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# **STUDY ON THE RIGHTS OF VICTIMS** **OF ACID ATTACKS**

AUTHORED BY – TEKCHAND

## **ABSTRACT:**

Attacks with acid are crimes against women. It could be regarded as one of the harmful types of crime committed against women. The women suffer lifetime, irreparable damages as a result, for which there is no remedy. Violence against women has multiplied, and its ramifications have also grown. This Article aims at the study of issues faced by the victims, reason for attack, what the laws says, major development that has taken place for the laws. Scenario of acid attack in India and their consequences, Laws to protect the Victims and laws to bring the culprit to Justice.

**Keywords:** Domestic Violence Act, 2005; Violence against Women Act, 1994; Social Learning Theory, Gender-neutral, loopholes.

## **1. INTRODUCTION:**

An acid attack is an extreme example of violence. When someone throws anything poisonous at someone with the intent to harm, torture, or prevent them from doing something, or in very rare circumstances, even to kill them. Even if men are also infrequently victims of this heinous crime, the victims of it are typically women or girls. In a culture where the physical attractiveness of women and girls is highly valued, the attack leaves the victim with enduring physical and psychological scars. An estimated 1,500 women are victims of acid attacks each year. This even after the government claims to have tightened its scrutiny over acids that are freely and inexpensively sold over-the counter in towns, districts and villages. In India, this crime goes unreported most of the times for fear of revenge violence.

Some of the most common reasons why women and girls are attacked are

1. Their refusal to marriage proposal
2. Sexual rejection
3. Family feuds where the women are attacked exclusively to wreck revenge

4. Molestations
5. Abductions
6. Personal dispute over intimate connections
7. Sexual jealousy, and
8. Lust. Acid attack is often seen as an expression to control the victim's body and to punish them for asserting their bodily rights.

The acid is mostly aimed at the faces usually burning and destroying eyes and eyelids and leaving them in a psychological mess. In a society where looks are considered as be-all and end-all for getting married or to be gainfully employed, an acid attack victim's fate is permanently sealed. It not only destroys her looks but is looked upon as an object of shame often pushing the survivor and her family to the brink.

## **2. WHAT ARE THE PROBLEMS FACED BY ACID VICTIMS**

### **Physical problems:**

- i. Acids eat through skin fat and muscles underneath it. It can even eat through the bone disintegrating it completely. The severity of the harm is dependent on the potency of the acid and the length of time it stayed in contact with the skin.
- ii. It swiftly eats into the eyes, ears, nose, and the mouth. Eyelids and lips can be damaged beyond repair too. It can also dissolve the nostrils and permanently close it. The ears shrivel up.
- iii. It completely destroys eyes making them instantly lose vision.
- iv. The skull, forehead, cheeks, and chin can disintegrate in seconds.
- v. It can burn everything that comes into contact with it when it drips on the victim's neck, chest, back, arms, and legs.
- vi. Breathing failure is the biggest threat because acid vapour can trigger toxic reaction in the respiratory system and the swelling on the neck can obstruct the airway asphyxiating and killing them.

**Psychological problems:**

- i. When the burns are healing, the skin becomes taut and dry resulting in severe to very severe degree of pain and agony.
- ii. Even after complete healing, there can be broad and prominent scars on the face. Eyelids can be completely destroyed leaving eyes always open. Lips may be completely burnt leaving them unable to talk for the rest of life. Chin can become welded to the chest.
- iii. Survivors go through severe depression because of their looks. They report lowered self-esteem and acute self-consciousness in social gathering. iv. Loneliness is often reported because they are often ostracized from social gathering and discriminated based on their looks.

**Financial problems:**

- i. The gruesome attack leaves the victims almost completely dependent on the family for simplest of daily chores Educational institutions do not support survivors and that is why most of the survivors do not return to equip themselves with education.
- ii. They are mostly unable to obtain employment because of their looks and physical limitations.
- iii. Abandonment by family may mean they have no one to fend for them and end up in dire straits like begging.
- iv. The immediate mental attention and care requires money in lakhs which is often not available with them.
- v. The state's machinery is lax and it takes years for them to get their rightful compensation leading to frustration and loss of faith in the Judiciary

**Social problems:**

- i. Survivors of acid attack are shunned by society damaging their chances for remarrying.
- ii. They go through anxiety because of possible humiliation they will face and that is why they limit themselves to being inside their houses.
- iii. Unmarried victims are unlikely to ever marry because the society is still not woke enough to be able to find them fit for marriage.

