

that leads to these consequences. This follows the path taken by Judges in developing the common law. ‘...the common law of England has not always developed on strictly logical lines, and where the logic leads down a path that is beset with practical difficulties the Courts have not been frightened to turn aside and seek the pragmatic solution that will best

serve the needs of society as such according above discussion and the data showing the conviction rate in NDPS Cases there is 90% acquittal in NDPS Cases because of the above said reason, as such there is need of harsh punishment under NDPS Act for perpetrators to combat the challenges posed by the Drugs traffickers.

JUSTICE FOR ACID ATTACK VICTIMS – A MYTH OR REALITY

By

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Introduction:

One in three women worldwide experience physical or sexual violence, which could be at public places, in educational institutions, place of work or even at home, where she should feel the safest amidst her family members. Violence against women and girls is a human rights violation, and the immediate and long-term physical, sexual, and mental consequences for women and girls can be devastating, including death. Acid attack is one such type of violence.

“Freedom cannot be achieved unless women have been emancipated from all kinds of oppression.”— Nelson Mandela.

The subordination of woman by man according to Confucius was one of the supreme principles of Government.

Over 155 countries have introduced laws on domestic violence with over 140 countries enforcing legislations against sexual harassment in the workplace according to the World Bank. Enforcing these laws has been challenging for countries thereby limiting access to safety and justice for women. There is more we can do to prevent violence against women and to ensure that it does not go unpunished when it does occur.¹

The National Crimes Records Bureau of India has determined that the reported incidents of crimes against women have increased by 6.4% in 2012 and also women are victims of a crime every 3 minutes in our country. In 2011, more than 2.3 lakhs incidents of crimes against women were reported and this number increased by 44% in 2015 when we witnessed over 3 lakhs cases of crimes against women. West Bengal accounts for 7.5% of the women population in our country and it witnessed 12.7% of the total cases of crime against women in our country. Andhra Pradesh which is home to 7.3% of the female population accounted for 11.5% cases of crime against women in our country.²

In 2020, a total of 3.7 lakhs cases of crime against women were registered, showing a decline of 8.3% cases over 2019.

‘Cruelty by a Husband or his Relatives’ (30%) accounted for the majority of cases of crime against women followed by ‘Assault on Women with intent to Outrage her Modesty’ (23.0%), ‘Kidnapping and Abduction of Women’ (16.8%) and Rape (7.5%) according to the cases registered under IPC. 56.5 cases were registered for every 1 lakh women in our country in 2020 as compared to 62.3 cases in 2019.³

[1] https://en.wikipedia.org/wiki/Violence_against_women_in_India

[2] https://en.wikipedia.org/wiki/Violence_against_women_in_India

[3] <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%201.pdf>

Violence against women refers to physical or sexual violence committed against a woman, ordinarily by a man. The most common forms of violence against women include domestic abuse, sexual assault, and murder.

It can include :

- * domestic abuse, sexual violence, and rape
- * stalking and harassment
- * trafficking of women
- * female genital mutilation
- * intimidation and harassment at work, in education or in public
- * forced prostitution
- * forced marriage
- * 'honour' crimes.

Among the different types of violence, acid attack is a kind of violence which causes immense pain and suffering to the victim and has serious physical, psychological and economic effects on the victims of the attacks.

Acid attack is an offence prevalent in different parts of the world, but it has become more common in developing countries and more cases are reported from South Asia. Countries like Bangladesh, Afghanistan, Iran, Pakistan and United Kingdom to name a few countries report a greater number of incidents of acid attack.

An acid attack involves the premeditated throwing of acid on a victim, usually on her face. It is a gender-based heinous crime against women. In addition to causing psychological trauma, acid attacks result in severe pain, permanent disfigurement, subsequent infections and often blindness also. 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".

Causes of Acid Attack - The root cause for violence against women is the patriarchal society of our country where men are considered superior to women. From ancient to the present

modern times the status of women has been considered to be lower when compared to men. This attitude has manifested itself in different offences being committed against women and acid attack is one of them. The causes are-

- (1) The cultural inequality which exists in gender, in the economic condition of people, as well as the class-based inequalities which forms the basis of the cultural set-up of our country.
- (2) The conventional and traditional society of our country has adopted a tolerant attitude towards the crimes committed against women which encourages the perpetrators of such offences.
- (3) The economic background, educational qualifications, conflicts in family, domestic violence are also responsible for such acts being carried out.
- (4) Personality of the offender like insufficient anger management skills, seeking vengeance by a boy in love whose advances are spurned by the girl is also a very major cause. Free availability of acid makes it very easy to procure and use it liberally on the victim.

