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## **Scarred for Life: Thoughts on Legal Perspectives of Acid Attacks in Selected Countries with a Focus on India**

By Shaheema Hameed<sup>1</sup>, Bhupal Bhattacharya<sup>2</sup>

### **Abstract**

This article discusses acid attack victims in India—who are primarily women—while examining the related laws dealing with such issues. While these attacks can be associated with societal and other factors that relegate women to an inferior position in a society of male-dominated patriarchal culture, cases of acid assaults are on the rise in India. This research examines the related laws that deal with such issues in India and recommends suggestions for future scope for its remedies. Acid attack victims and survivors are at the receiving end of social stigmas that prevent them from achieving fulfilling lives. They are ostracized and forced to live lives of social exclusion as they are embarrassed, hesitant, and fearful of the outside world. Discrimination makes it highly difficult to find gainful employment and survivors often end up feeling as though they have no meaning in life. Acid attack survivors tend to depend on others for their livelihood as they are, for no fault of their own, socially excluded. Various cases of acid attacks have been cited in the paper which gives insight to the horror of the crime. The research study employed secondary sources of data collection and has reviewed legal aspects pertaining to acid attacks in selected countries.

*Keywords:* Acid Attacks, Survivor, Legislative Provisions, India

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## Introduction

Acid Attacks are a rampant crime that intentionally debilitates an individual at all levels of his/her persona, a malicious crime that can change a person's life forever. Acid attacks are a form of violence (Brown et al, 1986) involving the perpetrator throwing acid or a similarly corrosive substance onto the body of another "with the intention to disfigure, maim, torture, or kill", and these crimes are mostly against women. An acid attack can include "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" (National Commission of India, July, 2009).

The people who commit these crimes typically do so with malicious intent and concentrate on throwing acid on body areas that are exposed and define a person, such as the face, thereby damaging skin tissue and, in extreme cases, the bones. Sulfuric acid and nitric acid are the acids which are very frequently used for such crime (NICFS, 2017). Another type of acid commonly used is hydrochloric acid (Swanson, 2002). Sulfuric, nitric, and hydrochloric acids are used for these heinous crimes because of their availability.

The effects of these acid attacks may include blindness and permanent scars on the body parts which have been attacked. In addition to the physical wounds, the victims often face social, psychological, and economic difficulties (Vietnam, 2014). Megha et al. (2015) suggest survivors of acid assaults have higher anxiety levels and depression due to the detrimental impacts to their appearance. Acid is a cheap and conveniently available weapon for any criminal with intent to target, maim, and disfigure a preselected victim who may have been the focus of a factor such as "patriarchal structures and locally specific reasons such as a loss of face or honour and retribution that contribute to the incidence and severity of acid attack violence" (Welsh, 2009). The availability of acids contributes to making the crime a more common one. Despite controls put in place by the Supreme Court of India, acids are easily obtained. The main causes of acid attacks are the freely available acids in the market. People can procure acids from pharmacies, open-air markets, goldsmith shops, car repair shops, etc. without much effort on their part. It is also used by many individuals as a cleaning agent in their homes. It is thus readily obtainable, inexpensive, and within the scope of ordinary people as well (Goswami & Handa, 2020). During the promotions of the Indian movie "Chhapak", actor and protagonist Ms. Deepika Padukone demonstrated how easy it was to buy acid for a minimal cost (India Today, 2020.). This contributes towards further spread of this crime.

