

Justice for Acid Attack Survivors

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ABSTRACT

Acid throwing, also called “vitriolage” or “vitriol attack” or “acid attack” is a violent form of assault in which a corrosive substance is thrown onto the body of another. There are 250-300 acid attacks every year despite laws restricting sale of acid and other deadly chemicals. It is a preventable cause of morbidity in women. Responses by communities, social institutions, government, stringent legislations and penal measures have failed miserably in containing the menace. Most often its patriarchy mindset, male chauvinism and stereotypical gender roles continuing over the ages which are responsible for it. It is a mirror on our unforgiving times and the most unfortunate part of it is that the victim generally has to live with the consequences, physical and psychological. Burning a person’s skin with acid is a vengeful punishment intended to blight a life. It is a narcissistic crime in which the perpetrator gets to feel powerful and at the same time devalue the victim irreparably.

Keywords

Vitriolage, vitriol attack, narcissistic crime, vengeful punishment, patriarchy mindset, male chauvinism, stereotypical gender roles

INTRODUCTION

An acid attack involves the pre-meditated throwing of acid on a victim, usually on her face.

In addition to causing physical trauma, acid attacks result in severe pain, permanent disfigurement, subsequent infections and often blindness in one or both eyes.

Perpetrators commit acid attacks for a number of reasons including revenge for a refusal of marriage proposal or other romantic and sexual advances; land disputes; perceived dishonor; and jealousy.

To put a stop to the growing number of acid attacks the Supreme Court clamped down on the sale of the toxic liquid and also ordered higher compensation to acid attack victims. Illegal sale and purchase of acid to be consider as non bailable offence.

STATISTICAL OVERVIEW

There is no separate statistics for acid violence cases in India till early 2013 because the Indian criminal law did not recognize it as a separate offence. With the amendment in Indian Penal Code in February 2013, incidents of acid attack are now being recorded as a separate offence under section 326A and 326B. The first data available after the amendment relate to the year 2014 when 225 cases were reported from all over India.

The rising number of acid attack cases, from 83 in 2011 to 349 in 2015, shows India’s inability to grapple with this heinous crime. Cases continue unabated in various parts of the country, showing the pan-Indian character of this form of assault.

Shockingly, many cases go unreported, especially if a family member is the attacker.

In many cases survivors continue to stay with the attacker, if a family member, for they have nowhere else to go. Maimed and blinded, the women find it difficult to get jobs and are unable to support themselves. These cases reflect the utter callousness of the systems of governance and justice, and reflect very poorly on us as a society.

Acid attacks are carried out because of discriminatory attitudes. There is no national database to statically track cases of acid violence. Many cases go unreported. To combat acid violence on a sustained basis, reliable statistics are necessary. Estimates vary from 500 to 1000 cases a year in India, based on research conducted by Acid Survivors Foundation India excluding unreported incidents. The underlying reasons need to be addressed if acid attack and indeed other forms of violence against women and girls are to be challenged and eradicated.

MOTIVATION OF PERPETRATOR

Personal conflicts regarding intimate relationships, and sexual rejection

In parts of South Asia, acid attacks often occur as revenge against a woman who rejects a proposal of marriage or a sexual advance. Acid attacks have been used to punish

married women if her family is unable or unwilling to pay additional dowry demanded by the husband or his family. Such attacks are common in societies where there is a high level of gender inequality and women occupy a subordinate position in relation to men.

Conflicts over land and property

Conflicts regarding inheritance and other property issues are a cause of acid attacks. People are often assaulted due to land disputes.

Gang violence and rivalry

Acid attacks related to conflicts between criminal gangs occur in many places, ranging from Pakistan and Bangladesh to Indonesia and Western Europe, with such attacks now happening in Greece and the United Kingdom.

The intention of the attacker is often to humiliate rather than to kill the victim. In Britain such attacks, particularly those against men are believed to be underreported, and as a result many of them do not show up in official statistics.

Socially, politically and religiously motivated

Attacks against individuals due to their social or political activities, or due to their religious beliefs also occur. These attacks may be targeted against a specific individual, due to their activities, or may be perpetrated against random persons merely because they are part of a social group or community. In Pakistan, female students have had acid thrown in their faces as a punishment for attending school. Acid attacks due to religious conflicts have been reported in Tanzania.

In Europe, Konstantina Kouneva, currently a member of the European Parliament, had acid thrown on her in 2008, in what was described as "the most severe assault on a trade unionist in Greece for 50 years.

PIL BY THE VICTIM

Many recent incidents highlight that the jilted lovers were going beyond the more common practice acid attacks. The past few years there has been an alarming rise in cases of savage attack on girls in an around the country .Fight started for rights when a minor, Laxmi was waiting for a bus in Delhi in 2005 when two men poured acid on her after she refused to marry one of them, leaving her disfigured. The order came seven years after Laxmi, 22-year- old, an acid attack survivor moved the court, citing loopholes in the law and inadequate government policies.

Laxmi 'Public Interest Litigation' (PIL) also demanded compensation. To put a stop to the growing number of acid attacks, the Supreme Court, clamped down on the sale of the toxic liquid and also ordered higher compensation for the victims.

