

Acid Attack- A burning Issue in India

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Abstract: In the course of the most recent decade India has been seeing a disturbing development of corrosive assault particularly on ladies. Acid savagery is an offensive wrongdoing submitted as a rule against ladies, with an expectation to distort or slaughter her. It can also be called as the gender based violence against women. According to the National Commission of India acid attack is “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 disfigurement to any part of the body of such person”. A study revealed that 78% of the reported acid attack case is for refusal to marriage or a rejection of romance. “Acid attack on young women” is some of the headlines that are appearing in the daily newspaper. Acid attack on women is increasing day by day. The easy availability of inexpensive acid makes the perpetrators to use it as an ideal weapon against the women. The most common types of acid utilized in these assaults include sulphuric, nitric, and hydrochloric acid. Attack through acid rarely kills but it causes severe physical, psychological and social scarring. With the passing of ' The Criminal Law (Amendment) Act, 2013, and the guidelines by the Supreme Court of India, the regulations have become stricter. But the survey of 2018 showed 350% increase in the total number of acid attack cases reported. Our lawful and therapeutic frameworks have likewise demonstrated extremely powerless while managing such cases. This paper manages the loathsome impacts that corrosive assaults have on the exploited people physically, mentally, socially and monetarily. It even looks at the contemporary laws administering corrosive assaults.

Keywords: acid attack

1. Introduction

Women comprise a critical part in the general public. They are in charge of bringing forth a real existence however sadly, they are made to lose their lives in name of various brutalities submitted against them. At whatever point a woman chooses to raise her voice against her substandard position in the man centric culture, she is avoided by various means; either by corrosive, physical maltreatment or by burning her to death.

2. Acid violence: A global tragedy

Frequently a wrongdoing of respect, acid savagery is a cruel wrongdoing which can be seen to mean the purposeful utilization of tossing planned corrosive to assault another individual. The National Commission of India defined acid attack as “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 disfigurement to any part of the body of such person” .

In a study conducted by UNICEF reveals,

“Acid attack is a serious problem all over the world, even children are become victim of acid attack in many cases. In an Acid attack, acid is thrown at the face or body of the victim with deliberate intent to burn and disfigure. Most of the victims are girls, many below the age of 18, who have rejected sexual advances or marriage proposals. Acid attack or vitriolage is defined as the act of throwing acid onto the body of a person “with the intention of injuring or disfiguring [them] out of jealousy or revenge”.

The most common types of acid utilized in these assaults include sulphuric, nitric, and hydrochloric acid. Assault through acid seldom executes yet it causes serious physical, mental and social scarring. The casualties of corrosive brutality are overwhelmingly ladies and youngsters, and assailants frequently focus on the head and face with the end goal to injure, deform and daze a man forever and push her in everlasting existence of torment and indifference.

3. Factors responsible for attacks

The Law Commission of India in its 226th report has asserted that the majority of acid attack victims are 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.”

A renowned academician Afroza Anwary in his study emphasized that how acid is used by men on women as a mark of their masculinity and superiority over them and to “keep women in their place.

“Acid attacks are used as a weapon to silence and control women by destroying what is constructed as the primary constituent of her identity.”

Anwary in his study had further maintained that in a patriarchal and conservative societies, overemphasis is laid on marriage of a girl. Her virginity and fair complexion are the most important factors to be considered for her suitability in the marriage market and therefore, her involvement in a romantic relationship prior to her marriage is an anathema. When vindictive lovers are turned down for marriage by the girl

or her family, they resort to acid attack for vengeance. There is also an economic aspect to acid attacks in view of globalization. The financial independence of women in a society of unemployed men creates antagonism in them.

"Weakening financial conditions, high joblessness rates among male providers, the expanding number of landless family units, and the absence of agrarian work for male workers" are the significant explanations behind their disdain. In this way, ladies who are troubled with the onus of procuring for the family are frequently influenced casualty of corrosive by their spouses when they neglect to satisfy their desires as homemakers in their regular sexual orientation jobs. Property debate are another reason for acid assaults on ladies. The inspiration for corrosive assaults on ladies can be credited to different variables and sentiments. A few culprits utilize acid to contaminate and spoil the unfortunate casualty's body as an outflow of cognizant displeasure, trying to corrupt them. Others feed their deep-seated feelings of incapability and insecurity by expressing their superiority and authority by throwing acid on women, in an effort to exhibit their everlasting control over the woman's fate. Alternatively and in conclusion, it can be said that acid attacks are used by men as a medium to establish their superiority and control over them and to keep them always in a state of fear.

