

# Prevention of offences (by Acids) Act 2008 (National Commission for Women - Draft Bill)

## Statement of object and reasons

In most cases, acid attacks permanently disfigure, debilitate and, eventually, destroy the victim, both physically and psychologically. While many attacks have resulted in slow and painful deaths, cases like that of Haseena (in April 1999) and in other cases have resulted in young women getting disfigured, maimed and confined to homes for life. They continue to battle medical complications as acid seeps into the body and harms internal organs over an extended period of time. The victim needs both short term and long term medical facilities in the form of specialized plastic surgery. But it is almost impossible for the victim's family to pay for the extensive surgeries needed to reconstruct the damaged face of the victim and thus many of the victims remain like a living corpse. As these surgeries are performed at different stages to give a person a close resemblance to their earlier looks, these operations cost the victim from minimum two lacs to several lacs of rupees.

It has also been observed that there is no scope for rehabilitation for acid survivors and there is no one to provide support. Despite the fact that in most cases the victim knows the violator, the perpetrators often escape the law and are rarely brought to justice under the Code of Criminal Procedure and the Penal Code.

Acid attacks can be termed as an act of gender-based violence that results in, or is likely to result in, physical, sexual, psychological harm or suffering to women. The Declaration on the Elimination of Violence against Women 1993 stipulates that

States should condemn violence against women and pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

- Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence;

- ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counseling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation;
- include in government budgets adequate resources for their activities related to the elimination of violence against women;

Thus on the basis of the above stated reasons, the proposed law seeks to focus on achieving the following major objectives:-

- classification of acid attack as a separate and most heinous form of offence
- To assist the victim of acid attack by way of providing for her medical treatment services and also provide social and psychological support.
- To provide legal support to the survivors.
- To arrange rehabilitation mechanisms/schemes taking into account the specific needs of the victim.
- Regulation and control of acid and other corrosive substances

# **Chapter I**

## **Short Title, Application and Definitions**

### **1. Short title, extent and commencement**

- (1) This Act may be called Prevention of offences (by Acids) Act 2008
- (2) It extends to the whole of India except the State of Jammu and Kashmir
- (3) It shall come into force on such date as the Central Government may by notification in the official Gazette, appoint.

### **2. Application of the Act.** - This Act applies to victims of acid attacks.

### **3. Definitions.** - (1) In this Act, unless the context otherwise requires.-

- (a) "Acid" shall mean and includes any substance which has the character of acidic or corrosive or burning nature that is capable of causing bodily injuries leading to scars or disfigurement or temporary or permanent disability.
- (b) "Acid attack" means any act of throwing acid or using acid in any form on the victim with the intention of or with knowledge that such person is likely to cause to the other person Permanent or partial damage or deformity or disfiguration to any part of the body of such person.
- (c) "Appropriate Government" means the central and the state Government
- (d) "Board" means the National Acid Attack Victim's Assistance Board
- (e) "Child" means any person under 18 years of age
- (f) "domestic violence" as defined in PWDV Act 2005
- (g) "Victim" means a woman or a child.
- (h) "Medical treatment" shall include corrective surgeries, psychological counseling
- (i) "Medical facility" means any medical hospital government funded or private which provides for specialised treatment to victims of burn injuries, acid attacks

- (j) "Offence" shall mean any offence punishable under the IPC
- (k) "Monitoring Authority" means the State Commissions for women constituted under the respective Acts or any service provider (NGO) so authorized by the appropriate Government
- (l) "Service provider" means any voluntary association registered under the society's registration Act 1860 or a company registered under the companies Act 1956 or any other law for the time being in force, which espouses the cause of women and/or provides for support and rehabilitation of victims of acid attacks

## CHAPTER II

### IMPLEMENTING AUTHORITIES UNDER THE ACT

#### 4. **Establishment of National Acid Attack Victim's Assistance Board**

(1) The Central Government shall constitute a body to be known as National Acid Attack Victim's Assistance Board.

