

Acid Attack: a look at Afghanistan, India and Bangladesh

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Abstract:

Violence against women is a worldwide problem. Women more or less are subject to gender based discrimination throughout the world. At a global UN conference, December 9, 2015 one of the speaker stated:

“Today there is no country in the world, not one, where women and girls live free from violence. Protecting women’s rights to live in dignity, free from violence, requires our deliberate, urgent and sustained action.”

However, the UN Declaration on the Elimination of Violence against Women describes: violence against women is a manifestation of historically unequal power relation between men and women, which have led to domination over and discrimination against women. Violence can be more easily carried out against women because of their lower social, economic and legal status. Among other gender based violence, however, acid attack is one of the most horrendous crime with devastating and lifelong consequences. Acid violence involves intentional violence in which perpetrators throw, spray or pour acid onto victim’s faces and bodies, it is a gender based violence that reflects inequality of women in society and as such prohibited by international law. Although the vast majority of victims of acid violence are girls and women, reports reveal that men are subjected to abuse as well. Nevertheless the vast majority of victims are women and that the majority of perpetrators are men. The reason behind acid violence can

be different and ranges from marriage, love and sex proposal rejection to opposing traditional order, dowry related issues and property disputes. Discriminatory attitude towards women often result to violence against them and reflects the attitude that women are possessions, acid attackers often say if they cannot possess her then no one else can, these attackers view women as their property. Another discriminatory attitude motivating acid violence is that women are viewed as dishonoring men by not obeying their wishes, when a woman refuses a man's proposal it is seen as destroying his reputation and prestige and he restores it by burning her face with acid to show his masculinity and superiority. The consequences after a victim faces acid attack are endless, however, they used to suffer every day of their lives. Physical consequence include blindness, permanent disfigurement and destroying other parts of the body where acid is poured. Psychological consequence can ever be more pathetic and painful, victim is suffering psychological trauma when she feels her skin is burnt off, and after the attack the disfigurement and disabilities with which they have to bear for the rest of their lives. Moreover, victims are suffering tremendously economic consequences, after the attack they need to undergo complicated surgeries several times. Overall, acid violence victims are suffering every day of their lives not for their wrongs, but due to the fault of some ferocious animals roaming around freely in the society. It can be said that acid attack victims go through hell in this ordeal and their life becomes worse than death. Although acid attack occurs in many countries, however, studies reveal that it is more prevalent in south Asia.

Afghanistan had a relatively progressive attitude towards women and gender equality before the Soviet invasion and the subsequent emergence of Taliban. Afghan women were first given vote in 1919 only one year after the women in Britain and the country's first constitution in 1923 guaranteed equal rights for both men and women. When the Taliban came to power in 1996, they enforced their own strict Sharia-Law, excluded women from large parts of everyday life and imprisoned them into their homes. After the US-led war in 2001, a number of steps towards gender equality were taken in Afghanistan. Women rights and gender equality were enshrined in the new constitution in 2004 and in 2009 Afghanistan adopted the Elimination of Violence against Women (EVAW) law. However, enforcement of law guarding women rights were too weak and violence against women

persist in the country. In 2011, Afghanistan was named one of the most dangerous country in the world to be a woman. Amnesty international reports 3,700 cases of violence against women including acid attack in the first eight months of 2016. Moreover, many cases go unreported. In short, harassment and violence are realities of everyday lives of afghan women. Hundreds of thousands of girls and women are victims of various forms of violence including acid attack in Afghanistan. Afghan girls and women who defy traditional gender roles and speak out for their rights and freedom are routinely subject to threats and violence from extremist groups like Taliban and others who share the same ideas about women and are expected to support legislation that will once again limit women's freedom. There is no official figure for acid violence cases in Afghanistan. The lack of legislation specifically dealing with acid violence contribute in many cases to go unreported.

Key words: acid attack, Afghanistan, India and Bangladesh

ACID ATTACK AND THE LAW IN AFGHANISTAN

Considerable reforms have been made in Afghanistan's legal system in the past years. Afghanistan's 2004 constitution sets out the legal framework for protection and advancement of human rights, including women rights. Article 5 lists 22 acts including pouring acid and other chemical and dangerous substances as violence against women. Article 7 of the constitution says that the state shall abide by the UN charter and international treaties that Afghanistan has signed and the Universal Declaration of Human Rights. Article 22 prohibits any kind of discrimination including discrimination against women and describes that the citizens of Afghanistan, whether man or woman have equal rights and duties before the Law. Furthermore, Afghanistan ratified the Law on Elimination of Violence against Women in 2009, defining violence against women including acid attack as a major crime. Additionally, Afghanistan is a party to International Criminal Court (ICC) which considers discrimination against women, rape, forced

prostitution, sexual slavery and forced pregnancy as crimes against humanity if perpetrated on a widespread and systematic scale. Though, Afghanistan government has a legal obligation to draft and implement policies preventing violence against women in its legal, judicial and executive dimensions to ensure prevention of violence against women. According to the Elimination of Violence against women (EVAW) law, violence against women including acid attack is punishable to at least 10 years imprisonment and at most life imprisonment.

