

NALSA (LEGAL SERVICES TO VICTIMS OF ACID ATTACKS)
SCHEME, 2016

1. BACKGROUND

- 1.1 Acid attacks are the most pernicious form of violence that is resorted to and is mostly gender specific. While acid attacks are reported in many parts of the world, the incidents of acid attacks in India have been on the rise. As per the data maintained by National Crime Records Bureau, the number of incidents of acid attacks reported in 2011 were 83, 85 in 2012 and 66 in 2013 though according to the Acid Survivors Foundation India (ASFI), at least 106 such attacks were reported in 2012, 122 in 2013 and 309 in 2014 and according to the activists, the figure rose to 500 in 2015. However, according to the National Crime Records Bureau, 222 cases of acid attacks were reported in 2015. The figures may vary but the number of acid attacks have been on the rise. There are also many unreported cases of acid attacks, especially in the rural areas and some such incidents may even result in the death of the victims. Many incidents are not reported due to fear of backlash from the perpetrators.
- 1.2 The incidents of acid attacks in India show that they are generally against the women. Quite often they are a result of a rejection of the marriage proposal or sexual advances. Conflicts related to dowry can also result in acid attacks. The acid attacks are also resorted to as a means of taking revenge or due to family or land disputes or over inheritance and other property issues. Occasionally, acid attacks may occur due to social or political or religious beliefs. The Justice Verma Committee constituted by the Central Government in 2013 in the aftermath of the Nirbhaya case to suggest reforms in the criminal justice system dealt with the issue of acid attacks and observed:

“We understand that a most heinous form of attack on women, which is commonplace in several Asian and African countries is the throwing of acid on women for a multitude of reasons, including alleged adultery, turning down advances from men, and also as a form of domestic violence. Acids and other corrosive substances are thrown on women or administered to them, thereby causing death or physical and psychological damage with unfathomable

consequences. The 226th Report of the Law Commission of India, which dealt particularly with this offence stated:

“Though acid attack is a crime which can be committed against any man or woman, it has a specific gender dimension in India. Most of the reported acid attacks have been committed on women, particularly young women for spurning suitors, for rejecting proposals of marriage, for denying dowry etc. The attacker cannot bear the fact that he has been rejected and seeks to destroy the body of the woman who has dared to stand up to him.”

5. In a certain sense, the aggressor is conscious that self-worth and self-esteem of a woman often lies in her face, which is a part of her personality. The dismemberment of the face or the body is not merely an offence against the human body but will cause permanent psychological damage to the victim. What happens when there is permanent physical and psychological damage to a victim, is a critical question and law makers have to be aware that offences are not simply based on the principle of what might be called offence against the body, i.e., damage of the body, but they must take into account the consequences on the right to live with dignity which survives the crime. This is an important consideration both in the fields of criminology and also in the field of sociology.”

The factors which lead to acid attacks were thus discussed in both the Justice Verma Committee Report and in the 226th Report of the Law Commission as also the effects of acid attacks. Apart from lifelong bodily disfigurement and physical challenges often requiring life-long treatment, the psychological challenges are greater and deeply affect the victims apart from affecting the employability of the victims. It is also seen that there are limited medical facilities available in the country for acid victims with the number of specialised burn hospitals being limited and it becomes a herculean task for the victim to get admitted in a hospital, much less to get treatment which may often span from a few months to several years. The treatment may also involve huge costs for the victims and their families. The rehabilitation of the victims also becomes an important issue.

2. CONSTITUTIONAL GUARANTEES

- 2.1 The Constitution of India guarantees the right to life and liberty of every individual under Article 21. This has been interpreted to include the right to live with dignity and would encompass the right to live with dignity of all including victims of acid attacks. Article 41 of the Constitution lays down that the State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

3. LEGISLATIVE FRAMEWORK

- 3.1 In the absence of any specific provisions to deal with incidents of acid attacks, such cases were generally dealt with under Section 326 of the IPC and other provisions. However, the Justice Verma Committee recommended that acid attacks be defined as an offence in the IPC and observed:

“9. The gender specificity and discriminatory nature of this offence does not allow us to ignore this offence as yet another crime against women. We recommend that acid attacks be specifically defined as an offence in the IPC, and that the victim be compensated by the accused. However in relation to crimes against women, the Central and State governments must contribute substantial corpus to frame a compensation fund. We note that the existing Criminal Law (Amendment) Bill, 2012, does include a definition of acid attack.”