The heinous acts of acid attacks involve unbearable pain and suffering and lead to consequences which include-

Injuries and Physical Consequences—

The highly corroding nature of acid very quickly eats through the layers of skin piercing the fat and muscles and in very serious cases even affects the bones dissolving them. Strong acid can even make a victim blind, and the inhalation of the fumes can lead to breathing problems.

Psychological Consequences- Acid attack victims not only suffer from physical change, but the psychological consequences are also grave. They are susceptible to depression, are ashamed of their appearance, constantly worry and feel they are all alone with no one to support them.

Social and Economic Consequences- There are some social and economic repercussions also

which an acid attack victim faces. A victim becomes an object of mockery, ridicule and pity which makes it very difficult for one to lead a normal life. Discrimination and physical deformity make it hard for them to face the outside world and this lack of confidence makes them dependent on others financially.⁴

Legal Outlook of Acid Attacks in India—

India has witnessed a steady increase in the incidences of acid attacks against women, but unfortunately there was no separate legislation to deal with offences relating to acid attacks prior to the passing of the Criminal Law (Amendment) Act 2013. Acid is known to be a very potent weapon of offence and assault, especially against women and minors. Girls and women account for more than 85 percent of victims.

The criminal law has sections relating to different offences and the Indian Penal Code in Sections 320, 322, 325 and 326 deals with grievous hurt. Sections specifically dealing with acid attacks were not provided and this proved to be insufficient and a big hurdle in dealing with the dastardly and painful acts of acid attacks. Crimes against women increased manifold and since the definition does not include within its purview the various kinds of deliberate hurt, inflicted on important parts of a female's body, nor does this definition apply to offences like acid attack in which multiple types of grievous hurt occurs it became imperative to have sections for acid attack cases.

Section 326-A IPC – Voluntarily causing grievous hurt by use of acid, *etc.* – 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.

Sections 326-A and 326-B have been added in the Code *vide* Criminal Law (Amendment) Act, 13 of 2013 based on the recommendations of Justice J.S. Verma Committee report. The report in Paras 4 to 9 of Chapter 5 from Pages 146 to 148 refers to the decision of *Sachin Jana v. State of West Bengal*, (2008) 3 SCC 390. This was a case pertaining to acid attack, leading to disfigurement of the victim. The Supreme Court applied Section 307 (attempt to murder) read with Section 34 and justified the conviction by stating that Section 307 made a distinction between the act of the accused and its result. It is not essential that the injury actually caused to the victim should be adequate under ordinary circumstances to result in death. The Court only has to perceive as to whether the act, irrespective of its result, was done with the intention or knowledge as declared in Section 307.

In *Maqbool v. State of Uttar Pradesh*, AIR 2018 SC 5101, it was held by the Supreme Court that the percentage or gravity of injury, does not make the difference for attracting offences under Sections 326-A and 326-B. Even a simple injury comes within the purview of the provisions of these sections on account of use of acid by the offender.

The object of adding these sections was to make specific provisions for punishment in cases of an individual voluntarily causing grievous hurt by use of acid *etc.*, or voluntarily throwing or attempting to throw acid causing permanent or partial damage or deformity or burning, maiming, disfiguring or disabling any part of the body of that person. In view of the gravity of the offence Section 326-A, IPC provides minimum punishment of not less than 10 years which may extend to imprisonment for life and fine. The amount of fine should be just and reasonable to meet the expenses for the treatment of the victim and must be handed over to the victim.

[4] <https://lawcommissionofindia.nic.in/reports/report226.pdf>

Acid Attack Case-In *Laxmi v. Union of India*, (2014) 4 SCC 427, the Apex Court held that in case of acid attack, victims' minimum compensation of Rs.3,00,000/- to be made available to each victim. Victim Compensation Scheme of States/Union Territories to be accordingly amended, and to be given wide publicity, *vide* Section 3. Government and private hospitals should facilitate for availing free treatment to the victims. States/Union Territories are to ensure that private hospitals do not refuse free treatment. The meaning of free treatment is not restricted only to physical treatment of victim, but also includes medicines, provision for accommodation in the hospital and food also being provided there. Free treatment- Hospital to issue certificate that individual is acid attack victim. Victim can use it for treatment and reconstructive surgeries or any other Government Scheme that victim may be entitled to⁵.

The victim *Laxmi*, by her online portal web change.org gathered more than 28,000 signatures to file a PIL. She filed a Public Interest Litigation in Supreme Court of India to regulate the sale of acid and to make specific new law or amend the existing laws like Indian Penal Code, Indian Evidence Act, and Criminal Procedure Code to include acid attack as a separate crime and to rehabilitate and compensate the acid attack victims. The Supreme Court by keeping the constitutional provisions of Articles 14, 15, 21 and 32 in mind issued the following guidelines:

- * Acid could not be sold to any individual below the age of 18 years.
- * Acid can only be bought on showing a photo identity card.
- * The buyer has to mention the purpose for which he is buying the acid.
- * The seller of the acid has to submit these documents to nearby police station within 3 days.
- * The seller is duty bound to inform the sub-divisional magistrate within 15 days regarding the stock of acid.