4. Effect

Acid devastatingly affects the human body, frequently for all time blinding the person in question. The result being the powerlessness to do numerous regular errands, for example, working and notwithstanding mothering are rendered to a great degree troublesome if certainly feasible.

According to the Acid Survivors Foundation in Pakistan, there is a high survival rate amongst victims of acid attacks. Consequently the victim is faced with physical challenges, which require long term surgical treatment, as well as psychological challenges, which require in-depth intervention from psychologists and counsellors at each stage of physical recovery. The victims are often left with no legal recourse, limited access to medical or psychological assistance, and have no means to support themselves.

A. Physical

Acid eats through two layers of the skin, i.e. the fat and muscle underneath, and once in a while eats through deep down as well as even break up the bone. The profundity of damage thoroughly relies upon the quality of the corrosive and the term of its contact with the skin.

At the point when tossed on a man's face, corrosive quickly eats into eyes, ears, nose and mouth.

Eyelids and lips may consume off totally. The nose now and again liquefies, shutting the nostrils, and ears wilt up. Corrosive can rapidly pulverize the eyes, blinding the person in question. Skin and bone on the skull, temple, cheeks and button may break up. At the point when the corrosive sprinkles or trickles

over the neck, chest, back, arms or legs, it consumes wherever it contacts. The greatest impending risk for unfortunate casualties is breathing disappointment. Inhalation of acid vapors can create breathing problems in two ways:

- i. By causing a poisonous reaction in the lungs.
- ii. By swelling the neck, which constricts the airway and strangles the victim.

When the burns from an acid attack heal, they form thick scars which pull the skin very tight and can cause disfigurements. For instance, eyelids may no longer close, the mouth may no longer open; and the chin becomes welded to the chest.

B. Psychological

Acid assault survivors face many mental health issues upon recovery. Acid violence victims have been reported with higher levels of anxiety, depression, due to their appearance. According to the Rosenberg Scale, the women reported lowered self-esteem and increased self-consciousness, both in general and in the social sphere.

C. Social and economic

Acid attacks usually leave victims handicapped in some way, rendering them dependent on either their spouse or family for everyday activities, such as eating and running errands. They face a lifetime of discrimination from society and they become lonely. These dependencies are increased by the fact that many acid survivors are not able to find suitable work, due to impaired vision and physical handicapped. As a result, divorce, abandonment by husbands is common in the society. Moreover, acid survivors who are single when attacked almost certainly become ostracized from society, effectively ruining marriage prospects. They are embarrassed that people may stare or laugh at them and may hesitate to leave their homes fearing an adverse reaction from the outside world. Victims who were not married are not likely to get married and those victims who have got serious disabilities because of an attack, like blindness, will not find jobs and earn a living. Discrimination from other people, or disabilities such as blindness, makes it very difficult for victims to fend for themselves and they become dependent on others for food and money.

5. Legal effect of acid attack

In India, often incidences of acid attacks grab the headlines of Indian media. Unfortunately in India, there was no separate legislation to deal with acid attacks before the passing of The Criminal Law (Amendment) Act. 2013. The offence was registered under Sections 320, 322, 325, 326 and 307 of the Indian Penal Code (I.P.C).

SECTION 320 - GRIEVOUS HURT - The following kinds of hurt only are designated as "grievous":

Firstly- Emasculation

Secondly - Permanent privation of the sight of either eye.

Thirdly - Permanent privation of the hearing of either ear,

Fourthly - Privation of any member or joint.

Fifthly - Destruction or permanent impairing of the powers of any member or joint.

Sixthly - Permanent disfiguration of head or face.

Seventhly - Fracture or dislocation of a bone or tooth

Eighthly - Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

SECTION 322 - VOLUNTARILY CAUSING GRIEVOUS HURT - Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said to "voluntarily to cause grievous hurt.

Explanation. - A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing he to be likely to cause grievous hurt of one kind; he actually causes grievous hurt of another kind.

SECTION 325 - PUNISHMENT FOR VOLUNTARILY CAUSING GRIEVOUS HURT

Whoever, except in the case provided for by section 335 (Voluntarily causing grievous hurt on provocation), voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

SECTION 307 - ATTEMPT TO MURDER - Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life convicts - When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

On 2nd April 2013 the Indian Penal Code was amended with the passing of 'The Criminal Law (Amendment) Act, 2013. The amendment resulted in insertion of Sections 326A and 326B specifically for dealing with acid violence.

