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AN IN-DEPTH ANALYSIS OF THE RIGHTS OF THE ACID ATTACK VICTIMS

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Abstract

A crime is committed when there is either greed or need, and the former is true for the offence of the acid attack. To leave a person bereft of the person's liberty, to encroach upon the modesty of an individual despite gender differences is 'evil in its purest form.' Any individual whether a man or a woman may have various dreams and aspirations right from the moment they are born, but to infringe on their point of view on others while taking away their chance at a good life, seems to be the ultimate motive of the offenders of acid attack. The victims become the survivors and living heroes that set the example that life may throw stones, but one can pick them and make the strongest, firmest foundation that no one could ever destroy.

Keywords: acid attack, rights, victim compensation.

Introduction

Acid attack is the use of sulphuric acid or hydrochloric acid which is widely used in the labs or as toilet cleaners, to attack an individual, to disfigure the individual which is usually directed to the face. This is considered a hate crime in India. The acid causes immense pain, burning sensation and peel-off of the skin of the victim, damaging the blood vessels, nerves and tissues which sometimes may disfigure the nose and many times leave a person with permanent and partial blindness, which is categorised as a third-degree burn or the highest risk factor burns.

The reasons for the acid attack may be for spurning suitors, rejection of the marriage proposals, refusing sexual intercourse, deep-

seated jealousy, dowry related, hatred or revenge. One of the recent observations for the acid attacks in the case of male victims is due to religious conflicts as well, which may involve refusing to convert, also, property disputes, land disputes, and inheritance disputes are common.

According to statistics, there have been 386 acid attack cases in India which is the minimum number of cases to date, from 2018 to 2022, i.e., during the covid lockdown. More than a thousand cases were reported from 2015 to 2017. And even to think that the acid attack laws were brought to awareness after the 2013 judgement of *Laxmi v. Union of India*⁵⁵ is still shocking. Almost 153 cases were reported from the period of 2002 to 2012⁵⁶ and 124 cases were reported in 2002⁵⁷ and there were no rights for the victims during this period.

In the *Harish V. Nair* case⁵⁸, the victim (A Male) was attacked with a bucket full of acid by the victim's landlord's son as the victim had prevented the offender from committing rape on a woman. This case was brought to attention to decrease the gender discrimination that acid attack is a female-centric offence. The crime committed is not gender biased and the pain which is felt by the victims does not have a prejudice against any one gender, only the social stigma has one.

⁵⁵ *Laxmi v. Union of India and Others*, (2016) 3 SCC 669, order dated 10/4/2015 [34], [35]

⁵⁶ Avon Global Center for Women and Justice at Cornell Law School; Committee on International Human Rights of the New York City Bar Association; Cornell Law School International Human Rights Clinic; Virtue Foundation (2011). "Combating Acid Violence in Bangladesh, India, and Cambodia" (PDF). Avon Foundation for Women. pp. 1–64. Retrieved 6 March 2013.

⁵⁷ Ahmad, N. (September 2011). "Acid attacks on women: An appraisal of the Indian legal response". *Asia-Pacific Journal on Human Rights and the Law*.

⁵⁸ <https://www.indiatoday.in/mail-today/story/supreme-court-to-look-into-male-acid-attack-victims-woes-1166957-2018-02-10>

A situation analysis of acid attacks in other countries

Afghanistan

A situation far worse than India in terms of its liberty or woman's rights is in Afghanistan due to its 'uniform police' and the policy of 'dressing modestly'. Sometimes, acid is poured on the women just to teach a lesson⁵⁹.

Bangladesh

According to the statistics provided by the Acid Survivors Foundation, the country had reported 3000 acid attack cases till 1999 and 262 victims in 2002⁶⁰. There is great gender discrimination between males to females with the ratio being 1:15. As per the 2016 statistics sixty per cent of the victims were young women. This is also called the 'crime of passion' as most of the cases are related to 'jealousy or revenge.'⁶¹

Hong Kong

A series of grievous and almost sadist incidents took place in Hong Kong during the period of 2008, 2009 and 2010 which was called the 'Mong Kok acid attacks' where a bunch of people threw bottles filled with highly corrosive acid from the top floors of buildings onto the visitors and customers of Sai Yeung Choi Street, a very famous market street in Hong Kong where people were busy doing Christmas shopping. Approximately 150 people were injured during these attacks⁶².

