From the accounts of travellers and others it appears that widow burning prevailed more in Bengal during the centuries immediately preceding its abolition than anywhere else in India. Even in Bengal the number of satis must never have been very large. Cole Brooke wrote in 1795 A.D., that the martyr of this superstition have never been numerous. The people also were never keen on observing the practice nor had they any deep seated conviction about its absolute religious necessity. But in some parts of Rajasthan it is still in vogue. There are who express admiration and reverence for the so called courage of women in becoming sati or performing the jauhar for cherishing their ideals of womanly conduct. But such admiration is false which in reality is the instance of subjugation of women by the men.

A woman who commits sati is traditionally glorified and immortalised. Temples are constructed as memorials and the "Sati Mata" is worshipped as a deity. She is supposed to have the powers of a goddess. The "Sati-sthal" or the place where a woman was supposed to have immortalised herself as a "sati" attracts a large number of "devotees" every year. It is said, there are still around 130 Sati temples in India and nearly half of them are in Rajasthan. It is not true that only from amongst the poor rural class, women are forced or allured or made to surrender to become Sati. The Deorala incident proves that even women with awareness and alternative life chances can be driven to this act. Roop Kanwar belonged to a comparatively educated family and many of the supporters happened to be from literate section. There apart, its politicisation and commercial vibrants attached to it, has overtaken its religious significance so propagated, which is the danger-signal to the social order. Commercial and political interests have overshadowed whatever religious belief if at all was there. It will not be too much to say that such are the person, and interests intentionally giving it a deep colour of religion. The law prohibiting Sati was promulgated 150 years ago, but the recent Deorala incident giving nation-wide publicity to it, have put even the lawmakers and protectors of law to suspect. It is an assault on the dignity of women