

REPARATIVE JUSTICE FOR THE VICTIMS OF ACID ATTACKS; A COMPARATIVE STUDY

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ABSTRACT

Restorative justice is a problem-solving approach to crime which involves the party themselves and the community generally, in an active relationship with statutory agencies. Restorative justice is concerned centrally with 'restoration': restoration of the victim, restoration of the offender to a law-abiding life, restoration of the damage caused by crime to the community. Restoration is not solely backward looking; it is equally, if not more, concerned with the construction of a better society in the present and future. A commonly accepted definition used internationally is: Restorative justice is a process whereby parties with a stake in a specific offence resolve collectively how to deal with the aftermath of the offence and its implications for the future.³

Keywords: Restorative Justice, Compensation, Acid Attack

INTRODUCTION

For too long, the law has centred its attention more on rights of criminals than on the victims of crime. It is high time we reverse the trend and put the highest priority on the victims and potential victims.⁴ Victims were the forgotten piece of the criminal act, largely ignored by the police and the prosecution unless they were viewed as valuable tools in the apprehension or prosecution of offenders. This trivialization led victims to become more reluctant to seek help from the criminal justice system or participate in criminal proceedings. In 1982, in USA first Presidential Task Force on victims of crime was charged with the mission to remedy the situation for victims. In subsequent two and a half decades, victims' rights were enacted in every state.⁵

The most important object of criminal law is undoubtedly in the protection of primary personal right to life, personal liberty and property. In their wider connotations, the protection is ought to be against unlawful invasion by other-the lawlessness, the disorderly, the violent, the fraudulent and the predatory.

Nothing is more central to our well being than our primary personal right to life, bodily security, freedom of movement, security of habitation and enjoyment of property rights whose protection we have committed to the charge of criminal law. Yet the criminal law system remains far short of expectation in this area even long after anniversary of the Indian Penal Code.⁶

'Tears shed for the accused are traditional and 'trendy' but has the law none for the victims of crime, the unknown martyr?'⁷ The question and revealing remarks by Hon'ble Justice Krishna Iyer on plight of victims in criminal justice system clearly depicts the lacuna and ignorance of the criminal justice system towards the victims.

The first requirement of sound body of law is that it should correspond to the actual demands of the community, whether right or wrong.⁸ The modern criminal law, which is supposed to represent the social ambitions and norms, is designed to

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³ Tony F Marshall, "*Restorative justice: an overview*", A Restorative Justice Reader edited by Gerry Johnstone 2003.

⁴ Refer: "*Message of American President Gerald R. Ford*" in the American Congress in 1975.

⁵ Michelle L., Meloy, Susan L. Miller., "*The Victimization of Women*", Oxford University Press, 2011.

⁶ Hari Om Gautam, "*Victims in Criminal justice System*" Regal Pub. 2011.

⁷ Justice Krishna Iyer, "*The Criminal Process and Legal Aid*", *Indian Journal of Criminality*", Vol IV pp 10.

punish as well as to reform the criminals but it overlooks an important by product of crime; the victim. When a crime is reported to the police, they first look for the criminal. They maintain statistics on the arrest, conviction, imprisonment and release of criminal or suspected criminal. They require the services of the victim only as a witness for the identification and successful prosecution of the criminal. During the trial the criminal is treated as a privileged person and is provided all possible legal aid including a defence council, if necessary, at the cost of the state. The sufferings of the victims often immeasurable are entirely overlooked in misplaced sympathy for the criminals. One can, therefore, understand the sarcasm in the words spoken by the Belgium delegate at the Paris Prison Congress in 1896.⁹

There is widespread violence against women around the world, based on consideration of their sex alone. There is also a high degree of official and social tolerance of violence against women.¹⁰ Violence can be more easily carried out against women because of their lower social, economic and legal status. It include child marriage, honour killing, acid attack violence, forced abortion, forced use of contraceptives, sexual harassment, heterosexual, girl trafficking, forced prostitution, rape, domestic violence etc.¹¹ Under this chapter the main focus is only on acid attack violence, especially in India.