SECTION 326 A states – Whoever 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, shall be punished with imprisonment of either description for a term which shall not be less than ten years but

which may extend to imprisonment for life, and with fine.

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim.

Provided further that any fine imposed under this section shall be paid to the victim.

SECTION 326 B states – Whoever 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, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

6. Compensation for acid attack

SECTION 357 B has been newly inserted in CrPC 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."

A. Free medical treatment

SECTION 357 C 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."

Apart from the above legislations, The Supreme Court of India has given state authorities three months to implement new rules to control over-the-counter sales of acids, which have been used to disfigure, maim and even kill people, particularly women, for decades.

The apex court has directed all 29 states and seven union territories to issue licenses to retailers selling acid. They are now required to keep details like the quantity sold and the addresses of buyers, who will need to present photo identification to purchase acids. The retailers are required to declare the amount of acid being stocked to the police and any case of failure in doing so would lead to undeclared stock being confiscated and a fine of up to 50,000 rupees. It has also barred anyone under the age of 18 from purchasing acids like hydrochloric, sulfuric and nitric. These acids, can burn through flesh, are easily available in shops for as little as 20 rupees (\$0.33) a liter.

7. Statistics

There is no separate statistics for acid violence cases in India

till early 2013 because 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 first data available after the amendment relate to the year 2014 when 349 cases were reported from all over India. This is almost 300 per cent more than the average number of such cases witnessed during the preceding three years. The years 2011, 2014, and 2016 witnessed 83, 85 and 66 cases being reported respectively, but this number shot up to 309 in 2014 – almost four times the average number of acid attack cases in the preceding years. Uttar Pradesh topped the list with 185 cases till November 2017, followed by Madhya Pradesh with 53 cases. Among the seven UTs, acid attack cases were reported only from Delhi, which witnessed 27 such cases last year. The number of persons arrested is only 208 as against 309 cases reported. While in UP there were no arrests in at least 66 cases, in Delhi only 7 persons were arrested in 27 cases. In the preceding three years 336 persons were arrested in total 234 cases.

The latest figures indicate that earlier estimates of likely number of cases at 100 to 500 per annum made on the basis of past records & comparison with neighbouring countries where similar socioeconomic conditions prevail, were perhaps nearer the truth. The Indian Journal of Plastic Surgery of Dec 2007 concluded that in India alone “we would estimate 700, 000 to 800,000 burn injuries annually”. There is a big possibility of such cases being not only accidents but results of opposing and getting burnt. Indian Government statistics also show that an estimated 7000 brides are killed and 18000 are maimed every year in India over dowry disputes alone.

8. Infamous cases

A. Laxmi

Laxmi, 26 year old woman from Delhi is an acid attack survivor. Two men poured acid on her while she was waiting for a bus near Tughlaq road in 2005. She had refused to marry one of her attackers aggrieved by which he left her disfigured for life. Acid had severely burnt her whole face. She had undergone seven surgeries and still needs four more surgeries to make her physical appearance resemble of what it was. She belongs to a poor family and would have never been able to treat herself had she been not helped by a benefactor who bore her medical expenses of approximately Rs. 2.5 lakhs.

Laxmi can never look the way she used to but she is still an inspiration to all such women who have been victim of acid like her. She didn't lose courage and had advocated against acid violence by gathering 27,000 signatures for a petition in Supreme Court of India to curb acid sales. Her PIL sought framing of a new law, or amendment to the existing criminal laws like IPC, Indian Evidence Act and CrPC for dealing with the offence, besides asking for compensation. She had also pleaded for a total ban on sale of acid, citing increasing number of incidents of such attacks on women across the country. It

was her petition which led Supreme Court to give a historic decision regarding regulations on sale of acid.

She is in present the director of Chhanv Foundation, a NGO dedicated to help the survivors of acid attacks in India. Laxmi received a 2014 International Women of Courage award by US First Lady Michelle Obama. She was also chosen as the NDTV Indian of the Year.

B. Haseena Hussain

The accused Joseph Rodriguez, the ex- boss of the victim threw 1.5 litres of sulphuric acid on her when she decided to quit her job. The acid melted her face, fused her shoulder and neck, burnt a hole in her head, merged her fingers and blinded her for life. The accused was convicted under section 307 of IPC and was to sentenced to imprisonment for life. A compensation of Rs. 2,00,000 in addition to the Trial Court fine of Rs. 3,00,000 was paid to the victim. This is a landmark case as it was the first time that a large sum was awarded to the victim to meet her medical expenses.

