

Acid Attacks in India: Analysis of Law and Policy Measure

Paper Submission: 06/05/2021, Date of Acceptance: 24/05/2021, Date of Publication: 25/05/2021

Abstract

“Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women’s lives, on their families, and on society as a whole. Most societies prohibit such violence - yet the reality is that, too often, it is covered up or tacitly condoned.”

**Message of the Secretary- General on International Women’s Day,
8 March 2007**

Violence against women is a global issue of pandemic proportions, which has an impact on all societies. It violates the rights and fundamental freedoms of victims. Such violence can have a devastating effect on the lives of victims, their families and communities. It exists in every country, cutting across boundaries of culture, caste, education, income, ethnicity and age. (Edwards, 2013, p. 5). Violent practices against women take many different forms, which vary from country to country according to cultural, social and religious contexts and between different regions within countries. Some of these forms of violence occur in many parts of the world (such as intimate partner violence, child abuse, sexual harassment, child marriage, and trafficking); others are particularly persistent in South Asia (such as excess female child mortality, child marriage and honour crimes); and still others are unique to the South Asian region (such as dowry related violence). In particular, some groups of women are more vulnerable to violence and therefore require special treatment and support services (Solotaroff and Pande, 2014, p.27). India, has witnessed an escalation in violence against women in recent years. The present article presents a bird’s eye view of the overt violence faced by women in India and acid attacks in particular.

Keywords:

Introduction

Before going into the extent of acid attacks in India, it would be pertinent to distinguish between the wider concept of violence against women and the more limited crimes against women. The aim of this paper is to highlight the legal framework for the protection of acid attack victims and deliberate upon the policy measures undertaken by the Government of India for their rehabilitation.

Violence against women refers to specific acts or behaviors as well as a continuum of deprivations and discrimination that are rooted in gender inequality. This human rights perspective of violence against women is based upon the definition of violence against women as stated in Declaration on the Elimination of All Forms of Violence Against Women (DEVAW) ¹ (Tjaden, 2005, p.3). It provides the broadest definition of violence against women because it includes all types of violent crimes perpetrated against women and female children, as well as psychological abuse, deprivation and mal-development. It also includes harmful traditional practices, such as genital cutting, sati, forced marriage and honour crimes. It also includes state-tolerated and state-sanctioned discrimination that deprives women of their basic human rights. Gender based inequality exists in all stages of women’s lives –from infancy to old age and manifests in the form of several acts of violence. The life cycle approach to violence against women, as depicted in Table 1.1, attempts to examine the manifestations and forms of violence in the lives of women and highlights critical areas of their disempowerment. It illustrates both the distinct forms of violence against women and girls over the lifecycle ranging from discrimination at one end to overt physical and sexual violence at the other. While some forms of violence are direct and visible, many others are insidious and more hidden, thus making invisible both the nature and degree of the violation. For instance, practices such as dowry and child marriage enjoy cultural and social sanction in many communities.

Upneet Kaur Mangat
Assistant Professor,
Dept of Centre for
Human Rights and
Duties,
Panjab University,
Chandigarh, India

Objective of the Study

The present article presents a bird's eye view of the overt violence faced by women in India and acid attacks in particular.

Main Text

However, *Crimes against women and girls* (such as rape, molestation, physical abuse by husband) are specific, legally recognized acts of violence and hence a significant but not the only part of the continuum. Hence, *criminal justice perspective* (Tjaden, 2005, p. 3), gives a narrow definition of violence against women, one that defines the problem as a subset of crimes

perpetrated against women and female children by any type of offender. This definition eliminates acts that may be very injurious to women, but are not illegal (e.g psychological or emotional abuse, deprivation and neglect). It also eliminates acts that are injurious to women but are nonetheless tolerated or even sanctioned by certain governments (e.g honour crimes).

At a broad level, crimes against women are a legal category whereas violence against women encompasses social and economic violations not captured by legal enactments.

Table 1.1
The Life Cycle of Violence Against Women

Stages	Forms of Violence
Prenatal	-Pre-birth Elimination of Females -Physical battery during pregnancy
Infancy	-Female Infanticide -Differential access to care, nutrition, healthcare, education
Childhood	-Child Marriage -Child sexual abuse -Child Prostitution -Differential access to care, nutrition, healthcare, education
Adolescence	-Molestation/Eve Teasing -Rape -Incest -Sexual Harassment in the workplace -Forced Prostitution -Trafficking Kidnapping and Abduction -Violence associated with pre-marital pregnancy, abortion -Differential access to care, nutrition, healthcare, education
Youth and Adulthood	-Domestic Violence -Marital Rape -Dowry Related Abuse and Murder -Coerced Pregnancy -Homicide/ Honor Killings -Acid Attacks -Sexual Harassment in the workplace -Molestation, sexual abuse, rape -Desertion -Differential access to care, nutrition, healthcare, education
Old Age	-Abuse of elderly (forms affecting women more than men) -Abuse of Widows -Threat of sexual violence -Lack of access to care, nutrition and medical facilities

Source : Adapted from Ellsberg & Heise. (2005). *Researching Violence Against Women : A Practical Guide for Researchers and Activists*. Geneva : WHO and PATH.