In many countries, women are victims of acid attacks when they allegedly or actually transgress hegemonic gender norms and roles that discriminate against women and keep them in subordinate positions. Acid violence is a gender based violence and discrimination prohibited under International law, including the “Women’s Bill of Rights”, i.e the convention on the Elimination of All Forms of Discrimination Against Women.¹²

Violence against women is a manifestation of historically unequal power relations between men and women, which has led to domination over and discrimination against women by men and to prevention of the full advancement of women.¹³

Acid attacks or violence is such violence where acid is intentionally thrown on the victim to maim, disfigure or to blind her. It is bitter aspect of many women’s life all over the globe. Many of these attacks are the acts of revenge because a woman spurns sexual advances or rejects a marriage proposal. These men feel so insulted that a woman could turn them down and have an attitude “If I can’t have you, no one can”.

Acid attack more formally known as Vitriolage, is an act of intimate terrorism that involves the premeditated throwing of sulfuric, nitric or hydrochloric acid on to another with the main intention of disfigurement.¹⁴ Women are at an increased risk of acid violence in certain countries, such as Bangladesh and India. An other fact or that puts victims at increased risk for an acid assault is their socio economic status , as those living in poverty are more likely to be attacked. Additionally, all three nations with the most noted incidence of acid attacks; Bangladesh, India and Cambodia-are ranked 93rd, 114th and 104th, respectively, out of 134 countries on the Global Gender Gap Index, a scale that measures equality in opportunities between men and women in nations.

⁸ O.W Holmes, “*The Common Law*” 1881.

⁹ Adolphe Prins, “*Belgian Criminologist wrote about the inequitable treatment accorded to the offender and victim*”.

¹⁰ Jane Roberts Chapman, “*Violence against women as a violation of Human Rights*”, available at: <http://www.jstore.org/2976654> accessed on 28/8/2017

¹¹ Jane Welsh, “*It was like burning in hell: A Comparative Study Of Acid Attack*”, 2009.

¹² The United Nations Declaration on the Elimination of Violence against Women, General Assembly Resolution, December 1993.

¹³ “*Combating Acid Violence in Bangladesh, India and Cambodia*”, A report by the Avon global centre for women and justice at Cornell law school.

¹⁴ *Supra Note 9*.

“Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women.”¹⁵

There is a wide spread violence against women around the world, based on considerations of their sex alone. There is also a high degree of official and social tolerance of violence against women.¹⁶ Violence can be more easily carried out against women because of their lower social, economic and legal status. Gender base violence is endemic worldwide, cutting across age, marital status, religion, class, race, and thus poses human rights violation and huge health problems. It includes acid attack violence, child marriage, honour killings, forced abortion, female genital mutilation, forced use of contraceptives, pre-natal sex selection, sexual harassment, rape, stalking, enforced sterilization of pregnancy, girl trafficking, forced prostitution, hetero sexual and same sex domestic violence and enslavement of women.¹⁷ **Acid attack**, more formally known as **vitriolage**, is an act of intimate terrorism that involves the premeditated throwing of sulfuric, nitric, or hydrochloric acid on to another with the main intention of disfigure¹⁸. These acids are mainly used as they are cheaply and readily available. This sadistic, cruel and heinous crime is on rise now-a-days and innocent girls/women are becoming victims of acid attack