LEGISLATION IN INDIA

1. Grievous hurt, Section 320 in Indian Penal Code, 1860. In Indian Penal Code, permanent disfigurement of the head or face comes under grievous hurt.
2. The National Commission for Women (NCW) came up with a draft of the Prevention of Offences (by Acids) Act, 2008.
3. The draft Bill proposed by the NCW suggested that a national acid attack victims' assistance board be set up to recommend to the government strategies for regulating and controlling the production, hoarding, import, sale and distribution of acids.
4. The Cabinet passed the Criminal Law (Amendment) Bill, 2012, with special provisions for acid victims. For the first time, acid attacks have been included under a standalone provision in the Indian Penal Code (IPC).
5. This year marks four years since sections to deal with acid attacks were included in the Indian Penal Code (IPC). Before this amendment, India had no specific legal provision to criminalize acid attacks and to provide compensation for the medical expenses to survivors of such attacks. Acid attack survivors relied on general criminal provisions – such as those on assault and grievous hurt – and acid attackers were given lenient sentences.

It was only in April 2013, in the aftermath of what is known as the Nirbhaya case, that the Indian legislature amended the rape laws of the country and created a specific offense for attempted or completed acid attacks.

The new sections in the IPC – 326A and 326B – provided a minimum sentence of ten years, extendable to life imprisonment, for an acid attack, and five to seven years' imprisonment for attempted acid attacks.

Further, Section 100 of the IPC was amended to allow a defence of self-defence for apprehension of grievous hurt by acid attack. The Criminal Procedure Code was also amended to clarify that an attacker was liable to pay a fine and the medical expenses of the victim in addition to a compensation. A further amendment mandated all

hospitals to provide medical aid to acid attack survivors free of cost and to immediately inform the police of an acid attack.

REMEDIES

Girls are forced to drop out of school and women are unable to carry on with their jobs because of disfigurement and loss of sight. They need to be trained for suitable jobs through which they can support themselves. No importance has been given to this and the victim is left to fend for herself.

Legislation addressing acid attacks should include the following elements:

- Penalizing those who aid and abet this harmful practice, and should include family members among those who may be penalized.
- Making acid attacks a “transferable intent” crime, providing the same penalties regardless of whether the person injured was the intended victim or not.
- Providing for penalties of prison time, fines and education.
- Prohibition of acceptance of informal financial settlement or marriage as settlement of claims.
- Sentencing guidelines must reflect the gravity of offence.
- Enhanced penalties if a victim dies as a result of an acid attack. The perpetrator should be prosecuted under murder statutes of penal code. The specific law on acid attack should provide a term of imprisonment and fine which is no less severe than what is provided for murder.
- Ensuring that no mediation provisions are a part of legislation on acid attacks.
- Regulating the export, import, use, sale and waste management of acids.
- Sellers of acids to acquire licenses.
- Criminalizing the unlicensed sale of acids.
- Sellers of acid to create and maintain a record of each sale and the identity of each purchaser.

- Sellers required to take all necessary measures to ensure that their supplies of acid are not stolen and immediately report any stolen acid.
- Medical providers should be made duty bound to report all cases of bodily harm caused to law enforcement.
- Police officers to investigate each and every case reported by a medical provider where bodily harm was caused.
- Establishing and funding the public awareness campaigns and training for all sectors about this harmful practice and its consequences.
- Allowing victims to pursue civil remedies against their attackers. Monetary damages should include the cost of reconstructive surgery.
- Providing legal, financial, medical and other types of rehabilitation services for victims.
- Providing legal support before and during the criminal trial of an acid attack to victims and witnesses who are threatened by perpetrators or associated parties.
- Providing protective measures to prevent harassment, intimidation or coercion of a victim or witness to drop charges against a perpetrator or associated party.
- Providing for an expert medical testimony in preparation of and during a criminal trial free of charges. Such expert medical testimony should be allowed in lieu of victim testimony but should not be a pre-requisite to pursuing a legal case against a perpetrator.

CONCLUSION

While India has new stringent criminal laws, and compensation and rehabilitation schemes for acid attack survivors, these survivors are unable to take the fullest benefit due to the lack of effective implementation of the laws and schemes.

Acid, today, if not being sold visibly over the counter, is now being sold invisibly in opaque bags under the counter.

The fact that the MHA data indicates that the number of incidents have increased is evidence of the lack of

effective implementation of laws regulating the sale of acids.

As recently as December 2015, the Supreme Court issued an order in response to a petition filed by an NGO on behalf of two acid attack survivors who had not received adequate compensation. Disappointed, the court noted:

“attacks have been rampant for the simple reason that there has been no proper implementation of the regulations or control for the supply and distribution of acid...the state has failed to check the distribution of acid falling into the wrong hands even after giving many directions by this court in this regard. Henceforth, a stringent action be taken against those erring persons supplying acid without proper authorization and also the concerned authorities be made responsible for failure to keep a check on the distribution of the acid ...”

These laws need better implementation, as do efforts to put survivors on the road to rehabilitation.

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