Thus a recommendation was made not only for the inclusion of a specific offence in respect of acid attacks but also for providing compensation to the victims of acid attacks.

- 3.2 By virtue of Criminal law (Amendment Act), 2013, Sections 326A and 326B were inserted in the Indian Penal Code providing for punishment to anyone who causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt or who throws or attempts to throw acid on any person or attempts to administer acid to any person, or

attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person. “Acid” was defined to include any substance which has acidic or corrosive character or burning nature that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

- 3.3 The issue of acid attacks also came up before the Supreme Court and in its order dated 18.7.2013 in **Laxmi v. Union of India**, W.P. (Crl.) No.129/2006, the Supreme Court directed that over the counter sale of acid would be completely prohibited unless the seller maintained a log/ register recording the sale of acid which would contain the details of the person(s) to whom acid(s) is/ are sold and the quantity sold. Further the acid would be sold only after the buyer had shown a photo ID issued by the Government which also had the address of the person and the reason/ purpose for procuring acid was specified. It was also directed that no acid shall be sold to any person who was below 18 years of age. Directions were also issued for educational institutions, research laboratories, hospitals, Government Departments and departments of Public Sector Undertakings who were required to keep and store acid. In the final order dated 10.4.2015, it was reiterated that an appropriate notification banning the sale of acid across the counter should be issued within three months from the date of the order. Further the Supreme Court in **Parivartan Kendra and Anr. V. Union of India and Ors.** WP (Civil) No.867 of 2013 decided on 7.12.2015 directed that stringent action be taken against those erring persons supplying acid without proper authorization and also the concerned authorities be made responsible for failure to keep a check on the distribution of the acid.
- 3.4 Regarding proper treatment, after care and rehabilitation of the victims of acid attack, a direction was issued by the order dated 10.4.2015 to the State Governments/ Union Territories to take up the matter with all the private hospitals to the effect that private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries. It was also observed that action may be taken against hospital/ clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973.

A direction was also issued that the hospital, where the victim of an acid attack was first treated should give a certificate that the individual is a victim of an acid attack which may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

- 3.5 Taking note of the fact that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments, the Supreme Court in its order dated 18.7.2013 directed that the acid attack victims shall be paid compensation of at least Rs.3 lakhs by the concerned State Government/ Union Territory as the after care and rehabilitation cost, out of which a sum of Rs.1 lakh would be paid to the victim within 15 days of the occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. While disposing off the said writ petition on 10.4.2015, it was directed that the Member Secretary of the State Legal Services Authority take up the issue with the State Government so that the orders passed by the Court were complied with and a minimum of Rs.3,00,000/- was made available to each victim of acid attack. The Member Secretaries of the State Legal Services Authorities were also directed to give wide and adequate publicity in the State/ Union Territory to the Victim Compensation Scheme so that each acid attack victim could take the benefit of the Victim Compensation Scheme. It was also directed that in case of any compensation claim made by any acid attack victim, the matter would be taken up by the District Legal Services Authority, which would include the District Judge and such other co-opted persons who the District Judge felt would be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee and the said body would function as the Criminal Injuries Compensation Board for all purposes. The matter also came up before the Supreme Court in **Parivartan Kendra and Anr. V. Union of India and Ors.** WP (Civil) No.867 of 2013 decided on 7.12.2015 where it was observed that the State and Union Territory concerned can give even more amount of compensation than Rs.3,00,000/- as was directed in **Laxmi's case**. An important direction given in this case was that all the *States and Union Territories should consider the plight of such victims and take appropriate steps with regard to inclusion of their names under the **disability list**.*

