

# “Scars beyond Skin: A Critical Examination of Existing Legislation, Law Enforcement, Judicial Response and Recommendations for Improvements”

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## ABSTRACT

Acid attack or violence is considered to be one of the most worldwide problems which affects everyone irrespective of their creed, caste, sex or age. In present scenario, the violence is considered to be one of the most burning issues. Acid violence is considered such violence where the offender intentionally throw acid on the victim's body with a heinous intention of disfiguring, maiming or blinding him. However, it was also found that victim is also suffering and undergoing through internal suffering and psychological traumas while the assailants who commits this heinous offence get minimal punishment for the commission of the heinous act. This offence is considered to be a gender-neutral offence but in India statistics shows that the percentage of female victim is more as compared to male victim. And as a comparison with the international scenario countries such as Bangladesh, Taiwan, Cambodia, and Pakistan the male victims here commonly affected due the commission of the offence of acid attack. Hydrochloric, Sulfuric and nitric acid is considered to be most commonly used acid in committing the offence of acid attack. The reason behind increase in the number of attack is the reliable accessibility of this in the market with a lacuna of legislation in order to monitor and regulate the sale of acid and along with the present punitive legislation of Indian legal system is considered to be incompetent in curbing the offence of acid attack. The study will try to highlight the reasons behind the commission of the offence of acid attack long with its consequences behind the commission. The study will also make an attempt to compare the present legislation of India with other countries in relation to offence of acid attack.

**Keywords:** Acid attack, violence, international comparative study, preventive theory of punishment, challenges faced by the victim of the offence.

## INTRODUCTION

Acid violence is considered as such a heinous offence that is going to change person's life forever. The violence of acid attack<sup>1</sup> should not be considered as a gender specific crime rather than a gender-neutral crime, where the victims are both men and women. The main intention of the offender behind committing the offence of acid is to not to commit homicide but to give him lifelong scars on the body of the victim and which will eventually give him physical as well psychological damage. The offender tries to attack on the visible body parts of the victim such as face, neck and hand. The most commonly used acid behind the commission of this offence is *Sulfuric Acid (H<sub>2</sub>SO<sub>4</sub>)*, *Hydrochloric Acid (HCL)* and *Nitric Acid (HNO<sub>3</sub>)* because of their cheap in price and easy accessibilities in the market. In the international scenario the offence of acid attack is being committed in the countries<sup>2</sup>namely, India, Pakistan, Cambodia, Uganda, Colombia, Bangladesh, United Kingdom and China. In countries like India, the victims are mainly women, and the crux is that the offenders cannot take rejection of proposal of marriage or love, male ego, insecurity, frustration, patriarchal view point of the society etc. As per

<sup>1</sup> Scheme for Relief and Rehabilitation of Offences (By Acid) on Women and Children, s. 3(b).

<sup>2</sup> Name of the countries where the offence of acid attack is still being committed, available at: <https://www.asti.org.uk/learn/a-worldwide-problem>.

the report published by the *National Crime Record Bureau*<sup>3</sup> the number of cases of acid attack in the year 2022 is 202 and reason behind the commission of acid attack is the lacuna in the present legislation mentioned with in our India Legal System dealing with punitive measure and regulation dealing with monitoring the sale of acid in India.

### Definition of Victim:

In general the term ‘victim’ refers to those people who had a very worst experience of injury due to any cause and one of such cause maybe crime.<sup>4</sup>

### Definition of Acid

The term “acid” means any substance which has acidic or burning nature, that is capable of causing injury leading to disfigurement or temporary or permanent disability;<sup>5</sup>

### Definition of Acid Attack Victim

The term “ Acid Attack Victim” A female who is been accused by the attack of an acid by pouring of acid with the intention of causing injury or disfigurement of any part of her body or face.<sup>6</sup>

### Reasons of Acid Attack

As mentioned earlier in India the victim of acid attacks are mainly women and therefore it is also being found that the most common reason behind committing the offence of acid attack is “love rejection”<sup>7</sup>, in which the victim rejected the proposal of the offender and as a result of which the offender commits the heinous crime of acid attack to teach her a lifelong lesson. Other reasons which are being traced out behind committing the heinous offence of acid attack is traditional orthodox patriarchal mindset of the people of the society, the male demands sexual advancement from the woman or girl when they refuse to deliver such sexual advancement to the men it hurts their male and ego and as a result of which they commit the offence of acid attack and this statement is mentioned in the report submitted by one of the organization in India who is working on Acid violence named – “*the Campaign and Struggle against Acid Attacks on Women (CSAAAW)*”<sup>8</sup>. In India it is somehow the patriarchal mindset of the society which states that the men will take all the decision and women needs to support the same and if women refuse or oppose such decision then it’s hampering the honor and ego the male and find this attitude as rebellious one and as a result of which they commit the offence of acid attack in order to teach them a lesson.