Pakistan

The acid attacks are at an all-time high in Pakistan. Generally, this is the act of the husbands on their wives for they have 'dishonoured them'⁶³. According to the 'Human Rights Commission of Pakistan' showed that only 46 cases were reported in Pakistan in 2004

59 Dexter Filkins (2009-01-13). "Afghan Girls, Scarred by Acid, Defy Terror, Embracing School". *The New York Times*.

60 Mannan, Ashim; Samuel Ghani; Alex Clarke; Peter E.M. Butler (19 May 2006). "Cases of chemical assault worldwide: A literature review" 149–154.

61 Mannan, Ashim; Samuel Ghani; Alex Clarke; Peter E.M. Butler (19 May 2006). "Cases of chemical assault worldwide: A literature review". 149–154

62 Eimer, David (2010). "Hong Kong acid attack: man arrested after tourists targeted"

63 "Acid Attacks". *The New York Times*

and 65 cases in the year 2010, although many acid attack cases are not reported. Many cases were left unreported during the period of partition and the separation of east-Pakistan (Bangladesh). According to the 'Acid Survivors Foundation' up to 150 cases are reported every year and they try to reach all of them⁶⁴.

United Kingdom

The UK has also the world's highest number of acid attacks as per the data, even though it is not related to hate crime but to gang-related violence and possessions. Between 2011 and 2012 approximately 144 cases were reported and there has been a thirty per cent rise in these attacks since then. These attacks included corrosive acids like petrol, bleach and even kerosene.⁶⁵

Legislation regarding the acid attack in India

the acid attack cases were brought to attention only after the 'Nirbhaya case' of 2012, after which the laws regarding the protection of women were given the foremost importance and acid attack cases were another nefarious road to the abrogation of modesty of women.

General laws were there in the Indian Penal Code;

Sec 326 of the Indian Penal Code deals with the grievous hurt caused by using weapons. In 2013 the sub-provisions 326A and 326B were added to the section by the virtue of the Criminal law Amendment Act, 2013, which "provided for punishment to anyone who 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 to cause or with the knowledge that he is likely to cause such injury or hurt or who throws or attempts to throw acid

64 "Pakistan offers little justice for victims of acid attacks"

65 "Number of UK attacks involving acid and other corrosive substances soars"

on any person or attempts to administer acid to any person.”⁶⁶

This section also specifies the essentials for the acid attack which include;

- ✓ The throwing or attempting to throw acid attack or the administration of the acid.
- ✓ The act must cause grievous hurt.
- ✓ The act must at least cause permanent or partial damage.
- ✓ The offender must have the intention as well as the knowledge of the offence he is committing.

Sec 326A also specifies the punishment of the acid attack offender which would be a minimum sentence of ten years with a fine or a maximum of life imprisonment with a fine. The fine would be reasonable and must include the medical expenses of the treatment.

Sec 322 of IPC states that any person voluntarily causing grievous hurt is trying to cause grievous hurt with the knowledge (when a person knows that doing a specific act is likely to cause harm to the individual) and the intention (when the person has the motive to cause the harm.) this would amount to voluntarily causing hurt, which is generally read with sec 325 of IPC. Section 325 of IPC states that a person causing grievous hurt described under sec 322 of IPC would be liable to a minimum sentence of seven years with a fine. Section 335 of IPC deals with the voluntary harm caused by an individual on sudden and abrupt provocation for which the punishment is a minimum of four years with a fine or a period which may be based on the judge's discretion with a fine.

Another provision has been prescribed under the section 114B of the Indian Evidence Act and according to this, anyone who commits the offence of the 'acid attack' has the general presumption that the offender was likely to have the intention and the knowledge that such injury was likely to be caused as specified under the section 326 of IPC.

The offender would also be charged with section 307 of IPC which attempts to murder in which a person performs an act, that if successful, would result in the death of the victim. The punishment for this would extend to ten years with a fine.

There have also been cases in which section 302 of IPC which deals with punishment for murder has also been applied. In the case of *Gulab Sahiblal Shaikh v. State of Maharashtra (1988)*, 'the brother-in-law of the victim threw acid on the victim while she was carrying her two-and-a-half-year-old daughter in her hands. She suffered grave injuries on the left side of her body including her face, neck and chest which led to her death. Even her daughter suffered the loss of her eyesight. The judgement gave life imprisonment to the offender who was asked to pay a fine of thousand rupees which was not received by the daughter of the victim at the end of the case.