Acid attack¹⁹, in general is not gender specific crime, and both men and women commit this horrendous offence. Acid attack violence occurs in many countries, but is mainly prevalent in India, Bangladesh, Cambodia and Pakistan. The reported cases of acid attack is committed on women, particularly young women/girls for rejecting the proposals of their suitors, for rejecting proposals/offer of marriage, for denying/disputes of dowry, domestic fights, disputes over property, etc. The reason behind this is that, the attacker can not bear his rejection, loss of honour and shame, insecurity, jealousy, patriarchy, aggression and frustration; his so-called male ego comes in between all this, and as a result he takes revenge by destroying the body, specially the face of the women who dared to refuse him. It leaves the victim charred, blinded, and mutilated, it melts human flesh and even bones, causing excruciating pain and terror and scarred for the rest of their lives. A women burnt by acid is like a living corpse. Those who commit such vengeful acts seek to sentence the victims to a plight worse than death. Acids have been thrown usually by the medium of moving motorcycles or on public roads, as it provides the easiest medium of escape even in broad daylight. Therefore, *acid throwing*²⁰ is an aggressive crime growing rapidly by which the person doing the crime seeks to inflict severe mental and physical trauma on the innocent victim. Rampant sale of acid, without taking/asking for any proper documents during the time of sale, is seen to be the main reason of this crime being spread like a fire. Some activists have been calling for tighter restriction on the sale of acids which are commonly used in the attacks. The sad thing is that, even the Indian Penal Code was not competent enough to deal with the acid attack. It had no provisions even to define *acid attack*.²¹ Due to increasing cases on acid attack, the Government of India decided to amend the old legislation and bring in some new ones. Even the Indian Supreme Court strongly criticized the Government for failing to formulate a policy to reduce acid attack on women. Hence, this gave way to the formation of the **Criminal Amendment Act**, which was brought in force on the **3rd of August 2013 and has been gazette on 2nd April, 2013**, which has some specific provisions on acid attack. The Law

¹⁵ “The United Nations Declaration on the Elimination of Violence against Women”, General Assembly Resolution, December 1993.

¹⁶ Jane Roberts Chapman, *Violence against Women as a violation of Human Rights*, Available at <http://www.jstor.org/stable/29766541>.

¹⁷ Jane Welsh, “*It was like burning in hell: A Comparative Study Of Acid Attack*”, 2009.

¹⁸ Ibid.

¹⁹ Section 3 (b) of Scheme for Relief and Rehabilitation of Offences (By Acids) on Women and Children- National Commission for Women, defined acid attack as “any act of throwing acid or using acid in any form on the victim with the intention of or with knowledge that such person is likely to cause to the other person permanent or partial damage or deformity or disfigurement to any part of the body of such person.”

²⁰ Acid shall mean and include any substances which have the character of acid burning nature that is capable of causing bodily injuries leading to scars or disfigurement or temporary or permanent disability.

²¹ Bangladesh, India, and Cambodia have ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Commission, headed by Justice A.R Lakshmanan, proposed that a new Section **326A**²² and Section **326B**²³ is to be added to the IPC. Section **114B**²⁴ has also been added in the Indian Evidence Act, 1872. The researcher will discuss about this in the proceeding pages .

Provided that any fine levied under this section shall be given to the person on whom acid has been thrown or administered.

Intentionally throwing or administering acid

Whoever throws acid on, or administers acid to, any person with the intention of causing burn or maiming or disfiguring or disabling or causing grievous hurt to that person shall be liable to imprisonment of either description for a term not less than 5 years but which may extend to 10 years and with fine which may extend to Rs .5 lakhs

The researcher seeks to delineate the grave issues of acid attack, its consequences and the dire need for the evolution of society and rehabilitation of victims of such crimes. Further an attempt has been taken to give a comparative study of acid attack of various countries in the back drop of Indian scenario.

REASONS OF ACID ATTACK

There are many reasons for acid attacks. The most common and obvious reason is “**love rejection**”, in which the proposer of marriage, love or sex is rejected by the victim.²⁵ Families of young women are very concerned with the preservation of their daughters’ marriage ability.²⁶ In addition to her physical appearance, a woman’s virginity is an other resource in the marriage market, and therefore, women’s involvement in romantic relationships before marriage is taboo. Vindictive lovers, on being turned down for marriage by women or their families, resort to acid attacks to destroy the woman’s appearance and relegate her to a fate worse than death. Study of Indian News Reports, from January 2002 to October 2012 uncovered that victim’s rejection for love and marriage proposals motivated attacks in 35% of the 110 new stories, providing a motive for the attack.²⁷

Additionally, another report was published by a leading organization working for acid attack victims,, *The Campaign and Struggle against Acid Attacks on Women (CSAAAW)* found that **sexual harassment or assault** in response to a woman or girl **refusing such advances or demanding that the violence stop** of ten precede such attacks.²⁸ This shows the society’s outlook on the women. Women still can not fight for the irrights which are the basic human right of every

²² Section 326A: i) Hurt by acid attack– Whoever burns or maims or disfigures or disables any part or parts of the body of a person or causes grievous hurt by throwing acid on, or administering acid to that person, with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punishable with imprisonment of either description which shall not be less than 10 years but which may extend to life and with fine which may extend to Rs 10 lakhs.