(2) The Board shall consist of -

(a) A Chairperson to be appointed by the Central Government;

(b) Such number of members, as the central government may nominate, that shall include persons having knowledge of or practical experience in matters relating to criminal Law. Representatives of NGOs or women Activists working in the field of empowerment of women and in particular providing assistance to victims of acid attack and any other interests which in the opinion of the central Government, ought to be represented on the Board

Provided further that composition of committee shall be at least 5 members excluding the chairperson, of which at least 3 shall be women

#### 5. **Procedure of business and Term of Office of the Members of the Board**

a) The chairperson and members to be appointed and their qualifications shall be such as may be prescribed under the rules

b) The Board shall regulate its own procedure

c) All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorised in like manner in this behalf.

d) The Board shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at

its meetings (including the quorum at such meetings) as may be provided by regulations: Save in exceptional and emergent situations the Board shall meet at least once in three months.

- e) The term shall be for 3 years, Members of the Board who are government servants would work on honorary basis and would be entitled to TA/DA as per rules applicable to them from their regular head of account. Non official Members shall be entitled to on honorarium and travel as may be prescribed by the Board

#### **6. Appointment of officers and other employees of the Board**

For the purpose of enabling it efficiently to discharge its functions ,the Central Government may, subject to such rules as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary

#### **7. Monitoring Authority at State/UT level**

The appropriate Government shall by notification, constitute or authorise any existing Authority/Body or any Service Provider at the State level, as the monitoring authority, which shall monitor and implement the provisions of the Act

#### **8. Functions of the National Acid Attack Victim's Assistance Board**

- a) Through the Monitoring authority or through any service provider, provide assistance to the victim of acid attack by way of ensuring medical treatment and other services, which shall include psychological counselling.
- b) Issue directions to the monitoring authority or any service provider to arrange for legal support services to the victim.
- c) To formulate and recommend to the appropriate Government rehabilitation mechanisms/schemes for the victim and her dependents such as medical services, employment, education, rehabilitation ,housing and other welfare measures taking into account the specific needs of the victim.
- d) To recommend to the Government strategies to regulate and control the import, production, transportation, hoarding, sale, distribution of Acids.

- e) Create awareness about the means by which public can notify the board of any acid attack, develop networking strategies in coordination with NGO's and other stakeholders towards strengthening the support systems, conduct advocacy work with police and other stakeholders.
- f) Recommend to the appropriate Government to notify the medical facilities and other services including provisions for shelter housing and other needs of the victim
- g) Inquire into or constitute fact finding teams into incidents of acid violence
- h) Provide financial support, to the victim, in accordance with the procedure prescribed under the Act
- i) Take assistance of the Monitoring Authority at State level with respect to implementation of the provisions of the Act
- j) Administer the National Fund and allocate such amounts to the monitoring authority as may be considered necessary
- k) Administer the Insurance scheme or group insurance and notify the agents as may be prescribed
- l) Recommend to the government regarding applicability of any schemes
- m) Recommend to the appropriate Government any fee, tax or charge to be levied from any person, body or association or manufacturer dealing in chemicals including acids including creating a Consortium of acid and chemical manufacturers from whom the appropriate Govt. may levy license or such other fee which would be used to form a corpus fund out of which, compensation could be given to the victim on an immediate basis.
- n) Any other matter as may be prescribed

9. **Functions of the Monitoring authority**

- (i) Either on its own or through any service provider, provide immediate assistance to the victim in the form of medical aid and other support services
- (II) Provide financial support, to the victim, in accordance with the procedure prescribed under the Act
- (iii) Undertake a field visit and spot inquiry and take suo moto cognisance of any incident of acid attack
- (iv) Assist and advise the National Board in formulating and recommending to the appropriate Government rehabilitation mechanisms/schemes for the

victim and her dependents such as medical services, employment, education, rehabilitation and other welfare measures taking into account the specific needs of the victim.

- (v) Assist the national Board in developing strategies to regulate and control the import, production, transportation, hoarding, sale, distribution of Acids.
- (vi) Create awareness about the means by which public can notify the board of any acid attack, develop networking strategies in coordination with NGO's and other stakeholders towards strengthening the support systems, conduct advocacy work with police and other stakeholders .
- (vii) Maintain records and statistics on acid attacks
- (vii) Any other matter as may be prescribed

