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Acid Attacks in India: A Socio-Legal Report

Vidhik Kumar

National University of Study and Research in Law, Ranchi (India), vidhikkumar0006@gmail.com

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Acid Attacks in India: A Socio-Legal Report

Abstract

India has the highest number of acid attacks globally every year, and despite the actions taken by the Indian Government and the Supreme Court of India, the crime is on the rise. This increase can be attributed to the patriarchal ideology that is prevalent in India and to India's inadequate legal system, which does not deliver efficient remedies to the victims. This article will discuss the prevalence of acid attacks in India, motives behind the attacks, consequences on victims, and shortcomings in measures adopted to prevent the crime and provide justice to victims.

Keywords

India, acid attacks, victims, acid burns, violence against women, patriarchy, legal system, police, court, judiciary, Criminal Law Amendment Act 2013

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ACID ATTACKS IN INDIA: A SOCIO-LEGAL REPORT

Vidhik Kumar

National University of Study and Research in Law, India

 <https://orcid.org/0000-0001-6688-9592>

ABSTRACT

India has the highest number of acid attacks globally every year, and despite the actions taken by the Indian Government and the Supreme Court of India, the crime is on the rise. This increase can be attributed to the patriarchal ideology that is prevalent in India and to India's inadequate legal system, which does not deliver efficient remedies to the victims. This article will discuss the prevalence of acid attacks in India, motives behind the attacks, consequences on victims, and shortcomings in measures adopted to prevent the crime and provide justice to victims.

KEYWORDS

India, acid attacks, victims, acid burns, violence against women, patriarchy, legal system, police, court, Criminal Law Amendment Act 2013

HIGH RATES OF ACID ATTACKS in any country indicate that country's failure to protect its constituents from this specific harm. Several countries including India have adopted stringent measures to eradicate acid attacks, and many have been successful. In India, however, the measures have had little to no effect. This article argues that India's shortcomings may be tied to the country's failure to change its narrative about the status of women in society. This article will analyze the nature of the crime, motives behind its commission, its consequences on the victims, and conclude with suggestions for improving the narrative about women's status in society.

Nature and Prevalence

Acid attacks have catastrophic effects on victims. They cause severe bodily pain and life-long psychological trauma by shattering their primary physical/social identity in an instant (Anwary, 2019), which often makes them a subject of pity. Indian law does not contain an exhaustive legal definition for acid attacks, but the crime generally involves the throwing, spraying, or pouring of acid on a person's body or face with an intention to cause bodily or facial disfigurement or death. Acids are corrosive substances which have the potential to burn and severely scar everything they touch. The most common type of acids (*tezaab* in India) used in acid attacks are sulfuric acid, nitric acid, and hydrochloric acid, all of which are generally used for cleaning, manufacturing of cotton and rubber, and other industrial purposes.

While acid attacks occur in many countries around the world, the motives behind acid attacks, the damage they cause, and the age and gender of victims vary significantly across countries (Dissanaike & Rahimi, 2009). Thus, acid attacks are a complex and a global phenomenon. However, 90% of acid attacks are reported in developing countries such as Colombia, Pakistan, Nepal, Bangladesh, Uganda, and India (Atiyeh et al., 2008).

India has the highest number of acid attacks. Out of 1500 total cases reported globally every year, approximately 1000 are committed in India (Nguyen, 2015). Because the crime was defined as a specific criminal offense only after the enactment of the 2013 Criminal Law Amendment Act (*hereinafter* Amendment Act), not much data is available. However, an analysis of the data compiled by several organizations indicates that the incidents have been on the rise in India for many years. (See Table 1).

Table 1.
Acid Attacks in India, 2010 to 2019*

Year	Number of Cases Reported
2010	80
2011	83
2012	106
2013	122
2014	309
2015	222
2016	167
2017	244
2018	228
2019	240

* Source: Kannadasan, 2015; National Crime Records Bureau (India), Reports of 2014-2019

These figures do not reflect the full scope of acid attacks in India because 60% of incidents are never reported. Many victims are reluctant to report because they feel shame and stigma, and resources are not available to deal with the crime in many rural areas (Acid Survivors Trust International). The actual number of annual incidents in India is believed to be around 1000 (Acid Survivors Trust International).

