

ACID ATTACK ON WOMEN: REPERCUSSIONS AND NEED FOR LAW

Introduction:

Every year, the lives of hundreds of young Indian women are destroyed and turned to melted flesh that are vulgar and horrifically scary even to her loved ones. Here, where comes the question of society? Is the society spreading her arms to hide all the heinous crimes against these young women? Does the scars of these women do really cause shame to India? What made the government of India to act so long against these acid attacks? When all these questions remain a standstill, a gang of young neighborhood men who used to harass an 18 year old Sociology student, Sonali Mukherjee, whenever she left her home for college and then one fine day, finally sneaked into her house and poured acid on her while she was sleeping and melted away much of her face.¹ Four sisters, in their 20s, were injured when two men on a motorcycle sprayed acid on them with a pichkari or spray gun in Uttar Pradesh's Shamli district on April 2, 2013.² The assault on the four sisters occurred just after the President signed the Criminal Law Amendment Bill, a stronger legislation to combat violence against women. There is also 18-year-old Chanchal Paswan of Bihar³, whose face is a mass of melted flesh after four men threw acid on her for boldly opposing their sexual harassment. The list is endless....and their cries suppressed and banging only on the four walls of their house...therefore, it calls for a need to look into the efforts taken by the Government for these sufferers for their pains.

What is Acid Violence?

Acid throwing also called an acid attack or vitriol age is a form of violent assault. It is the deliberate use of acid or similarly corrosive substance on to the body of another. The most common types of acid used are Sulfuric acid, Hydrofluoric acid, Phosphoric acid, Nitric acid,

¹ The perpetrators were sentenced to 9 years in jail but were granted bail when they appealed to the High Court. Mukherjee drew global attention when she appealed for Euthanasia.

² The four women, aged between 20-26, all teachers, were returning home from Hindu Inter-college in Kandhal after UP board examination duty when they were attacked with acid by two unidentified men on a motorcycle. One of the sisters had an affair with Babar Akhtar, brother in law of the victims, along with his two friends executed the crime when she threatened to make it public following a dispute.

³ Four men threw acid on Chanchal Paswan, 19 and her sister, 15 while they were asleep on 21/10/2012. This happened because Chanchal boldly opposed continuous sexual harassment by these men. The cases are being tried in fast track court after the victim's family delivered the petition to the District Magistrate, Patna.

Hydrochloric acid etc. wherein, Hydrochloric acid is very rarely used because of its less harmful and damaging nature. The victims are overwhelmingly women and children. Attackers often target the head and face in order to maim, disfigure, torture, blind and even to kill them. Acid burn their face, damage the skin tissues thereby exposing and sometimes dissolving even the bones. Most of the attacks take place in public places or at home.⁴ Acid violence 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.

Medico legal aspects

Medical effects of the acid attacks are extensive and the severity depends on the concentration of the acid and the time taken to thoroughly wash off the acid with water or to neutralize with a neutralizing agent. It affects all organs of the body affecting from skull⁵, ear⁶, eyelids⁷, nose⁸, mouth⁹ and even causing respiratory problems¹⁰ and renal failure.¹¹ Acid attack can always be linked with gender issue which is often a crime of honor, a genuine cause of inequality coupled with hatred and violence towards women. Common reasons behind the crime may vary from male honor, rejection, family and matrimonial issues including dowry, property disputes etc. thereby, leading to denial of basic human rights like

- Right to marriage
- Right to property
- Right to life and live with human dignity
- Right to health
- Right to education
- Right to personal liberty and freedom of movement

⁴Chauhan, Bala, "Acid test of humanity", Deccan Herald News Service, Bangalore, [Online: web] Accessed 20 July 2014, URL: <http://archive.deccanherald.com/Content/Aug142007/state2007081419024.asp>

⁵Skull may be partly destroyed or deformed and hair is often lost.

⁶Deafness may occur immediately or later.