²³ Section 326 B penalizes the attempt to throw acid– It states that whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means with the intention of causing permanent or partial damage or deformity or burn so maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than 5 years but which may extend to 7 years, and shall also be liable to fine.

²⁴ Presumption as to acid attack: If a person has thrown acid on, or administered acid to, another person the Court shall presume that such an act has been done with the intention of causing, or with the knowledge that such act is likely to cause such hurt or injury as is mentioned in Section 326 A of the Indian Penal Code.

²⁵ Parvathi Menon, Sanjay Vashishtha, “*Vitriolage and India- The Modern Weapon of Revenge*”.

²⁶ Afroza Anwary, “*Acid violence and Medical Care on Bangladesh : Women's Activism as Care Work*”, 17 Gender and Society 305, 306 (2003).

²⁷ Sujoy Dhar, “*India's acid attack victim*” The Global Times, Feb 27 2017, <http://www.globaltimes.cn/DesktopModules/DnnForge%20%20NewsArticles/Print.aspx?tabid=99andtabmodulid=94&articleid=805020&moduleid=405andPortalId=0>

²⁸ Campaign and struggle against Acid Attack on Women (CSAAAW), *Burnt not defeated* 21-22 (2007)

individual. Women are still regarded as “possession”, and a man is supposed to take up all the decisions in the family. And when a woman refuses a man, it is seen as destroying his reputation, prestige and honour, and he restores it by burning her face with acids. Men throw acid on women as a mark of their masculinity and superiority. By deforming her face, man derives a distic pleasure and his male ego gets satisfied.²⁹ Another prominent reason may be **dowry problems or other marital problems**. Though taking of dowry is a punishable offence, but still, it is largely prevalent in many areas. It is considered as the duty of the bride’s family and has to suffer a huge social stigma if not complied with. In India, many women claim that they are attacked with acid due to the failure to meet with the monetary expectations of their in laws. In addition to this, land and property disputes may also be said to be the key reasons for the commission of this barbaric offence. The study of newspaper reports in India, exhibits that nearly 20% of the attacks occurred between unrelated people, due to business rivalry, sales disputes, land disputes or revenge between families.³⁰

Thus, from the above discussion one can reach at the conclusion that men resort to acid attacks as a means to intimidate women and to impose their authority on her. Such kind of barbaric attacks nurtures his male ego and makes him feel that he is the proud creator of God and has created the patriarchal society. Females between 11 and 30 years are the most vulnerable to such attacks, in 36% of the incidents the victims are targeted for rejection of marriage proposals. Therefore, the main cause that is seen to be behind acid attack is rejection of sexual advances.

CONSEQUENCES/IMPACT OF ACID ATTACK

The consequences that follow after a victim is injured with acid are endless. But most important among them are as follows:

Physical consequences:

Like other wounds and injuries, acid attack is unparalleledly the most painful of all. The acid thrown not only burns the skin, but also melts the flesh and bones layer by layer. It may also dissolve the bones. The damage depends on the amount of acid thrown and duration in which it remains exposed. If it is washed away immediately, then the intensity of the burn may be lessened. Further, if it is thrown on a person’s face, acid rapidly spreads in to the eyes, ears, nose and mouth. The eyelids and lips may burn off immediately and completely. Acid may quickly destroy the eye, blinding the victim. The nose may melt, closing the nostrils. Acid can quickly destroy the eye, blinding the victim. Even the skin and the bone on the skull, forehead, cheeks, and chin may dissolve. One study found that on average, patient suffered burns to 14% of the body surface area with are as most commonly affected, including the face (81%) of the victim, head and neck (67%), upper limbs (60%), and chest (54%). Around a third of the victims suffered (31%) suffered complete or partial blindness.³¹