While several incidents of acid attacks against males have been reported in India, the crime is generally perceived as a form of violence against women by men because women are victims in more than 80% of cases and the perpetrators are male in 84% of cases. The majority of victims is between 18-22 years of age, and over 84.48 % are committed in urban areas (Patel, 2014). In more than 76 % of cases acid attacks are committed by someone known to the victim, and in the vicinity of their residence (Acid Survivors Trust International).

Motives for Acid Attacks

Because acid attacks mostly involve male offenders and female victims (Singh, 2020) a primary cause of acid attacks has been attributed to the patriarchal nature of Indian society (Tiwary, 2014; Ahmed, 2011). Acid attacks are more prevalent in countries ranked low on the gender gap index (Kalantry & Kestenbaum, 2011), and India is ranked very low at 112 out of 153 countries (Ghosh & Sen, 2020). India slipped down four levels from 2019 to 2020. India ranked even lower on the health and survival index at 150 out of 153 countries (Ghosh & Sen, 2020). It is also significant that India has more cases of acid attacks than other States ranking similarly low in sex ratio data (Tiwary, 2014).

Acid attacks in India are committed for various reasons, however, a majority of cases can be tied to India's patriarchal society. The motives include: refusal to marry (*Ramesh Dey and Ors. v. State of West Bengal*, 2006; *Nazeem Khan v. State*, 2009; *Sikandar Kumar v. State of Punjab*, 2016); personal enmity of the husband to the victim (*Syed Shafique Ahmed v. State of Maharashtra*, 2001); suspicion or knowledge of an extramarital affair (*Balu v. State*, 2004); ending/discontinuance of an extramarital affair (*Mahadeva Madeva Shisthu v. The State of Karnataka*, 2005); refusal to rejoin the previous job (*State of Karnataka v. Joseph Rodrigues*, 2006); refusal to accept requests of sexual advances (*Parivartan Kendra v. Union of India*, 2015); non-acceptance of marriage prospects either by the accused's family or by the victim's family (*Sabana Khatun v. The State of West Bengal & Ors.*, 2014; *Ravada Sasikala v. State of Andhra Pradesh and Anr*, 2017); jealousy of the victim's beauty (*Simran Meena Khan v. State*, 2016); jealousy of the victim's success and job (Shah, 2016); property dispute with the victim's family (*Yogesh Jain v. Vipin Jain*, 2016); and other personal enmities with the victim or victim's family (*Suresh & Ors v. State of Haryana*, 2016).

The motives behind acid attacks henceforth can be classified into four categories: *cultural* which includes gender, economic, and class-based inequalities or due to the culture of revenge and misogyny; *societal* which includes permissive attitudes toward violence against women and punishment of women, alongside sympathy toward perpetrators; *situational* such as family conflicts, low gross family income, availability and cost of acid; and *personal* stemming from personal attributes of perpetrators such as insufficient anger management skills, mental and emotional capacity of perpetrators, male shame and lack of control or power (Patel, 2014). Generally, perpetrators do not intend to cause death; they seek only to cause permanent bodily disfigurement.

Effects of Acid Attacks

The survival rate of acid attacks is high (Acid Survivors Trust International). Consequently, victims live with catastrophic effects, which can be categorized broadly into three categories: physical; psychological; and social and economic.

Physical Effects

The severity of bodily injury depends primarily on the concentration or the type of acid used for the attack, and secondarily on the amount of time the body was exposed to the acid. The longer a body is exposed the more damage the victim will endure. Acids are so corrosive they rapidly dissolve skin, fat and muscle, and even reach bones and organs in some cases (Law Commission of India, 2009). Victims endure complete or partial destruction of essential body parts such as eyelids, ears, nose, nostrils, mouth, lips, eyes, cheeks, chin, neck, forehead, skull, breasts (including destruction or cessation of development of breasts in young girls), shoulders, and hair, all of which impair a victim for life (Law Commission of India, 2009). Victims also inhale

toxic fumes from the acid and burned body parts, which in a majority of cases, either causes a poisonous reaction in a victim's lungs or swelling of the throat, which can lead to difficulty breathing and death due to asphyxiation (Law Commission of India, 2009).

