

ACID ATTACK (A PHYSICAL VIOLENCE): WHAT MORE IS NEEDED IN INDIA

Priti Bhasker*

INTRODUCTION

Violence and other forms of abuse are most commonly understood as a pattern of behavior intended to establish and maintain control over family, household members, intimate partners, colleagues, individuals or groups. Violence and abuse are used to establish and maintain power and control over another person, and often reflect an imbalance of power between the victim and the abuser. Violence is a choice, and it is preventable. There are nine distinct forms of violence and abuse. Physical violence is one of them and occurs when someone uses a part of their body or an object to control a person's actions.

Physical violence includes, but is not limited to: Using physical force which results in pain, discomfort or injury; Hitting, pinching, hair-pulling, arm-twisting, strangling, burning, stabbing, punching, pushing, slapping, beating, etc. Physical violence includes acid attack because 'Acid Attack' or vitriolage is defined as the act of throwing acid onto the body of a person *"with the intention of injuries or disfiguring them out of jealousy or revenge"*.

Acid violence is prevalent in those countries because of three related factors: gender inequality and discrimination, the easy availability of acid, and impunity for acid attack perpetrators. These acid attacks results from domestic or land disputes, dowry demands or revenge. In many cases they are a form of gender based violence, perhaps because a young girl or woman spurned sexual advances or rejected a marriage proposal. So far as acid attack is concerned it not only violates the physical integrity but also causes scar on the soul. It completely shatters her confidence to move forward in life deeply affecting her psyche and emotional quotient. Such horrific kinds of violence are also instrumental in the phenomenon of marginalization of women in the development processes.

Even so many initiatives have been done by the government at national level but the lack of concern for women victims can also be noticed in various legislations. The Indian Constitution provided safeguards to the women in general but there are no specific provisions

* Research Scholar @ SLS, Babasaheb Bhimrao Ambedkar University, Lucknow

for protecting the women victims. The Indian Penal code, 1860 and the Criminal procedure Code, 1973, collectively contain a negligible number of special protective provisions to women as victim of violence. Those statutes which are exclusively applicable to acid attack victims have also failed in taking into account the vulnerability of women and their special needs. Present paper analyses different laws related to physical violence against women and what more is needed in this regard.

LAWS RELATING TO ACID ATTACK IN INDIA

1. Constitutional Provisions

The rights of women have the originating source in the constitution of Indian, for all Indian laws are emerged from Constitution. The Indian Constitution guarantees equality of status and opportunity to men and women. The fundamental rights are enshrined in Part III of the Constitution of India. It must be borne in mind that when the fundamental rights are infringed, the natural basic human rights inherent in human beings are violated.¹

Acid attack results in violation of the fundamental rights of ‘Gender Equality’ and ‘Right to life and liberty’ It is a clear violation of the rights under Articles 14, 15 and 21 of the Constitution.² The relevant articles of the constitution of India, which bestow legal rights upon women, are:

- (1) Article 14, which confers the equality before the law or the equal protection of the laws to every person. It not only prohibits discrimination but also makes various provisions for the protection of women.
- (2) Art. 15(1), which prohibits any discrimination on grounds of religion, race caste, sex or place of birth. However Article 15 (3) empowers the state to make any special provision for women and children.
- (3) Articles 21 ensures; ‘No person shall be deprived of his life or personal liberty except according to the procedure established by law’. Women have a right to lead dignified, honourable and peaceful life with liberty.

¹ *Ibid.*

² *Vishakha v. State of Rajasthan*, AIR 1997 SC 3011

- (4) Article 51 (e), Constitution of India enumerates the fundamental duty to promote harmony and the spirit of common brotherhood amongst all people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women, its true realization in spirit is much awaited.

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 14 is not mere formal equality, it also encompasses substantive equality. This means that equality cannot simply exist on paper. The State has to take positive action including special measures to ensure equality. As women in India are disproportionately the victims of acid attacks, and acid attacks largely constitute gendered violence, women require special protection from acid violence under law.

In *Bandhua Mukti Morcha v. Union of India*,³ the Apex Court held that the right to life under Article 21 means the right to live with dignity, free from exploitation.⁴

As seen above right to Life in terms of the language used in Article 21 is available not only to every citizen of this country, but also to a ‘person’ who may not be a citizen of the country. On this principle, even those who are not citizens of this country and come here merely as tourists or in any other capacity would be entitled to the protection of their lives in accordance with the constitutional provisions’. They also have a right to life’ in this country. Thus, they also have the right to live, so long as they are here, with human dignity. Just as the State is under an obligation to protect the life of every citizen in this country, so also the State is under an obligation to protect the life of persons who are not citizens?⁵ The meaning and content of the fundamental rights guaranteed in the Constitution of India are of sufficient amplitude to encompass in the facets of gender equality including prevention of acid attack. The courts are under a constitutional obligation to protect and preserve those fundamental rights. The courts are under an obligation to give due regard to international conventions and norms for construing domestic laws, more so when, there is no inconsistency between them and there is a void in domestic law.