Psychological Consequences

Psychological consequences can even be more pathetic and painful as compared to the physical consequences. It has deep impact only on the victim, but also on the families of the victims .A trauma grips the victim and also on the society and has deep root impact on the masses. A psychological trauma is suffered by the victim when she feels that her skin is burnt off, and after the attack the disfigurement and the disabilities with which they have to be ar for the rest of their lives. Some of the psychological problems which the victims suffer are in somania, nightmares, depression, fear of facing the world, headache, tiredness, fear of other acid attacks. They also feel depressed and worried as they think themselves boycotted and castaway from the society. The victim’s life fully becomes derailed as many times she looks

²⁹ *Supra Note 11.*

³⁰ “*Acid Survivors Foundation Bangladesh, Annual Report*” 2009 at 15(2009), available at http://www.acidsurvivors.org/AR_2009pdf

³¹ “*Acid Violence in Uganda*”- Retrieved from www.acidviolence.org/uploads/filesUganda_ASFU_Situational_Analysis_Report_FINAL_Nov2016_pdf

herself into the mirror as our traditional society is more hooked towards outer beauty than the inner beauty. This consequently sheds an adverse image on her empowerment.

Economic Consequences

The victims who are not married are likely not to get married as they suffer from many disabilities like blindness, deafness and many others and our societies mind set is not that broad enough to accept a disabled person as their better half. They even do not get a job in spite of being qualified as they cannot meet up to the expectation of their employers as not having the „personality“. Instead of helping them, we make their life more trouble some, as we sympathize them as we do not like to look at their faces for long. However this approach needs to be changed as they are suffering not for their wrong, but due to the fault of some ferocious animals roaming around the society freely . So far as economic consequences are concerned, such victims face a high discrimination when it comes to offering jobs. Therefore, it can be said that, the acid attack victims go through hell in this ordeal and their life becomes worse than death. Their physical scars remind them constantly of the atrocities committed on them, and a feeling of loneliness and worthlessness always haunts them.

LACUNA IN THE INDIAN PENAL CODE (IPC)

Provisions dealing with acid attack

Indian Penal Code has provided relief to these victims under Sections 320³², 322³³, 325³⁴ and 326.³⁵ But it is seen that these sections do not fulfil the gravity that is required for the seriousness of these offences. More over the term “acidattack” was not defined anywhere, and the provisions also restrict them to corrosive substances.

The crisis with the old provision

The United Nations General Assembly passed the **Declaration on Elimination of Violence against Women in 1993**, and India has ratified this declaration and is under an obligation to follow the same. **Article 4(f)** of this declaration states that, all member states should form certain recommendations, for the safety of the women and formulate ways to prevent them. There should also be separate provisions for granting exemplary damages to the victims of the attack. Now under **Article 253 of the Indian Constitution**, the Parliament has the power to make laws to give effect to these international agreements. Hence India is under an obligation to curb the menace of acid attack. Now it is seen that the definition of, **‘grievous hurt’** as given under **Section 322** of the India Penal Code is not inclusive of certain circumstances of acid attack as the definition clearly states the injuries that constitute „grievous hurt. “Therefore, if the perpetrator causes only skin damage to the victim of acid attack, with no substantial damage to other organs, it would not come under the ambit of grievous hurt. Further no provisions are there if there is a loss of income of the victim. Now if the accused is not charged under grievous hurt, then it will fall under „hurt“, which in turn invites a minimal punishment of three years imprisonment which is very inconsequential to the huge loss suffered by the victim. Further there was also a lacuna that, there was no provision for penalizing the accused for throwing acid. In light of the above discussion, it was felt that there was a need to enact an effective, efficacious, and specific legislation on the issue of acid attack and to cover all the loopholes that was present in the old existing law.