THE LAW ON ACID ATTACK IN INDIA

Among other gender based violence, acid attack is very rampant in India as well. Statistics show a clear increase in the number of acid attacks in India in recent years. At least 116 such attacks were reported in 2013. That figure rose to 225 in 2014 and 249 in 2015. Moreover, the number climbed to 300 in 2016. However, many cases remain unreported where victims die, especially in rural areas. Sometimes people try to hide information if the attacker was a husband or the family member of the victim so the number of acid attacks exceed 1000 in a year according to Acid Survivor Trust International (ASTI). The raising number of reported acid attacks from 106 in 2011 to 300 in 2016 shows India's inability to tackle this heinous crime. There was no law specifically dealing with acid violence till 2013 in India. The law commission of India in report no. 226 which was submitted to the Supreme Court proposed the inclusion of acid attack as specific offences in Indian Penal Code and a law for compensation for victims of crime. The Indian Penal Code was amended on 2nd April 2013 (The Criminal Law Amendment Act 2013). The amendment resulted in insertion of sections 326A and 326B for specifically dealing with acid violence. Under the amendment Act 2013, the punishment for acid throwing is a minimum of 10 years imprisonment and can extend to life imprisonment with fine. And the punishment for attempted acid throwing is 5 years

imprisonment and can extend up to 7 years imprisonment with fine. The victims are entitled to compensation also which can go up to Rs. 10 Lakh. In addition The Rights of Persons with Disabilities Act was revised in 2016 to include acid attack survivors as physically disabled. That provide them access to education and employment with 3% of government job reserved for acid attack victims. Despite existing such legislation to combat acid violence, however, India is witnessing no better present rather the number of victims are rising. The attacks will continue to occur until the government does not treat the attackers more harshly and victims more generously. Easy availability of acid also contribute in rising attacks, there is a need of putting more tighter legislation on acid availability to prevent attack from the first place. Combatting harmful social norms negatively affecting women's life also empower women and contribute putting end on violence against women. Patriarchy mind set leading to marginalization of girls and son preference result into men superiority subsequently violence against women including acid attack.

SUPREME COURT'S JUDGMENTS ON ACID ATTACK CASES

Laxmi v. Union of India

Laxmi was only 15 years old when she was attacked with acid by a man more than twice her age, who she refused to marry. The incident took place in broad daylight in one of Delhi's busiest market (Khan Market) in 2005 left her emotionally and physically scarred. The brutal acid attack also left her disfigured and she underwent several major surgeries to try and reduce the burns on her skin. It led her to file Public Interest Litigations in the Supreme Court of India, seeking changes in the law and asked the government to take step to restrict sale of acid. But privately she struggled to cope with dramatic change in look and confidence following the horrifying attack. Meanwhile the Supreme Court of India ruled in favor of

Laxmi's petition in 2013, thereby creating a fresh set of restrictions on the sale of acid. Under the new regulation, acid cannot be sold to any individual below the age of 18 years. One is also required to provide a photo identity card before buying acid.

“In *Laxmi v. Union of India* Writ Petition (Crl) No. 129 of 2006 on 6.2.2013 the Supreme Court of India given order to the ministry of home affairs and ministry of chemical and fertilizers to convene a meeting discussing enactment of appropriate provisions for effective regulation of sale of acid in the country, measure for proper treatment, aftercare and rehabilitation of acid attack victims and compensation to acid violence victims payable by the state. On 18 July 2013 the order given by the Supreme Court of India containing directions as follows:

- Over the counter, sell of acid is completely prohibited unless the seller maintains a registrar recoding the sale of acid which will contain details of the person, to whom acid is sold and the quantity sold. The buyer is also required to show a photo identity card issued by the government containing his address and also the purpose of procuring acid.
- No acid shall be sold to any person below the age of 18 years.
- Acid attack victims shall be paid compensation of at least Rs. 3 lakh by the concerned state as the aftercare and rehabilitation cost.”