C. Sonali Mukherjee

Sonali Mukherjee, a woman from Dhanbad was attacked by acid when she was just 18 years old. In 2003, three alleged assailants namely Tapas Mitra, Sanjay Paswan and Brahmadev Hajra threw acid on her when she was asleep on roof of her house. She received various burnt injuries and her face got disfigured. The perpetrators were sentenced to imprisonment of nine years but were released on bail when appealed to the High Court.

D. Preeti Rathi

Preeti had got a job as a Lieutenant in Indian Navy and had come to Mumbai to join in the INHS Asvini, the naval hospital in Colaba. On her way to work on 2nd may 2013, a man flung acid on her face which damaged her eye and infected her kidneys. The acid entered her esophagus, windpipe and trachea causing her unbearable pain. She succumbed to injuries and lost her life. The perpetrator was booked under IPC section 302(murder), 326-A (voluntarily causing grievous hurt by use of acid), 326-B (voluntarily throwing or attempting to throw acid).

9. Legislation on acid violence around the world

No country in the world is untouched by the acid attacks. From developed nations like United States of America, United Kingdom to the developing nations like India, Bangladesh etc, acid attacks are ubiquitous. Though the majority of attacks happen in the continent of Asia and Africa.

As the acid attacks cases rose in number over the years, the countries over the world felt the need to frame stringent laws to curb such type of violence. The legislations on acid violence in the countries where the most number of such attacks occur are:

A. Bangladesh

Bangladesh reports the highest number of acid attacks in the

world. There was a sudden increase in number of acid attack cases in Bangladesh in the mid-1990s. In 2001, 340 cases were reported which got to 336 cases in 2002. The government passed The Acid Offences Prevention Act and The Acid Control Act in 2002 to check the increasing acid violence in the country.

The Act punishes the culprit with a death sentence or rigorous punishment for life with the fine of one lakh Takka in case of death or complete or partial mutilation of face or sexual organ of the victim. On damage to any part of the body of the victim, rigorous imprisonment of 7-14 years is awarded to the perpetrator. In addition to this, anyone who throws or attempts to throw acid on any person is rigorously imprisoned for 3-7 years along with a fine of 50,000 Takka even if no physical or mental harm is caused.

The Act also addresses the problem of delay of prosecution of cases by allotting fixed time for investigations. It provides a maximum of 60 days for investigation, failing which legal action is taken against the investigating officer. It also states that the trial of the case should be completed within a maximum of 90 days. The Acid Control Act, deals with restricting and controlling the sale and supply of acid in Bangladesh. A 15-member National Acid Control Councils have been established around the country to take action to enforce the laws regarding acid sales and to assist in proper treatment, reporting and rehabilitation of victims.

B. Cambodia

Earlier, there was no criminal law to punish the perpetrators of acid violence. They were charged with battery with injury, carrying a sentence of up to ten years imprisonment. In January 2012, Acid Law came into force which criminalized the acid violence. It prosecutes the perpetrator with 15-30 years of imprisonment in case of death of the victim and 15-25 years in case of permanent disability of the victim. It also lays down that the government should provide the acid victims medical care, legal support and protection.

C. Uganda

Acid violence in Uganda affects all the social strata of society from the poorest to the most rich and influential. Section 216(g) of Ugandan Penal Code penalizes the perpetrator with life imprisonment. If the attack is made with malice and it leads to the death of the victim, then it is considered as murder under Section 188 and the culprit is awarded with a death sentence under Section 204 of the Ugandan Penal Code.

An offence as grave as acid attack is non-bailable in nature but the culprits are still released on bail. Though there are effective laws present in the country against such violence but they are not implemented in an apt manner which is the reason why such attacks still occur in large number in the country.

D. Jamaica

There is no explicit law in Jamaica to deal with acid violence in spite of the fact that it has the largest number of absolute acid

attack victims. The only piece of legislation which punishes such violence is Offences against the Person Act which awards life imprisonment to the convict in case of causing grievous injury to the victim.

