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## Acid Attack: A Menacing threat that needs a Full Stop

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*Is it true that beauty lies on the inside and not on the outside? Do the looks of a woman define who she is and what is she to society without these looks? These are the questions that this article aims to find an answer to in the context of acid attacks in which arrogant men out of vengeance seek to destroy the looks of a woman. The article first discusses the different dimensions of an acid attack to fully understand its nature and consequences, and why it is a menacing threat not just to the victim alone but the society as a whole. While medical intervention only cures the after effects, it is the law alone that has the potential to deter future attacks and it is in this direction that the article discusses the law existing before 2013 and post-2013 with regards to acid attacks. It also puts forth legal solutions as a panacea to punish the offenders and at the same provide a better society and future for victims of acid attacks.*

**Keywords:** *acid attack, threat, medical intervention, society.*

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### INTRODUCTION

The Asian subcontinent, considered a patriarchal society, has witnessed one of the worst gender-based violence. One particular act of such violence is the acid attack, in which 70% of the affected victims are women, as per the annual report of the Acid Survivors Foundation<sup>1</sup>. As the word

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<sup>1</sup> 'Acid Survivors Foundation' (*Acid Survivors*) <<https://acidsurvivors.org>> accessed 18 December 2022

suggests, it is a literal attack using acid as a weapon. However, in official parlance- acid attack/vitriolic, as is recognised globally refers to the "premeditated throwing of acid on the victim's face or other body parts to maim, disfigure or/and kill him/her." <sup>2</sup>

This kind of attack is often resorted to as the cheapest means for maximum revenge on women by men who have been told "no" to the advancement of sexual gestures, acceptance of proposals, or continuation of relationships, as was taken note of by the law commission of India. The intended aim of such men, out of spite or jealousy, is to cause lifelong physical and mental agony to the women as these men believe that the looks of a woman form majority of her identity in the society from which she is recognised and derives her physical and psychological happiness. It is this vengeful pursuit of these men to destroy the women's identity by attacking their looks and stripping them of the essential dignity to live in society. it is often achieved through societal ostracisation in the form of a lack of acceptance into marriages and a lack of providence of means of living.

Unfortunately, despite a growing awareness of this social evil, the number of women falling prey to acid attack victims has constantly been rising year after year. According to the official estimates of the Acid Survivors Trust International (ASTI), a UK-based organization dedicated to tackling acid attacks, 1500 women worldwide have fallen prey to acid attack victims every year<sup>3</sup>. India, no exception to this, sees a sorrowful state of affairs where acid attacks have been rising yearly. The year 2021 saw 176 acid attacks and the last five years saw 1362 acid attacks per the official records of the national crime records bureau (NCRB), with the unofficial numbers much higher as 60% of the cases go unreported.<sup>4</sup>

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<sup>2</sup> Ishika Sareen, 'Acid Attack: A Legal Analysis' (2022) 5 IJLM 1804, 1804-1811

<sup>3</sup> 'Acid Survivors Trust International' (*Asti.org*) <<https://www.asti.org.uk/a-worldwide-problem>> accessed 18 December 2022

<sup>4</sup> 'Crime In India' (NCRB) <<https://ncrb.gov.in>> accessed 18 December 2022

## **DIMENSIONS OF ACID ATTACK**

**Availability:** it has been seen that the perpetrators had, in most cases, used cleaning acids like hydrochloric and sulphuric, which are not only readily available in Kirana stores and online for as low as 30 Rs.

**Physical:** More often than not, the target area of an acid attack is the face, and the corrosive nature of these acids as an immediate reaction in the short term, upon contact with the face, tares the eyes and ears, causing blindness and deafness, closes the nostrils, swells the neck and produces toxic fumes in the lungs making it difficult to breathe, dissolves the skin, fat and muscles, therefore, deforming and scarring the face and other body parts. Sometimes, the stretching of the skin even causes mutilation, and if the burn percentage is over 50%, it could lead to severe organ damage giving a painfully slow death. However, if the victim survives, she faces many difficulties in performing day-to-day activities, suffers from post-burn infections, and undergoes long, complicated treatments. Also, the damage caused is not just to the ones targeted but also to the ones near the victim as the acid splashes and comes into contact with them directly or indirectly while trying to rescue the victim.

**Psychological:** once the looks of the victim, which form her core identity, are destroyed, she suffers from not just physical symptoms but also mental symptoms of post-traumatic stress disorder (PTSD) like depression, anxiety, nightmares, headaches, and difficulty in concentration. It was also observed that these victims felt a 'loss of self-identity, not looking at themselves in the mirror due to low self-esteem. They shunned themselves away from their family and society as they felt unwanted, leading them even to suicidal tendencies.

**Socio-economic:** it has been seen in most instances that society came to live with the belief that the victim must have done something wrong, like being in an illicit relationship for which she is in that position. In this belief, society justifies their pain and suffering, stigmatizing and ostracising them and their family members at a time when it has to provide full support. Also, these victims lose relevance in marriage prospects due to their looks and disabilities. On the same grounds, they are not only removed from their existing jobs but also denied future job

opportunities, hence more pressure, in addition to the treatment costs, on the families that hail from low-income households. Also, Interpersonal relationships with family members and friends are affected because these victims lose trust and it takes a very long time for them to start trusting the ones around them.