There are others reasons are also there behind committing the offence of acid attack which is marital disputes and dowry<sup>9</sup>. It is defined as an orthodox system of providing financial advancement in way of money, goods etc. It is being practiced with a view that the daughter will remain peacefully at her in laws place These customs also depicts the orthodox cheap mindset of the society which proliferate that woman being economic encumbrance. The failure to perform such customs in order to satisfy the needs of the groom’s side results in the commission of acid attack against women. The lacunas present in our current legal system of country also became a reasons behind the commission of the offence. The sections provided in *Indian Penal Code 1860, Section 326A* and *Section 326B* states about the commission and attempt to commit the offence with an imprisonment of ten years and increase up to life imprisonment and later on the same section and punishment is being mentioned and provided under section 124 of the *Bharatiya Nyaya Sanhita 2023*. As the laws of the country are not stricter and lacunas leads to the commission of acid attack in India as cases are still registered under the lates acts and section

<sup>3</sup> National Crime Record Bureau, “Crime in India, Statistics Volume 1, 2022” (Ministry of Home Affairs, 2022).

<sup>4</sup> Prof. N.V Paranjape, Criminology and Penology (including victimology) 52, Central Law Publication, UP, 18<sup>th</sup> edition/2019

<sup>5</sup> The Prevention of Acid Attack and Rehabilitation of Acid Attack Victims Bill, 2017, s. 2(a).

<sup>6</sup> The Prevention of Acid Attack and Rehabilitation of Acid Attack Victims Bill, 2017, Section 2(b).

<sup>7</sup> Parvathi Menon and Sanjay Vashistha, “Vitriolage & India – The Modern Weapon of Revenge” 2<sup>nd</sup> International Journal of Humanities and Social Science Invention 2 (2013).

<sup>9</sup> Dowry Prohibition Act, 1961 (Act. 28 of 1961), Section 2.

mentioned above<sup>10</sup> If discussed about the international scenario, the international law states that acid violence / acid attack is not a gender-based offence rather than a gender-neutral offence in which both men and women are the victims of the offence. As per one of the reports submitted by Acid Survivors Trust International it is being clearly stated by them that there are a total number 710 acid attacks that are being committed in the England and Wales which includes 339 women and 317 men and there are 48 victims where the gender remains unknown. This report clearly states that as men are also the victim subjected to the offence of acid attack<sup>11</sup> and reasons behind the commission of the offence is business revenge, property related matters, rejection etc.

Sl.No	Reasons of Attack	No. of Cases	Percentage %
1	Refusal of Marriage, Love and Sexual Affairs	38	13.01
2	Property and Money Dispute	20	6.85
3	Dowry	6	2.05
4	Family Dispute	18	6.16
5	Marital Disputes (non-compatibility, arguments, extra marital affairs etc.)	32	10.96
6	Rape, Sexual Harassment, Molestation, Murder	8	2.74
7	Enmity /Eve teasing	150	51.37
8	Others	20	6.85
	<b>Total</b>	<b>292</b>	<b>100.00</b>

The figure represents the reason of acid attack in India<sup>12</sup>

Sl.No	Relationship of Victim with the Accused	No. of Cases	Percentage %
1	Person from Paternal or Maternal Family (Father, Mother, Brother, Sister, Son, Daughter, Cousin)	69	10
2	Person from the family where victims is married (Husband, wife, In-Law)	174	25.3
3	Colleague, Neighbour, Friend, Lover, Partner, Tenant, Servant	190	27.6
4	Absconding-Person only met once/ saw once/ only talked/ once/ known but with no interactions/ from same Village, or city or town	234	34
5	Completely Unknown Person/ Accused not known	22	3.2
	<b>Total</b>	<b>689</b>	<b>100</b>

<sup>10</sup> Sukumar Ranganathan, "Meerut teenage acid attack victim dies, accused arrested" *The Hindustan Times*, October 8<sup>th</sup>, 2024, available at: <https://www.hindustantimes.com/cities/others/meerut-teenage-acid-attack-victim-dies-accused-arrested-101728399922316.html>, (last visited on October 11<sup>th</sup>, 2024).

<sup>11</sup> Bodhisatva Ganguli, *Acid Attacks Increase by 69% in England and Wales with More Women than Men Victims*, The Economic Times (Oct. 19, 2023), <https://economictimes.indiatimes.com/news/international/uk/acid-attacks-increase-by-69-in-england-and-wales-with-more-women-than-men-victims/printarticle/104563195.cms>.

<sup>12</sup> Pratibha Ambedkar, "Malham: A study on acid attack victims", 16 (April, 2022), available at: <https://bprd.nic.in/uploads/pdf/Final%20Project%20Malham%20-%20A%20Study%20on%20Acid%20Attack%20Victims.pdf>, (Last Visited on October 12, 2024).

The figure represents the relationship between the victim and accused.<sup>13</sup>

## CONSEQUENCES/ IMPACT OF ACID ATTACK

One of the most distinguished characteristics of acid attack is it being committed at both Public and Privates places and the consequences suffered by the victims are endless. However, the most important consequences are mentioned below:

### Physical Consequences:

A person's individual physical presence refers to the outer presentation of a man which includes the physical or external appearance. The offender who commits the heinous offence of acid attack commits such offence with an ill intention to disfigure the body of the victim and as a result of which the offender target such body areas which can be seen and which defines a person, such as face, neck, hand etc. Acid burns as compared to other bodily injuries is considered to be one the most dreadful injury which a person can suffer individually as it requires drastic medical expenses and treatment. At first when the acid is poured or thrown over a victim it feels like water but the post experience of the such activity is very dreadful as the acid burns the victim's skin followed by the flesh of the victim's body layer by layer by which the victim undergoes great pain and agony. The acid burns the multiple layers of skin of the victim and in more intense case the acid may enter into the bones of the victim resulting in the dissolving of the bone. The graveness of the injury solely depends on the power of the acid and the duration after it came in contact of the skin of the victim, even after being washed off from the water the burning sensation still remains. The sensation that victims feel after the acid is being thrown at her is like cutting the skin with burning hot knife. Acid Survivor; Foundation Uganda in one of its report submitted a data stating the damages suffered by the acid attack victim committed on them, as per their reports states that a victim suffered a total of 14% of bodily injury which includes area such as face which is being *affected* (87%), *head and neck* (67%) *upper limbs* (60%) and *chest* (54) and those victim whose face is being target in the offence of acid attack suffers (31%) partial or complete blindness.<sup>14</sup>