Acid attacks occur for many reasons including disputes over land and property, demands for dowry, and a spurned lover's revenge. The patterns of attack vary from country to country (Heise et al., 1994). Research has shown socio-ecological reasons for acid attacks around the world. These include a male-dominated patriarchal mindset in society, inexpensive and effortless availability of acids, domestic violence, peer jealousy, and vengeance (Goswami & Handa, 2020). The fact that acid attack crimes are rampant is a deeply rooted social phenomena in gender order and gender inequality that dictates that male control over women is justified and so violence in any form is justified (Fredman, 2016; Storkey, E. 2018). Commonly, the motive behind an acid attack is revenge, rejection to a marriage proposal, or a woman refusing a request for sexual activity. The *Times of India* reported that acid attacks are often due to dowry, business revenge, or property issues (March 22, 2020). Acid attacks are committed irrespective of caste, professional status, class, urban/rural area, or other categories the victim belongs to. One of the distinguishing characteristics of this crime is that it can be carried out both in public and in private spaces. While the reasons for acid attacks are many, in the majority of cases they are related to gender-based

violence (Copelon, 2008). Statistics reveal that most of the victims are women or girls, though the attacks sometimes include males and animals too. (ASTI, 2021.)

International Law disallows acid violence, describing it as “Gender Based Violence.” Acid attacks are also considered a form of discrimination under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The CEDAW was ratified by the United Nations General Assembly on 18 December 1979. It came into force on 3 September 1981 as an international treaty after being ratified by 20 countries. By the Convention's tenth anniversary in 1989, almost one hundred nations had agreed to be bound by its terms. The CEDAW Committee observes the local government’s compliance so that a woman should not be addressed disproportionately. Although acid violence occurs in many countries, it is prominent in countries where gender discrimination is prevalent. India, Bangladesh, and Cambodia are examples of countries which rank very low on the Global Gender Gap Index which is a measure to calculate the distribution of national, political, and health equity between men and women (Schwab et al., 2019).

India is witnessing a socio-cultural and politico-economic transformation that has been taking place recently (Véron et al., 2003). The complexity of a problem like acid violence should be understood within the context of this transformation (Kuriakose et al., 2017). Kofi Annan, the 7th Secretary-General of the United Nations, stated, "Violence against women is perhaps the most shameful human rights violation, and perhaps the most pervasive" (Taylor, L. M. 2000). This statement connects directly to the magnitude and complexity of the acid attacks prevalent in India (Mousmi, 2018).

Exact statistics for acid attacks are difficult to determine as many cases go unreported or underreported for various reasons including ignorance, fear, and apprehension of a further attack. However, acid strikes have been recorded in a number of countries including Bangladesh, Australia, Cambodia, Italy, El Salvador, Ethiopia, China, Pakistan, Malaysia, Nepal, Laos, Sri Lanka, Thailand, United States, Uganda, United Kingdom, and Vietnam (Stockholm International Peace Research Institute, 2007). Even with available statistics, it is obvious that the number of occurrences in Bangladesh, India, Pakistan, Cambodia as well as Uganda is higher (House, 2014). Prominent researchers in this field believe that specific cultural and social concerns are accountable for such attacks. Most of these factors related to gender are more or less common in all the nations (Dreze & Sen, 2002).

### **Acid Attacks: A Legislative Analysis of Selected Countries**

Acid attacks are rampant in most South Asian countries (Niaz, 2003), but are particularly prevalent in Bangladesh, Pakistan, and India (Goosenkere, 2004; Kalantry & Kestenbaum, 2011; Manderson et. al, 2003; Welsh, 2019). Bangladesh, however, can be viewed as a success story as it saw a decline from 30% to 20% in the instances of attacks. This could be accorded to the stricter laws, rapid administration of justice, and stringent regulations on the sale of acid. In 1995, Bangladesh identified the seriousness of the crime by declaring that acid assaults identify gender and enacted the Cruelty to Women and Children Act (Huq, 2003). In 2000, the Prevention of Oppression Against Women and Children Act was amended to specifically address offences relating to acid attacks (Chowdhury, 2007). Nonetheless, the surges in the patterns of acid attacks against women and girls again drew attention in the early 2000s which consequently compelled the government to enact laws protecting victims of both genders (Mollah, 2005). For this reason, in 2002, two new pieces of legislation were passed to prevent acid-related crimes: The Acid Offences Prevention Act and the Acid Control Act. Section 4 of the Acid Offences Prevention Act,