Furthermore, the Supreme Court of India in *Laxmi v. Union of India* Writ Petition (Crl) No. 129 of 2006 passed another order on December 3, 2013 expressing its great concern on states to comply and frame the rule to regulate sale of acid and other corrosive substances stating one of the necessary steps for reducing acid attacks which is on the rise. The Supreme Court, moreover, emphasized on providing adequate aftercare and rehabilitation for the victims of acid violence through paying proper compensation by the concern states. In addition, the Supreme Court directed chief secretaries of states and the

administrators of the union territories in bearing 100% cost of treatment of acid attacks victims. Another Supreme Court's judgment in *Laxmi vs Union of India* Writ Petition (C) No. 29 of 2006 is given on April 10-2015. The Supreme Court again expressed its great concerns about the rise of acid attacks in the country, need of adequate compensation and appropriate treatment of the victims , the order dated 10.4.2015 is as follows:

“The States/UTs will take a serious note of the directions of the Supreme Court with regard to treatment and payment of compensation to acid attack victims and to implement these directions through the issue of requisite orders/notifications.

The private hospitals will also be brought on board for compliance and the States/UTs will use necessary means in this regard.

No hospital/clinic should refuse treatment citing lack of specialized facilities.

Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973.

With regard to the banning of sale of acid across the counter, we direct the Secretary in the Ministry of Home Affairs and Secretary in the Ministry of Health and Family Welfare to take up the matter with the State Governments/Union Territories to ensure that an appropriate notification to this effect is issued within a period of three months from today. It appears that some States/Union Territories have already issued such a notification, but, in our opinion, all States and Union Territories must issue such a notification at the earliest.

The final issue is with regard to the setting up of a Criminal Injuries Compensation Board. In the meeting held on 14.03.2015, the unanimous view was that since the District Legal Services Authority is already constituted in every district and is involved in providing appropriate assistance relating to acid attack victims, perhaps it may not be necessary to set up a separate Criminal Injuries

Compensation Board. In other words, a multiplicity of authorities need not be created.

In our opinion, this view is quite reasonable. Therefore, in case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes.”

In addition, on December 7, 2015, the Supreme Court of India along with expressing its grave concern over state’s failure to implement guidelines issued by the court in *Laxmi v. Union of India* enhanced the compensation given to the victims from Rs. 3 Lakh to Rs. 10 lakh while delivering a judgment in *Chanchal Paswan* case who was an acid attack victim in Bihar. Court has also directed all the State Governments and Union Territories to consider the plight of such victims and take appropriate steps including their names under the disability list. In the meanwhile, court observed that acid attack continue to occur as states failed to regulate supply. Court observed:

These 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. There have been many cases where the victims of acid attack are made to sit at home owing to their difficulty to work. These instances unveil that 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.

Parivartan Kendra v. Union of India

Chanchal Kumari, a 23 years old Dalit girl from Bihar was severely burnt and her face completely disfigured on October 21,2012 when four boys climbed on the roof of her house where she and her sister, Sonam Kumari were sleeping. The boys brutally poured acid on Chanchal's body and tremendously injured her. The reason apparently was marriage refusal. Sonam who were sleeping with her sister received acid burns too. Laxmi's long legal battle paid dividends when the Supreme Court, on July 18, 2013, ordered strict regulation of sale of acid. In a series of orders since then, it has ordered compensation for and rehabilitation of victims, their free treatment in hospitals and asked for acid attack to be made a non-bailable offence.

The Supreme Court of India in Parivartan Kendra v. union of India Writ Petition (Civil) No. 867 of 2013 ordered:

“We direct the concerned Government to compensate the victim Chanchal to a tune of Rs. 10 Lakhs, and in light of the Judgment given in Laxmi's case we direct the concerned State Government of Bihar to compensate the main victim's sister, Sonam to a tune of ₹3 Lakhs. Of the Total amount of Rs. 13 Lakhs, a sum of Rs. 5 lakhs shall be paid to the victim and her family within a period of one month and the remaining sum of Rs. 8 lakhs shall be paid to the victims within a period of three months from the date of this order.

Furthermore, the State shall upon itself take full responsibility for the treatment and rehabilitation of the victims of acid attack as per the Guidelines provided in Laxmi's case, (2015) 5 SCALE 77, vide order dated 10.4.2015

Disposing of the present writ petition, we additionally direct all the States and Union Territories to consider the plight of such victims and take appropriate steps with regard to inclusion of their names under the disability list.

Mumbai High Court

In March 2017, Mumbai High Court while hearing a petition filed by a 14 years old girl who is a victim of rape and seeking

compensation of Rs. 3 lakh under the scheme. The girl was given Rs. 2 lakh compensation after the petition was filed in October 2016. The High Court expressed its grave concern about compensation to acid attack, rape and sexual assault victims under Maharashtra's Manodhairya scheme. The court stated, the scheme does not have a human face, furthermore, the High Court asked the government to look after revising the scheme giving little more protection to the victims. The court pointed to other states like Goa, where Rs. 10 lakh is given as compensation to victims of rape and acid attack, further stated that court stated that they expected Maharashtra also to be progressive. In the meanwhile, the court added that the orders of this court and other relevant Supreme Court's judgments on this issue should be placed before the chief secretary and he can decide on this concern within four weeks.