### Psychological Consequences:

Psychological health is equally important as physical health of a person. And the same principles imply on the case of acid attack also. When an offence of acid attack is being committed against a person not only his physical health is being damaged but also his psychological health is also hampered/ damaged. The impact of acid attack not only hampered the victim but it also psychologically hampered the mental health of their family members also. The post consequence of acid attack leaves an impression of terror, suffering and psychological damage in the mindset of the victim, the victims feel like a disabled person and need to spent the rest of his/her life with such disabilities and thus create a mindset to finish his/her life by committing suicide. The psychological symptoms which are faced by the victim are nightmares, depression, anxiety etc. The impact of acid attack even hampers the people of the society as it creates fear amongst them. When a acid attack is committed in a locality, it creates an environment of tension, stress and fear amongst the member of that locality, indirectly the offence is so heinous that it even hamper the psychological stability of the society also. If talked only about the victim psychological health and mindset, after the commission of acid attack on the victim, it derailed the span of victim from his normal life journey. They loses confidence to face himself as every time he looks into the mirror. The reason behind the losing confidence is the society believes in physical or outlook beauty and personality is more important than an inner one and creates a huge impact in the mindset of the victim also. There is a drastic change in the behaviour of the society with the victim before and after the incident, before the incident the society behaves in a normal way with the victim but after the incident of acid attack committed on the victim, the society will start treating the victim as an "alien" and stated to watch the victim with sympathy. This orthodox mindset of the society needs to be changed and the people instead of showing sympathy to the victim need to help them

<sup>13</sup> Pratibha Ambedkar, "Malham: A study on acid attack victims", 16 (April, 2022), *available at*: <https://bprd.nic.in/uploads/pdf/Final%20Project%20Malham%20-%20A%20Study%20on%20Acid%20Attack%20Victims.pdf>, (Last Visited on October 12, 2024).

<sup>14</sup> Acid Violene in Uganda, "A situation Analysis" *available at*: [https://assets.website-files.com/659e8d981269f42141f3aede/65ad7a16e2f794d0e973c2cf\\_Uganda\\_ASFU\\_Situational\\_Analysis\\_Report\\_FINAL\\_Nov2011\\_1.pdf](https://assets.website-files.com/659e8d981269f42141f3aede/65ad7a16e2f794d0e973c2cf_Uganda_ASFU_Situational_Analysis_Report_FINAL_Nov2011_1.pdf), (last visited on October 12, 2024).

in rehabilitating their life so that even the victim don't feel any sort of problem in realigning their life back to track.

### Economic and Social Consequences:

Job, Financial Stability and Marriage plays an important role in a person's life, as per society demands the persons who will get married need to be a proper abled person because of our society orthodox thinking as it will not allow or accept a disabled person as a better half. Outer look plays an important role for getting married. Therefore, the acid attack victims also faced these social consequences, the society don't accept the victim as their marriage partners and look at them with sympathy. Due to their damaged skin or outer appearance as a consequence of acid attack, the victims find it difficulties in finding jobs as the society or the employer will judge the victim due their disabilities rather than qualification and personalities. The economic and social consequences are concerned the victims of acid attack offence faced a huge discrimination in the society and which need to be changed. The society need to change their views while dealing with the acid attack victim we need to make our society a better and comfortable place so that it will be easier for them to do rehabilitation easier.

### Acid Attack In India: Legislative Analysis

A declaration was passed by the *United Nation General Assembly* in the year 1993 named "*Declaration on Elimination of Violence against Women*" and the same was ratified by India and being ratified the declaration they counties under this convention need to follow the obligation. As per one of the **Article 4(f)** of the declaration states about the women safety and formulate certain measures to protect them and therefore the ratified countries need to form certain recommendation with regard to the same. Further it also states that separate provision should be there in their country legal system which will grant punitive damages to the victim of an attack. As per **Article 253 of the Constitution of India**, empowers the parliament of India to make laws and keeping in mind about providing effects to these international agreements. Therefore, being ratified to the above-mentioned declaration, it became an obligation for India to manage the problem of acid attack. The offence of acid attack previously before *The Criminal Law (Amendment) Act, 2013* was governed under the Section 320<sup>15</sup>, 322<sup>16</sup>, 325<sup>17</sup>, 326<sup>18</sup>, and 307<sup>19</sup> of India Penal Code, 1860. But then there was a lacuna in these sections in dealing with the heinous crime of acid attack. The heinousness of the crime was not determined under these sections mentioned above. And due to this reason after the Criminal Law (Amendment) Act 2013 two sections were added in the Indian Penal Code 1860 – Section 326 A of Indian Penal Code, 1860- Voluntarily Causing grievous hurt by use of acids etc. and Section 326 B of India Penal Code, 1860 – Voluntarily throwing or attempting to throw acid. Further after the introduction of new criminal law, the offence of acid attack is dealt under Section 124 of Bharatiya Nyaya Snahita, 2023 – Voluntarily Causing Grievous hurt by the use of acid, etc. and the maximum punishment mentioned under these sections are ten years of imprisonment. Despite of having such strict laws, public awareness with regard to the seriousness of the offence there is still rise the commitment of this offence and hence it being proved that the present laws in our Indian legal system is incompetent in dealing with the offence of acid attack. And a table given below will states the number of victims that are being hampered due the offence of acid attack<sup>20</sup>