2002, provides for the death penalty or ruthless imprisonment for life with a maximum fine of 1,000,000 Taka (USD 1185) for intentionally causing murder of an individual or permanently causing injury to the victim using acid. If any body part/s of the victim is affected, a maximum punishment of fourteen years can be awarded to the accused or a minimum of seven years harsh imprisonment. Section 6 of the Acid Offences Prevention Act, 2002 further states that whoever throws or attempts to throw acid on any individual, causing no physically or mental harm/damage or injury to that individual or otherwise, shall be punished with minimum imprisonment of three years subject to maximum of seven years with a maximum fine of 50,000 Taka (USD 592). The fines and punishment do not seem overly harsh when compared to the horrific impact that such crimes have on the victims' lives.

In Cambodia, acid violence typically takes place in the family (Welsh, 2009). As a result, the criminal activity is dealt with in the Domestic Violence Act of Cambodia, 2005. But not especially dealt with in criminal law. Offenders can be charged with "battery with injury" which carries a sentence of up to 10 years of imprisonment. Article 41 states that if anyone wilfully strikes another, causing injury resulting in permanent disability or short-term impairment, shall be imprisoned for at least six months which may extend to five years. Article 31 further states that if any offender kills or attempts to kill another with pre-meditated intention or while causing theft or rape, shall be liable to imprisonment for a term of ten years which may exceed to 20 years.

In Nigeria, an individual offender can be punished with life imprisonment for causing injury to any victim using acid. The United Kingdom deals with acid attack crimes very harshly applying Section 29 of the Offences Against the Person Act, 1861 (OAPA). Although violence with acid is uncommon, the consideration of the gravity of the offence and its deadly consequences is a deterrent, and severe punishment is prescribed for similar offences. However, available data sees a sharp increase of acid assaults in the UK. In London in 2016, there were 455 criminal offenses entailing destructive compounds (reference citation). Nevertheless, several attacks might be going unreported to the authorities. Punishment for acid attack extends to life imprisonment under Section 29 of OAPA 1861. The guidelines regarding minimum punishment (fixed to imprisonment of 5-6 years) have been regularly upheld in the various judgments, regardless of the fact that the victims were often inflicted with minimal injury.

### **Acid Attacks in India: The Legal Provisions**

India, unfortunately, has a different story to tell. Most acid attacks, especially ones that are committed by family members such as a husband, go unreported (National Research Council, 1996; Lieder, 2018; Chockalingam, 2018; McDougal et. al., 2018). Despite the insertion of Section 326A of the Indian Penal Code in 2013 (which imposes a minimum of ten years imprisonment and a maximum of life sentence), strict directives, and a public awareness campaign about the dangers of this crime, there has been a spurt of increase in the crime leading to more victims being ostracized from society (Misra & Bronitt, 2014). In India, up to early 2013, there was no separate law for acid violence because Indian criminal law did not consider acid violence as a separate offence (Patel, 2014). But due to an amendment in the Indian Penal Code in February 2013, Section 326A and Section 326B were introduced and any acid violence is now recorded as a separate offence (Sharma, 2013). Statistics in 2019 state that the number of acid violence cases ranged between 100 to 500 per annum which was made on the grounds of records and comparisons with nearby countries with similar socio-economic conditions as India. The amendments in the Indian Penal Code, 2013, of reporting acid violence as a separate crime, however, did little to combat this violence. Official records show 225 reported cases in 2014 and a growth in the numbers leading

to 249 cases in 2015. Between 2014 and 2018, there was a reported figure of 1,483 acid attack victims in India (Roy, 2020).

In 2008, the Law Commission of India came out with a report on “The Inclusion of acid attacks as specific offenses in the Indian Penal Code and a law for compensation for victims of the crime.” However, despite this, the number of acid attacks continued to increase. A landmark judgment was ruled in the case of Laxmi Agrawal, who was attacked by a spurned lover in 2005. In 2013, the Supreme Court ruled the Public Interest Litigation in favour of Laxmi's plea, in which a new set of regulations and restrictions on the sale of acid has been imposed. These regulations state that any individual who is below 18 years of age will not be allowed to buy acid. Moreover, any individual buying acid must present their photo identity card before making the purchase. The National Commission for Women (NCW) has repeatedly asked for strict measures to deal with such incidents to be implemented. The NCW has recommended a draft to the Prevention of Offences (by Acids) Act, 2008; the final endorsements are waiting for approval to become law.