Amendment in the old Act

The **Criminal Amendment Act, 2013** which was passed on the recommendations of the **Verma Committee Report** which brought in to light the seriousness to deal to this acid attack offence. It inserted two new sections i.e. Sections 326A

³² Section 320, Indian Penal Code 1860, Grievous Hurt

³³ Section 322, Indian Penal Code 1860, Voluntarily causing grievous hurt

³⁴ Section 325, Indian Penal Code 1860, Punishment for voluntarily causing grievous hurt

³⁵ Section 326, Indian Penal Code 1860, Voluntarily causing grievous hurt by dangerous weapons or means.

and Section 326B in the Indian Penal Code. Therefore, the new amendment is a welcoming step towards reining in this crime. For the purpose of rehabilitation, victims may also be given compensation as under Section 357A of the Criminal Procedure Code, 1973. Another laudable step which has been brought by the Criminal Amendment Act, 2013 was the inclusion of Section 357C to the Code of Criminal Procedure. It states that all hospitals, public or private, whether run by the Central Government, the State Government, localbodies, shall immediately provide first-aid or medical treatment, free of cost to the victims of any offence covered under Sections 326A, 376, 376A, 376B, 376C, 376D or 376E of the Indian Penal Code, and shall also inform the police immediately.

One thing is very clear that *mens rea* is easily proved in acid attack, which is sometimes difficult to prove in murder also. Throwing acid at a person's face is a deliberate act. It requires the attacker to procure the acid first and this proves that the crime is premeditated. Therefore, the attacker throws acid in to the victim's face, fully being conscious of the consequences of his act. This shows that the attacker's actions are completely willful. This can be a strong point while thinking of some stricter punishment in acid attack

Cases related to acid attack in India

The following are some cases which illustrates the biasness done towards the acid attack survivors as the provisions of the Indian Penal code was incompetent to deal with them. In a case of *Devanand vs. the State*³⁶ a man threw acid on his estranged wife because she refused to cohabit with him. The wife not only lost her eye sight, but also led to permanent disfigurement of her face. Although the accused was held guilty by the Court, the punishment awarded was a minimal period of seven years under Section 307 IPC.³⁷ On the 28th of January, 2010, a 19 year old Anu, undergoing a training to become a nurse, was returning home with her two friends when an unidentified male factor threw acid on her face. She was severely burnt on her neck, face, arms, which resulted in her withdrawal from college as well from the society. She never looked the same as before. Lot of surgeries was done but the cost went far beyond the means of her family. The accused remains unpunished even today, one and a half years after the incident. The perpetrator remains unpunished even today, one-and-a-half years after the incident.³⁸ Monica was a first year of her under graduate course in apparel design at the National Institute of Fashion Technology (NIFT), when she was attacked at her home. She spent an entire year in a hospital in Lucknow and spent almost a sum of Rs. 50 lakh on reconstruction surgery. The Court has given her little relief. Two of the Monica's attackers are in custody but three are out on bail. Under the new law *passed last April*, Monica would have been entitled to compensation, both from the State and Central government as well from the accused. But unfortunately, Monica pre-dates this so she does not stand to benefit from the law. **Laxmi Agarwal**, the daughter of a domestic cook, was only 16 when 32 year old man began pursuing her. After she refused his marriage proposal a few times, he roared up one day on a motor cycle with an accomplice and threw acid on her face, chest and hands. She lost all her childhood, lost all friends and became a school dropout. People mocked her and stared at her, blaming her by saying that she might have done something to earn the man's wrath. She spent eight years hiding her face. But she gained courage when India exploded in the outrage over a gang rape on a bus last year. She immediately filed a PIL and sought a ban on the sale of toxic liquids. Under huge pressure the Government passed a law that for the first time created criminal charges specially for stalking, voyeurism, acid attacks and forcible public disrobing of women, an act sometimes carried out in rural areas to cause humiliation. Under the new law, a person convicted of an acid attack faces a minimum often (10) years and a maximum life sentence. There are end less cases happening all around in today's world. Only proper law and their effective implementation can help the acid attack survivors to get a ray of hope. Their rehabilitation and compensation should be well thought off. Time has come when the young generations are thinking of some new ways to make their life a bit enjoyable inspite of all odds. The law enforcement agency i.e. the police and judiciary should take a firm hold on these matters which the researcher will discuss in details in the coming paragraphs.

³⁶ Veerla Satya narayan v. State of Andhra Pradesh 1 SC 489 (2002).

