



## Acid attack: Gender violence against women an Indian-legal perspective

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### Abstract

Acid attacks on women have become the most burning area and are considered to be the nastiest and the most atrocious kind of violence committed on weaker sex with an intention to disfigure or kill 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 disfiguration to any part of the body of such person”

India has the highest number of acid attacks globally every year, and despite the stringent actions taken by the Indian Government and the Supreme Court of India, the crime of Acid attacks targeting women victims are growing menace in India. Until recently there was no specific legal safeguard to deal with this menace under criminal law. Courts depending upon the nature of case and facts nature of injuries inflicted and after examining the state of mind of the accused used to invoke provisions of law relating to hurt, grievous hurt, attempt to murder and sometimes even that of homicide. The situation improved substantially after the 2013 Criminal Amendment Act, Which made acid attack a separate offence under the Indian Penal Code (IPC, § 326 A, 1860) and strengthened the compensatory mechanism. It provided that the fine imposed on perpetrators should be awarded as compensation to victims, and that such compensation would be in addition to the compensation provided by the Indian (State) Government via victim compensation scheme (IPC, § 326 A, 1860; Criminal Procedure Code, § 357 A-B, 1973). The Amendment Act also prescribes a minimum duration for imprisonment for both attempted (7 years) and completed acid attacks (10 years) (IPC, § 326 A-B, 1860), and provides free treatment for acid attack victims (Criminal Procedure Code, § 357C, 1973). In spite of novel change in the law, India still need a comprehensive law to deal with crime of acid attack.

**Keywords:** acid attack, gender violence, hurt, grievous hurt, attempt to murder, Indian penal code

### Introduction

Acid attack can be termed as an act of gender-based violence that results in, or is likely to result in, physical, sexual, psychological harm or suffering to women <sup>[1]</sup>. Unfortunate incidences of acid attack have been a common menace in India. Acid attack is one of the most horrific forms of violence predominantly against women, where liquid acid is thrown on the victim's face, leaving on their face and life permanent scars. Crimes of acid attack are too common on the world wide scale, including the United States and South Asian countries.

With the advent of industrialization and related inventions, acid today has come handy to these egoists who use it as a tool to hurt the women. Unfortunately, acids are typically inexpensive and readily available on the open market and almost invisible to the police and public. Perpetrators usually attack victims with hydrochloric, sulfuric or nitric acid, which quickly burns through flesh and bones.

Instances of acid attacks against women are no longer a rarity in India, and in fact in recent years there is an alarming increase in its frequency which is a matter of serious cause of concern <sup>[2]</sup>. According 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 vitriol age 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. It is the most heinous form of

gender-based violence against women. Perpetrator's aim is not to kill the victim but to leave her in a pathetic condition. Injuries on the body heal and leave scars not only on the body but also physically and psychologically the whole personality of the survivor affected. Despite the existing laws and banning of over counter sale of acid, this horrific crime has been on the rampant rise in India. Number of 228 acid attack cases reported across India <sup>[3]</sup> from 2018, 249 in year 2019 and 182 in years 2020. Although India has undertaken effective measures to provide justice to acid attack victims, issues remain, such as low conviction rates and delayed disposal of cases by the Courts. Many acid attack cases in India are either annulled for trial in the subsequent year or remain established for years in police files only, without ever being brought to court. The Hon'ble Supreme Court <sup>[4]</sup> has held that the case of the acid attack is an example of uncivilized and heartless crime. Such like crime does not deserve any kind of clemency.

### Factors for prevalence of acid attacks in Society

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 <sup>[5]</sup>. 6 out of 10 cases of acid attacks are a result of a woman rebuffing romantic and sexual advances made by a man whom she knows as either a relative or

acquaintance. Younger women are more likely to fall victim to such attacks, ages ranging from as young as 10 to 19 years. It is an expression of control over women's and girls' bodies. Her disfigurement then becomes a public mark of shame, making it hard for her to get married or gain employment.