³ (1984) 3 SCC 161

⁴ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

⁵ *Chairman, Railway Board v. Chandrima Das*, (2000) 2 SCC 465

No person shall be deprived of his life or personal liberty except according to procedure established by law. The Supreme Court in a catena of judgments has recognised that the right to life includes the right to be free from inhuman and degrading treatment. As pronounced in *Francis Coralie Mullin v. Union Territory of Delhi & Ors.*,⁶ the Supreme Court held as under: “It is implicit in Article 21 the right to protection against torture or cruel, inhuman or degrading treatment which is enunciated in Article 5 of the Universal Declaration of Human Rights and guaranteed by Article 7 of the International Covenant on Civil and Political Rights (ICCPR).” The Supreme Court has held that Article 21 includes the right to health and the right to health services.

2. National Legal Responses

Acid attack results in violation of the fundamental rights of ‘Gender Equality’ and ‘Right to life and liberty’. It is a clear violation of the rights under Arts. 14, 15 and 21 of the Constitution.⁷ Needless to say, this constitutes a serious violation of women’s human rights especially right to health.

The Indian Penal Code was amended by the Criminal Law (Amendment) Act, 2013, to include the offence of acid attack within its ambit. The Criminal Law (Amendment) Act, 2013, made the following changes:

Section 100 - Acid, attack has been included under the list of grievous crimes under which the right to private defence extends to causing death. This means that an acid attack is so grave that a survivor may be justified in killing the perpetrator to defend herself from the attack.⁸

Section 326A - Whoever causes permanent or partial damage, deformity, burns, maims, disfigures or disables any part or parts of the body of a person with the intention or knowing that it is likely to cause such injury or hurt, shall be punished with either simple or rigorous imprisonment for a term of at least 10 years, which may extend to imprisonment for life, and a fine. The fine shall be paid to the victim, and shall be just and reasonable to meet the

⁶ 1981 SCR (2) 516

⁷ *Vishakha v. State of Rajasthan*, AIR 1997 SC 3011

⁸ Sec.100 of Indian Penal Code 1860, Diglot Edition, 2016, Central Law Agency, p.22

medical expenses of the victim.⁹

Section 326B – Attempting to throw or administer acid with the intention of causing permanent or partial damage, deformity, burns, maim, disfigure, disable, grievous hurt shall be imprisoned with either simple or rigorous imprisonment for at least five years, up to seven years, and a fine.¹⁰

Section 166A – A public servant who refuses to record any information in relation to an offence under Section 326 A and 326 B (as well as some other sections), shall be imprisoned with rigorous imprisonment for a term of at least six months which may extend up to two years, and be liable to pay a fine.¹¹

Section 166B – Whoever is in charge of any hospital, whether public or private, run by the Central or State Government, a local body, or any person, and who contravenes Section 357C of the Code of Criminal Procedure, shall be imprisoned for a term which may extend to one year, or with fine, or both. Section 357C governs treatment of victims of crimes.¹²

The Code of Criminal Procedure was similarly amended by the same Criminal Law (Amendment) Act, 2013:

Section 154 – When the information is given by the woman victim of a crime under Section 326A, 326B which are the sections dealing with acid attacks (and other sections of the IPC), the information will be recorded by a woman police officer or any woman officer.¹³

Section 154(a) provides for special provisions for survivors of offences under Sections 354, 354A, 354B, 354C, 354D, 376, 376A, 376B, 376C, 376D, 376E, or Section 509 of the IPC (sexual harassment, criminal force to a woman with intent to disrobe, watching a woman in a private act, stalking, rape, and aggravated rape). When an offence under the Sections has been committed and the victim has been permanently or temporarily mentally or physically disabled, then the police officer shall, in the presence of a special educator or interpreter record information from the victim at the victim's residence or any place of the victim's choosing. The recording of such information may be video graphed if needed. Section 154(a)

⁹ Sec.326-A of Indian Penal Code 1860, Diglot Edition, 2016, Central Law Agency, p.84

¹⁰ Ibid, Sec.326-B

¹¹ Sec.166-A of Indian Penal Code 1860, Diglot Edition, 2016, Central Law Agency, p.40

¹² Ibid, Sec.166-B

¹³ Sec.154 of Cr.P.C. 1973, Diglot Edition, 2016, Central Law Agency, p.69

seems to have overlooked acid attack victims as Section 326A and 326B has not been included. This might be particularly problematic as in most cases acid attack victims suffer from significant physical disability following the attack. Section 164 (5A)(a) makes similar provisions as Section 154(a), for a Judicial Magistrate to record the statement taking the assistance of a special educator or interpreter in cases wherein the victim is temporarily or permanently mentally or physically disabled, and for the statement to be video graphed. This statement shall be considered in lieu of examination in chief under the Indian Evidence Act. Again, acid attacks under Section 326A and 326B have not been included within this section.