### Gender Dispersion:

Sl.No		Victims Nos.	Victim %
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<sup>15</sup> Indian Penal Code, 1860 (Act 45 of 1860) Section 320- Grievous Hurt

<sup>16</sup> Indian Penal Code, 1860 (Act 45 of 1860) Section – 322 – Voluntarily Causing Grievous Hurt

<sup>17</sup> Indian Penal Code, 1860 (Act 45 of 1860) Section – 325 – Punishment for Voluntarily Causing Grievous Hurt

<sup>18</sup> Indian Penal Code, 1860 (Act 45 of 1860) Section – 326 – Punishment for Voluntarily Causing Grievous Hurt by dangerous weapons or means.

<sup>19</sup> Indian Penal Code, 1860 (Act 45 of 1860) Section – 307 – Attempt to Murder.

<sup>20</sup> Pratibha Ambedkar, "Malham: A study on acid attack victims", 12 (April, 2022), available at: <https://bprd.nic.in/uploads/pdf/Final%20Project%20Malham%20-%20A%20Study%20on%20Acid%20Attack%20Victims.pdf>, (Last Visited on October12, 2024).



	Name of the State/Union Territory	M	F	Oth	Total	M	F	Oth
1	Andhra Pradesh	21	32	0	53	39.62	60.38	0
2	Arunachal Pradesh	2	0	0	2	100	0	0
3	Assam	19	19	1	39	48.72	48.72	2.56
4	Bihar	0	0	0	0	0	0	0
5	Chhattisgarh	9	4	0	13	69.23	30.77	0
6	Gujrat	15	33	1	49	30.61	67.35	2.04
7	Goa	1	1	0	2	50	50	0
8	Haryana	19	32	4	55	34.55	58.18	7.27
9	Himachal Pradesh	1	4	0	5	20	80	0
10	Jharkhand	17	6	0	23	73.91	26.09	0
11	Karnataka	14	25	0	39	35.9	64.1	0
12	Kerela	38	40	4	82	46.64	48.78	4.88
13	Madhya Pradesh	36	58	0	94	38.3	61.7	0
14	Maharashtra	0	0	0	0	0	0	0
15	Manipur	0	1	0	1	0	100	0
16	Meghalaya	1	3	0	4	25	75	0
17	Mizoram	0	2	0	2	0	100	0
18	Nagaland	0	0	0	0	0	0	0
19	Orissa	33	34	0	67	49.25	50.75	0
20	Punjab	47	29	0	76	61.84	38.16	0
21	Rajasthan	19	30	0	49	38.78	61.22	0
22	Sikkim	0	0	0	0	0	0	
23	Tamil Nadu	5	28	1	34	14.71	82.35	2.94
24	Telangana	3	15	0	18	16.67	83.33	0
25	Tripura	12	10	0	22	54.55	45.45	0
26	Uttar Pradesh	68	292	11	371	18.33	78.71	2.96
27	Uttarakhand	23	16	0	39	58.97	41.03	0
28	West Bengal	0	0	0	0	0	0	0
29	Andaman & Nicobar Island	0	0	0	0	0	0	0

30	Chandigarh	3	1	0	4	75	25	0
31	Daman & Diu, Dadra and Nager Haveli	0	0	0	0	0	0	0
32	NCT of Delhi	35	53	1	90	40	58.89	1.11
33	Jammu and Kashmir	6	5	0	11	54.55	45.45	0
34	Leh and Ladakh	0	0	0	0	0	0	

## Victim Compensation Scheme

As per the **Constitution of India**, the *right to life and personal liberty* is being granted under the **Article 21**. The article further interpreted that each and every individual of the society have got the right to live their life with dignity and this every individual have got the right to enjoy their personal liberty but when the offence of acid attack is being committed against any person this fundamental right of that particular victim is being violated because of the post incident effects. The victims right to live their life with dignity is being hampered as the society started looking at them with a sympathy in their eyes and due to their scar and burn marks on their face and body the lost confidence in freely moving around in the society and their right to personal liberty is also being hampered. The **Article 41** of the Constitution of India, states that every state should make certain provisions in order to secure the right of work, education and public assistance for the people belonging under the category of disablement, old age and unemployment, keeping in mind about their state's economics and development limits and capacity. The post incident effect of acid attack is that the victims became disabled in performing their daily life routines and jobs and as per Article 41 of the Constitution of India the state should provides assistance to these victims also. The acid attack victim's rehabilitation is also becoming country's one of the most important concerns. In one of the orders that was being *passed by the Hon'ble Supreme Court* of India dated 18.07.2013<sup>21</sup> states that every state should provide compensation to the acid attack victims amounting of Rs. 3 Lakhs for their post incident rehabilitation and care cost. It also directed the state that in order to facilitate immediate medical attention and expenses the State should pay Rs.1 lakh to the victim within 15 days of commencement of the offence. As per Section 357 of Code of Criminal Procedure 1973, the State Government in coordination with the Central Government will draw up compensation schemes for the acid attack victims.<sup>22</sup> The Central Victim Compensation Scheme is being issued by the Central Government with an objective is to provide support and supplement to the States and Union Territories Victim Compensation Schemes. For the purpose of the same an amount of Rs. 200 crores are being fixed. The most important objective of the Central Victim Compensation Fund is to provide additional of Rs. 5Lakh compensation to the acid attack victims in order to meet their medical and other expenses over and above the compensation paid by the State Territory<sup>23</sup>