3.6 It is thus seen that acid attacks by themselves have been recognised as offences under the Indian Penal Code for which punishment is prescribed. Besides Section 357A Cr.P.C. provides for a Scheme being drawn up by the State Government in coordination with the Central Government for providing funds for the purpose of compensation to the victim and such Schemes have been drawn up in most States and Union Territories which also provide for compensation to victims of acid attacks. The Central Government has issued the Central Victim Compensation Fund Guidelines with an objective to support and supplement the Victim Compensation Schemes of the States and Union Territories. A corpus of Rs.200 crores has been fixed for the purpose. One of the admissible activities under the Central Victim Compensation Fund is “to promote special financial assistance upto Rs.5 lakhs to the victims of acid attack to meet treatment expenses over and above the compensation paid by the State/ Union Territory.” However there is need for greater awareness about the availability of compensation for victims of acid attacks. Despite specific directions to hospitals to provide treatment to victims of acid attacks, it is still not easy for them to get proper treatment. Over the counter sale of acid still remains rampant. It is thus felt by NALSA that Legal Services Institutions have a significant role to play and they can play a pivotal role in ensuring access to the benefits of the Victim Compensation Scheme to the victims of acid attacks and to the medical and other facilities.

4. Role of Legal Services Institutions

4.1 The Preamble of the Legal Services Authorities Act, 1987 emphasises that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason or economic or other disabilities. Under Section 4(b) of the Legal Services Authorities Act, 1987, the “Central Authority” i.e. the National Legal Services Authority has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. Further under Section 4(1) enjoins the “Central Authority” to take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other

enactments as well as administrative programmes and measures. Likewise, under Section 7(c) it is the function of the State Authority i.e. the State Legal Services Authority to undertake preventive and strategic legal aid programmes. Thus the Act itself casts a duty upon the Legal Services Authorities to spread legal awareness about the laws and various administrative measures and programmes and to undertake preventive and strategic programmes. Besides, under Section 12 of the Act, all women are entitled to legal services as also a person with disability as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

5. NAME OF THE SCHEME

- 5.1 The Scheme shall be called “**NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016**”.
- 5.2 The terms PLVs, Legal Services Clinics and Panel Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for Para Legal Volunteers (Revised).

6. OBJECTIVES OF THE SCHEME

The main objectives of the Scheme are as follows:

- 1) To strengthen legal aid and representation at the national, state, district and taluka levels for victims of acid attacks in availing the benefits of the various legal provisions and schemes for compensation which exist;
- 2) To enable the victims of acid attacks to get access to medical facilities and rehabilitative services;
- 3) To create and spread awareness about the entitlements of the victims of acid attacks through the District Legal Services Authorities, Taluka Legal Services Committees, panel lawyers, para-legal volunteers and legal services clinics;
- 4) To enhance capacities at all levels of panel lawyers, para-legal volunteers, volunteers in legal services clinics, government officers tasked with the implementation of the various schemes, service providers, police personnel,

non-governmental organizations by organizing training, orientation and sensitization programmes; and

- 5) To undertake research and documentation to study the various schemes, laws etc. to find out the gaps, the needs and to make suggestions to the appropriate authorities.

The ultimate objective of the Scheme is to ensure that the victims of acid attacks are appropriately rehabilitated in the society and live a life of dignity.

7. PLAN OF ACTION

7.1 Legal Representation

- a) All victims of acid attacks and where the acid attack results in death, the heirs of victims of acid attacks shall be provided legal aid on a priority basis in order to enable them to get the benefit of the Victim Compensation Scheme.
- b) SLSAs and DLSAs shall ensure that the victims of acid attacks do not have to face any kind of delay in procedural wrangles and the interim compensation is awarded at the earliest.
- c) Support persons and legal representation shall be provided to victims of acid attacks during the recording of their statement under section 164 Cr.P.C., giving evidence etc.
- d) Every District Legal Services Authority and Taluka Legal Services Committee shall designate at least one panel lawyer as Legal Services Officer for the purpose of this Scheme.
- e) The District Legal Services Authorities shall also depute sufficient number of PLVs for the implementation of this Scheme.
- f) The PLVs shall act as the interface between the victims of acid attacks and the Legal Services Institutions. All out endeavour shall be made to reach out to the acid attack victims.

7.2 Legal Services Clinics

- a) SLSAs shall set up Legal Services Clinics at hospitals having specialized facilities for treatment of burns where victims of acid attacks may be referred for treatment. The PLVs and panel lawyers deputed to such Legal Services

Clinics shall be in regular touch with the victims of acid attacks and their relatives and ensure all possible help to them in securing appropriate medical help and treatment.