3. Incorporating International Law on Violence Against Women in India

International conventions and norms have been used in India in cases where is a lacuna in domestic legislation in case of *Vellore Citizens Welfare Forum v. Union of India*,¹⁴ it was held that any rule of customary international law which isn't contrary to municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by courts of law.

However, the incorporation of international law into domestic law is possible only when the law does not come into conflict with an Act of Parliament. As held in the *Gramophone Co. of India Ltd. v. B.B. Pandey*,¹⁵ the will of the legislative bodies is still supreme and international law only fills the gaps in municipal law. Heavy reliance has been placed on various conventions and declarations that have been signed by the executive body of India with regard to the duty of the government to safeguard women's rights to protection from violence and prevent discrimination. These include the convention on Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Platform for Action of the Fourth World Conference on Women in Beijing. Article 11¹⁶ and Article 24¹⁷ of CEDAW were referred to in the judgment. The guidelines, especially with reference to the definition of sexual harassment, have borrowed heavily from CEDAW. At the Fourth World Conference

¹⁴ AIR 1996 SC 2715

¹⁵ AIR 1984 SC 667

¹⁶ Article 11 of CEDAW states: '1. State parties shall take appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on the basis of equality of men and women, the same rights, in particular: (a) the right to work as an inalienable right of all human beings; (if) the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.'

¹⁷ Article 24 of CEDAW states: 'states Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the right recognized in the present convention'

on Women in Beijing the Government of India made an official commitment to protect women's rights by undertaking various steps, and stated that it would formulate and implement national policy on women. The integration of international law can therefore be an important catalyst for strengthening the administration of justice in the area of violence against women.

India, as a state party to CEDAW has the legally binding obligation to "eliminate discrimination against women by any person, organization or enterprise," as enumerated in Article 2(e). State parties have to take appropriate measures to eliminate prejudices and customary practices, such as "acid violence", "which are based on the idea of the inferiority or the superiority of either of the sexes," as enumerated in Article 2(e). Creating statutes that criminalize the different types of acts that fall within the ambit of "acid crimes", while essential, and is certainly not adequate if there is no systematic enforcement of the statutes. Active prosecutions are one of the means to achieve the practical realization of eliminating discriminatory principles such as "acid crimes", in order to ensure that state parties meet their obligations to "take all appropriate measures to eliminate discrimination against women [Article 2]. Taking preventative measures, such as promoting gender sensitization and initiatives on combating dated patriarchal notions, are also necessary to eliminate discrimination against women.

SUPREME COURT AND HIGH COURT JUDGMENTS

Victim of acid attack remain the most vulnerable group in our society. Acid attack is crime against the most basic human right and violates the victims most cherished fundamental right.¹⁸ It gives a serious blow to her womanhood and also offends her self-esteem. Therefore, providing punishment to the offender will not rehabilitate her to the normal life. After analyzing the issues pertaining to acid attack victims the apex court expanded its compensatory jurisprudence to the victims of acid attack also.

As India did not have a separate law governing the crime of acid attack, cases have been registered under different sections of the Indian Penal Code (IPC) particularly the sections relating to hurt, grievous hurt, grievous hurt by corrosive substances and attempt to murder and murder. However, as discussed earlier, the after effects of an acid attack even if the

¹⁸ See Article 21 of the constitution of India

victim survives are distinct and scar the victim; who is usually a woman throughout her life both physically and mentally.

In some of the positive cases the accused have been charged with murder, as the intention of the attacker has been construed as an intention to kill the victim. Even in these positive cases however the amount of fine which has been levied has often been an insignificant amount. The victim has also often not been given this fine by the court.

In a 1998 Maharashtra case¹⁹ acid was thrown on a woman, while she was holding her two and a half year old baby, by her brother-in-law. The woman finally died due to burn injuries. In this case, the brother-in-law was sentenced by the Court under Section 302 of IPC, to undergo imprisonment for life and pay a fine of Rs. 1000 and also sentenced to rigorous imprisonment for a month. Under Section 326 of the IPC he was awarded 5 years of imprisonment apart from a fine of Rs. 2000/-and 3 months of rigorous imprisonment. Though the accused was found guilty the learned Judge failed to appreciate that he should levy an adequate amount as fine and give this fine to the victim's child, who suffered from the attack in multiple ways.