**CHAPTER III**  
**PROCEDURE FOR ASSISTANCE**

10. **Procedure for providing assistance to the victims**

- (a) A victim, or her dependents or immediate family member or any voluntary organization espousing the cause of women/child may apply to the Board for financial and other relief in accordance with the application form as may be prescribed
- (b) In case of death caused by or results as a consequence of acid attack, the children or other dependents of the deceased or any voluntary organization espousing the cause of women/child or service provider, may apply to the board for relief in accordance with the provisions of the Act .
- (c) Where the legal heir is—
  - (i) A child, the application may be made on his behalf by the father or guardian or by any authorized voluntary organization;
  - (ii) A mentally ill person within the meaning of the Mental Health Act, the Application may be made by the person with whom the victim normally resides or a duly authorized medical officer or a voluntary organization;
- (d) An applicant shall submit all/any of the following documents with the application:
  - (i) All the medical bills/estimated expenditure duly certified by the superintendent of the hospital or the in charge of the medical facility where the victim is under treatment or
  - (ii) The death certificate of the victim/post mortem report, where a legal heir is making the application including copy of post mortem report or
  - (iii) Copy of FIR/Complaint.
- (e) On the receipt of the application, the Board or the monitoring authority shall satisfy itself about the claim, make a preliminary assessment about the nature of the claim.
- (f) After having been prima facie satisfied that a case of acid attack has been made out, the board shall order an interim financial relief of an amount upto **Rs.5, 00,000/-** within a period of thirty days from the date of receipt

of the application. The payment would directly be send to the hospital where the acid attack survivor is undergoing the treatment and be utilised for the purposes of treatment to the victim.

Any further sum of money as approved by the Board/monitoring authority, from time to time shall be met towards the treatment of the victim, subject to a maximum of **Rs 30 lakhs** inclusive of the interim compensation

- (h) Where death of the victim results The Board shall on the facts and circumstances of the case, pay a lump sum not exceeding Rs. 2,00,000/- to the legal heir preferably the children of the deceased so as to protect the best interests of the child . This would be in addition to any expenses incurred towards the treatment of the victim.
- (i) The Board shall in addition to the above, take such measures for the purposes of the rehabilitation, legal aid or any special needs of the victim in consultation with the monitoring authority or service provider. The board or the monitoring authority shall cater to the special needs and rehabilitation of such victims to an amount upto **Rs 5 lakhs**
- (j) The relief's provided under the Act shall not be subject to convictions or acquittals or whether the identity of the persons committing the crime is known or otherwise.
- (k) While conducting any home study or enquiry, the fact that the victim was at any time subjected to any act of domestic violence shall be taken into account and the question whether the legal heir is the husband or the relatives of the husband shall be determined accordingly by the Board or by the monitoring authority.

11. **Powers of the Board/monitoring authority** – The National Board or the Monitoring authority , while investigating any matter referred to in clause (g) of Section 8 and section 9(ii) have all the powers of a civil court trying a suit and also in particular in respect of the following matters, namely:-

- (a) Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) Requiring the discovery and production of any document;

- (c) Receiving evidence on affidavits;
- (d) Requisitioning any public record or copy thereof from any court or office;
- (e) Issuing commissions for the examination of witnesses and documents;
- (f) Ordering costs in cases where there has been wilful disobedience to any order of the commission, issued under section 11
- (g) Any other matter which may be prescribed

**CHAPTER IV**  
**VICTIM ASSISTANCE FUND**

12. **National Acid Attack victim's assistance fund** –(1) There shall be formed a Fund, to be called the National Acid Attack Victims assistance fund and there shall be credited thereto—
- (a) Any grants made to the Fund by the Central Government;
  - (b) Any money received as donations for the purposes of this Act;
  - (c) Any income from investment of the amounts in the Fund
  - (d) Sums received towards insurance and other policies
  - (e) Tax, fee charged from any body or association or manufacturers of chemicals and acids as formulated by the appropriate Govt.
- (2) The fund would be administered by the National Board.
- (3) The fund shall be applied for meeting:-
- a) The cost of financial and other assistance provided under this act
  - b) Any other expenses which the Board may direct to be defrayed from the National fund.
- (4) The Board may receive contributions from voluntary organisations, individuals, corporate offices, institutions and such voluntary contributions made would be eligible for reliefs under section 80G of the income tax Act  
Note: necessary amendment to finance Act
- (5) The Board shall prepare in such form and manner as may be prescribed and shall publish either annually or at such shorter intervals as may be specified therein, an account of all sums received into and paid out of the Fund.
13. **Accounts and Audit**- The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet. These Accounts will be audited by the C & AG of India.