**'Justice delayed is justice denied':** Due to the long-drawn court battles, these victims are often forced to withdraw the case and come to a compromised settlement outside the court.

## POSITION OF THE LAW

### "Prevention is better than cure."

While medical intervention can only cure the after-effects of acid attacks, the law can only prevent future acid attacks. This was finally recognized in 2013 when specific provisions dealing with acid attacks were introduced into the Indian penal code 1860 and the criminal procedure code 1973. Up until then, the courts relied on the following general provisions of the IPC, which nowhere even mentioned the word acid, existing at the time on a case-to-case basis:

- a) *Section 307 (murder attempt) is punishable with a term extendable to ten years imprisonment and a fine.*<sup>5</sup>
- b) *Section 322 (voluntarily causing grievous hurt<sup>6</sup> as defined under section 320<sup>7</sup>) is punishable with a term extendable to seven years, imprisonment, and a fine under section 325.*<sup>8</sup>

Post the dreadful Nirbhaya rape, a committee was constituted under the chairmanship of Justice J.S. Verma, which was appointed to bring in revised amendments to the criminal law to enhance punishments and provide for faster trials, hence making law an actual deterrent.<sup>9</sup>

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<sup>5</sup> Indian Penal Code 1860, s 307

<sup>6</sup> Indian Penal Code 1860, s 322

<sup>7</sup> Indian Penal Code 1860, s 320

<sup>8</sup> Indian Penal Code 1860, s 325

<sup>9</sup> 'Justice Verma Committee Report Summary' (PRS Legislative Research) <<https://prsindia.org/policy/report-summaries/justice-verma-committee-report-summary>> accessed 18 December 2022

The committee dealt with a wide variety of crimes, including sexual assault, rape, trafficking, and acid attack, and recommended that sections 307, 320, and 322 were not sufficient to deal with acid attacks and suggested changes to the IPC and CrPc based on the 226th law commission report titled '*The Inclusion of Acid Attacks as Specific Offences in Indian penal code and a law for Compensation for victims of Crime*,'<sup>10</sup> which were implemented by way of insertion of the following provisions into the IPC and CrPc through the criminal amendment act 2013:

- *Section 326A of IPC( throwing of acid on body parts to disfigure, maim or disable) is punishable with a term of ten years extendable to life imprisonment. Denial of treatment by public and private hospitals and registering of FIR by police officers shall lead to imprisonment for a term of one and two years respectively.*<sup>11</sup>
- *Section 326B of IPC (attempt to throw acid) is punishable with a term of five years extendable to seven years of imprisonment and a fine.*<sup>12</sup>

*Section 357B of CrPc (compensation payable by the state under section 357A<sup>13</sup> in addition to a fine under section 326A and 376D of IPC). Compensation is payable under the following heads-*

- *Injury or death of the victim;*
- *Financial loss due to a partial or total disability;*
- *The financial damage to the dependants due to the death of the victim;*
- *Pain and suffering*<sup>14</sup>;
- *Section 357C of CrPc (free treatment to acid attack victims by private and public hospitals run by the central, state government, and local bodies).*<sup>15</sup>

These above provisions came in response to the case of **Laxmi v Union of India (2014)**,<sup>16</sup> in which the Supreme Court held that the compensation amount payable to the victim should be three lakhs, of which one lakh shall be payable within the first 15 days. Two lakhs shall be

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<sup>10</sup> 'Indian kanoon' (*Indian Kanoon*) <<https://indiankanoon.org>> accessed 18 December 2022

<sup>11</sup> Indian Penal Code 1860, s 326A

<sup>12</sup> Indian Penal Code 1860, s 326B

<sup>13</sup> Code of Criminal Procedure 1973, s 357A

<sup>14</sup> Code of Criminal Procedure 1973, s 357B

<sup>15</sup> Code of Criminal Procedure 1973, s 357C

<sup>16</sup> *Laxmi v Union of India & Ors* (2014) 4 SCC 427

payable within two months. it also laid down guidelines for regulating "over-the-counter sales of corrosive substances." However, in the above judgment, the question left open for clarification was whether the three lakhs compensation amount is the minimum or maximum threshold. The supreme court answered the question in the case of **Parivartan Kendra v Union of India (2015)**,<sup>17</sup> wherein it was held that the compensation amount is not the maximum limit and could be above three lakhs per the judge's discretion, depending on the case. It was based on the 2013 order that the ministry of home affairs issued the model poisons and possession rules 2013 under the poisons act 2019 to all the states and union territories directing the following:

- Over-the-counter sales of acids are not allowed unless the seller maintains a register.
- The acid shall only be sold to the buyer who produces a photo ID and proves that he/she is above the age of 18 years.

The sellers shall declare all the stocks of acid to the SDM of the concerned jurisdiction and can impose a fine of 50000 and seize the stock if the sellers breach the directions.