In a case before the Madras High Court²⁰, a person suspected his wife had developed an illicit relationship with one of his acquaintances. In that fit of anger he threw acid on her resulting in severe burns and death of the victim. The husband was convicted under Sec 302 IPC and 313 IPC (causing miscarriage of a woman without her consent) with life imprisonment and a fine of Rs. 2000. The fine was thus again a meager amount.

In some cases which are targeted against women dowry and property can be the reasons for acid attacks. Property and land disputes and sometimes revenge²¹ can prove to be a motive for acid attacks against men. It appears that the idea that acid is an easy effective method of harming and killing enemies can spread to general attacks against both women and men.

In case before the Supreme Court of India²² the accused was the husband of the deceased, Sushila and wanted to kill her and their daughters, Bindu and Nandini to grab property as he was the immediate beneficiary to her estate. He poured acid over her to kill her. She received

¹⁹ *Gulab Sahiblal Shaikh v. The State of Maharashtra*, [1998 Bom CR(Cri)]

²⁰ *Balu v. State Represented Inspector of police* (Decided on 26/10/2006)

²¹ *State of Madhya Pradesh v. Jhaddu and Ors.* (1991 Supp(1)545)

²² *Ram Charittar and Anr. etc. v. State of Uttar Pradesh etc.* (04.04.2007 - SC)

extensive burn injuries on large parts of their bodies including the face, chest, neck, etc. According to the Doctor the death was due to the corrosive acid burns and shock. The High Court convicted the appellants Ram Charittar and Kishori Lal under Section 302/34 IPC, and sentenced them to life imprisonment. The appeal for their acquittal was dismissed by the Hon'ble Supreme Court. No compensation was awarded to the victims.

In a case before the Jharkhand High Court²³ the victim was standing with her friend at a Bus Stop in Dhanbad. The Appellant came and poured acid over her head and face the victim suffered burn injuries over the left side of her eye, neck and chest and had to be hospitalized. A case was registered under Sections 324, 326, 307 IPC. The police investigated the case and finally submitted a chargesheet against the appellant under the aforesaid sections. The learned 2nd Additional Sessions Judge, Dhanbad held the appellant guilty under Section 324 IPC and convicted and sentenced him to undergo RI for three years. The appellant's conviction was upheld by the Hon'ble High Court. No compensation whatsoever was awarded to the victim. In this case the court seems to have been guided by the nature of injuries which in its opinion did not amount to grievous hurt.²⁴

In one of the most famous cases involving acid attack²⁵ the accused threw acid on a girl, Hasina, for refusing his job offer. This deeply scarred her physical appearance, changed the colour and appearance of her face and left her blind. The accused was convicted under Section 307 of IPC and sentenced to imprisonment for life. A compensation of Rs. 2,00,000/- in addition to the Trial Court fine of Rs. 3,00,000 was to be paid by the accused to Hasina's parents. This was a landmark case as it was the first time that a compensation which was quite a large sum was given to the victim to meet the medical expenses including that of plastic surgeries. However, no compensation was awarded for the after effects of the attack such as loss of income etc.

In a case from Delhi²⁶ the accused threw acid on the victims face. The liquid splashed on her face produced some redness (erythema) on the skin over a part of her face involving her upper eye-lids. There was no corrosion, of the skin or other deformity. The accused was convicted for causing hurt under Section 323 of the IPC and a meager fine of Rs. 300 along

²³ *Awadhesh Roy v. State of Jharkhand* (Decided on 12/6/2006)

²⁴ See also *Students of A.P.A.U. & Another v. The Registrar, A.P.A.U.* (1997(1) ALT 547

²⁵ *State of Karnataka v. Joseph Rodrigues* (Decided in the Hon'ble High Court of Kerala on 22/8/2006)

²⁶ *State (Delhi Administration) v. Mewa Singh* 5 (1969) DLT 506

with 15 days imprisonment was awarded. This sort of punishment and fine for acid attack is in itself a mockery of sorts and does not take into consideration the gravity of the crime and its after effects like trauma which affects the victim throughout her life.

Thus, over the years various kinds of acid attacks have been registered under the sections related to hurt, grievous hurt, murder etc. However, the nature and effect of the crime of acid attack is very distinct and complex and the Sections relating to hurt and grievous hurt do not provide an adequate relief and punishment. Apart from this the police often use their discretion to decide what sections should be registered in the case of acid attacks and this discretion is at times influenced by gender bias and corruption or is a wrong assessment.