In addition to acute consequences, victims face chronic health consequences. The healing of acid attack burns leaves thick scars and causes skin to tighten or turn leathery, which exposes victims to further deformity and difficulties such as: inability to close eyelids, which makes the eyes vulnerable to blindness due to excessive drying; inability to open or close mouth, which causes teeth to decay and leads to difficulty in eating; destruction of ear cartilage, which increases the vulnerability to future infections and hearing loss; inability to move or extend neck or head; reduced range of motion of the arms due to fixation of the arms to the side of the body; and fixation of the chin to the chest (Law Commission of India, 2009).

Psychological Effects

Victims also suffer severe psychological trauma, primarily due to the pain and terror they undergo during an attack, and secondarily due to the realization that they have a permanently disfigured/disabled body (Law Commission of India, 2009). This destruction of the victim's primary physical/social identity exposes them to severe psychological diseases over the lifespan. Victims report suffering severe depression, insomnia, recurring nightmares, fear of another attack, headaches, and reluctance to face the world or participate in society (Law Commission of India, 2009). Victims also experience increased anxiety (Patel, 2014).

Social and Economic Effects

Victims also become physically dependent on family and friends for essential daily activities as the attack destroys their prospects of marriage or employment (Bajpai & Singh, 2015). Victims often become a subject of pity, stares, and mockery due to their scars and disfigurement (Law Commission of India, 2009), which ultimately results in relinquishment of education and hope for the future.

Since acid attacks have such severe consequences, victims need immediate remedies including compensation so they can try to correct their physical disabilities with the help of corrective surgeries. They also need access to swift justice and mental health care so they can overcome their trauma. Medical and mental health care are quite expensive in India. And justice is rarely delivered because the processing of cases by Indian Courts is extremely slow.

THE LAW AND THE ROAD TO JUSTICE

Acid Attack and Human Rights

Acid attacks impair victims' enjoyment of basic human rights guaranteed by the Indian Constitution, Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), and International Covenant on Economic, Social and Cultural Rights (ICESCR). Basic rights include the right to life, liberty, and security (UDHR, Art. 3, 1948; Indian Constitution. Art. 21, 1950; *Raja v. State of Haryana*, 2017); the right not to be subjected to torture, cruel, inhuman or degrading treatment (UDHR, Art. 3, 1948; ICCPR, Art. 7, 1976; Indian constitution, Art. 21, 1950; *Nandini Satpati v. P.L Dani*, 1978); right to an effective remedy (UDHR, Art. 3, 1948), which is violated when the state fails to timely provide justice and compensation (*Rajasthan Kisan Sangthan v. State of Rajasthan*, 1987); the right not to be subjected to arbitrary interference with privacy and attack upon honour and reputation

(UDHR, Art. 12, 1948; ICCPR, Art. 17, 1976; Indian Constitution, Art. 21, 1950; *Nandini Satpati v. P.L. Dani*, 1978); the right to freedom of movement (UDHR, Art. 13, 1948; ICCPR, Art. 12, 1976; Indian constitution, Art. 19, 1950); the right to marry, find family, protection of the family in some cases (UDHR, Art. 16, 1948; ICCPR, Art. 23, 1976; Indian Constitution, Art. 21, 1950; *Shafin Jahan v. Sokan*, 2018); the right to receive information (UDHR, Art. 19, 1948; ICCPR, Art. 19; Indian Constitution, Art. 19, 1950); the right to social security and realization of economic, social, cultural rights indispensable for dignity and personality development (UDHR, Art. 22-27, 1948; ICCPR, Art. 1, 8, 22, 23, 27, 1976; ICESCR, 1976; Optional Protocol to ICESCR, 1976); the right to education (UDHR, Art. 26, 1948; ICESCR, Art. 13-14, 1976; Indian Constitution, Art. 21-A, 1950; *Unni Krishnan JP vs State of Andhra Pradesh & Others*, 1993); and the right to freely participate in the cultural life of the community (UDHR, Art. 27, 1950; ICESCR, Art. 15, 1976).

