

“A SCAR ON THE NATION: ACID ATTACK”

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INTRODUCTION

Acid attack means a violent and cruel act of throwing acid or any other similar corrosive substance on someone's body, usually on the face, with an intent to disfigure, injure, torture or kill. The criminals throw acid on their victims, usually burning them, damaging skin, sometimes even dissolving the bones. Acid attacks can also damage the eyes and other organs in long run. Though the physical injuries may heal after laborious and multiple operations, the mental injuries are for life.

Around 1000 acid attacks take place every year in India¹, from which many go unreported. The most commonly used acids are sulfuric acid, nitric acid and hydrochloric acid due to the easy and cheap availability. The act rarely kills but causes severe physical, psychological and social scarring, and victims are often left with no legal recourse, limited access to medical or psychological assistance, and without the means to support themselves. Acid attacks not only leave physical scars on the face of the victim but also leave the victim with a societal stigma.

HISTORY

Acid has been used as a tool of torture and destruction since ancient times. In France after the 'wave of vitriolage' in 1879, 16 cases of vitriol attacks were reported as 'crimes of passion', mostly by women against another woman. In 1915, Prince Leopold Clement of Saxe-Coburg and Gotha, heir to the House of Koháry, was fatally attacked by acid by his distraught mistress. In 1865, the New York Times reported that a jealous husband was arrested for disfiguring his wife² with

¹ Arafatul Islam, *Why acid attacks are on rise in India*, DW, (September 15th, 2018), <https://www.dw.com/en/why-acid-attacks-are-on-the-rise-in-india/a-19313750>

² *Prisoners Awaiting Hearing; Throwing Vitriol*, The New York Times, (September 15th, 2018), <https://www.nytimes.com/1865/07/15/archives/prisoners-awaiting-hearing-throwing-vitriol-garrotting-in.html>

acid after threatening to spoil her figure. The use of acid as a weapon increased in the 19th century specifically in South Asia. The first acid attack was recorded in Bangladesh in 1967, India 1982, Cambodia 1993. However, many of the cases went unreported, acid attacks have been reportedly increased in the region since then.

MOTIVE BEHIND ACID ATTACKS

The intension of the perpetrator is often to torture and humiliate them rather to kill the victim. In most of attacks against women are commonly motivated by reasons such as revenge for rejection of sexual advances, marriage proposal or demand for dowry, sexual related jealousy or lust, personal conflicts in marriage or marriage like relationships, revenge against the relative of the victim etc. there are many other motivators such as racial, religious and political issues, rivalry and property conflicts. In some cases, females were attacked with acid as a punishment for attending school, both man and woman were attacked for refusal to convert their religion, or merely because they are part of a particular community. The motives are guided by the mindset of a person, which majorly is dependent upon the mentality of the society as a whole. Women are inherently considered as someone's property and are often objectified. Since, motive in the cases of revenge for rejection leading to acid attacks is to punish the woman by permanently destroying their social and economic lives, faces are particularly targeted.

CONSEQUENCES OF ACID ATTACKS

The victims go through a lifelong medical, physical, psychological and social challenges such as:

Physical and Medical Effects:

The medical effects of acid attack are severe. Most of the acid attacks are aimed at the face of the victim, they often result in the acid eating up the skin, the underlying fat, and sometimes even dissolving the bone. Eyelids, lips and ears being most sensitive parts are extensively destroyed. If the acid gets in contact with the eyes of the victim, it can also lead to blindness. The severity of the injury depends upon the concentration of acid and the time within which the acid is washed off with water or neutralizing agent. Victims suffer from various kinds of deformities; the acid not only destroys skin and hair but also cause many internal damages such as inhalation of acid damages the respiratory system. Sometimes, the victims are

tricked into drinking acid or the acid is inserted in their private parts³, leading to enormous internal destruction. The recovery treatment for these injuries, the numerous surgeries are often extremely expensive and unfordable for the victims. If not treated and recovered completely, the victims also suffer various kinds of infections around the wounds or can even cause death.