In most of the cases no compensation has been awarded. In those in which compensation has been awarded the sum is minimal and is totally inadequate to meet even the medical expenses. Normally courts just levy fines without even giving these to the victims. The section on Compensation in the Cr.P.C. should therefore clearly spell out that the fines levied should be given to the victim or their dependents.

The victims suffer a great deal due to a slow judicial process, inadequate compensation and obviously from the after effect of the acid attack itself. Thus, there is an urgent need to legislate distinct sections in the I.P.C to deal with acid attacks and to setup a Criminal Injuries Compensation Board in India to deal with such cases in an effective and efficient manner, to help the victims of acid attack to get compensation for medical expenses and rehabilitation apart from making Section 357 Cr.P.C. mandatory in certain respects.

After the leading case of *Laxmi v. UOI*,²⁷ the Supreme Court passed an order to put ban on selling of acid in shops. Laxmi of 22 years old, who was an acid attack survivor was waiting for a bus in Delhi's tony Khan Market in 2005, when two men poured acid on her after she refused to marry one of them, leaving her disfigured. Though the victim and her parents were poor they were fortunately helped by a benefactor who bore the medical expenses approximating to Rs. 2.5 Lakhs. However, even after 4 plastic surgeries the victim's physical appearance remains horrific and many more surgeries would be required to make her physical appearance a semblance of what it was. The victim can of course never look as she did before the attack.

²⁷ Criminal Appeal No. 129 of 2006

The Supreme Court directed all states to pay acid attack victim Rs. 3 lakh towards medical treatment and aftercare rehabilitation and Rs. 1 lakh within 15 days of an incident and the balance within two months thereafter. Alok Dixit, Founder of Stop Acid Attack says that the good thing that has come out of it is the compensation but that is for the girls who will be attacked in the future.

In another case *Parivartan Kendra v. Union of India & Ors.*,²⁸ in this case after working closely with acid attack survivors an NGO working for marginalized persons in Bihar filed this petition in the Supreme Court of India to ensure complete rehabilitative services and compensation for acid attack survivors. The outcome of the case is that Supreme Court issued notices to the state and union territories for information on victim compensation and CSAAAW became co petitioner. S.C. stated that, the victim (Chanchal) should be compensated to a tune of at least Rs. 10 Lakhs. Suffice it to say that the compensation must not only be awarded in terms of the physical injury, we have also to take note of victim's inability to lead a full life and to enjoy those amenities which is being robbed of her as a result of the acid attack. Therefore, this Court deems it proper to award a compensation of Rs. 10 lakhs and accordingly, we direct the concerned Government to compensate the victim Chanchal to a tune of Rs. 10 Lakhs, and in light of the Judgment given in Laxmi's case we direct the concerned State Government of Bihar to compensate the main victim's sister, Sonam to a tune of Rs. 3 Lakhs.

In another case *Ayushi Dubey & Ors. v. State of U.P. & Ors.*,²⁹ this petition filed on behalf of Madhuri Prajapati an acid attack survivor. The team visited and filed the petition. It sought to constitute a team of doctors and experts to examine Madhuri, to reimburse the survivors of medical expenses, to fast track the criminal trial, to award compensation to her and her mother. In this regard the High court passed some sweeping orders and asked to state to ensure all the prayers made in the petition.

In *Shaheen v. State of Haryana through its Chief Minister and SP, Panipat and Bala and Yashwinder*,³⁰ HRLN filed petition on behalf of Shaheen to modify the victim compensation scheme to provide retroactive free medical and surgical treatment for acid attack survivors, rehabilitation, and compensation to survivors, to compensate Shaheen's medical expenses, to

²⁸ WP (C) 867/2013, Order dated 7/12/2015

²⁹ WP (C) 68901/2013

³⁰ WP (C) 4046/2014

provide immediate free treatment for Shaheen. The case is pending with the Court and yet to be decided.