Although not all of these rights are directly violated in connection with every acid attack, it can be argued that victims suffer the loss or abridgement of some or all of these rights when acid attacks affect their ability to enjoy their rights. Whether a victim will have the capacity to enjoy her rights depends on three factors: *first*, the nature and gravity of the injury caused; *second*, the will of the victim; and *third*, the societal response. Take for instance a victim who has lost her ability to see and hear but may be willing and able to attend school using Braille. She cannot exercise her right to an education until she learns to read through touch. Other victims who are willing and able to work may be denied employment because of their bodily appearance (Karlamangla, 2019). The situation is largely similar for a victim willing to marry and take part in the cultural life of her community, which may only be possible if one finds a suitable match willing to look past physical appearance (Shukla), and ignore stigmatization, pity, and other derogatory perspectives of the community. In all of these cases, the right may subsequently be enjoyed, but such enjoyment is contingent on many factors. Furthermore, many victims simply cannot exercise any rights during recovery because they lack physical and/or psychological capacity.

The Legal System

Prior to the 2013 Criminal Amendment Act, the Indian legal system was woefully inadequate to address acid attacks as it had neither sufficient provisions to punish (or deter) the crime nor adequate resources to compensate victims. Prior to 2013, perpetrators were charged with voluntary causing hurt, voluntarily causing grievous hurt, voluntary causing hurt by means of dangerous weapons such as heated substances, voluntary causing grievous hurt by means of dangerous weapons such as corrosive substances, or murder. These offenses were available under the Indian Penal Code (1860) (*hereinafter* IPC), but prosecutions were problematic due to the broad and generalized nature of the laws, and because the laws were inadequate to encompass the nature of or facilitate convictions of perpetrators.

Before 2013 prosecutors were already burdened with large numbers of pending cases. Adding acid attacks cases to the workloads of overburdened prosecutors meant the cases were subjected to delays. Also, there was no specific charge for acid attacks, so prosecutors had to proceed using the abovementioned general charges, which resulted in inconsistent and insignificant punishments of up to one year in prison or a fine of up to one thousand rupees, or both in cases involving hurt (IPC, § 323, 1860). Perpetrators faced imprisonment of up to seven years or fine or both in cases of grievous hurt (IPC, § 325, 1860), imprisonment of up to three years or fine or both in cases of causing hurt by heated substances (IPC, § 324, 1860), imprisonment of up to 10

years or for life or fine or both in cases of grievous hurt by corrosive substances (IPC, § 326, 1860), and imprisonment for life or death or fine in cases of murder which usually could not be provided due to the high survival rate of acid attack victims (IPC, § 302, 1860; Acid Survivors Trust International). Sanctions for these general crimes only prescribed an upper limit for imprisonment terms, which gave courts discretion to impose much lower prison terms, and the laws did not specify the fine or state whether the fine could be provided to an acid attack victim as compensation. This meant that some victims were not compensated at all (*Awadesh Roy v. State of Jharkhand*, 2006; Kaur, 2018), and when they were compensated, the amount was usually inadequate and inconsistent, sometimes as low as such as Rs. 5000 (68.14 US \$) (*Ramesh Dey and Ors. v. State of West Bengal*, 2006), Rs. 2000 (27.26 US \$) (*Balu v. State*, 2004), 50000 (681.39 US \$) (*Mahadeva Madeva Shisthu v. The State of Karnataka*, 2005). These sums were not nearly enough to cover a victim's expenses for corrective surgeries and psychological counseling.