Rights of the Acid Attack Victim

The laws and amendments have given many rights to the survivors of the acid attack which include;

Right to seek medical treatment

Section 357 of the Code of Criminal Procedure mentions that all the public and private local hospitals are required to offer victims free emergency assistance and they are not allowed to drive away the victims on the excuse that they do not have the expertise in dealing with the special cases or lack of specialised facilities. This section was available only after the case of *Parivartan Kendra v. Union of India*⁶⁷ and others, (2016), which highlights the inadequacy of the state's authority in handling acid attacks. The victims suffer severe burns during the attack which sometimes even may leave their faces disfigured and they require many surgeries to bring the person back to their closest resemblance. Although the state does provide for the treatment and rehabilitation of

⁶⁶ Indian Penal Code, sec 326, Sec 326A, Sec 326B, pg. 48, LexisNexis.

⁶⁷ *Parivartan Kendra v. Union of India and others*, (2016), <https://indiankanoon.org/doc/16029001/>

the survivors it is not available in each region due to a lack of financial support. Also, it has been mentioned that the State and Union Territories must take action against those hospitals that refused acid attack survivors.

Right to File a Complaint

Section 154 of the Code of Criminal Procedure, 1973 provides the right to file the First Information Report of the FIR of the incident that took place. The survivor, their family, their friends or anyone who witnessed the event. The punishment is a cognisable, non-bailable offence.

Right to compensation

The acid attack victim is eligible for compensation from the state government. The NALSA or the National Legal Service Authority provided a report in 2018 which gave the amount allotted to the compensation, but the supreme court stated that the compensation is too low and hence⁶⁸;

- A minimum of three lakhs of rupees is provided to every survivor by the state government. The state may even provide more than this at its discretion.
- The compensation is for the physical injuries, and mental injuries but also to compensate for their inability to lead a full life.
- The chief secretary or the administrator is responsible to provide this amount.

Right to live with Human Dignity

The attack may leave an individual with disfigurement which the individual has to carry for the rest of their life. But the Supreme Court has guaranteed the Right to live with Human Dignity which is a provision of the Article 21 of the Right to Life and Liberty. This had been reinforced in the case of Francis Coralie Mullin vs. Administration of Union Territory of Delhi. The

attack has left the individual to lead a dignified, honourable, and peaceful.

Right to get Efficient Legal Remedy

The government helps the victims whom most of the time cannot bear the heavy expenses of appointing an advocate. Article 39A which was amended into the constitution after the 42nd amendment provides for free and fair legal aid to the citizens of India, who need it.

Even though the right to speedy justice has been granted in India but many times this is not possible because of the high number of cases and the smaller number of courts and legal representatives in the country as well as the slow speed at which the judgements are given. One such is the case of Laxmi v. Union of India in which the victim was attacked in 2005 but the judgement which had set a benchmark for the country in acid attack cases had been brought in 2013.

Right to freedom of movement

The attack leaves a scar on the physical as well as the minds of the victims. Most of the time they are even afraid to see their faces and become so frightened by the outside world that it becomes almost impossible for them to go out. The social stigma and the stares of the crowds would make them feel inferior and sometimes they even drive them to go away, as according to them the victim is "scarring them", but they seem to forget that it is the people from the same locality that has scared the face of the victim, in the first place.

Apart from these the victim also has the right against exploitation, the right to have a household, the right to have education and continue their studies, and the right to have employment or livelihood as well. In most cases, the acid attack is not provided employment opportunities, not because of lack of education qualification but because recruiting an acid attack victim would ruin the reputation of the place of work.

⁶⁸ Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes 2018, National Legal Services Authority, accessed at https://wcd.nic.in/sites/default/files/Final%20VC%20Sheme_0



Conclusion

Even though the constitution and the government have provided these rights to the victims of acid attacks, there should not be a need to provide these in the first place. The government has issued various ways through which there can be an end to this evil crime. The government has invested in many non-governmental organisations such as "Stop Acid Attack on women camp" which is led by the acid attack victims and led thousands of activities to bring it to the attention of the people to stop the attack. The government has even banned the sale and purchase of acid in the Laxmi v. Union of India case of 2013.

The government can make many laws and place many restrictions on the people, but it is the people who have to realise that stripping a person of their liberty and motive to live is monstrous.