⁷Damage eyes causing blindness and eyelids may burn off leaving eyes to dry up and go blind

⁸Nostrils may close completely as the cartilage is destroyed

⁹Mouth and lips may be impaired causing consumption of food difficult

¹⁰Inhaling acid vapors can cause poisonous reaction in the lungs which can even lead to death.

¹¹Poisonous vapors may affect the functioning of kidneys thereby leading to renal failure.

- Right against exploitation
- Right to shelter
- Right to preserve reputation, honor and dignity
- Right to get legal remedy

Legal frame work in India

India does not have a separate law to tackle the crime of acid violence and Indian Penal Code also remains silent as far as defining acid attack is concerned. Hence most of the cases are registered under different sections of grievous hurt ranging from Sec. 320¹², Sec. 322¹³, Sec.325¹⁴, and Sec. 326¹⁵ of IPC. It is contented by those working for these victims that the criminal law relating to grievous hurts is insufficient to deal with acid attacks.¹⁶The 226th Report of the Law Commission of India, which dealt particularly with this offence stated:

¹²Sec. 320Grievous Hurt: The following kinds of hurt only are designated as grievous:-
First- Emasculation.

Secondly- Permanent privation of the sight of either eye.

Thirdly - Permanent privation of the hearing of either ears

Fourthly- Privation of any member or joint.

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

Sixthly - Permanent disfiguration of the 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.

The definition does not have any mention of offence like acid attack.

¹³Sec.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 “voluntarily to cause grievous hurt”.

¹⁴Sec.325Punishment 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.

¹⁵Section 326 Voluntarily causing grievous hurt by dangerous weapons or means- Whoever , except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting , or any instrument which , used as a weapon of offence , is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale , to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Here it is mentioned that the period of punishment does not match the gravity of the offence.

¹⁶See Bakshi, Sarika , “Acid throwing as specific offence in the Indian Penal Code and the award of compensation”, *Orient Journal of Law and Social Sciences*, Vol. VII Issue 3, 2013.

“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”.

Law Commission¹⁷ headed by Justice A. R. Lakshmanan in 2008, proposed a new section 326A¹⁸ to be added to IPC. As per Sec.326 A, there is a minimum imprisonment of 10 years which is extendable upto imprisonment for life and fine. The offence is cognizable and non-bailable in nature and triable by Court of Session which is noncompoundable. Art. 368 A (ii) speaks about intentionally throwing or administering acid.¹⁹ Here the punishment is of minimum imprisonment of 5 years extendable up to 10 years and fine. The offence being cognizable and non-bailable is triable by the Court of Sessions and is noncompoundable in nature. The Law Commission proposed that in cases of acid attack a presumption is to be incorporated in the Indian Evidence Act as Section 114B.²⁰ Law Commission also proposed that a law known as “Criminal Injuries Compensation Act” be enacted as a separate Law by the government which should provide both interim and final monetary compensation to victims of certain acts of violence like Rape, Sexual Assault, Acid Attacks etc. and should provide for their medical and other expenses relating to rehabilitation, loss of earnings etc.

¹⁷Law Commission of India submitted Report to the Hon’ble Supreme Court of India for its consideration in the pending proceedings filed by one Laxmi in W.P. (Crl) No.129 of 2006 on the inclusion of acid attacks as specific offences in the Indian Penal Code and a law for Compensation for victims of crime. The offence committed to the victim carries the common rejection factor when she refused to marry the accused as in the case of many others.

¹⁸326 A (i) Hurt by acid attack-Whoever 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 administering acid to that person, with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punishable with imprisonment of either description which shall not be less than 10 years but which may extend to life and with fine which may extend to Rs. 10 Lakhs.

Provided that any fine levied under this section shall be given to the person on whom acid has been thrown or administered.