The situation improved substantially after the 2013 Criminal Amendment Act, which made acid attack a separate offence under the Indian Penal Code (IPC, § 326 A, 1860) and strengthened the compensatory mechanism. It provided that the fine imposed on perpetrators should be awarded as compensation to victims, and that such compensation would be in addition to the compensation provided by the Indian (State) Government via victim compensation scheme (IPC, § 326 A, 1860; Criminal Procedure Code, § 357 A-B, 1973). The Amendment Act also prescribes a minimum duration for imprisonment for both attempted (7 years) and completed acid attacks (10 years) (IPC, § 326 A-B, 1860), and provides free treatment for acid attack victims (Criminal Procedure Code, § 357C, 1973).

The Amendment Act was a step in the right direction but is not enough. The Act is silent on whether free treatment for victims covers expenses for only initial medical treatment or also treatment required at a later stage, such as corrective surgeries and long-term psychological counseling. In 2015 the Supreme Court of India and the Ministry of Home Affairs clarified that the Act covers treatments at later stages, except for psychological treatments (Ministry of Home Affairs, 2015; PTI, 2015). The Act is also silent on whether a minimum fine must be imposed on perpetrators, or whether the Court has discretion to impose only a minimal fine. However, the Supreme Court of India in *Laxmi v. Union of India* in 2014, held that three lakh rupees (4088.34 US \$) should be awarded as compensation to acid attack victims for aftercare and rehabilitation, of which one lakh (1362.78 US \$) must be paid within 15 days of the occurrence of the incident and the remaining 2 lakhs (2725.56 US \$) within two months thereafter. The Court also established extensive guidelines for regulating sale of acids in India, such as restricting sales only to people over 18 who show proof of identification, maintaining a log (register) of acid sales to record the purpose for purchasing acid, and the quantity purchased.

The court in *Laxmi* did not clarify whether the compensation amount awarded was restricted to no more than three lakhs, or whether a court could grant more compensation. This issue was elucidated by the Supreme Court of India in *Parivartan Kendra v. Union of India* (2015), in which it declared that the compensation was not restricted only to three lakh rupees (4088.34 US \$) and that the courts had discretion to award compensation greater than three lakh rupees (4088.34 US \$).

Acid Attack Cases: Conviction Statistics

Although India has undertaken effective measures to provide justice to acid attack victims, issues remain, such as low conviction rates and delayed disposal of cases by

the Courts. Many acid attack cases in India are either annulled for trial in the subsequent year or remain established for years in police files only, without ever being brought to court. The inadequacy of the Indian legal system is reflected in the statistics set forth in Table 2.

Table 2. *Number and Disposition of Cases of Acid Attacks, 2016-2018**

Year	No. of cases that went to trial	No. of cases that were disposed by the police (investigation)	No. of cases that were disposed by the courts		Conviction rate
2016	407	196	6.6%	27	2.45 %
2017	442	182	9.9%	44	3.39%
2018	523	150	6.11	32	3.36%

*Source: National Crime Records Bureau, *Crime in India*, Reports of 2016, 2017, 2018

The number of acid attack cases that went to trial in India was 523 in 2018, 442 in 2017, and 407 in 2016, which if compared with the figure of reported incidents in the corresponding year appears substantively high (See Table 1). This demonstrates that the number of cases described as going to trial in a particular year included reported incidents from previous years also (See Table 1; Gupta, 2020). Furthermore, out of 407 cases that went to trial in 2016 only a meagre number of 27 cases, 6.6 % of the total cases, were disposed of by the courts completely (Table 2). The situation improved in 2017, but not in 2018. In 2017 and 2018, only 44 out of 442 cases (9.9%) and only 32 cases out of 523 cases (6.1%) were disposed of by the Indian courts (Table 2). This is likely due to delayed investigations by police. Between 2016 and 2018 the number of cases disposed of by police dropped from 196 to 150 respectively (Table 2).