ROLE OF POLICE IN THE INVESTIGATION OF ACID ATTACKS

Police department in a country should ideally be a safe harbor for the citizens of the country and should play a proactive and pivotal role to nab and curb criminals and crime. But in India this view exists only on paper and not in practical world. The police response to violence against women is grossly inadequate and inappropriate, even in the contemporary India, where women are emerging as leaders. The cult of masculinity prevalent in the department makes the police officers hold some stereotypes about violence against women. The stereotypes lead to certain standard patterns of police response. For example one of the most common responses of police with respect to violence against women is that it is victim-precipitated. Women ask for rape/sexual violence by provocative mode of dress and behavior or by going out after dark or going to shady and lonely places.³¹ The police often aggravate the trauma of the victims. Generally, they are insensitive in their behavior with the victim, despite various Supreme Court guidelines on the issue. Instead of addressing her pain and trauma, they aggravate the same and set examples and precedents in the society for not reporting such crimes. That is why most of the crimes against women are not reported. Acid victims also feel reluctant to report acid attacks to the police because they fear the harassment and the ridicule from the police officers. Officers may frame acid violence investigations in terms of a woman's sexual history and questions of morality.³²

Corruption flows through the veins of the Police Department of India and is manifested at each and every level. Several acid attack victims reported that their attackers bribed the police officers with money in order to influence investigation. For example Jacqueline Asha claims her attacker gave the police a bribe; thereafter she faced threats from the officers to withdraw the case.³³ In order to deal with the insensitivity of police officers in cases of violence against women, Criminal (Amendment) Act, 2013 introduced proviso has been

³¹ NCW Report, Retrieved from <http://ncw.nic.in/pdfreports/gender%20sensitization%20of%20police%20officers.pdf>

³² Campaign and Struggle against Acid attacks on women (CSAAAW), Burnt not defeated 21-22(2007).

³³ Avon Global Centre for Women and Justice at Cornell Law School, the Committee on International Human Rights of the New York City Bar Association, The Cornell Law School International Human Rights Clinic, The Virtue foundation.(2011).Combating Acid Violence in Bangladesh, India and Cambodia available at www.ohchr.org/Documents/HRBodies/CEDAW/HarmfulPractices/AvonGlobalCentreforWomenandJustice.pdf

added to Section 154 which deals with recording of First Information Report. As per this provision, in cases of violence against women, statement of the victim shall be recorded by the women police officers. But problem here lies on the fact that there are very few women police officers in the Indian Police Department. In the year 2011, there were no women police officers at all in the state of Mizoram.³⁴ Furthermore merely employing female police officers will not solve the problem to its core. Women in the police department must get the training, support and confidence needed to put them on a par in every sense with their male counterparts.³⁵ Being the protectors of the citizens, moral training should also be emphasized during their training period. They should be given a true insight of their job and duty, to not only fight against crime, but to help the fellow citizens.

(1) Ensuring Implementation of Laws Designed to Combat Acid Violence

As noted, there is currently no law in effect specifically addressing acid violence. For the reasons noted above, the design and structure of existing laws are not adequate to combat acid violence. As in the Bangladeshi criminal justice system, there are endemic problems, including corruption and a lack of resources, in the Indian system inhibiting appropriate investigation of crimes, protection of victims, and punishment of perpetrators.

One problem that affects acid attack prosecutions is the lack of adequate numbers of judges in India. An estimate puts the judge-to-person ratio in India at 12.5 judges per one million people.³⁶ The ratio in India is lower than that of other countries; in the United States there are 107 judges per one million people; in Canada there are 75 judges per one million; and in Britain there are 51 judges per one million.³⁷ In India, it may take many years for courts to hear and decide cases. Such delays tend to hurt prosecutions' cases, as victims and witnesses lose interest and as physical evidence deteriorates or disappears.³⁸ Indeed, 41.8% of IPC

³⁴ Editorial, (2013, March) Women in the Police, The Hindu, Retrieved from <http://www.thehindu.com/opinion/editorial/women-in-the-police/article4485344.ece>

³⁵ *Ibid.*

³⁶ PRS Legislative Research, Vital Stats: Pendency of Cases In Indian Courts (Center for Policy Research 2009), Retrieved from <http://www.prsindia.org/administrator/uploads/general/1251796330~~Vital%20Stats%20%20Pendency%20of%20Cases%20in%20Indian%20Courts%2026Aug2009%20v10.pdf>

³⁷ Committee on reforms of Criminal Justice System, Govt. of India, Ministry Of Home Affairs, Report Vol. I (Mailmath Committee Report) 18–19 (2003), Retrieved from http://indialawyers.files.wordpress.com/2009/12/criminal_justice_system.pdf

³⁸ See Interview with Judge Subhash B. Adi, High Court of Karnataka, in Bangalore, India (Jan. 20, 2010) (on file with Avon Global Center)

cases reported resulted in convictions,³⁹ a figure much lower than the 90% or more conviction rate in criminal cases of countries such as the United Kingdom, the United States, France, Japan, and Singapore. Below we discuss specific concerns faced by acid attack victims in their interactions with the criminal justice system.