- b) The PLVs shall provide assistance and support to the families of victims of acid attacks and where possible counselling for them may be arranged so as to bring them out of trauma occasioned by the incident of acid attack.
- c) The PLVs shall also assist the victims of acid attack in obtaining from the hospital where the victim was first treated a certificate that the individual is a victim of an acid attack which may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as directed by the Supreme Court in the order dated 10.4.2015.
- d) The PLVs shall ensure that the victims of acid attacks are able to avail of various rehabilitative services that may be available for them.
- e) The Legal Services Clinics shall ensure that action is taken against hospitals which deny treatment to victims of acid attacks on superficial grounds.
- f) Opening of the Legal Services Clinics shall be communicated to all the Government bodies and departments including the police, NGOs.
- g) The Legal Services Clinics so established shall be governed by the National Legal Services Authority (Legal Services Clinics) Regulations, 2011 in respect of their functioning, infrastructural facilities, maintenance of records and registers, deputation of PLVs and control over such clinics.

7.3 Co-ordination with the Government Departments

- a) The SLSAs shall coordinate with the States and Union Territories to amend the respective Victim Compensation Schemes to bring the same in line with the directions issued by the Supreme Court.
- b) The SLSAs shall remain in touch with the concerned governmental agencies to ensure that adequate funds are always available for disbursement as compensation to victims of acid attacks.
- c) The SLSAs shall take up the matter with the concerned States and Union Territories for taking appropriate steps with regard to inclusion of the names

of the victims of acid attacks under the **disability list** and thereafter to ensure that they get the benefit of all the schemes which are available for persons with disability.

7.4 Database

- a) All SLSAs shall have database of the existing Central or State Schemes, policies, regulations, policy directives concerning victims of acid attacks and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness.
- b) All SLSAs shall have database of the hospital where specialized facilities for treatment of burn victims are available.
- c) The lists prepared shall be circulated annually to all the District Legal Services Authorities which shall further circulate the same to the Taluka Legal Services Committees, village panchayats, legal services clinics and PLVs.
- d) SLASA shall also upload the list on their website.

7.5 Implementation of various Schemes

- a) SLSAs shall take all steps to disseminate information regarding the policies, schemes, programmes that exist for the victims of acid attacks.
- b) Legal services to be provided would include informing the beneficiaries about the different government schemes to which they are entitled and the benefits thereunder; assisting the beneficiaries to procure the documents required for availing the benefits under the schemes; informing the beneficiaries of the name and address of the designated authority or the officer who may be approached for availing the benefits under the schemes; offering to send para-legal volunteers with the beneficiaries to the office of the designated authority or to the officer concerned under any of the schemes.
- c) SLSAs shall develop effective coordination and interface with all the governmental bodies or functionaries, non-governmental organizations and other organizations concerning the welfare of victims of acid attacks to ensure that the benefits of the various schemes especially schemes for rehabilitation reach them.

7.6 Awareness

- a) The Legal Services Institutions shall organize awareness programmes to sensitize people to the needs of the victims of acid attacks so that the community provides support to them which is essential for their rehabilitation.
- b) SLSAs along with DLSAs shall conduct awareness programmes to generate awareness about the Victim Compensation Scheme and the entitlements under the same and various laws and government schemes.
- c) SLSAs, DLSAs and Taluka Legal Services Committees shall also create awareness regarding the availability of legal services for victims of acid attacks to facilitate access to their entitlements.
- d) SLSAs, DLSAs and Taluka Legal Services Committees shall organize awareness drives to highlight that over the counter sale of acids stands prohibited. The PLVs may inform the concerned department or DLSAs if they come across any incidents of sale of acids so that appropriate action can be taken immediately.
- e) All possible methods of spreading awareness should be used such as Doordarshan, All India Radio, distribution of pamphlets, leaflets.

7.7 Training and Orientation Programmes

- a) SLSAs shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of victims of acid attacks and to build their capacity, knowledge and skill. Sensitization programmes should also be organized for other stakeholders such as the government functionaries, police personnel, medical officers and NGOs.
- b) SLSAs shall, in coordination with the State Judicial Academies, plan and conduct training/ sensitization programmes for Judicial Officers with a view to ensuring quick and adequate award of compensation, including interim compensation, and a fair and dignified treatment of the victims of acid attacks during trial of cases.

