



A new disability in India: Acid attack victims

Dr. Bhola Vishwakarma

Nariya, Post BHU, Distt Varanasi, Uttar Pradesh, India

Abstract

After India signed and ratified the UNCRPD in 2007, the process of enacting a new legislation in place of the Persons with Disabilities Act, 1995 (PWD Act, 1995) began in 2010 to make it compliant with the UNCRPD. After series of consultation meetings and drafting process, the Rights of Person with Disabilities Act, 2016 (RPWD Act, 2016) was passed by both the houses of the Parliament on India. In the Act the list of disabilities has been expanded from 7 to 21 and newly includes cerebral palsy, dwarfism, muscular dystrophy, acid attack victims, hard of hearing, speech and language disability, specific learning disabilities, autism spectrum disorders, chronic neurological disorders such as multiple sclerosis and Parkinson's disease, blood disorders such as haemophilia, thalassemia, and sickle cell anaemia, and multiple disabilities. There are some provisions for right and facilities provide to acid attack victims in the legislations. This paper mainly focuses on acid attack victims under the light of legislation. There is some discrepancy in the RPWD Act like acid attack victims benefited due to disfigured while there are no any comment for a person disfigured due to acid accident, burned by fire or electric shock.

Keywords: acid attack, disability, provision, PWD, RPWD and victims

Introduction

Crime is not something which has been created by almighty rather it is the distortion of human being. There are numerous ways where people are committing crime in the society. As the days progress offenders are trained of new modernized ways or technologies for making a crime. Use of acid to commit a crime is not something which is new for us but it's just that the way of doing crime has been reformed. There was a time when people use acid for house hold purpose but now the use of acid has revolutionized his way and used for carnage the life of people. These acid attack victims are the mostly women. The dreadful act of attacking women with acid has been taking place across different parts of nation. Hydrochloric acid (HCL), Sulphuric acid (H₂SO₄) and Nitric acid (HNO₃) which are readily available in the market, offenders uses it to throw into the body of the victim which molten the skin and even bones of the victim. From January 2002 to October 2010, 153 cases of acid assault were reported in Indian media, while 174 judicial cases were reported for the year of 2000. The rising number of acid attack cases, from 83 in 2011 to 349 in 2015, shows ours inability to grapple with this heinous crime. For acid attack early 2013 the Indian criminal Law did not recognize it as a separate offence. With the amendment in Indian Penal Code in February, 2013 incidents of acid attack are now being recorded as a separate offence under section 326A and 326B. The data available after the amendment relate to the year 2014 when 225 cases were reported from all over India. The acid attack victim's data as following-

Table 1: showing acid attack victims in India

Year	2011	2012	2013	2014	2015	Total
Total	106	106	116	225	249	802

Source: of data- Acid Survivors & Women Welfare Foundation

In the RPWD Act, 2016, the list has been expanded from 7 to 21 types of disabilities like- cerebral palsy, dwarfism, muscular dystrophy, acid attack victims, hard of hearing, speech and language disability, specific learning disabilities, autism spectrum disorders, chronic neurological disorders such as multiple sclerosis and Parkinson's disease, blood disorders such as haemophilia, thalassemia, and sickle cell anaemia, and multiple disabilities. This policy includes only acid attack victims while there is no any recommendation for disfigured by acid accident in factory or other circumstances also not includes disfigured by burned or electric shock. While as per definition of RPWD Act, 2016 defined person with disability means 'a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others'.

"Able does not mean enabled. Disabled does not mean less able" - Khang Kijarro Nguyen

Review

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. Further, a pilot programme was initiated in the year 2010 by the Ministry of Health and Family Welfare for Prevention of Burns Injuries in three Medical Colleges and six Districts Hospitals of three states. During the 12th Five Year Plan, this programme is continued with the name 'National Programme for Prevention and Management of Burns Injuries (NPPMBI)' for establishing burns units in 67 State Government Medical

Colleges and 19 District Hospitals. Under this programme, the burns units are strengthened for managing burns injury cases including management of acid burns. The Health Ministry has issued a letter dated 02.05.2013 to all state governments/ UTs with a request to issue necessary instructions to all government and private hospitals in the states/ UTs to provide free treatment to the acid attack victims as per the provisions of Criminal Law (amendment) Act, 2013. About 309 acid attack incidents from across the country were reported in 2014. The states also have to ensure that along with free medical treatment, there is availability of medicines, bed and food for the victims. Costly corrective surgeries also have to be included in the free treatment. This order has been circulated to all states and UTs.

Objective

The main objectives of this paper are as follows-

- To discuss information given in RPWD Act, 2016 for acid attack victims.
- To discuss about legislation for treatment of acid attack victims.
- To discuss about provision for acid attack victims.

Description

Acid attack victims means a person disfigured due to violent assaults by throwing of acid or similar corrosive substance (RPWD Act, 2016). Acid attacks have a catastrophic effect on human flesh and vital organs. *“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”*. (Report submitted to the Hon’ble Supreme Court of India in July, 2008, Report No. 226).