**CHAPTER V**  
**MISC PROVISIONS**

14. **Act not in derogation of any law -**
15. **Duty of the Government** – (a) the Appropriate Government shall in consultation with the national Board and the Monitoring agency frame guidelines to regulate and control the sale, distribution and procurement of acids in any form
- (b) The appropriate Government shall act on the recommendations made by the National Board within a period of sixty days from the date of submission of the recommendation
16. **Duty of medical facility** – (a) No medical hospital or speciality , government owned or privately owned shall deny specialised or any form of treatment to any victim on any ground, when such victim is brought before or approaches such facility for treatment.
- (b) Where such medical facility receives such a victim for treatment it shall forthwith inform the monitoring agency or the national Board and the police of the same, but shall in no manner or on any ground refuse treatment to such victim
- (d) For the purposes of treatment, the police report or the FIR shall not be relevant precondition
- (e) Where such medical facility refuses treatment, on any ground the National Board shall after issue of the show cause , impose upon such facility a fine upto Rs 5 lakh
17. **Application of certain Acts** - victims of acid attack shall be deemed to be person with disability and entitled to benefits and all measures initiated by the appropriate Government Under the PERSONS WITH DISABILITIES (EQUAL OPPORTUNITIES, PROTECTION OF RIGHTS AND FULL PARTICIPATION) ACT, 1995
18. 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) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--
  - a) Qualifications for appointment of chairperson and other members of the Board
  - b) Appointment of officers and other employees of the Board
  - b) Procedure for providing assistance to the victims which may include group Insurance and other measures
  - c) Any other matter as may be prescribed

## **Criminal law Amendment –amendments in IPC, etc**

### **Amendment in IPC**

**1. INSERTION OF NEW SECTION 326 A - throwing or using of acid in any form on the body of other person** - Notwithstanding anything contained in section 324 or 326 of the Code , Whoever does any act of throwing acid or using acid in any form on the other person with the intention of or with knowledge that he is likely to cause such person Permanent or partial damage or deformity disfiguration or disability to any part of the body of such person shall be punished with imprisonment of either description for a term which **shall not be less than TEN years** but which **may extend to Life** and shall also be liable to fine which shall be a minimum of RS 2 Lakhs and may extend to Rs 5 lakhs

The offence shall be cognizable, Non-bailable and non-compoundable

Explanation \_ the term “acid” and “acid attack” – as defined in section 3(a) and (b) of the prevention of offences (by acids) Act 2008

**Justification:** although the offences relating to acid throwing is covered under section 320 and 326 of the IPC but keeping in view the extreme heinous nature of the act and the fact that under section 326 the offence can be punished with imprisonment For life or with imprisonment of either description for a term **which may extend to ten years, it is proposed in the Bill that at least the minimum punishment be not less than 10 years and extend to life imprisonment**

Further using acid with intention or knowledge is a punishable offence irrespective of the nature and extent of injury, therefore there is no need for categorisation of various forms of disability

**2. INSERTION OF NEW Section 326 B -Attempt to throw or use acid in any form on the other person - Whoever** does any act with such intention or knowledge and under such circumstances that, if he by that act caused Permanent or partial damage or deformity disfiguration or disability to any part of the body of such person , shall be punished with imprisonment of either

description for a term which shall not be less than 7 years and shall also be liable to fine to a minimum of Rs 1 lakh

### **Amendments proposed in the Indian evidence Act**

#### **1. INSERTION OF NEW Section 114 B Presumption as to acid attack -**

When the question is whether a person has committed the act of throwing acid on the woman the Court shall presume, having regard to the circumstances of the case and the statement of the victim, that such person had thrown acid on the woman

### **Amendments to the Criminal Procedure Code**

**Insertion of new section 357A - Defraying of expenses -** Notwithstanding anything contained in Section 357 of Code of criminal procedure or in any other law for the time being in force, the court may when passing judgment for the offence under section 326 A or 326 B of the IPC -

- (a) In the payment to any person of compensation for any loss or injury caused by the offence and may order the recovery of the amount from the assets of the accused
  - (b) Defraying of expenses incurred by the concerned authorities under for assistance to victims of acid attacks
  - (c) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or if an appeal be presented, before the decision of the appeal.
  - (d) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.
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