

Scheme for relief and rehabilitation of Offences (by Acids) on women and children National Commission for Women (29/Jan/2009)

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:-

- To assist the victim of acid attack by way of providing for her medical treatment services and also provide social and psychological support.
- To arrange rehabilitation mechanisms/schemes taking into account the specific needs of the victim.

Chapter I

Short Title, Application and Definitions

1. Short title, extent and commencement

- (1) This Scheme may be called scheme for relief and rehabilitation of offences (by Acids) on women and children
- (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. - This scheme applies to victims (women and children) of acid attacks.

3. Definitions. - (1) for the purposes of the scheme , 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) “Child” means any person under 18 years of age
- (e) “District Board “ means the district *criminal injuries relief and rehabilitation board at district level* ;
- (f) “DISTRICT MONITORING COMMITTEE” committee established in each district
- (g) “domestic violence” as defined in PWDV Act 2005
- (h) “Victim” means a woman or a child.

- (i) “Medical treatment” shall include corrective surgeries, psychological counseling
- (j) “Medical facility “ means any medical hospital government funded or private which provides for specialised treatment to victims of burn injuries , acid attacks
- (k) National Board” means the National Criminal Injuries Compensation Board;
- (l) “Offence” shall mean any offence punishable under the IPC or under any law
- (m) “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
- (n) “State Board” means State Criminal Injuries Relief and Rehabilitation Board at State level

CHAPTER II
IMPLEMENTING AUTHORITIES UNDER THE SCHEME

4. CONSTITUTION OF NATIONAL CRIMINAL INJURIES RELIEF AND REHABILITATION BOARD

The Central Government shall by notification constitute a body to be known as National Criminal Injuries Compensation Board;

(ii) The National Board shall consist of: -

- The Chairperson, National Commission for Women who shall be the President of the Board, ex-officio.

➤ An officer not below the rank of Joint Secretary of the Central Government in the Department of Women and Child Development.

➤ One woman Member to be appointed from amongst persons having knowledge of or practical experience in matters relating to criminal Law.

➤ Two women representatives of NGOs or women Activists working in the field of empowerment of women.

➤ Member Secretary of NCW who shall be the Member Secretary of the Board, ex-officio.

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

Term of Office of the Members of the Board, shall be for 3 years. The President and the Members of District, State and National Criminal Injuries Compensation Board would work on honorary basis. Non official Members of National, State and District Boards will be eligible to get a sitting fee of Rs.200/- for each meeting. Non - official Members of District Monitoring Committee will be entitled to on honorarium of Rs.500/- for each case. Members of the National, State and District Boards 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.

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

For the purpose of enabling it efficiently to discharge its functions, the National Board may, appoint (whether on deputation or otherwise) including short term contract such number of officers and other employees as it may consider necessary

7. **Functions of the National Board**

The National Board shall administer the Scheme and to that effect:-

- a) Lay down policies and procedures for the effective implementation and administration of the Scheme.
- b) Review, from time to time, and advise the Central Government on the quantum payable and other relief's provided under the Scheme.
- c) Advise the Ministry to issue suitable advisories to state government for directing the public prosecutors to plead before the competent court to award suitable compensation to the victims and appraise the court on the actions initiated as per the scheme.
- d) Estimate the requirement of the funds/budget. Administer and Allocate funds to the State Boards.
- e) Issue directions to the appropriate authorities under the Scheme for ensuring proper medical, psychological and legal assistance to the victim.
- f) Frame and issue guidelines on the rehabilitation schemes in consultation with the Central and State government.
- g) Monitor and evaluate the implementation of the scheme and seek periodical reports.
- h) Co-ordinate and Monitor the functioning of the state and district authorities constituted under this Scheme for the implementation of the Scheme.
- i) The Board may inquire or cause to be inquired suo moto or otherwise or on

a petition presented to it by a victim or any person on her behalf or by an NGO, into any complaint alleging the offence of acid attack and /or with respect to any matter in connection with the provisions of the scheme and refer the matter to the appropriate District or State Board.

8. CONSTITUTION OF THE STATE BOARD –

- (i) The State Government shall constitute by notification in the Official Gazette State Criminal Injuries Relief and Rehabilitation Board at State level
- (ii) The State Board shall consist of:-
 - Secretary, of the department of Women and Child development/ department of social welfare who shall be the President;
 - Joint Secretary of Department of Home
 - The Member Secretary or any member of the State Women Commission.
 - An officer of the Law department of the State or the Union territory
 - Three Representatives from amongst women Activists and eminent lawyers working in the field of empowerment of women.

9. FUNCTIONS OF THE STATE BOARD –

- (i) The State Board shall co-ordinate and monitor the functions of the District Board;
- (ii) The State Board shall ensure proper disbursement of the funds allocated to it by the Central Government /National Board and any additional amount supplemented by the State Government, to the district Boards.
- (iii) Issue directions to the appropriate authorities under the scheme for ensuring proper medical, psychological and legal assistance to the victim.
- (iv) The Board may inquire suo moto or otherwise on a petition presented to it by a victim or any person on her behalf into any complaint alleging the offence of acid attack and /or with respect to any matter in connection with the provisions of the scheme and refer the matter to the District Board.
- (v) The Board shall entertain all appeals against the decision of the District Board and in deserving cases recommend enhancing of the relief amount with prior approval of the National Board.