¹⁹Art. 326 A (ii) Intentionally throwing or administering acid -Whoever throws acid on, or administers acid to, any person with the intention of causing burns or maiming or disfiguring or disabling or causing grievous hurt to that person shall be liable to imprisonment of either description for a term not less than 5 years but which may extend to 10 years and with fine which may extend to Rs. 5 Lakh.

²⁰Section 114 B: Presumption as to acid attack-If a person has thrown acid on, or administered acid to, another person the court shall presume that such an act has been done with the intention of causing, or with the knowledge that such an act is likely to cause such hurt or injury as is mentioned in Section 326 A of the Indian Penal Code.

Any compensation already received by the victim can be taken into account while computing compensation under this Act.

However, on December 4th, 2012 the Criminal Law (Amendment) Bill, 2012 was introduced in Parliament to amend criminal laws on the recommendations of the National Commission for Women and the Law Commission's 176th Report. Though Government passed the Criminal Law Amendment Act, 2013²¹, a stronger legislation to combat violence against women wherein, the law defines acid attack as a separate Indian Penal Code offence and proposes punishment of not less than 10 years to a maximum of life imprisonment for perpetrators and fine that could go upto Rs. 10 lakh under Sec. 326 A and for attempt to commit acid attack, imprisonment not less than 5 years but which may extend to 7 years and shall also be liable to fine under Sec. 326 B. However, there is unhappiness among activists.²² The new law makes no mention of concrete solutions like insurance plan or long term and proper medical care for the victims.²³ Moreover, it is pertinent to note that the Bill was passed with certain changes to the Ordinance.²⁴ The Act speaks about fine which shall be just and reasonable to meet the medical expenses for treatment of victim, while in the ordinance it was fine upto Rs. 10 lacks. Most of the survivors and their families lose everything to cover the expenses and have no scope of rehabilitation.²⁵ In order to overcome the sufferings and pain what is required is a separate law to tackle the crime.

Conclusion:

²¹Following protests against the Delhi gang rape case dated December 16, 2012, the government constituted a committee to review the law on crimes against women. The three member committee, chaired by Justice J.S. Verma, submitted its report on January 23, 2012.2 subsequently, on February 3, 2013 the Criminal Law Amendment Ordinance, 2013 that gave effect to some of the provisions of the Bill, came into force. Besides stringent provisions for rape, the new law also includes punishment for acid attacks

²²They say that the new law has only increased the punishment for the perpetrators and does not have provisions to acid attack victims.

²³In most of the cases more than one plastic surgery is required and sometimes even reconstructive surgery may not remove the acid scars and the fee charged for these surgeries are exorbitant.

²⁴It was originally an Ordinance promulgated by the President of India, Pranab Mukherjee. on 3rd February 2013, in the light of the protests in the 2012 Delhi Gang Rape Case.

²⁵State Governments like that of Punjab had started prioritizing this issue but there is still no central scheme for rehabilitation.

Cases on acid attack are seen registered even from the year 1973.²⁶ In *Revinder Singh v. State of Haryana*²⁷ before Hon'ble SC in 1975, where in, although the crime led to the death of the victim and accused was charged and convicted under Sec. 302 IPC, life imprisonment was not imposed even though the victim died. Many cases in which death does not occur got registered under the sections related to hurt and grievous hurt and not attempt to murder because of lack of evidence and no intention of killing or knowledge that the offence is likely to cause death. Even in some of the cases when the punishment went up to imprisonment for three years²⁸ or even to rigorous imprisonment for life²⁹, no compensation was awarded to the victims³⁰. In the landmark case of 2006, on appeal to the High Court of Bangalore³¹ the accused was convicted for attempt to murder and sentenced to life imprisonment and a further 2 lakh rupees was awarded to Haseena. Accused Joseph Rodrigues was convicted for attacking Haseena Husain on April 20th, 1999, when she spurned his overtures. She lost both her eyes and went through scores of surgeries. It is very rarely that such pronouncements are made to the relief of the unfortunate victims. In ordinary cases where compensation is awarded, they are too minimal which is not only a mockery in the face of judiciary but totally inadequate to meet the minimum medical care. What is required is a stringent law with severe punishment which prevents the accused to free themselves from the clutches of law, adequate compensation to meet the medical expenses and to an extent overcome the mental pain and sufferings and habilitation and rehabilitation facilities including proper insurance schemes. It is more painful that even states like Bangladesh have enacted two laws in 2002³² restricting import and sale of acid in open market. Along with the help of NGOs and activists, Mukherjee and other victims of acid attack are pressing the Indian government to do more to prevent such crime and violence saying that the new law aimed at restricting the sale of acid is being ignored. In response to their campaign³³, Supreme Court on July 2013³⁴ ordered all