Psychological Effects:

Apart from the physical damages the victim also faces mental trauma during and even after the recovery. They often go through chronic pain, depression, suicide ideation, PTSD (Post-Traumatic Stress Disorder), anxiety, insomnia, isolation and low self-esteem, due to their appearance. The victim faces such grievous deformities and sometimes disabilities that it becomes extremely difficult for them to forget and come out of the pain of the attack completely, preventing them to again lead a normal life. Many of the victims try to commit suicide as they cannot accept their appearance and social stigma attached with it.

Societal Effects:

Even after recovery, the acid attack survivors often go through many social implications. The victims are often handicapped and are unable to do daily errands and become dependent on their family members. The victims are resistant to go out and face people as they feel that they will scare people. Even if they are willing to go back to the society, they are often discriminated and face difficulty in finding education and employment, leading to financial issues. They often end up blaming themselves. Sometime, the victims are abandoned by their family and relatives, and are blamed themselves for their situation due to the societal mindset and stigma.

The survivors who are unmarried when attacked often are ostracized from the society, in marriage perspective, they are often outcaste and given names due to their appearance and are never really accepted in the society back.

LAWS ON ACID ATTACKS

³ Marepally Venkata Sree Nagesh vs State Of A.P., CriLJ 3625, Acid inserted in private parts of woman, (HC of Andra Pradesh: 2002)

Till 2013, India did not have any specific laws to deal with cases of acid attacks. The Section 326 of the Indian Penal Code, 1860 deals with 'Voluntarily causing grievous hurt by dangerous weapons or means' which includes hurt by corrosive substances but did not had any specific provisions for acid attack. The scope of Section 326 is narrow and does not deal with the issue adequately because:

- It does not cover the various kinds of injuries caused by acid attack.
- It does not specify who the fine should be awarded to, i.e. victim's compensation.
- It does not cover the act of administering acid attack, i.e. planning it.
- It does not punish the intentional act i.e. attempt of throwing of acid attack if no injuries occur.⁴

In 2013, the legislation passed the Criminal Law (Amendment) Act, 2013, which included Section 326A and Section 326B under IPC to deal with the growing cases of acid attacks in the country. These sections include the various injuries inflicted by acid attacks, the act of administering the attack, the punishment for the offence as well as for the attempting the offence, and the compensation for the victim. It also included Section 375B and 357C which provides for compensation by the State and Free Medical Treatment (first aid) to the victim. It also extends the right of private defense under Section 100 of the IPC.

- Section 326A of IPC states: Voluntarily causing grievous hurt by use of acid, etc.-

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:

⁴ Amartya Bag, *Acid attack and the law in India*, iPleaders, (September 15th, 2018), <https://blog.ipleaders.in/acid-attack-and-the-law-in-india/>

*Provided further that any fine imposed under this section shall be paid to the victim.*⁵

- Section 326B of IPC states: Voluntarily throwing or attempting to throw acid.

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.

*Explanation 1.—For the purposes of section 326A and this section, "acid" includes 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. Explanation 2.—For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.*⁶

- **Section 357B** of CrPc states:

*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.*⁷

- **Section 357C** of CrPc states:

*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.*⁸

- **Section 100 of IPC extension states:**

⁵ Indian Penal Code, 1860, Section 326A

⁶ *Supra* 5, Section 326B

⁷ The Code of Criminal Procedure, 1973, Section 357B

⁸ *Supra* 7, Section 357C

Seventhly- *An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.*⁹

These sections inserted after the recommendation of the Justice J. S. Verma Committee and it was also a proposal of 226th Report of Law Commission of India which dealt particularly with acid attack.

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 explained why they need the chemical and sales will have to be reported to the police.” On 6.2.2013, a direction was given to the Home Secretary, Ministry of Home Affairs 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, inter alia, to discuss the following aspects:

- (i) Enactment of appropriate provision for effective regulation of sale of acid in the States/Union Territories.
- (ii) Measures for the proper treatment, after care and rehabilitation of the victims of acid attack and needs of acid attack victims.
- (iii) Compensation payable to acid 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. The court also directed states to implement stringent norms for retail sale of acid, treating it as poison under the Poisons Act, 1919, within three months.