### **3. PROVISION IN THE INDIAN PENAL CODE RELATING TO LAW FOR COMPENSATION OF VICTIMS:**

1. **SECTION 320 - GRIEVOUS HURT** - The following kinds of hurt only are designated as "grievous":-

i Firstly- Emasculation

ii. Secondly - Permanent privation of the sight of either eye.

iii. Thirdly - Permanent privation of the hearing of either ear,

iv. Fourthly - Privation of any member or joint.

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

v. Sixthly - Permanent disfiguration of head or face.

vii. Seventhly - Fracture or dislocation of a bone or tooth viii. 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.

2. **SECTION 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 to "voluntarily to cause grievous hurt. Explanation. - A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing he to be likely to cause grievous hurt of one kind; he actually causes grievous hurt of another kind.<sup>1</sup>

3. **SECTION 325 - PUNISHMENT 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.

4. **SECTION 307 - ATTEMPT TO MURDER** - Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either for a term which may extend to ten

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<sup>1</sup> Indian Penal Code - B. M. Gandhi

years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned. Attempts by life convicts - When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death .In April 2013, the Indian Penal Code was amended with the passing of ‘The Criminal Law (Amendment) Act, 2013. This resulted in the insertion of Sections 326A and 326B that specifically deal with acid violence. <sup>2</sup>

5. **SECTION 326 A** states – 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.

6. **SECTION 326 B** states – 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.

7. **SECTION 357 B** that has been newly inserted in CRPC reads as follows "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. Anvesak 0378-4568 Sardar Patel Institute of Economic & Social Research 122 Vol 22 issue 2

8. **SECTION 357 C** also newly inserted states all hospitals, public or private are required to provide first aid or medical treatment free of cost. The section reads as: “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

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<sup>2</sup> Indian Penal Code - B. M. Gandhi

of any offence covered under section 326A, 326B, 326C, 326D or section 326E of the Indian Penal Code and shall immediately inform the police of such incident. Apart from all the above legislations, The Supreme Court of India has given state authorities a period of three months to implement the new rules to control over-the-counter sales of acids, which have been used to disfigure, maim and even kill people, particularly women, for decades.<sup>3</sup>

## 4. ACID ATTACK: VIOLATION OF CONSTITUTIONAL RIGHTS:

- a. Right To Life And Right To Live With Human Dignity:** Acid attack results into several physical injuries to sufferers. Acid attack affects the victims' physical appearance. For example, if acid is thrown on face of a woman, it speedily affects eyes, ears, nose, eyelids, mouth and lips etc. The whole face of the victims loses its individuality and they look awful. They lost all charm of their life. It amounts violation of right to life and right to live with human dignity guaranteed under Article 21 of the Constitution of India. The Supreme Court particularly in the case of Francis Coralie Mullin vs. Administration of Union Territory of Delhi<sup>4</sup> has also declared right to live with human dignity as part of right to life under Article 21 of the Indian Constitution. Therefore the acid is thrown on the body of the young girls or women which means they have been deprived from their right to lead a dignified, honorable and peaceful life with dignity.
- b. Right To Get Efficient Legal Remedy:** Because it is expensive, it is challenging for low-income victims to access the judicial system of the nation. The door to the courts is closed to acid attack victims because they receive no financial aid. Fortunately, if some of the victims can get to court, the slow-moving wheels of justice will stand in their way of receiving justice. The Supreme Court has frequently ruled that everyone has a fundamental human right to swift justice. Unfortunately, the victims or their families have been denied the opportunity to exercise their right to a legal remedy as provided by the Indian Constitution, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and UDHR.

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<sup>3</sup> Indian Penal Code - S. N. Mishra

<sup>4</sup> AIR 1981 SC 746.