- * In the eventuality of undeclared stock of acid, the choice lies with the concerned sub-divisional Magistrate to confiscate the stock and impose a suitable fine upto Rs.50,000/-

Suggestions-Acid attacks hinder the enjoyment of basic human rights guaranteed by the Constitution of India. Treaties at an international level also strongly recommend adapting and implementing the provisions which favor women and are beneficial for their upliftment.

After the 2013 Criminal Law Amendment Act, the situation with regard to acid attacks improved as they were segregated as a separate offence under the IPC. The compensatory mechanism was strengthened.

Though the Act was a step in the right direction, certain ambiguity persists in certain areas. The Act is silent on whether free treatment for victims covers expenses for only initial medical treatment or also treatment at a later stage, such as corrective surgeries and long-term psychological counselling.

The clarity regarding restriction of compensation to not more than three lakhs was elucidated by the Supreme Court in *Parivartan Kendra v. Union of India*, (2016) 3 SCC 571, (2015) in which it declared that the compensation was not restricted only to three lakhs rupees and that the Courts had discretion to award compensation greater than three lakhs.

After innumerable acid attacks on women in India and instances of crimes going up exponentially, taking into consideration the strident call of different sections of people in the society, laws have been framed for rendering justice to the victims of this abominable crime. But issues still persist which have not yet been resolved, such as delay in disposing off the cases coupled with the low rates of conviction. Many acid attack cases in India are either set aside or gather dust in the police files without being brought before the Court.

Despite legislations and action being taken to control acid attacks, instances of such attacks are on the rise.

[5] Textbook on Indian Penal Code-K.D. Gaur, P970.

Though restrictions have been placed on the free sale of acid, this has not deterred people from buying acid which is still available quite freely. Serious rethinking needs to be done in this aspect.

An important point to be considered in acid attack cases is, whether justice will be rendered to the victims by punishing the perpetrators of the offence, even though compensation is provided to the victims. Punishment acts as a deterrent and, sends a strong warning to other like-minded people in the society to think twice before committing such an offence.

The States necessarily have to ensure that the precepts formulated by Supreme Court of India in *Laxmi v. Union of India* (supra), are meticulously followed.

Police must speed up their investigation and aid the Courts in disposing cases quickly.

Government must educate young people and try to bring a change in the attitude of people about patriarchy, equality for women, etc. The public must also be educated to treat acid attack victims as normal citizens and not to shun and treat them with contempt.

Victims of acid attacks should be given opportunities of employment and should be encouraged to pursue education.

Conclusion:—It becomes imperative then, that the society as a whole leads the path towards emancipation of women by displaying empathy towards acid attack victims, and wherever possible help should be rendered, to make life easier for them so that they are able to face the challenges which they encounter in every step of their life, with dignity and hope in their eyes.

VOLUNTARY ARBITRATION UNDER INDUSTRIAL DISPUTES ACT, 1947

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1. History :

Voluntary Arbitration is one of the effective modes of settlement of Industrial Dispute. It supplements collective bargaining when negotiations fail arbitration may prove to be a satisfactory and Enlightened method of resolving disputes.

The credit for introducing a unique method of settlement of industrial disputes goes to *Mahatma Gandhi* who for the first time applied it to settle the important dispute on the claim of the Dearness Allowance by the workers in the Ahmedabad Textile Industry in the year 1918.

Following the dispute, the workers of the Ahmedabad Textile Industry have gone on strike demanding 35% raise in D.A. on par with the Bombay Textile workers.

The strike had been guided by *Mahatma Gandhi* who considered the demand of the

workers justified. On the other hand, the employees were bent upon to give only 20% raise in Dearness Allowance. This had led *Mahatma Gandhi* to undergo fast unto death which has created uproar in the rest part of the Country. Ultimately *Mahatma Gandhi* suggested to solve the dispute by referring it to the Arbitrators of the mutual choice which has been accepted by the employees.

Mahatma Gandhi acted as Arbitrator on behalf of the workers. Ambalal Sarabhai represented employers. Both the Arbitrators had agreed on the increase of the Dearness Allowance at the rate of 27-1/2% as against the 35% and 20% which was demanded by the workers and employers respectively.

Reasons for Inclusion of Section 10-A of the I.D. Act, 1947

Since the compulsory adjudication has been criticized as affecting the industrial peace and