## Role Of Judiciary in Curbing the Problem of Acid Attack Delinquency faced by the victim of acid attack in the initial stages after the commencement of acid attack:

The Indian police play an important and proactive role in order to create crime free surroundings. But then these police also create problem and shows incompetency in dealing with the case of acid attack. The measures taken by the police authority in dealing with the acid attack victim proves to be inadequate and insufficient. The victims of acid attacks are being harassed by the police while filing a case against offender they show incompetent behavior while handling an acid attack victim. The framing of investigation by the police officers in the case acid attack solely depends upon the victim's background, like for example if the victim had low financial status, then it will be very difficult for the victim to file the case against the offenders as the police officers. Our Indian legal system contains a lacuna that a separate guidelines or policy should be passed for the police officials and other medical and administrative officials in order to deal with the victim.

<sup>21</sup> Laxmi v. Union of India & or., (2014) 4 SSC 427

<sup>22</sup> National Legal Services Authority, "NALSA (Legal Services to victims of Acid Attacks) Scheme, 8" (2016).

<sup>23</sup> National Legal Services Authority, "NALSA (Legal Services to victims of Acid Attacks) Scheme, 8" (2016).

In the year 2013 after the happening of dreadful case of Nirbhaya Rape case<sup>24</sup>, the government of India constituted a Justice Verma Committee with an objective to get suggestive reforms that can be implemented in the country's criminal justice system in dealing with the issue of acid attack. The reasons due to which the offence of acid attack is being discussed in report of Justice Verma Committee and 226<sup>th</sup> Report of Law Commission is that the victim not only suffered physical damage but they also need to undergo through psychological pain and damages. It is also being observed by them and mentioned the same in their report is that the country lacks proper burn hospitals to deal with the acid attack victims, the medical facilities in the country with regard to the acid attack victims are also very limited and the most hectic task which the victim faced is getting admission in one of those burn hospitals and the medical expenses remains an another burden over the shoulders of the victim as the medical treatment differs from case to case and so the expenses. The medical expenses faced by the victim are really huge and then there are victims whose family's financial background is really poor and due to which they won't be able to provide proper treatment to the victim. These problems mentioned over need to be solved and for this proper legislation and policy is being required.<sup>25</sup>

### **Role of Judiciary in curbing the problem of acid attack in India;**

It was after the *Criminal Amendment Act, 2013 Section 326A and Section 326B* was added in the *Indian Penal Code, 1860* providing a separate section for the offence of acid attack. But before the Criminal Amendment Act, 2013, the offenders who commits the offence was not punished in accordance with the heinousness of the crime. They were booked under Section 320 – Hurt of Indian Penal Code, 1860 which provided a minimal punishment of 3 years and it offenders booked under this section can easily be released on bail.

#### **a. Ravinder Singh vs. State of Haryana<sup>26</sup>**

The victim of this case was a woman. Her husband throw acid on her wife who denied to give him divorce, as the husband was into an extra-marital relationship. The refusal of not giving divorce became the reason of committing acid attack on her by her husband. And as a consequence of the attack the wife suffered huge physical damage as her entire body was burned due to the acid and which leads to the death of the victim. Since in the case happened in the year 1975 when acid attack was dealt under section 320, 322, 325 and 307 of India Penal Code, 1860 and therefore the husband charged under Section – 307 of Indian Penal Code, 1860 – attempting to murder, but the life imprisonment was not imposed on the husband even after the wife's death. This case proves the lacuna of our Indian legal system dealing with the offence of acid attack.

#### **b. Syed Shafique Ahmed vs. State of Maharashtra<sup>27</sup>**

In this case also the victim of the acid attack offence was a woman. The offender was the woman's husband and another person. The reason behind the commencement of acid attack on woman was personal enmity of husband with his wife and as a result of which the husband (offender) poured acid on his wife with a vindictive mind of taking revenge from her. The victim suffered multiple injuries and burn on her body and as a result of which the victim scum to death because of the unbearable pain the victim undergone with. However, in this case the offender was booked under section 326 and 324 of India Penal Code, 1860. The punishment sentenced to the offender of the crime was 3 years of imprisonment along with a fine amounting to Rs. 5000/-. This case is another example of incompetency of our Indian legal system while dealing with the problem of acid attack.

#### **c. State of Karnataka by Jalahalli Police Station v. Joseph Rodrigues<sup>28</sup>**

This is a Landmark case, in which for the first time an acid attack victim was paid a huge compensation of Rs. 500,000/- for meeting the medical expenses. In this case the victim works in the office of the offender named Joseph Rodrigues. Being an employee of that company victim decided to quit her job and this became the reason

<sup>24</sup> (2017) 6 SSC 1

<sup>25</sup> National Legal Services Authority, "NALSA (Legal Services to victims of Acid Attacks) Scheme, 4" (2016).