⁹ *Supra* 5, Section 100

CASES RELATED TO ACID ATTACKS

Cases before the Criminal Law (Amendment) Bill, 2013:

- **Marepally Venkata Sree Nagesh vs. State of A.P, Andra Pradesh HC, 2002:**

In this case, the accused suspected about the character of his wife for having illegitimate relations with another man. He inserted mercuric chloride into her vagina due to which she died of renal failure. The accused was charged and punished under Section 302 and 307 of the IPC.

- **Balu v. State Represented Inspector of Police, Madras HC, 2006:**

The accused husband who had thrown acid on his wife was ordered to pay a meagre amount of Rs 2,000. The appeal was dismissed by the Madras High Court. Such a meagre amount of compensation of only Rs 2,000/- cannot be said to be sufficient.

- **State of Karnataka by Jalahalli Police Station vs. Joseph Rodrigues, Karnataka HC, 2006:**

It is one of the most famous cases involving acid attack. The accused threw acid on a girl, Hasina, for refusing his job offer. This deeply scarred her, physical appearance changed the colour and appearance of her face and left her blind. The accused was convicted under Section 307 of IPC and sentenced to imprisonment for life. A compensation of Rs. 2,00,000/- in addition to the Trial Court fine of Rs3,00,000 was to be paid by the accused to Hasina's parents.

Landmark Cases Related to Acid Attack

- **Laxmi vs. Union of India, SC, 2006:**

In this landmark case, the victim petitioned in the Supreme Court regarding the cost of treatment of the acid attack victim and the application of Section 357C of the Cr P.c. The apex court issued directions to regulate the sale of acid to the concerned State or UT.

It also held that full medical assistance to be provided to the victims of acid attack and that private hospitals should also provide free medical treatment to such victims. No hospital/clinic should refuse treatment citing lack of specialized facilities. Also, a certificate by the hospital to be issued stating the individual is a victim of acid attack.¹⁰

¹⁰ Dr. Jai mala Narotta & Navpreet Kaur, *Acid Attacks and Role of Indian Judiciary*, IJSARD, 72, Lakshmi PIL

It also held that a compensation of minimum 3 lakhs by the concerned State or Union Territory shall be provided to the victim as the aftercare and rehabilitation cost.

• ***Parivartan Kendra vs. Union of India, SC, 2015:***

A writ petition was filed by an NGO under Article 32 of the Constitution of India regarding the inadequacy of compensation to the acid attack victims and highlights the lack of legal, medical and rehabilitative services to the victims. The apex court held that the directions issued in the case of Laxmi v. Union of India are appropriate. What is required to be insured is the implementation of these guidelines. Keeping in view of the social, economic and personal life of the victim, 3 lakhs is not sufficient for the whole treatment of the victim. Hence, the State must enhance the compensation in the present case to 6 lakh.¹¹

• ***State of Maharashtra vs. Ankur Panwar (Preeti Rathi Case), SC, 2002:***

In an acid attack in Maharashtra a special women's Court of Mumbai sentenced Ankur Panwar to death. The accused was convicted of the charge of throwing acid on Preeti Rathi at Bandra station in 2013 after she chose to pursue her nursing career, declining his proposal for marriage.¹² The court also imposed a fine of Rs. 5000 on Panwar and directed that it be given to parents of the victim. This is the first time that a convict in India has been sentenced to death for an acid attack. India is also only the second country, after Bangladesh, to have done so. Under Bangladesh's Acid Crime Suppression Act, attackers can be sentenced to death.¹³

REQUIRED CHANGES

India has taken many steps ahead of 2013 in order to handle the raising cases of acid attacks in the country but still there is a long way and many new laws and changes are needed to fight this crime. The rising number of acid attack cases, from 83 in 2011 to 349 in 2015 and further, shows India's inability to grapple with this heinous crime. Cases continue unabated in various parts of the country, showing the Pan-Indian character of this form of assault. Over the last few months, cases of acid violence have been reported from Rajasthan, Punjab, Madhya Pradesh, Tamil Nadu, Kerala, Bihar, Assam and Delhi, underlining the

¹¹ Narotta, *Supra* 8, Parivartan Kendra vs. Union of India

¹² Amartya Bag, *Acid attack and the law in India*, iPleaders, (September 15th 2018), <https://blog.iplayers.in/acid-attack-sentencing-legislation-india>