Crimes Against Women in India

Women can be victims of many different types of crimes as defined by various Indian legal statutes. For the purposes of this study, crimes against women is understood as encompassing

only those crimes that specifically target women because of their gender. Table 1.2 gives classification of different categories of Crimes Against Women under the Indian Penal Code (IPC) and Special and Local Laws (SLL)².

Table 1.2
Categories of Crime Against Women

Crimes Against Women Within the Community (Under IPC & SLL)	Crimes Against Women Within the Family (Under IPC & SLL)
i) Sexual Offences - Rape (Sec.376 IPC); Assault on women with intent to outrage her modesty (Sec.354 IPC); Insult to the modesty of women (Sec.509 IPC) and ii) Kidnapping & Abduction for specified purposes (Sec.363-373 IPC) iii) Human Trafficking iv) Indecent Representation of Women in Media v) Sati vi) Acid Attacks viii) Honour Killing	i) Dowry - Dowry Prohibition Act, 1961; Dowry Death (Sec.302/304-B IPC); ii) Cruelty by husband or his relatives (Sec.498-A IPC) iii) Domestic Violence (Protection of Women from Domestic Violence Act, 2005) iv) Desertion of Women in NRI Marriages v) Foeticide and Infanticide vi) Incest Rape

Source: National Crimes Record Bureau (NCRB). (2015). *Crime in India Report 2014*. New Delhi: NCRB, Ministry of Home Affairs.

The types of crimes against women under IPC and SLL have been broadly classified into two categories based upon the categorization of violence against women as stated in DEVAW : **A) Crimes Against Women Within the Community including i) Sexual Offences; ii) Kidnapping & Abduction iii) Human Trafficking; iv) Indecent Representation of Women in Media; v) Sati; vi) Acid Attacks and viii) Honour Killing. B) Crimes Against Women Within the Family which includes i) Marital Violence iii) Domestic Violence; iv) Foeticide and Infanticide and v) Incest.**

Acid Attacks in India

A recent addition to the plethora of violent acts perpetrated against women are what have been termed as acid attacks. The increase in acid violence throughout South Asia is a human rights issue of growing concern. In India, news media and other research increasingly report acid attacks as well. It has been pointed out by Solotaroff and Pande (2014) in their report that "Acid violence is a particularly damaging and shocking form of violence: acid is hurled at the victim, often targeting the head and the face, with the intention to maim, disfigure, and blind. The great majority of victims are women and girls, but men and boys are also targeted. Acid violence reflects deeply ingrained gender inequality and discrimination in a society, whereby women are attacked for transgressing the traditional gender roles that place them in subordinate positions. Acid attacks take place for number of reasons, including family or land disputes, dowry demands, rejection of a man's advances, daring to snub a boy, turning down an offer of marriage, and even going to school. Most Acid Attacks are carried out by someone known to the victims" (p.56). Fact Finding conducted by the Campaign and Struggle Against Acid Attacks on Women (CSAAW) in Karnataka and the "Combating Acid Violence in Bangladesh, India and Cambodia" Report (Kalantry and Kestenbaum, 2011) by the Avon Global Center for Women and Justice at Cornell Law School indicate that there has been an alarming increase in acid attacks on women who assert their independence by declining marriage

proposals or refusing to act in accordance with the way male-dominated societies want them to (Senthalir, 2013, p.36).

Acid attacks are becoming a growing phenomenon in India. In *Laxmi Minor vs. Union of India*³, the Apex Court while hearing this case directed the Union Government to circulate to all the States/Union Territories the "The Poisons Possession and Sale Rules, 2013." The Hon'ble Court also directed that the victims of acid attacks shall be paid compensation by the concerned State Government/Union Territory as the after care and rehabilitation cost.

The official estimates of the number of acid attacks and their spread are relatively recent, since the Indian Police did not earlier register these attacks as a separate offence. It was only in 2013 that Sections 326 (A)⁴ and 326 (B)⁵ were inserted in Indian Penal Code (IPC) through Criminal Law Amendment Act, 2013 to deal with acid attacks. Acid Attacks attract a minimum imprisonment of 10 years, and the judge has the power to increase it to a life term. Attempted attacks can be punished with imprisonment between five to seven years. However, most non-governmental organisations (NGOs) put the countrywide figure at about 1,000 acid attacks in a year (Economic and Political Weekly, Editorial, 2013, p.9).