²⁶ *Smt. Bhagwan Kaur v. Krishna Maharaja* [AIR 1973 SC 1346]

²⁷ AIR 1975 SC 856. In this case crime occurred when the victim refused to grant divorce to the accused.

²⁸ *Syed Shafique Ahmed v. State of Maharashtra* [2002 CrLJ 1403]

²⁹ *Barati v. State of UP* [AIR 1974 SC 839]

³⁰ *Ram Charittar and Anr. etc. v. State of UP etc.* [Appeal (Crl.) 329 of 2006]

³¹ *State of Karnataka v. Joseph Rodrigues* decided by Karnataka High Court on 22.08.2006

³² In 2002, Bangladesh government passed two acts, the Acid Control Act 2002 and the Acid Crime Prevention Acts 2002.

³³ The court was hearing a PIL filed in 2006 by Delhi-based acid attack victim Laxmi, who was then a minor. Her arms, face and other body parts were disfigured in the acid attack. In her plea, Laxmi had sought framing of a new law or amendment to the existing criminal laws like IPC, Indian Evidence Act and CrPC for dealing with

states to comply with the law that went into effect in February which prohibits the sale of acid. According to the new rules anyone under the age of 18 will not be able to purchase acids like hydrochloric, sulfuric and nitric. Licensed sellers have to maintain a log of acid sales and must also demand the identity proof, residential address, telephone number and purpose of purchasing acid from the buyer. Also, Acid sold in retail must be so diluted that it does not have any corrosive effect on humans. Various State Governments/Union Territories have filed their affidavits. The Union of India filed its last affidavit on 17.7.2013. Along with that affidavit, draft Model Rules entitled “The Poisons Possession and Sale Rules, 2013” (for short “Model Rules”) have been placed on record.³⁵The directives are strong but they will only help if there is strict implementation. Now that rules are put in place, public can help as well by demanding action from sellers in their localities. Activists have welcomed the recent directions by the Supreme Court, banning over the counter sale of acid and ordering other steps to tackle acid attacks. But many victims scarred before this court order, are still awaiting justice and compensation.

Dr. Anu Prasannan ; M.Phil, PhD (JNU)

Assistant Professor of Law

Karnataka State Law University.

the offence, besides asking for compensation. Acid was thrown on Laxmi by three men near Tughlaq Road in New Delhi as she had refused to marry one of them, according to the petition. The trial is going on for the offence of attempt to murder and two of the accused are out on bail. In her petition, she had pleaded for a total ban on sale of acid as there were increasing numbers of incidents of such attacks on women in different states.

³⁴On 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.

Following the order of 6.2.2013, three subsequent orders on 16.4.2013, 9.7.2013 and 16.7.2013 were passed by this Court.

³⁵Mr. Mohan Parasaran, learned Solicitor General stated that the Central Government will circulate the Model Rules to regulate sale of acid and other corrosive substances framed under the Poisons Act, 1919 to all the State Governments and Union Territories within a week from today. He also stated that Model Rules will include, inter alia, the form of acids (liquids or crystalline and its concentration) that can be stored and sold, issue of licenses, procurement by individuals, educational and research institutions, hospitals, industries, Government Departments and departments of Public Sector Undertakings.