¹³ Charul Shah, *Preeti Rathi Killer Smiled*, Hindustan Times, (16th September 2018), <https://www.hindustantimes.com/mumbai-news/mumbai-nurse-acid-attack-killer-smiles-as-he-is-sentenced-to-death/story-7m8zRElBykzht0Ldnfu5WN.html>

fact that little has been done to regulate the availability of acid, despite the Supreme Court directive five years ago. We can learn from Bangladesh, which had an extremely high number of cases and has been able to combat the problem to a great extent. Firstly, there is a major need to provide a speedy justice system to the victims. The investigations of the case must be completed as speedy as possible and if not completed then the investigating officer must be held liable for the same. The case must be decided within stipulated time. Though there are laws for free first aid and interim compensation for the victim but there is a need to improve the implementation of such laws. Although the Supreme Court has directed the centre that enacting a law to regulate the sale of acids and a policy for treatment, compensation and care and rehabilitation of acid attack victims. A couple of lakhs of rupees in compensation is simply nowhere near enough to deal with the expensive surgeries, unending trauma and prolonged complications. The victims must be provided higher compensation enough to cover the medical expenses and provide for victim's livelihood at least for few years. The victims must also be provided with basic education and employment opportunities in order to insure financial security for the victim.

Apart from strict laws, several reports highlighted the need for an increased, legal role of NGOs to offer rehabilitation support to acid survivors. Many NGO's combat this situation by providing the acid attack victims with legal, medical, counselling and economic support in rebuilding their lives and to bring them back to the society.

UPLIFTING THE VICTIMS

In 2017, nine women disfigured by acid became defiant models at the first haute couture fashion show for the survivors of the growing scourge of acid attacks in India. Ria Sharma, 24 and Tania Singh founders of 'Make Love Not Scars', a Delhi-based NGO, who are helping in the rehabilitation of acid attack survivors, organised a fashion show in New Delhi for them.¹⁴ Chhanv an NGO founded by Alok Dixit and Ashish Shukla started the Stop Acid Attacks campaign in 2013, in an attempt to spread awareness, advocacy and also demand from the government proper

¹⁴ Make Love Not Scars, (16th September 2018), <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&act=8&ved=2ahUKEwjx6fuHhdTdAhXadn0KHZbjCTwQFjAAegQIBxAB&url=https%3A%2F%2Fmakelovenotscars.org%2F&usq=AOvVaw1MjPB0UqloWQ-wLmDNXS17>

treatment of the victims. At Chhany, survivors can expect financial assistance with their treatment, counselling, after care and help with finding a job. Chhany also helps survivors collect funds for education and anything else that they would like to pursue. ‘Sheroes Hangout’¹⁵ is a café started by an acid attack victim Lakshmi and her husband Alok, an initiative by Stop Acid Attacks campaign, which provides employment acid attack victims as it is a café which is managed by acid attack survivors. People from various sects while enjoying food, shopping and leisure can also acknowledge the proximity of acid attacks and India as the café often organises debates, book launches, conferences and music sessions related to acid attack awareness. It can be considered as a great model.

CONCLUSION

Despite various legislations, amendment in laws, legal directives and support from the government and other organisations, acid attacks can only be curbed when the society changes its mind set. Women have always been suppressed and are objectified in this country. In numerous cases of acid attacks on women, the reason behind the crime vary from taking revenge for refusal of proposals to doubting on one’s wife’s character. This is because of the patriarchal nature of the society which places men on a higher and authoritative position than the women and expects the women to adhere to all the wishes of the men. Acid attacks are the result of such mind set. Hence, in order to fight against this crime, there is need to bring change in the thinking of the society and which is why it is very important that we educate our people accordingly. There is also a need to increase acceptance of these victims back into the society without any discrimination, so that they can resettle in the society with respect. As rightly said by famous acid attack survivor,

“I am not a victim, I am a survivor. The man who attacked me will cover his face, I will not.”

¹⁵ Sheroes Hangout, (16th September 2018), <https://www.sheroeshangout.com>