Table 1.3
Acid Attack Cases Reported in India (2015 to 2019)

Year	Cases Reported
2015	222
2016	167
2017	244
2018	228
2019	240

Source : National Crimes Record Bureau (NCRB) . *Crime in India Report 2014-19*. New Delhi: NCRB, Ministry of Home Affairs.

Table 1.3 shows that number of cases reported under acid attack during 2015-19 has shown an upward trend.

However, the Ministry of Home Affairs has issued a comprehensive Advisory in 2015 on taking

steps to implement the provisions of Indian Penal Code (IPC), expediting cases of Acid Attack, and to provide treatment and compensation to victims.

Measures for Acid Attack Victims

Studies have shown that the easy availability of acid is one of the main reasons for the increasing number of acid attacks on women (Senthilir, 2013:36). Pursuant to the Supreme Court Judgement in *Laxmi Minor vs. Union of India*⁶ dealing with rehabilitation of victims of acid attack, the Ministry of Home Affairs issued a Comprehensive Advisory on Measures to be taken to Prevent Acid Attacks on People and for Treatment and Rehabilitation of Survivors in 2013 (MHA, 2013a). It included detailed "measures to regulate and control sale of acid over the counter, provision of treatment with a mandate of free medical assistance and compensation to the victim upto three lakhs. The States were directed to develop standard operating procedure (SOP) detailing the procedure for disbursement of compensation to the victim".

Another advisory was issued on acid attacks in 2015 directing the States to take proactive measures to expedite the investigation, trial of the acid attack cases and disbursement of compensation under a definite time frame (MHA, 2015b).

The Ministry of Health and Family Welfare has also issued an advisory in 2015 stating that no acid attack victim will be denied treatment by any hospital, public or private.

The "One Stop Centre (OSC)" and "Universalization of Women Helpline (WHL)" initiatives are being implemented by the Indian government. OSC strives to provide a variety of integrated services under one roof to women who have been victims of violence, including police referral, medical assistance, psycho-socio and legal counselling as well as temporary refuge. The "Universalization of Women Helpline" scheme through the short code 181 provides 24 hours emergency and non-emergency response to women affected by violence, both in public and private spaces by linking them with appropriate authorities such as Police, One Stop Centre, Hospital, Legal Services etc. WHL also supports women in distress with rescue van and counselling services in addition to providing information about women welfare schemes and programs across the country. Further, the Ministry of Women and Child Development is also administering Swadhar Greh Scheme for relief and rehabilitation of women in difficult circumstances, including the victims of acid attack.

The Model Poison Rules, 2013 have been disseminated by the Ministry of Home Affairs to all States and Union Territories for notification in order to govern the sale of acid in their respective States and Union Territories. According to Section 166B of the IPC (read in conjunction with Section 357C of the Code of Criminal Procedure (Cr. P.C.), no acid attack victim will be denied treatment by any

hospital, public or private, under any pretext, and any erring hospital/ clinic that violates the legislative provisions faces a year in prison, a fine, or both. The victims of acid attacks are also entitled to free treatment under Section 357C of the Criminal Procedure Code. Compensation is provided under section 357A of the Criminal Procedure Code.

Further, pursuant to the Hon'ble Supreme Court's order dated 11.05.2018 in the WP(C) 565/2012 - *Nipun Saxena v. Union of India*, National Legal Services Authority (NALSA) has formulated the revised scheme enhancing the compensation to be given to Women Victims/Survivors of Sexual Assault/ other crimes. The scheme also covers the cases of acid attacks. The scheme was circulated by the Ministry of Women & Child Development on 18.05.2018 and again by the Ministry of Home Affairs on 28.06.2018 to all States and Union Territories for compliance.

Under the Legal Services Authorities Act, 1987, the National Legal Services Authority drafted the NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016 to provide legal services to acid attack victims. The scheme's primary goals are as follows: Firstly, to improve legal aid and representation for victims of acid attacks at the national, state, district, and taluka levels so that they can take advantage of existing legal provisions and compensation schemes; Secondly, to ensure that victims of acid attacks have access to medical facilities and rehabilitative services; Thirdly, to raise awareness about acid attack victims' rights through the District Legal Services Authorities, Taluka Legal Services Committees, panel lawyers, paralegal volunteers, and legal services clinics; and Finally, to build capacity at all levels of panel lawyers, paralegal volunteers, volunteers in legal services clinics, government officials, and service providers (Lok Sabha, Unstarred Question No. 2114). As per information made available, the number of acid attack victims who got compensation under this scheme during the last three years viz. 2016-17, 2017-18 and 2018-19 is as under:

Table 1.4
No. of Acid Attack Victims Who Got Compensation Under The Nalsa Scheme

2016-17	2017-18	2018-19
201	249	232

Source

https://doj.gov.in/sites/default/files/4th-march-2020_0.pdf

Legal Services Institutions are arranging legal awareness programmes to raise public knowledge about the requirements of acid attack victims so that the community can give the necessary support for their rehabilitation. Legal Awareness is also disseminated through electronic media as well as simplified booklets on legal protections available to victims of attacks. The Ministry of Home Affairs of the Government of India issued an advisory on acid attack on women in 2015, wherein the States and Union Territories were asked to take aggressive measures to accelerate

the investigation and trial of acid attack cases and bring them within a specific time frame (Ministry of Home Affairs, 2015).

