



Jayanti S. Ravi, IAS
Director
Tele: 23018653

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भारत सरकार
राष्ट्रीय सलाहकार परिषद
नई दिल्ली
GOVERNMENT OF INDIA
NATIONAL ADVISORY COUNCIL
NEW DELHI

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Please find enclosed the following documents for perusal/comments:-

- (i) Amendments to the Commission of Sati (Prevention) Act, 1987
- (ii) Extract of the Commission on Sati (Prevention) Act, 1987.

Yours sincerely,

(Jayanti S. Ravi)

Encl: as above

Smt. Aruna Roy,
Member, National Advisory Council,
Village Tilonia, via Madanganj,
Ajmer District,
Rajasthan -305 816.

Subject: Amendment to the Commission of Sati (Prevention) Act, 1987(No.3 of 1988)

The proposal is to amend the Commission of Sati (Prevention) Act, 1987 (No.3 of 1988, in order to make it harsher in deterrence.

2. The Act was reviewed by the National Commission for Women (in short, the Commission) in the year 2000-01 and also by the Task Force on Women and Children (2000-2001) headed by Deputy Chairman, Planning Commission (in short, the Task Force). The recommendations of the Commission and the Task Force for the amendment of the Act were also circulated to all State Governments and Union Territory Administrations for eliciting their views. Comments were received from 33 States/Union Territories.

3. After studying the recommendations of the Commission and the Task Force and comments of State Governments and Union Territory Administrations, the Department of Women and Child Development finalized the amendments to the Act.

PROPOSED AMENDMENT IN THE ACT

Amendment of Section 3

4. The Commission had recommended that the woman attempting to commit sati should be treated as a victim rather than an offender of law. The Commission had therefore recommended replacement of the existing proviso in Section 3 with the following two provisos:-

"Proviso 1: Unless proved to the contrary, the presumption will be that the commission of sati has taken place under force or that the immediate family normally residing with the woman committing sati, the relatives gathered to participate in the last rituals and the religious authorities gathered to perform the rituals were in a position to stop the commission of sati but did not do so deliberately and have abetted the crime.

Proviso 2: Where above two presumptions are rebutted, there will be presumption, unless proved to the contrary that the commission of sati has taken place because of the long standing social traditions, creating a typical state of mind of the person charged with the offence. The Special Court trying the offence under this section shall consider both the presumptions before deciding the quantum of punishment. No punishment shall be given if the presumptions remains unrebutted”.

Amendment of Sections 5 and 6(3)

5. Sections 5 of the Act provides punishment for the glorification of sati. It is proposed to enhance punishment under Section 5 to imprisonment for a term in the range of 3 years to 10 years and fine in the range of Rs. 10,000/- to Rs. 50,000/-, so that the minimum imprisonment is three years and the minimum fine is rupees ten thousand.

6. Section 6(3) of the Act provides punishment for the contravention of any order made by the Collector or the District Magistrate prohibiting the doing of any act towards the commission of sati by any person or prohibiting the glorification in any manner of sati. It is proposed to enhance punishment under Section 6(3) to imprisonment in the range of 3 to 10 years and fine in the range of Rs. 10,000/- to Rs. 50,000/-, so that the minimum imprisonment is three years and the minimum fine is rupees ten thousand.

Amendment to Section 9

7. Section 9 of the Act provides that all offences under the Act shall be triable only by a Special Court constituted under this section. It is proposed to amend Section 9 to provide that all offences under the Act should be tried by the court of competent jurisdiction and the case should be transferred to the Special Court when it is constituted under Section 9, and making an offence under the Act cognizable and non-bailable.

Amendment of Section 17

8. Section 17 of the Act lays down the obligation of certain persons to assist the police in the execution of the provisions of the Act. The Committee of Secretaries has recommended insertion of a new sub-section to make the Panchayat functionaries accountable for the execution of the provisions of the Act.

9. Section 19 amends the representation of the People Act, 1951 to provide that a person convicted under the Commission of Sati (Prevention) Act shall be disqualified for contesting elections. Since this would apply only in the case of Parliament/State Legislatures, COS have further recommended that this disqualification should be applicable in case of Panchayat elections also. The COS recommendations could therefore be communicated to the respective State Governments through the Ministry of Panchayati Raj for amending relevant rules and incorporating the recommendation.

10. COS have also recommended a provision of imposition of collective fines to exert social pressure on the community, and the Act is proposed to be amended accordingly.

EXTRACTS OF THE COMMISSION OF SATI (PREVENTION)
ACT, 1987
(No. 3 of 1988)

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.

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.

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

(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.

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.

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

(a) in Sec. 8, in sub-section (2) after the proviso, the following proviso shall be inserted, namely:

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.

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.

"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 Sec. 123 after Cl.(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."