10. CONSTITUTION OF DISTRICT CRIMINAL INJURIES RELIEF AND REHABILITATION BOARD;

- (a) Upon the notification of the scheme, there shall be established at every District, a Board called the ***District criminal Injuries relief and rehabilitation Board;***
- (b) The board shall have exclusive jurisdiction to deal with applications received under the scheme in that district;
- (c) The board shall be headed by the Collector or the District Magistrate by whatever name he/she is called who shall be the President and comprise of four other members nominated by the State government, where one of them has expertise in matters relating to criminal law, one has experience in the field of empowerment of women, a Medical doctor and a representative of Panchayati Raj Institution or municipality in the District, out of which at least three members would be women.

11. FUNCTIONS OF THE DISTRICT CIRRB -

- (a) The Board shall consider the claims and award financial relief/ rehabilitation as the case may be in all cases of acid attacks in accordance with the procedure prescribed under this scheme.
- (b) The Board shall coordinate and monitor the activities of the District Monitoring Committee (DMC), as provided under the Scheme, and/or with the Governmental and non - Government organizations for rendering assistance to the victim, in the form of any legal, medical, psychological or any other form of aid/ assistance.
- (c) Implement any scheme for rehabilitation of acid attack victims framed by the State or National Criminal Injuries Relief and Rehabilitation Board.

12. POWERS OF THE DISTRICT BOARD -

- (a) The board shall be the authority to consider the claims and award financial relief in all cases of alleging the offence by acids and order

such other relief and rehabilitation measures as deemed fit in the circumstances of the case.

- (b) The Collector or the District Magistrate as the President of the Board shall exercise the powers conferred upon him under the Cr.P.C. or under any other law by the State Government, for carrying out the functions under the Scheme ;

13. DISTRICT MONITORING COMMITTEE - The State Government shall establish in every District, a Monitoring Committee, which shall be headed by the Superintendent of Police of the District. The committee shall comprise of the following other members, whom the District Collector/District Magistrate would nominate:

- (i) A police officer, preferably a woman
- (ii) A woman social activist or a counsellor;
- (iii) A Lawyer
- (v) A Medical doctor;
- (vi) A representative of the Panchayati Raj Institution or Municipality

14. FUNCTIONS OF THE DISTRICT MONITORING COMMITTEE:

The District Monitoring committee shall perform the following functions;

- (a) To arrange for psychological and medical aid and counselling to the victim.
- (b) To arrange for legal aid to the victim in filing the FIR till the conclusion of the trial;
- (c) To initiate suitable measures to ensure the protection of the victim and witnesses till the conclusion of the trial.
- (d) Monitor and expedite the progress of the investigation.
- (e) To aid and assist in opposing bails, filing appeals and making application for protection of the victim.
- (f) In cases of young victims, to see that they receive education or professional training or training for self-employment.
- (g) To assist them in securing employment.
- (h) To facilitate the victims' rehabilitation.

- (j) To arrange shelter to the victim, for such period as the circumstances warrant.
- (m) 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
- (n) Undertake a field visit and spot inquiry and take suo moto cognisance of any incident of acid attack
- (o) 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

15. 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 District 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 scheme .
- (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) Medical certificate, where the application is being made by or on behalf of the victim; 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 District Board 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 sent**

- to the hospital where the acid attack survivor is undergoing the treatment and be utilised for the purposes of treatment to the victim.**
- (g) 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. 25 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 scheme 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.

CHAPTER IV
Finance

16. (i) The central government shall provide the budgetary requirements for the implementation of the scheme, to the MWCD which would be transferred to the National Board as Grant in Aid
- (ii) The budgetary allocations shall be made in consultation with the National Criminal Injuries Relief and Rehabilitation Board.
- (iii) National Board would allocate fund to State Board. The State Criminal Injuries Relief and Rehabilitation Board would in turn allocate funds to District Criminal Injuries Relief and Rehabilitation Boards.
- (iv) All fines/costs compensation, collected from persons convicted of offences by acids by a competent court would be credited to the National Criminal Injuries Relief and Rehabilitation Board, if so ordered by the court.
- (v) The Budgetary allocations shall be used for meeting:-
- a) The cost of assistance provided under this Scheme,
 - b) Any other expenses required for functioning of National, State & District Criminal Injuries Relief and Rehabilitation Boards including the funds required for rehabilitation of the victims which are required to be met by the district monitoring committees.

17. **Accounts and Audit-** The Central Boards and state Government or the monitoring authority 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

- 18. 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
- 19. 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

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) scheme 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.

Although no firm figures of acid attack is available, as it is clubbed with other offences under section 326 of IPC, it is estimated that there are roughly 100 cases a year.

FINANCIAL IMPLICATIONS OF THE SCHEME						
During the 11th Plan 2008-09 to 2011-12						
	INTERIM		RELIEF and REHAB	Final Settlement	Establishment (in crores)	Total (in crores)
	5 LAKH		5 LAKH	20 LAKH	3	
	100 Cases					
2008-09	5 crores		5 crores	20 crores	3	33
2009-10	5 crores		5 crores	20 crores	3	33
2010-11	5 crores		5 crores	20 crores	3	33
2011-12	5 crores		5 crores	20 crores	3	33