- c. Right to Personal Liberty and Freedom of Movement:** After an acid assault, the victims experience a burning sensation on their skin. Because they have lost their personality or originality, the victims are afraid to go out and feel bashful. They are unable to enjoy their personal independence and freedom in such a setting. Perhaps the biggest effect of acid abuse on women is that they are compelled to live in terror. It impacts the mobility and empowerment of women. The Constitution of India secures all its citizens individual liberty through Article 21. Furthermore, Article 19 (1) (d) of Constitution of India talks about freedom of movement for every citizen of India within its territory. Obstruction of movement due to acid attack and fear of another acid attack, both are inhuman activities and amounts to violation of constitutional rights.
- d. Rights against Exploitation and right to shelter:** The victims of acid attacks often feel abandoned by their husbands and family members, and this neglect may be attributed to the victim's horrifically damaged and broken body as a result of the acid attack. The victims of acid attacks who have physical defects and lack of family support are exploited. When an acid attack victim experiences disapproval from her husbands or family members and is forced to leave her home, she has been denied her right to refuge. Both the right to protection against exploitation and the right to shelter have been proclaimed human rights in a number of international human rights treaties that India has ratified.
- e. Right to Education and get Uninterrupted Education:** The right to education is recognized as a human right in many international treaties, including the International Covenant on Economic, Social and Cultural Rights. The right to education is also a fundamental right of children to free and compulsory education.<sup>5</sup>The state provides early childhood care and education for all children up to age <sup>6</sup>. Most of the victims of acid attacks are girls, challenging constitutional pledges to ensure that all have access to education. The right to an education<sup>7</sup>and the right to an uninterrupted education<sup>8</sup>are included in the Fundamental Rights section, so they are enforceable in court and fully enjoyed by all. I can do it. The transfer of a schoolchild who is a victim of an acid attack means that he has been deprived of those rights.

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<sup>5</sup> Article 21A of the Constitution of India

<sup>6</sup> Article 45 of the Constitution of India

<sup>7</sup> Unni Krishnan v. State of Andhra Pradesh, AIR 1993 SC 2178.

<sup>8</sup> sathyavan Kotarakkara v. State AIR 1993, Ker.133

- f. Right To Access To Medical Services:** The acid attack survivor had to deal with several medical complications. Foremost among these is the inability of families to afford the extensive surgery needed to reconstruct the victim's injured face. In the event of an acid attack, manipulations are carried out in various stages to bring the person closer to his previous appearance. The surgery costs the victim at least 200,000 to several hundred thousand, which is not affordable for everyone. Many of the victims are left like living corpses after the acid attack. Undoubtedly, the state has provided free and adequate medical facilities for all, but easy access to medical facilities and services is not within safe physical confines of victims.<sup>9</sup>The Constitution of India obligates states to provide adequate medical facilities for all<sup>10</sup>. The Supreme Court of India has also declared the right to medical care to be a basic human right of citizens,<sup>11</sup>but unfortunately the lack of financial support and exclusive medical treatment make it difficult for victims to access medical care. are denied legal rights.
- g. Economic Empowerment and Right to Life:** Acid attack victims faced severe financial hardship after the attack. Acid attacks affect their employment opportunities. A wounded personality makes their job difficult. For example, in the case of victims who were severely disabled as a result of an acid attack, employers may be willing to re-employ people with such physical deformities. Article 14, 21, 38, 39 along with Preamble to the Constitution, the Supreme Court has ruled that right to economic empowerment of the weaker section of the society constitute fundamental right.<sup>12</sup>The Court further declared that right to economic empowerment to the dalits, tribes and the poor is a part of distributive justice.<sup>13</sup>

## 5. IMPORTANT GUIDELINES LAID DOWN IN LAXMI VS. UNION OF INDIA:

The Supreme Court has laid down some important guidelines such as

- i.** Prohibition of counter sales of acid until the seller maintains a register containing name of the buyers.
- ii.** Prohibition of sale of acid to anyone that is not 18 years of age. The age of the buyer has to be

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<sup>9</sup> ibid

<sup>10</sup> Article 47 of the Constitution of India

<sup>11</sup> Pt Parmanand Katara v. U.O.I., AIR 1989 SC 2039.

<sup>12</sup> Murlidhar Dayandeo v. Vishwanath Pandu Borde (1995) 2 SCC 549.