(2) Investigation

Acid victims note that they are reluctant to report acid attacks to the police because they fear harassment and ridicule from police officers.⁴⁰ Some police officers espouse blatantly sexist views. For instance, an advocate recounted that one police officer, when asked why he felt that certain women are attacked with acid, answered: “These women dress up like boys. What do they expect?”⁴¹

Additionally, officers may frame acid violence investigations in terms of a woman’s sexual history and questions of morality.⁴² For example, an investigating officer blamed one victim for the acid attack against her, saying that she instigated the crime by engaging in a series of “affairs” with co-workers, which led to one of the co-workers throwing acid at her.⁴³ The Delhi Deputy Commissioner of Police, who believes that acid violence is a form of gender based violence, agrees on the need to more broadly “sensitize the police force” to the specific issues faced by acid attack victims.⁴⁴

Additionally, some police officers are susceptible to corruption. Indeed, several acid attack victims reported that their attackers bribed the police with money in order to influence investigations. For example, Jacqueline Asha claims her attacker gave the police a bribe; thereafter she faced threats from the officers to withdraw the case.⁴⁵

(3) Protection

³⁹ See Mailmath Committee Report, *Supra* note 290, at 12–13

⁴⁰ See *Burnt Not Defeated*, *Supra* note 5, at 46

⁴¹ Interview with Usha, *Supra* note 151

⁴² See *Burnt Not Defeated*, *Supra* note 5, at 47

⁴³ *Ibid* at 48

⁴⁴ E-mail message from Sagar Preet Hooda, Deputy Commissioner of Police, Delhi Police, May 2010, in response to a query posted by the KRITI Team on the Resource Team and Members, Solution Exchange for Gender Community - an initiative of UN agencies in India

⁴⁵ *Burnt Not Defeated*, *Supra* note 5, at 50

There are several documented cases in which acid attack victims have received inadequate police protection even when they have complained of harassment by their perpetrators prior to the attack. For instance, acid violence victim Shri Mahaveer Singh filed a police complaint stating that a man was harassing her and threatening to kill her, abduct her, and throw acid on her if she did not marry him.⁴⁶ Her father requested that police protect his daughter from harm and included the name and description of the man harassing Shri in his complaint.⁴⁷ The police failed to take any action to protect her, and two years later the harasser threw acid at Shri.⁴⁸ A subsequent National Human Rights Commission investigation found the police to be negligent in failing to protect Shri and deemed their negligence the proximate cause of the acid burn injuries Shri suffered.⁴⁹ In Dr. Mahalakshmi's case, the police ridiculed her unmarried status when she filed complaints of harassment against the man who later attacked her with acid.⁵⁰

(4) Prosecution and Punishment

Perpetrators of acid attacks are not effectively prosecuted. Given their extensive caseloads and lack of training, public prosecutors do not have the time or resources to properly investigate and prosecute cases.⁵¹ For instance, Gita was unconscious for several days after the attack against her and could not give a statement to the police.⁵² Since then she has attempted several times to meet with the public prosecutor, but he has refused to meet with her.⁵³ One High Court Chief Justice urged more cooperation between victims and prosecutors and allowing victims an opportunity to play a more active role in prosecutions.⁵⁴

The role of judges is crucial to ensuring that acid attack perpetrators are adequately punished. Gender insensitivity and other structural problems within the Indian judiciary present challenges for the punishment of acid attack perpetrators. In one case, for example, the judge

⁴⁶ National Human Rights Commission (NHRC), *Action Details, File Number 719/30/98-99*, 14 September 1998 (on file with Avon Global Center) [hereinafter NHRC Action Details File Number 719/30/98-99].

⁴⁷ *Ibid*

⁴⁸ *Ibid*

⁴⁹ *Ibid*

⁵⁰ *Burnt not Defeated, Supra note 5*, at 46.

⁵¹ See Interview with Sheela Ramanathan, Campaign and Struggle Against Acid Attacks on Women (CSAAAW) & Human Rights Law Network (HRLN) of Bangalore, in Mysore, India (Jan. 18, 2010) (on file with Avon Global Center)

⁵² Interview with Usha, *Supra note 151*.

⁵³ *Ibid*

⁵⁴ Telephone interview with Justice Bannurathum, Chief Justice of Kerala High Court (Jan. 19, 2010) (on file with Avon Global Center)

hearing an acid attack case asked the survivor to cover her face when she appeared in court.⁵⁵ In cases in which judges have imposed stiff punishments on acid attackers, it appears that, in assessing the harm to the victim, judges have given great weight to the fact that the victim has lost her chance to be married and to be a mother.⁵⁶ Thus, if a judge believes that the perpetrator has prevented a woman from satisfying her traditional role as mother or wife, then the perpetrator is likely to receive a higher sentence.