<sup>26</sup> Ravinder Singh v. State of Haryana SC 856 AIR (1975)

<sup>27</sup> CriLJ 1403 (2002)

<sup>28</sup> State of Karnataka by Jalahalli Police Station v. Joseph Rodrigues s/o V.Z. Rodrigues (Decided in the Hon'ble High Court of Kerala on 22/8/2006)



that her employer (offender) Joesph Rodrigues poured 1.5 liters of Sulphuric Acid on her. As a consequence, she suffered serious physical injuries on her body like the acid melted her face, neck and shoulder and worst was that there was hole made due to the acid on her head and as a result of all these injuries the victim suffered blindness for the rest of her life. The offender was booked under Section 307 – Attempt to Murder, of Indian Penal Code, 1860 and was sentenced to imprisonment for life.

#### d. **Laxmi Agarwal vs Union of India**<sup>29</sup>

Laxmi a survivor and victim of this heinous crime of acid attack. She became the victim of the crime when her age was 15 years (minor), when two men (offenders) who throwed acid on her the time she was waiting for a bus near Tughlaq Road in the year 2005. The reason behind the commission of acid attack on her because she rejected to marry the offender which hurts his male ego as a result of which he committed the offence on her. The name of the offender was Naeem Khan. The consequence of the offence was that victims whole face was burned due to the acid and she went through several surgeries and medical treatments. Due to this incident that committed on her she lost her childhood along with this she was dropped out of her school. The behavior of the society changed totally towards her, people started mocking her and blaming her for doing some wrongful activity due to which she was being punished as a way of being acid thrown on her. Due to this inhuman behavior, she received from the society she hides her face from them for 8 years. It was in the year 2012 where she gained back her courage after commission of Nirbhaya Gang rape case<sup>30</sup>. In the very same year, she filed a *Public Interest Litigation* (PIL) before the Supreme Court of India demanding new criminal law or amendment that need to be made in the then existing criminal laws in India, i.e. Indian Penal Code, 1860, Indian Evidence Act and Code of Criminal Procedure. Further, in her PIL she had also pleaded for laws and regulation and policies, dealing with the compensation that need to be paid to the acid attack victim and a separate legislation to monitor the sale of acid in India. In this very land mark case, the Supreme Court had passed some important guidelines mentioned below:

- i. There will be prohibition in the counter sale of the acid provided that the vendor needs to maintain a register where name of buyer and seller of the acid need to be mentioned.
- ii. Complete prohibition on selling the acid to those people who is a minor (below the age of 18).
- iii. The purchaser needs to produce proper Identification Card while purchasing a acid from any store.
- iv. The sellers of acid within an interval of fifteen days need submit a report containing their updated stock with their concerned Sub- Divisional Magistrate and failing to which the stocks will be confiscated by the Sub-Divisional Magistrate and the seller will be imposed a fine of Rs. 5000/-.
- v. The SC gives guidelines with regard to compensation that needed to be to paid to the victim amounting to Rs. 300000/- from the concerned State or Central govt. authority and out of the amount mentioned above Rs. 100000/- need to be given to the victim within 15days from the commission of the incident in order to bear the immediate medical expenses of the victim and the balance amount of Rs, 2 Lakhs need to be disbursed within 2months from the date of payment of the earlier amount at the earliest.

#### e. **Mahesh vs State by Melebennur Police on July, 2021**<sup>31</sup>

In this case also the reason for committing the offence of acid attack on victim was love rejection. The offender named Mahesh aged 32 proposed the victim who was a woman for marriage but the victim's family rejected the proposal of the offender and as result of hurting his male ego he decided to take revenger from her. The offender intention was to disfigure her with a thought that if he won't be able to marry her non should be allowed to marry the women. On 31.01.2014 around 4.40 P.M the accused throw acid on the victim when she was proceeding on a public road, and as a result of which she suffered huge physical damages as she suffered burn on her face. Acid attack is considered to be violation of Article 21- Right to life and Personal Liberty mentioned in Indian

<sup>29</sup> (2014) 4 SSC 427

<sup>30</sup> (Mukesh & Anr. V. State (NCT of Delhi) &ors), (2017) 6 SSC 1

<sup>31</sup> Criminal Appeal NO.512/2016(C)

Constitution. In this case also the offender named Mahesh was sentenced to life imprisonment and was booked under Section 326A, 326B and 307 of Indian Penal Code, 1860.

**f. Paramita Bera & Anr v. The Union of India & Ors on 8<sup>th</sup> September, 2023<sup>32</sup>**

In this case a minor girl aged 17 years and her brother aged 14 years old was a victim of the heinous crime of acid attack. A compensation amounting to Rs. 4,50,000/- was awarded to the male minor victim whereas on the other hand the female minor victim hasn't received any compensation neither from the State Govt. nor from the Central Govt. The petitioner of this case which was the minor girl victim argued before the Supreme Court of India regarding her entitlement of receiving compensation. The Supreme Court of India in this case that as per NALSA's compensation scheme (2018), an amount of Rs. 7 – 8 lakhs compensation along with an additional 50% compensation because of the victim being a minor.