<sup>13</sup> Ibid

- ascertained with proper ID card at the time of purchasing.
- iii.** The entire stock of acid has to be declared by the seller with the Sub-Divisional Magistrate within 15 days. The failure will lead to confiscation by the Sub-Divisional Magistrate and a fine of Rs. 50,000.
- iv.** A minimum compensation of 3 lakhs must be given by the State/Central Government as cost for after-care and rehabilitation. Rs. 1 lakh has to be paid to victim within 15 days of occurrence of such unfortunate incident in order to facilitate immediate medical care and attention. The remaining 2 lakhs must be given within two months.<sup>14</sup>

## 6. INFAMOUS CASES:

- 1. LAXMI'S CASE :** Laxmi was a 26 year old woman from Delhi. Two men poured acid on her while she was waiting for a bus near the Tughlaq road in 2005. She had refused to marry one of the attackers aggrieved by which he left her disfigured for life. Her face was severely burnt and she had to undergo seven surgeries one after another. She needs four more comprehensive surgeries to make her physical appearance resemble of what she was. Laxmi never lost courage but advocated against acid violence by gathering 27,000 signatures for a petition in Supreme Court of India to curb free sale of acids. Her PIL led to framing of new legislation, amendment to existing criminal laws like IPC, Indian Evidence Act and CrPC for dealing with the offence along with asking for compensation.<sup>15</sup>
- 2. HASEENA HUSSAIN:** Joseph Rodriguez, ex- boss of victim threw 1.5 liters of Sulphuric acid on Haseena when she decided to quit the job. The acid melted her face, fused her shoulder and neck, burnt a hole in her head, merged her fingers and blinded her for life. The accused was convicted under section 307 of IPC and was sentenced to life. Compensation of Rs. 2, 00,000/- in addition to the Trial Court fine of Rs. 3, 00,000 was paid to the victim. This is a landmark case as it was the first time that a large sum was awarded to the victim to meet her medical expenses. <sup>16</sup>

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<sup>14</sup> Laxmi vs Union Of India & Ors on 10 April, 2015

<sup>15</sup> . Sangeeta Barooah Pisharoty, "Tea with Laxmi". The Hindu

<sup>16</sup> State of Karnataka by Jalahalli Police Station v. Joseph Rodrigues s/o V.Z. Rodrigues (Decided in the Hon'ble High Court of Kerala on 22/8/2006

3. **SONALI MUKHERJEE** “ Sonali Mukherjee from Khanabad was attacked at the tender age of 18 by Tapas Mitra, Sanjay Paswan and Brahmadev Hajra who threw acid on her when she was asleep on roof of her house. She received various burnt injuries and her face got disfigured. The perpetrators were sentenced to imprisonment of nine years but were released on bail by the High Court<sup>17</sup>.
  
4. **PREETI RATHI** “ Preeti who had got a job as a Lieutenant in Indian Navy had come to Mumbai to join in the INHS Asvini which is the naval hospital in Colaba. On her way to work on 2nd May in 2013, a man flung acid on her face which damaged her eye and infected her kidneys. The acid entered her food pipe, windpipe and trachea causing her unbearable pain. She succumbed to injuries and lost her life. The perpetrator was booked under IPC section 302(murder), 326 A (voluntarily causing grievous hurt by use of acid), and 326-B (voluntarily throwing or attempting to throw acid)<sup>18</sup>

## 7. CONCLUSION

Imagine a world without women! I can imagine the population even for a moment Is the world growing? They form an important part of society. So how and why do they Are you maimed, wounded, and killed by atrocities directed against yourself and your soul? New fact that whenever women choose to speak out against their own inferiority, they compromise For her position in this patriarchal society, she is shunned for her physical abuse and mental trauma. Acid Attacks are a problem all over the world. Acid attacks are heinous crimes that have lasting effects on the lives of their victims. Victims have suffered more than we can imagine, have their lives ruined, are traumatized, and undergo constant torture. There is no doubt that India has laws on acid attacks, but somewhere the legislative structure fails to bring justice to the victims and until the laws are properly implemented there will never be justice. Therefore, we need a separate court to handle acid attack cases to bring justice to acid attack survivors. Then justice will come swiftly. Because acids are readily available on the market, the sale of acids should be regulated. Compensation for victims should be increased.

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<sup>17</sup> <https://www.india.com/news/india/acid-attack-victim-sonali-mukherjee-proposes-to-true-love-marries-him-12-years-after-the-attack-358303/>

<sup>18</sup> <https://www.mid-day.com/news/india-news/article/Preeti-Rathi-shocking-acid-attack-cases-crime-against-women-in-India-17593181>