The landmark judgment in the case of Laxmi Agarwal v Union of India brought to the forefront the seriousness of this crime. Recognizing the impact this crime makes on the victims/survivors, Indian law makers have since made amendments to existing Acts. An amendment in the Indian Penal Code was done on April 2, 2013 resulting in the formulation of Section 326A and Section 326B which particularly dealt with acid violence. These new sections read as follows:

#### Section 326A:

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 326B:

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.

Section 357B of the Code of Criminal Procedure, 1973 was amended in 2018 and now reads:

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.

Section 357C specifies that all hospitals, public or private, are directed to provide first aid or medical treatment free of cost to the victims of acid attack. The section reads:

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.

The Rights of Persons with Disabilities Act was revised in 2016 to include “acid attack survivors” as physically disabled. This allows acid attack survivors to receive education and employment, with 3% of government jobs reserved for acid attack victims. Prior to the amendment of the Indian Penal Code, there was no section of law which dealt with this specific crime. Acid attacks were later covered under Section 326 of the IPC which addresses “Voluntarily causing grievous hurt by dangerous weapons or means.” This provision covers any grievous hurt caused by “corrosive substances” including acid.

The case of Piyali Dutta, an acid attack victim, came to the forefront in 2017 when she asked the State of West Bengal Government to provide her with an interim compensation of INR 3,000,000 (USD 3,968). Getting no response from the administrative authority, she was compelled to move to the Calcutta High Court by filing a writ petition. This matter was later referenced by the Supreme Court while deciding on the matter of *Laxmi Agarwal v. Union of India*. This landmark case was crucial in the observation and determination of compensation for acid attack victims and survivors fixing the responsibility of the State in such crimes. In *State of Karnataka by Jalahalli Police Station v Joseph Rodrigues*, the accused was implicated for throwing acid on the victim, Haseena, who had refused to accept a job offer. The acid attack rendered her completely blind and changed her facial appearance substantially. The accused was found guilty under Section 307 of IPC and sentenced to imprisonment for life along with a fine of INR 2,000,000 (USD 2,634.51) to be paid to the victim (*Times of India*, 2006). In *Ravinder Singh v State of Haryana*, the accused had thrown acid on his wife for refusing to sign divorce papers. The victim sustained serious burn injuries leading to her death. The accused was charged under Section 302 IPC to life imprisonment.

## Conclusion

The aftermath and repercussions of an acid attack are extremely profound and often debilitating for victims. More than a palliative approach, an attitudinal change is where the solution of this problem rests. An acid attack victim is left with little hope to move forward in life. The onus of bringing back these survivors, rests with all stakeholders in society with the primary requirement being to systematically bring in change to reintegrate the women back to society (Maak & Pless, 2006). The legal system, for a common person, is a complex one. Various facets of the rehabilitation of the acid attack survivors need to be examined. Physical rehabilitation, psychological well-being and support, and social and economic reintegration to society are all

angles which need to be studied in a holistic manner if the women are to be brought into mainstream society again (Jiloha, 2015; Siddika & Baruah, 2018). Despite legislative amendments in the Indian judiciary, it is obvious by the rising number of acid attacks that much more needs to be done to operationalize data on rehabilitation measures, NGO initiatives, and other support systems available to acid attack survivors. A rethinking of patriarchal values and its repercussions to society needs to be pondered and acted upon (Chowdhary, 2015). The concept of corrective justice by having both the transgressor and also sufferer moderate a restitution arrangement to complete satisfaction of both and the concept of ADR (Alternate Disagreement Resolution) could also be considered.

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