In India, a wife's parents' refusal to give more money for dowry is frequently cited as a reason for acid attacks perpetrated by the husband or the husband's family. Dowry is a practice in which the bride's family is required to give money or expensive gifts to the groom and his family. The husband may attack his wife either as a form of punishment inflicted on her for being "worthless" to him, or as revenge on the wife's family to whom the survivor will often return, burdening the family with high medical expenses and other financial needs.

### **Indian Legal Provisions relating to Acid Attack**

The amendments made to Indian Criminal Laws through the Criminal Law (Amendment) Act 2013 to an extent deals with acid attack separately. The act which was passed clarifies that for the purposes of sections 326A and 326B, "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. The new law amends Indian Penal Code by inserting new provisions, sections 326A (voluntary causing grievous hurt by use of acid) and 326B (voluntary throwing or attempting to throw or administer acid).

According to Section 326A a person who causes permanent or partial damage or deformity to or burns or maims or disfigures or disables any part 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 is likely to cause such injury or hurt can be punished with imprisonment or either description for a term not less than ten year, extending upto life imprisonment. The provision to the section requires the fine to be just and reasonable as to meet the medical expenses of the treatment of the victim.

According to the 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.

### **Compensation and Rehabilitation of the Victim**

Compensation to victim of acid attacks is of vital importance as huge medical costs are often involved and the victims need both short term as well as long term specialized medical treatments and plastic surgeries.

The Karnataka High Court in Haseena's case, awarded the compensation of Rs. 2,00,000/- to be paid by the accused to the victim. The victim also received Rs. 3,00,000/- trial court fine. Considering the fact that the victim required more financial aid to undergo surgeries, the court opined that the State Government which owes duty towards citizens should start special help and rehabilitation programme for victims of acid attack. In fact Haseena's decision <sup>[6]</sup> is a

precedent with regard to compensating victims of acid attack.

### **Need of Preventive Approach**

One of the most effective ways of preventing the crime of acid attack is regulation and restriction of sale, supply and distribution of acid. India lacks such legal measures. The Indian government needs to do much more to end acid attacks in the country. The very first thing the government has to do is to ban the sale of acid in the retail market. Second, it has to get very serious about punishing the perpetrators. Third, it has to ensure proper medical treatment for the survivors as they still need to fight to get medical support.

This, in turn, has resulted in acid continuing to remain available everywhere at a very low price. it must be made mandatory to have a prescription indicating the need and necessity of acid buy and sale acid. This also suggests imposing severe punishment upon the one who illegally sell acid. The Indian Law Commission also suggests for restriction of the distribution and sale of acid except for commercial and scientific purpose. The commission suggests acid to be made a scheduled banned chemical not being made available to all and requiring the recording of the particulars of purchasers of acid <sup>[7]</sup>.

### **Conclusions and Suggestions**

With the world moving towards complete transformation into a technical hub wherein men and Women are giving equal rights and opportunities to grow personally and also professionally, it is gruesome to see that heinous acts of crime represent the strike on the face of development. Cases of acid violence shake the conscience of the nation. Inability of the victim to afford to the medical expenditure adds more problems to the menace. It is thus important to make it mandatory for the state also to compensate the victim in addition to the payment of fine by accused. In this regard a new additional clause to section 326A may be added to impose liability upon state to compensate the victim of acid attack in case where accused fails pay fine or the paid by him is insufficient to meet medical expenditure of the victim. Medical expenditure over here must include not just the one incurred towards treating physical injuries but also towards providing essential psychological support to the victim may be in form of counseling etc. Apart from this, laws alone, even if they are there, wont suffice until and unless the mentality of the people is altered and transformed. We are living in the twenty-first century and still it is a male-dominating society where men are not taught to hear 'no' from women, where women are not allowed to defy and confront the norms that have been set by this patriarchal society, where women are not allowed to break away those old bondages and taboos that have been engrossed by the society at large. The need of the hour is to change the mindset of the people, to make men realize that women can also say 'no' to certain obnoxious and loathsome practices, she also has a right to be self-determined and self-assured, to live with esteem and composure, etc. Further sensitization on this staid and somber issue is the need of the hour because people are not aware as to the sensitivity of this heinous crime, the havoc and devastation that is created in the life of the woman after such an incident takes place. Gender sensitization should also be a part of school curriculum.

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