INDIA'S FIRST DEATH PENALTY ON ACID VIOLENCE

Preeti Rathi, a 23 year old girl from Delhi who came to Mumbai and was supposed to join as a nurse in Indian Navy was brutally attacked with acid by Panwar, Rathi's neighbor on May 2, 2013. Rathi died of multiple organ failure after a month at Bombay Hospital. Panwar attacked her as he was jealous of her success and she had rejected his marriage proposal. Ankur Pawan, 26 years old and convicted in the murder of Rathi was awarded death penalty for the first time in acid attack case by a special Women's Court in Mumbai. Special Judge, A S Shende, ruled: "Having considered the mitigating and aggravating circumstances of the case, Supreme Court judgments and recent judgments on acid attack cases, you have been sentenced to death under charges of section 302 IPC (murder)." In the meanwhile, the court set a fine of Rs. 5,000 to be paid by Panwar. The court held that the mitigating circumstances, including his young age, the possibility of reform and social condition, were not found in favour as compared to the aggravating circumstances in the case.

The court accepted the prosecution's contention that it was a murder resulting out of Panwar's unilateral love for Rathi. The court held that since Rathi did not reciprocate the love, Panwar decided to destroy her. The court said Panwar's act was 'sadist' as submitted by the prosecution and held that he had not been able to explain the scars on his hand, which the investigators said had been caused due to spilling of acid on his hand while flinging it at Rathi.

The court held that the murder fell in the category of "rarest of rare" and observed that the scale of brutality in acid attack cases is more than that in cases of rape.

The judge held that rape is considered to destroy the soul of the victim, but she can be rehabilitated if her identity is not disclosed. However, in the case of an acid attack, the survivors have to live with their destroyed bodies.

BANGLADESH EFFORTS TO STOP ACID VIOLENCE

Although acid attack is a problem worldwide but it seems to be more acute and rampant in South Asia. Hundreds of girls and women are victims of this horrifying crime in Afghanistan, however there is no official figure for acid attack cases in the country. The Acid Attack Survivor Foundation India reports that there has a steep raise in acid attack incidents from 106 in 2011 to 249 in 2015, however several cases go unreported. According to Acid Survivor Foundation there are 200 acid attack cases reported annually in Pakistan and the number reported cases increased since last years. Bangladesh also witnessed remarkable increase in acid attack cases with a number of 240 in the year 2000 and 494 in 2002. However, the country made dramatic progress in reducing acid attack violence after enacting laws punishing offenders and regulating acid distribution. The figure decreased from 417 in 2003 to 44 in 2016.

In 2002 Bangladesh enacted two comprehensive separate laws, Acid Crime Control Act (ACCA) and Acid

Control Act (ACA). The first one heightens penalties and create special court procedures for acid attack cases. Acid Crime Control Act allows the court to impose death penalty for acid attacks. The level of punishment is tied to the parts of the body affected, if the victim dies, or losses sight and hearing, or if the victim's face or reproductive organs are damaged, the offender faces death penalty or life imprisonment as well as a fine up to nearly Rs. 1 lakh. If the acid attack harms other parts of the body, the offender faces 7 to 14 years imprisonment and a fine of nearly Rs. 50,000. Moreover, throwing acid or attempt to throw without causing any physical or psychological suffering is also punishable with a sentence between 3 to 7 years and a fine of nearly Rs. 50,000. Furthermore, Acid Crime Control Act requires the creation of acid crime tribunals in each district. The acid attack crime is also a non-bailable offence now in Bangladesh.

The second law, Acid Control Act creates a national acid control council framing policies to prevent misuse of acid and monitors trade, import, transportation and storage of acid. In addition, Acid Control Act enacted policies for treatment and rehabilitation of victims, adopt measures to enhance public awareness about dangers of acid, collect data regarding the use and misuse of acid and proper acid waste management. The Act punishes unlicensed production, import, transportation and use of acid by 3 to 10 years imprisonment plus fine of up to Rs. 50,000. In the meanwhile, ACA designs compensation schemes to help victims of acid violence in their treatment and rehabilitation.

CONCLUSION

Although gender based discrimination takes several forms, however, acid violence is one of the most heinous one with devastating and lifelong consequences. Acid attack is gender related violence as the vast majority of victims are women and majority of perpetrators are men. Despite enacted laws

criminalizing acid violence, the number of victims are rising in India and Afghanistan except in Bangladesh which the number of acid violence is fallen due to harsher punishment. Lack of appropriate legislation punishing the criminals harshly, regularizing use of acid and inappropriate implementation of the law dealing with acid violence all together contributed to this crime to persist. Governments should take serious steps, adopt proper legislations to combat acid attacks, control distribution of acid and insure implementation of the law in order to stop this crime. Moreover, comprehensive compensation schemes are required for aftercare and rehabilitation of victims.

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