These statistics reveal two things: first that 90% of acid attack cases reported in one year do not reach trial until the following year, and second that investigations and dispositions of cases by the courts are slow in India. (Gupta, 2020). An acid attack case on average takes up to five to ten years to be disposed of completely by the courts (Acid Survivors Trust International), which contributes to the low conviction rates. In 2016, 2017, and 2018 convictions rates were negligible at 2.45%, 3.39%, and 3.36% respectively (Table 2).

In India, the time-consuming judicial process exposes acid attack victims to numerous hurdles in securing justice. It not only deters witnesses' zeal to appear in court to testify against the accused, but also weakens the evidence in the case because over time a victim may not remember details as well as she would if the trial were held sooner (Thomson Reuters Foundation et al., 2015). It also gives perpetrators time to develop evidence they can use to ask for leniency on humanitarian grounds and discourages victims from staying involved in the process because the delay imposes additional financial burden on them (Thomson Reuters Foundation et al., 2015). The extremely low conviction rate in India can also be attributed to the absence of the presumption of guilt section in the Indian Evidence Act, alike section 114A. The Amendment Act inserted a section for the courts to presume the absence of consent in cases of rape (section 114A evidence act), but it failed to provide a similar section in the Indian Evidence Act by which prima facie evidence of guilt could be presumed in acid attack cases. A proposal was made to add such language in section

114B of the Evidence Act for achieving this purpose in acid attack cases, but the proposal was later abandoned.

FINDINGS AND CONCLUSION

Acid attacks are prevalent in India and despite actions taken recently by the Indian Government to stop the crime, acid attacks are on the rise.

To efficiently deter the crime, it is important to accurately measure true incidence rates, however the data are not accurate because many acid attacks are never reported and resources to address low reporting rates are inadequate.

The primary causes of growing incidence rates of acid attacks are India's patriarchal culture and its inadequate legal system. Although the Supreme Court of India in *Laxmi v. UO* established new standards for restricting the sale of acids, they remain cheap and freely available because the guidelines set by the court are routinely violated.

Even when acid attack cases are reported to police, many years pass before a final judgment is reached by the Indian Legal System. Furthermore, despite the Supreme Court's guidelines regarding compensation, many acid attack victims do not receive compensation on time. In 2020, only 799 of 1273 victims received compensation (PTI, 2020).


The following steps should be adopted to improve justice for victims and prevent acid attacks:

- India must establish a process for accurately counting incidence and prevalence rates of acid attacks. The National Crime Records Bureau (India) should prepare annual reports with reliable data to attract the attention of NGO's and other non-government organizations that work to prevent the crime.
- States must ensure that the guidelines laid down by the Supreme Court of India in *Laxmi v. Union of India* are diligently followed.
- Police must be directed to complete their investigations and dispose of cases expeditiously, which will help reduce the time spent by courts finally resolving cases.
- Section 114 B should be added to The Indian Evidence Act by way of an amendment to help improve conviction rates.
- The Indian government should undertake a public education campaign to educate people about the importance of thoroughly washing a victim's body with water immediately after an acid attack, in order to reduce the severity of injuries.
- The Indian government must begin to educate young people about patriarchy, women's equality, human autonomy, privacy and non-violence. The public must also be educated to treat acid attack victims as normal citizens and not to stigmatize or shame them. Victims must be assured opportunities to obtain employment and education, and cultural narratives should be reframed to help the public understand why acid attacks crimes are committed predominantly against women by men, and are the product of an intolerable patriarchal society and unacceptably inadequate legal system that treats such violence against women as a meager offense rather than a serious life-threatening crime that damages victims for life, harm and threatens all Indian women as a class of people, and undermines the very fabric of civilized Indian society.

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AUTHOR BIOGRAPHY

Vidhik Kumar  <https://orcid.org/0000-0001-6688-9592> is a B.A. LLB (Criminal Law Hons.) student at National University of Study and Research in Law, Ranchi, India. He has written articles on pertinent topics such as fake news, police brutality, and revenge porn. His areas of interest are criminology, criminal justice administration and general criminal, which he has pursued through internships.

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