Educational institutions, research laboratories, and hospitals must maintain a record of the acids.<sup>18</sup>

## RECOMMENDATIONS

The enactment of provisions and passing orders specifically dealing with acid attacks was a beacon of hope for tackling this menace. However, as data suggests, the number of acid attacks has constantly been rising every year since 2013. It is against this backdrop that the article makes the following recommendations -

**Availability:** A big reason behind the wide availability of cheap acids is that sellers of even Kiran's stores stock these acids and sell them for as low as 30 Rs. for cleaning toilets. It has been seen that a majority of these sellers were usually unaware of the regulations like declaring stock to SDM. Hence-

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<sup>17</sup> *Parivartan Kendra v Union of India* (2016) 3 SCC 571

<sup>18</sup> 'Acid attacks: The crime, the law, regulation, and compensation' (*Indian Express*)

<<https://indianexpress.com/article/explained/delhi-acid-attack-case-laws-on-sale>> accessed 17 December 2022

- The first submission is that India should enact a rule similar to articles 5 & 8 of the Cambodian acid control law mandating a competent authority's requirement of license or letter to buy, sell, use, store, distribute, or transport acid. Also, online sales of acids should be banned entirely.
- The second submission is that concerned authorities of the jurisdiction have to create awareness drives regarding the existence of such regulations. Breach of these regulations, being aware, should be treated as a subsequent offence under the model rules on possession and sale of acids, 2013, leading to an imprisonment of six months along with a fine of 50000 rs.

**Amendments to the IPC and CrPc:** Keeping in mind that the men's reus of the attacker is to cause lifelong suffering to the victim-

- The first submission is that the punishment for the successful commission of the act under section 326A and attempt under section 326B has to be enhanced to a term of twenty and ten years of rigorous imprisonment extendable to life imprisonment, respectively.
- The second submission is that the disparity in the punishment for erring hospitals and police officers should be rectified and made two years imprisonment for both with the cancellation of hospital license with subsequent offences. Also, a provision similar to section 376(rape) for the perpetrator's punishment has to be made if the person targeted is a minor to deal with juvenile cases more seriously.
- The third submission is to enhance and specify the compensation amount payable by the state to a minimum of five lakhs extendable to 25 lakhs under section 357A of CrPc depending on the physical, economic, and psychological condition of the victim.
- The fourth submission is that the fine payable and compensation to the victim has to include the cost of psychological treatment and not just physical care and rehabilitation.

**Real-time data:** Since many cases go unreported, the NGOs of different states that deal with acid attacks and NCRB should collaborate and carry out an on-ground assessment to get accurate data on the real numbers.

**Investigation and prosecution:** It has been seen that the conviction rate of the accused in acid attack cases in the year 2021 was 20%, while charge sheeting was 89%.<sup>19</sup> Hence-

- The first submission is that a provision (114B) similar to section 114A of the Indian evidence act,<sup>20</sup> which presumes prima facie guilt in cases of rape, has to be inserted into the Indian evidence act.
- The second submission is to expedite investigation and prosecution, similar to the Disha act(Andhra Pradesh criminal amendment act 2019), which requires the investigation to be completed within seven working days and the trial to be conducted within 14 concluding in delivery of judgment within 21 working days. Also, not to overburden the already burdened trial courts, fast-track courts should be set up to deal with acid attack cases, or existing fast-track courts that deal with crimes like rape and sexual abuse should be made to deal with acid attack cases also.
- The third submission is to make a provision(357D) mandating free legal aid(under the NALSA scheme, 2016) to all the victims of acid attacks, similar to section 357C CrPc.

**Employment opportunities:** As most of the victims, who come from low-income households, acid attacks are deprived of livelihood, making the families feel economically burdened, the state shall provide them with ad-hoc employment in government jobs depending on the qualifications and percentage of disabilities. Also, if dead, it shall provide the dependants of the victim with such employment based on qualifications and accordingly retain them permanently based on performance.

**Awareness drives:** The district administration, in collaboration with NGOs, should run awareness drives to:

- Teach people how to react in the event of an acid attack and apply first aid safely to the victim without harming him/her and themselves. As is seen in many cases, people do not step forward to rescue the victim because they are either scared of harming

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<sup>19</sup> *Ibid*

<sup>20</sup> Vidhik Kumar, 'Acid Attacks In India: A Socio-Legal Support' (2021) 6 Dignity 7, 1-12



themselves or do not know what to do. Moreover, even if they do step forward, they injure themselves in the process.

- Remove the stigma attached to the victims by sensitizing people to their pain and suffering and making people aware that the victim is suffering for no fault of hers.

## CONCLUSION

Acid attack is not just a crime but a social evil bred in the guise of patriarchy with the intended aim of showing the powerlessness of women in a male-dominated society. It is not just a display of power that is worrying but also that it promotes the harmful regressive notion in society that beauty lies on the outside and not the inside, which makes it all the more difficult not just for the victim alone but for women in the society as a whole hence making it fully necessary to give it a full stop. It is in this direction that the article has proposed changes in the law fully recognizing the intention of the attacker, easy availability of acids, and also compensating the victim for filling in the gaps.