Cause of acid attack

Perpetrators of the crime act cruelly and deliberately and are often motivated by deep-seated jealousy or feelings of revenge against a woman. An offender first obtains the acid, carrying it on him and then throws to the victim. It also often occurs as revenge against a woman who rejects a proposal of marriage or a sexual relation, another cause of acid attack is conflicts related to dowry or domestic violence. Sometimes conflicts regarding inheritance and other property issues are a cause of acid attacks.

Treatment provision for acid attack victims

Now the section 357B has been newly inserted in Criminal Procedure Code, 1973 which reads as: *“The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or section 376D of the Indian Penal Code”*. 357C has been newly inserted whereby all hospitals, public or private are required to provide first aid or medical treatment free of cost. The section reads as: *“All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall*

immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code and shall immediately inform the police of such incident”.

Reservation provision for acid attack victims

As per RPWD Act, 2016 every appropriate Government shall appoint in every government establishment, not less than four percent of the total number of vacancies. In which one percent shall be reserved for persons with benchmark locomotor disability (5,436,604 movement disabled persons by Census, 2011) including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy. The population of locomotor disability is more than 54 lakh in 2011, while new policy includes cerebral palsy, dwarfism, acid attack victims and muscular dystrophy in locomotor disability without increasing any percentage in reservation till now it is only one percent. So, there is a very big need to revise reservation policy as per population, types and severity of disabilities and acid attack victims.

Preventive measures by the Government

The Supreme Court said that *“acid should be sold only to people who show a valid identity card. Buyers will also have explain why they need the chemical and sales will have to be reported to the police”*. A direction was given to the Home Secretary (Ministry of Home Affairs) in 2013 also associating the Secretary (Ministry of Chemical & Fertilizers) to convene a meeting of the Chief Secretaries/ concerned Secretaries of the State Governments and the Administrators of the Union Territories to discuss the following aspects- 1-Enactment of appropriate provision for effective regulation of sale of acid in the States/ Union Territories; 2-Measures for the proper treatment, after care and rehabilitation of the victims of acid attack and needs of acid attack victims; 3-Compensation payable to acid attack victims by the State or creation of some separate fund for payment of compensation to the acid attack victims. The Supreme Court also directed private hospitals to provide free treatment, including specialized surgeries, to acid attack victims and government authorities to take action against private hospitals if they fail to comply with its order. Again the Supreme Court enhanced compensation payable by state governments to acid attack victims to a uniform Rs 3 lakh from the earlier Rs 50,000.

Conclusion and Suggestions

RPWD Act, 2016 is a big weapon for various excluded people and victims who have now become a part of legal beneficiaries. It has really opened the unlimited opportunities for the deprived persons to develop themselves and become a part of mainstream. It has also seen that some real victims may deprive from their right due to ambiguous or dual rules framed in RPWD Act. It is essential issue to collect the comprehensive information from those victims who are not included in this act and put up their real status before the panel. The level of efficiency and deficiency can be checked by the panel of medical practitioner before including in RPWD Act. With acid attack victims should be includes acid accident and disfigured by burned or electric shock. It is also serious

concern to follow reservation as per population, types and severity of disabilities so that the real inclusion would possible in future.

References

1. Antara Sengupta. It's a hard life for dwarfs in India. Disability rights, health and life, society, staff picks, stories by Youth ki Aawaj, 2016.
2. Chinmaya Kumar, Mohapatra, Hiranmaya Nanda. Acid attack and women in India: A critical analysis. Global journal for research analysis, 2015, 4(7).
3. High Court of Judicature for Rajasthan at Jaipur bench, Civil Writ (PIL) Petition no.8708/2015 date of order 5/8/2015
4. <http://www.asfi.in>
5. <http://www.apiindia.org/>
6. Mamidi RS, Kulkarni B, Singh A. Secular trends in height in different state of India in relation to socioeconomic characteristics and dietary intakes. Food and nutrition bulletin. 2011; 32(1):23-24.
7. Ministry of Social Justice and Empowerment, Govt. of India, Amended rules for persons with disabilities to be published in the gazette of India, Extraordinary, Part-II, Section-3, 2009.
8. Ministry of Social Justice and Empowerment, Govt. of India, Guidelines for evaluation of various disabilities and procedure for Certification, 2001.
9. Ministry of Social Justice and Empowerment, Govt. of India, Person with Disability Act, 1995.
10. Ministry of Social Justice and Empowerment, Govt. of India, Rights of Persons with Disabilities Act, 2016.
11. National Commission for Women, Prevention of offences (by Acids) Act, Draft Bill,
12. Preetam Nath, *et al.* Short Stature: Evaluation and Management. Medicine Update 2013, the Association of Physicians of India, 2013, 626-631.
13. Press Information Bureau, Government of India, Ministry of Health and Family Welfare 13:11 IST, Treatment of Acid Attack Victims, 2015.
14. Shree Venkatram. India needs to seriously address its acid attack problem. Published in THEWIRE 06/08/2016, 2016.
15. The Better India Acid attack victims to be given free treatment in all Indian states. Published in TBI Team, 2015.