E. Nepal

Under Nepal's legal system, there is no precise punitive provision for acid violence. Under the present laws, perpetrator is penalized under provision of hurt and culpable homicide of Muluki Ain. Number 14 of the chapter Hurt, endows with punishment for causing hurt to the body by burning substance like acid. When no grave injury is caused to the person, perpetrator is awarded with two months of imprisonment and a fine of Rs. 500. A fine of a meager sum of Rs. 2,000 is imposed on burning nose or eyes of a person. In addition to this, no medical and economic assistance is provided to the victims by the government. The present law on acid violence fails to provide any severe punishment to the culprits and is thus, ineffective to curb such attacks.

F. Pakistan

Pakistan passed the Acid Control and Acid Crime Prevention (Amendment) Act, 2010 which amended the penal code of the country to add section 326A and 326B which provides for life imprisonment or a minimum of fourteen years of imprisonment with a huge fine of one million rupees to anyone who causes grievous hurt to any person via acid.

The Acid Throwing and Burn Crime Bill, 2012 expands upon the Acid Control and Acid Crime Prevention (Amendment) Act, 2010. It provided a proper and specific definition for acid attack and also provided for investigation, protection of witnesses as well as the recognition of medical, legal and financial support for victims and their dependents. The Act also criminalizes an attempt to commit acid violence and imposes an obligation on officers for proper investigation of the attack. To promote effective implementation of law, the act provides the provision for establishment of Acid and Burn Crime Monitoring Board and described its role and responsibilities.

10. Convention on the elimination of all forms of discrimination against women

The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) was adopted in 1979 by the UN General Assembly. It is often described as an international bill of rights for women. It defines what constitutes discrimination and sets up an agenda for national action to end such discrimination. It defines discrimination against women as,

"...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

A majority of acid attack cases occurs against women which

exhibits gender inequality and discrimination in society. Acid attack is an attempt by the perpetrator to destroy and degrade a woman physically, psychologically and emotionally. It creates a sense of fear in the mind of the victim and makes her accept the traditional subordinate gender role in society. It prevents her from challenging the unjust social norms and to rise against her subordinate position in society

Countries that have ratified the Convention are legally bound to implement its provisions. They are also committed to submit national reports, at least every four years, on measures they have taken to meet with their treaty obligations. Countries with maximum number of acid violence cases like Bangladesh, Pakistan, Nepal, India etc. have ratified CEDAW which creates a legal obligation on such countries to frame stringent laws to curb such violence against women.

In addition to CEDAW, The United Nations General Assembly had passed a Declaration on the Elimination of Violence against Women in 1993. Article 4(f) of this declaration advocates member states to develop preventive approaches for violence against women by legal measures. Such a declaration gives credibility to new legislations which advocates stern punishment to the offenders, provide appropriate compensation to the victims and regulates sale of acid in the member countries.

A. *Mere legislation won't do*

The success of any law is determined by its implementation. Most stringent of laws will be of no avail if they are not properly implemented. The Criminal Law (Amendment) Act, 2013 has brought positive changes in the laws against acid violence. Prior to the Act, no provision of strict punishment was there to punish the culprits and either no or a compensation of a very meager amount was used to be given to the victim. The amendment made special laws to punish the culprits and also provided for the provision of providing medical aid to the victim.

In any case, surrounding of laws is never enough except if it is legitimately executed. The Indian Judicial System is overburden with cases. It takes a long time for the preliminary to occur. What's more, legal advisors attempt to postpone the arraignment of the blamed by asking for the Court to broaden the date of preliminary. Subsequently, case stays pending for a considerable length of time and the criminal isn't rebuffed for

his represents a very long time regardless of the stringent laws. Subsequently, a different Tribunal or Bench can be shaped to take care of the instances of corrosive assaults. Such a body will be only held for such cases which will guarantee brisk liberation of equity and help to the person in question. The choice of the Tribunal or Bench ought to tie and last which will spare the injured individual from different interests in various courts of the nation.

Notwithstanding the stringent reformatory laws, arrangements have likewise been made to control the offer of corrosive. The acids utilized for assaults are effectively accessible as they are utilized in local use and additionally for logical and look into purposes. An observing framework ought to be shaped to check the compelling usage of the tenets by the general population.

Many people in the country (particularly the shopkeepers and retailers) due to illiteracy or ignorance have no knowledge of the new rules of regulation on sale and purchase of acid. Steps should be taken by the government to make people aware of the new rules.

The Criminal Law (Amendment) Act, 2013 is a welcome act which has brought positive and effective changes. Justice can never be delivered to the victim unless the law is properly implemented. Thus, steps should be taken to effectively execute the new laws to curb such a violence.

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