The Supreme Court also stated that a uniform compensation needs to be paid to the acid attack victim across the states. The apex court in the land mark case of Laxmi Agarwal vs Union of India<sup>33</sup> have directed guideline with regards to the compensation amounting to Rs. 3 lakhs need to be paid to the victim of acid attack offence. The reason behind having a uniform compensation scheme in every state is properly stated by the apex court in the case of *Parivartan Kendra v. Union of India*<sup>34</sup>, there are several other problems which the victim of acid attack faced as a post consequence of the offence which are mentioned below:

- **Limited Job Forecasts:** Due to the facial or physical damage caused to the victim of acid attack. This causes a huge problem for them to find a stable job.
- **Social Stigma and Mortification:** Due to their, disfigure appearance they faced sympathy, humiliation and rejection from the society.
- **Diminished Marriage Prospectus:** Again, due to their physical disfigured appearance the acid attack victim finds difficulties in getting their stable life partner.

These outcomes call for hefty financial support to aid in the victims' healing and rehabilitation. This is further supported by the NALSA compensation Scheme (2018), which promotes full recompense for victims of acid attacks.

**g. Meerut teenage acid attack victim dies, accused arrested<sup>35</sup>**

The heinous incident of acid attack and murder happened in the village of Pathra, dist – Amroha, Meerut with a minor victim aged 14 year scummed to death after her neighbors dragged her from her house then throw acid on her and beaten her mercilessly. The name of the accused was Prempal and his son Yogendra. Later on, the victim was admitted to Meerut Medical College where she died due to the injury caused due to acid attack. The probable reasons that are being traced out is financial disturbance and long-standing feud between the accused and victims' family. The accused was charged and booked under Section 137(2)<sup>36</sup>, 124(1)<sup>37</sup>, 115(2)<sup>38</sup> and 351 (2)<sup>39</sup> of Bharatiya Nyaya Sanhita.

**Comparative Studies of Legislation on Acid Attack of Different Countries**

<sup>32</sup> WPA 5633 of 2021

<sup>33</sup> (2014) 4 SCC 427

<sup>34</sup> (2016) 3 SCC 571

<sup>35</sup> Sukumar Ranganathan, "Meerut teenage acid attack victim dies, accused arrested" *The Hindustan Times*, October 8<sup>th</sup>, 2024, available at: <https://www.hindustantimes.com/cities/others/meerut-teenage-acid-attack-victim-dies-accused-arrested-101728399922316.html>, (last visited on October 11<sup>th</sup>, 2024).

<sup>36</sup> Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), Section 137(2) - Kidnapping

<sup>38</sup> Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), Section 115(2) - Voluntarily causing hurt.

<sup>39</sup> Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), Section 351 (2)- Criminal Intimidation.

The offence of acid attack is a global problem and its being committed and witnessed in maximum parts of the world such as United States of America, Sri Lanka, Malaysia, Italy, China etc. But then there are certain countries where the commission of the offence is too much such countries are Bangladesh, Cambodia, Uganda, India and Pakistan and among these countries the Bangladesh holds a maximum record for the commission of the offence. This paper will try to discuss about the comparative studies of the legislation of different countries.

## Bangladesh

This country holds the maximum number of records for the commission of the offence of in the world. In the mid-1990s, the boost in the cases of attack in this country were seen. In order to control the increase in the number of acid attack offence in the country, the government of Bangladesh has passed two acts named **The Acid Offences Prevention Act, 2002** and **The Acid Control Act, 2002**. These acts were being passed in order to neutralize the commission of the offence of acid attack in their country.

Section 4<sup>40</sup> of the act states the punishment provided for the commission of acid attack and as a result of which if the victim lost his/her life then the offender will punish with **death penalty or rigorous imprisonment for life and in addition to it the victim needs to pay a fine exceeding one lakh Taka**. After the passing of these stricter law there is a decline from 30% to 20%<sup>41</sup> in the commission of the offence.

## Pakistan

The country of Pakistan is one of the few nations around the world who have a separate legislation which deals with these offences. Prior to the passing of separate legislation dealing with the offence of acid attack, the offence was dealt as a form of domestic violence and the case was booked under **The Domestic Violence (Prevention and Protection) Act, 2009**. Provided that the country passed a separate legislation dealing with the offence of acid attack names – **The Acid Control and Acid Crime Prevention Act 2011**, in this legislation the attack treated as a separate offence under section 326A and 326B of the above-mentioned act and provided punishment for committing the offence of attack that is punishment of imprisonment for a term minimum 14 years to life imprisonment and a fine of one million rupees.<sup>42</sup> Under **Section 4 of Anti-Acid theft and Acid Crime (Punishment) Act, 2010** states the punishment for administering or throwing acid on the victim will be punished with imprisonment for life or death penalty in severe cases.

## Afghanistan

Afghanistan under their Article 5 of their Constitution list 22 acts, under those acts the offence is being included as separate offence. It became the duty of the state of Afghanistan to follow all the international treaties signed by them along with the *Universal Declaration of Human Rights* and the same has being mentioned under Article 7 of the Constitution of Afghanistan. As per Article 228, 229, 230 of the Afghanistan Penal Code 2017 states the provision relating to acid attack and also states the punishments that is imprisonment for term of 10-20years or life imprisonment for life.