In addition, under the Prime Minister's Relief Fund Rs. One lakh as compensation is also being provided by the Prime Minister Office to the acid attacks victim since 2016.

To conclude, the acid attacks in India are committed due to patriarchal structure of the society. The motives include refusal to marry, personal enmity of the husband to the victim, suspicion or knowledge of an extramarital affair, property dispute with victim's family and refusal to accept requests to sexual advances. The outcome of such a ghastly act leads to permanent disfigurement of the victim leading to catastrophic physical, psychological, social and economic impact on the lives of the victims. The legislative changes have paved the way to protection of human rights of women affected by acid attacks by recognizing it as a grievous offence and consequently, providing monetary compensation to the victims.

References

1. Edwards, A. (2013). *Violence Against Women under International Human Rights Law*. USA: Cambridge University Press.
2. Kalantry, S and Kestenbaum, J. G. (2011). *Combating Acid Violence in Bangladesh, India, and Cambodia*. Avon Global Center for Women and Justice and Dorothea S. Clarke Program in Feminist Jurisprudence. Retrieved from http://scholarship.law.cornell.edu/avon_clarke/1
3. Ministry of Home Affairs. (2013a). *Comprehensive Advisory on Measures to be taken to Prevent Acid Attacks on People and for Treatment and Rehabilitation of Survivors*. New Delhi : Ministry of Home Affairs, Government of India.
4. Ministry of Home Affairs. (2015b). *Advisory on Expediting Cases of Acid Attack on Women*. New Delhi : Ministry of Home Affairs ,Government of India.
5. Rao, M. (2012). *Law Relating to Women and Children*. Lucknow: Eastern Book Company.
6. Senthilir,S. (2013). Acid is not the Answer to Anything. *Economic and Political Weekly*, XLVIII (13), 35-36.
7. Tjaden,P.(2005). *Defining and measuring violence against women: Background, issues and Recommendations*, 3. Economic Commission for Europe (ECE) and World Health Organisation (WHO) : Geneva, Switzerland.

Case Citations

1. *Laxmi Minor vs. Union of India* (2014) 13 SCC 743.
2. *Nipun Saxena v. Union of India* WP(C) 565/2012.

Weblinks

1. <https://www.mha.gov.in/MHA1/Par2017/pdfs/pa r2019-pdfs/ls-08012019/4542.pdf>
2. <http://164.100.24.220/loksabhaquestions/annex /173/AU2114.pdf>

Endnotes

1. *Definition of Violence Against Women in Public and Private Domains: Article 1 of the UN Declaration on the Elimination of Violence against Women (DEVAW), proclaimed by the UN General Assembly in its resolution 48/104 of 20 December 1993, defines the term "violence against women" as: "Any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Three contexts of violence are differentiated in Article 2: Family, community and state. The forms shall be understood to encompass, but not be limited to, the following:*
 - a) *Physical, sexual and psychological violence occurring in the family: wife battering, sexual abuse of female children in the household, dowry-related violence, marital rape, and female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.*
 - b) *Physical, sexual and psychological violence occurring within the general community: rape, sexual abuse, sexual harassment and intimidation at work and education institutions, trafficking in women and forced prostitution.*
 - c) *Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.*

The various forms of violence listed in Article 2, while not exhaustive, demonstrate that much violence against women stems from unequal power relations, society's insistence on controlling women's sexuality, and the importance of women in protecting family "honour."

Importantly, Article 3 of the Declaration affirms women's equal right to the enjoyment of a variety of rights, including the right to be free from torture and other cruel, inhuman or degrading treatment.

All cognizable crimes reported in the country are dealt by police in which, a police officer may arrest a person without a warrant. In such crimes the police has direct responsibility to take immediate action on receipt of a complaint or of credible information, visit the scene of crime, investigate the facts, apprehend the offender and assign him before a court of law having jurisdiction over the matter. These crimes fall under Indian Penal Code (IPC) or under the Special and Local Laws (SLL).
2. (2014) 13 SCC 743.
3. 326-A. *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*

Innovation The Research Concept

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.

4. 326-B. *Voluntarily throwing or attempting to throw acid.—Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or*

deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—For the purposes of Section 326-A and this section, “acid” includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2.—For the purposes of Section 326-A and this section, permanent or partial damage or deformity shall not be required to be irreversible.

5. (2014)13 SCC 743.