(5) Providing Redress to Victims

The Karnataka High Court in a public interest litigation case, ordered the Karnataka state government to give each acid attack victim Rs. 2 lakhs (\$4,522 USD). Further, health officials in Karnataka suggested that they would be willing to compensate victims for additional medical expenses.⁵⁷ However, there is no central government scheme to provide compensation. The Minister for Health and Family Welfare, Dinesh Trivedi, recently proposed that acid attack victims receive free healthcare and insurance, but no concrete steps have been taken to adopt this proposal.⁵⁸

Victims in India report unacceptable treatment in government hospitals. In one case, after acid survivor Shanti was admitted to a government hospital with massive burns, she received only an energy drink at the first hospital she visited.⁵⁹ Upon her transfer to a second government hospital, she received an improper treatment regimen of ointments for 18 days.⁶⁰ Only after she was transferred to a private hospital was the dead skin appropriately removed.⁶¹

The unacceptable quality of treatment can be attributed in part to the lack of facilities for proper care. Most government hospitals in India, like those in the other countries studied, do not have plastic surgeons or medical facilities necessary to conduct necessary procedures for acid survivors.⁶² For instance, in Bangalore, India, the Burn Center at the primary public

⁵⁵ Burnt not Defeated, *Supra* note 5, at 22–23.

⁵⁶ *Ibid* At 58

⁵⁷ See Interview with Dr. Ramesh, Deputy Director, Department of Health, State of Karnataka, in Bangalore, India (Jan. 20, 2010) (on file with Avon Global Center).

⁵⁸ Aarti Dhar, *Free Treatment Proposed for Acid Attack Victims*, HINDU, Nov. 24, 2010, 2010 WLNR 23353857.

⁵⁹ Burnt not Defeated, *Supra* note 5, at 22–23

⁶⁰ *Ibid*

⁶¹ *Ibid*

⁶² *Ibid*

hospital has 60 beds for a region with a population of over 12 million people.⁶³ In addition, there is a shortage of plastic surgeons in the country. According to one medical expert, there are only around 2,500 plastic surgeons in a country of one billion people.⁶⁴ Even if there were more trained professionals, hospitals do not have the facilities and equipment to support them.⁶⁵

In addition to the lack of adequate facilities, government hospitals in India have routinely denied admission and treatment to acid attacks victims. According to CSAAAW, in the State of Karnataka, India, hospitals denied admission to 80% of the acid attack victims they studied.⁶⁶ In other cases, despite admitting victims to government facilities, health professionals may refuse to treat them.⁶⁷

WHAT MORE IS NEEDED IN INDIA

Though violence against women continues to increase in India the law the criminal justice system has in many ways failed to respond to or deal effectively with it. Indeed in crimes against women the rate of conviction is reported to be less than 4 percent. Very little effort, both in terms of making the law of more sensitive to women and in terms of enforcing it has been made in the past few years by the State to actually curb or deal with the violence. Women at therefore continue to suffer without adequate legal or other redress. Though some amendments took place in the early eighties, the substantive laws relating to violence against women are inadequate and do not reflect the various kinds of violence women experience. The Law Commission had suggested various reforms in both the substantive and procedural laws as far back as 1980, but a significant number of these suggestions were ignored by the State. Not only the law but social ethics must also be reformed to deal with the problem. Despite the constitutional mandate of equal legal status for men and women, the same is yet to be realized. The *de jure* laws have not been translated into *de facto* situation for various reasons such as illiteracy, social practices, prejudices, cultural norms based on patriarchal values, poor representation of women in policy-making, poverty, regional disparity in development, lack of access and opportunity to information and resources, etc. The ground situation more or less remains the same. The awareness on laws and access to

⁶³ See Interview with Dr. Satish, *Supra* note 12

⁶⁴ *Ibid*

⁶⁵ *Ibid*

⁶⁶ *Burnt not Defeated*, *Supra* note 5, at 39

⁶⁷ *Ibid* at 21-22

justice remains dismal. At the district and the state level sensitivity on women rights among judicial officers, administration and the police is very low. This leads to a situation where the implementation of the law becomes difficult. Recently India has increased its budgetary support for the implementation of various laws on violence against women.

Since the problem of violence against women is a complex one, interfacing with many different social and economic factors that entrench gender inequality, law reform in India must be holistic. Our country has complex legal systems, derived from many sources because of its historical experience spans many centuries. Religious custom and colonial legal norms have combined to entrench discriminatory legal values, and these need to be removed to provide a normative structure, and harmonise with women's rights recognized in international law and national Constitution. These studies demonstrate clearly that reform of laws on violence against women are incomplete, and can at best have limited impact, when discrimination is entrenched in other connected areas.