## Cambodia

The National Assembly of Cambodia passed the acid law in the year 2011. The name of the law passed the national assembly of Cambodia is “Acid Law”. The main objective behind passing of the law is neutralize the commission of the offence of acid attack along with regulating, monitoring and controlling the sale of acid which became one of the reasons for the commission of the offence. After the implementation of the “Acid Law” the attack is being criminalized. The positive side of the Acid Law is that it creates segregation between intentional or unintentional killing, cruel or inhuman way of using acid and causing injury to the victim etc., all these activities are punishable under this legislation. As per Article 16 of the Acid Law states the punishment for intentional killing of victim by the use of acid attack is punishable with an imprisonment up to 30 year or life

<sup>40</sup> Acid Offence Control Act, 2002 (Act II of 2002), Section 4- Punishment for causing death by Acid.

<sup>41</sup> Shaheema Hameed, Bhupal Bhattacharya, “Scarred for Life: Thoughts on Legal Perspectives of Acid in Selected Countries with a Focus on India” 23 *Journal of International Women’s Studies* 4 (2022).

<sup>42</sup> Maryam Saeed, “Acid Crimes in Pakistan: Law and Plight of Victims” 3 (2022)

imprisonment. The reason behind the passing of this act is to reduce or to neutralize the commission of the offence of acid attack.<sup>43</sup>

### Other Arabic Or Middle East Countries

Acid attack offence as mentioned in the study is proved to be a global problem which need to be death with strictness and requires strict laws to curb the problem of offence. There are certain middle-east and African countries in the world which provide death penalty for committing the offence of acid attack those countries are '*Iran, Saudi Arabia, United Arab Emirates, Yemen, Qatar, Yemen and Somalia*'. Even our neighboring country like Bangladesh provide death penalty for committing the offence of acid attack.

- i. **Iran:** Islamic Penal Code (2013), Article 612
- ii. **Qatar:** Penal Code (2004), Article 313
- iii. **Saudi Arabia:** Anti-Terrorism Law (2017), Article 2
- iv. **Somalia:** Penal Code (1962), Article 221
- v. **United Arab Emirates:** Federal Penal Code (2020), Article 348
- vi. **Yemen:** Penal Code (1994), Article 234

If discussed the same with India, the present law of our country is proved to be incompetent in dealing with the offence of acid attack. A mere provision that is Section 124 of Bhartiya Nyaya Sanhita will not be able to deal with offence and also there is a lack of legislation which deals with the regulating and monitoring the sale of acid in our country. Therefore, a separate legislation dealing with the offence is required in our countries along with the implementation of capital punishment i.e. death penalty need to be given in to the offenders for committing the heinous offence of acid attack.

### CONCLUSION

In this paper the researcher tried to portray the gravity of the heinousness of the offence of acid attack, particularly focusing on the punishment prescribed in our Indian legal system along with this the post incident consequences faced by the victims of the offence. The researcher in this paper also tries to highlight the lacuna in the Indian legal system with a comparative analysis made with the international laws dealing with the offence.

The offence is kind of offence where the offender requires a tremendous ill will for the commission of this offence and as a result of which the Indian legal system should punish them severely. It is important to keep in mind that in this offence due to the absenteeism of prompt investigation and trial, the quantum of the punishment can be of some deterrence. Therefore, the punishment which was provided previously in the 'Indian Penal Code, 1860' in Section 326A was imprisonment for a term not less than 10 years, extendable up to life and with fine. For the attempt to commission of the offence of acid attack provided under Section 326B of India Penal Code, 1860 states imprisonment up to five years maximum extended up to seven years and with fine. After the introduction of New Criminal Laws in the year 2023, the punishment provided in "Bharatiya Nyaya Sanhita, 2023" Section 124 provided the same quantum of punishment which was earlier provided in the Section 326 A and 326B of India Penal Code, 1860. There is no change in the quantum of punishment even in the new criminal law introduced in the year 2023. The author suggests to implement capital punishment i.e. death penalty for commission or attempting the offence of acid attack. In this paper another important aspect which the researcher tries to draws the attention is to have an immediate formation of new rehabilitation schemes along with sound compensation which will be adequate for the victim to meet their proper medical expense. There should be proper job opportunity, training etc. should be provided to the victim in order to bring their derailed life back to

<sup>43</sup> Punishment fitting the crime: Effectively punishing and combatting acid violence in Cambodia through the creation and enforcement of law, available at: <https://sithi.org/medias/files/others/acid-attack/2012-05-25-CCHR-Punishment-fitting-the-crime-ENG.pdf> (last visited on October 17, 2024)

track. Certain measures which help to curb the offence is awareness of the offence to the society from the grass root level. Even it is highly suggested that the media should also play an active role in order to sensibly handle the case of acid attack.

The offence of acid attack deserves severe and strict punishment as the gravity of the crime is more heinous if compared with the offence of rape and murder. In the offence of murder, the offender tries to finish the physical existence of the victim. In the offence of rape, the offender with a heinous intention tries to destroy and degrade the soul of a female victim. But the offence of acid attack first of all a gender-neutral offence along with this the offender not only damage the physical body of the victim but also damages the soul of the victim.

Therefore, it is suggested to have a stricter punitive measure that need to be implemented in our India Legal System because it is highly required to have an appropriate prevention value which need to be created in the society in order to deal with the offence or else the problem will not be solved in the society. The suggested measure provided in this paper will be helpful in curbing the offence of acid attack and will create an appropriate prevention value in order to root out the evil of acid attack from the society.