³⁷ Section 3-7, Indian Penal Code, Attempt to Murder.

³⁸ "Acid Attack Victims Stil Waiting for Justice", The Times of India (Chandigarh), July 17, 2016, available at http://articles.timesofindia.indiatimes.com/2011-07-7/chandigarh/29784251_1_anu-acid-attack-victims-pgis

ROLE OF POLICE AND JUDICIARY

Role of Police in the investigation of acid attack

The investigation agency i.e. the police should play pro active and pivotal role to curb criminals and crime. But in India this concept occurs in only pen and paper. The action that the police take is inadequate and insufficient, especially when it comes to tackle or stop the violence against women.

For example, one of the most common responses of police with respect to violence against women is that it is victim-precipitated.³⁹ They keep asking all sorts of irrelevant questions like about the dress code, why roaming in the darkness etc, thereby increasing the trauma of the victim. They are insensitive in their behaviour to deal with the victims of rape and other sorts of violence, in spite of Supreme Court's strict guidelines on the issue. Acid victims also feel reluctant to report acid attacks because they fear the harassment and the ridicule from the police officers. Officers may frame acid violence investigations in terms of a woman's sexual history and questions of morality.⁴⁰ Several acid attack victims reported that their attackers bribed the police in order to influence the investigation. In order to deal with the insensitivity of the police officers in cases of violence against women, Criminal Amendment Act, 2013 introduced a proviso in **Section 154** which deals with the recording of the First Information Report. According to this provision, in cases of violence against women, statement of the victim should be recorded before a women police officer. But there are very less women police officers in the Department. Women police officers should also be trained to deal with the matter sensitively. Moral training should also be emphasized. They should be taught the value of their job, to not only fight against crime, but also to help the fellow citizens.

Role of judiciary in prosecuting the perpetrators of acid attack:

Before the passing of the Criminal Amendment Act, 2013, the persons accused of acid attack were not heavily punished, rather they were booked under hurt which invited a minimum punishment of 3 years, more over they were also released on bail easily. Adequate compensation was also not paid to the victims. In *Ravinder Singh vs. State of Haryana*⁴¹ acid was poured on a woman by her husband for refusing to give her divorce. The husband was involved in extra-marital affair. Due to this attack the victim suffered multiple acid burns on her entire body, which later led to her death. The accused was charged under Section 307 of the IPC. However, life imprisonment was not imposed even though the victim died. In *Syed Shafique Ahmed vs. State of Maharashtra*⁴² a personal enmity with his wife was the reason behind a grave acid attack by the husband on his wife as well as another person. This caused disfigurement of the face of both the wife as well as that of the other person and loss of vision of right eye of the wife. The accused was charged under Sections 326 and 324 of the IPC and was awarded Rs. 5000 as fine and 3 years imprisonment. This case again shows that the punishment that is often awarded does not take into account the deliberate and gruesome nature of the attack and rests on the technicalities of injuries. This shows the callousness and insensitive nature of the judiciary. But time has changed, and after Laxmi Agarwal filed a PIL in the Supreme Court, the Court also laid down some important guidelines, which are listed below:

Counter sale of acid is completely prohibited, until and unless the seller maintains a register which contains the name of the buyer.

No acids should be sold to a person who is below 18 years of age. Proper ID card should be shown by the buyer at the time of purchasing the acid.

³⁹ *Supra note 11.*

⁴⁰ Campaign and Struggle against Acid attack on Women (CSAAAW), *Burnt not defeated* 21-22(2007)

⁴¹ *Ravinder Singh v. State of Haryana* SC 856 AIR (1975)

⁴² *Cri L J* 1403 (2002)

All the stock of acids should be declared by the seller with the concerned Sub-Divisional Magistrate within a period of 15 days. If it is not declared, then the goods will be confiscated by the Sub-Divisional Magistrate and a fine of Rs.50000 will be imposed on him.

The acid victim should be given a compensation of atleast 3 lakhs from the concerned State/Central Government as the aftercare and rehabilitation cost. Of this amount, a sum of Rs 1 lakh shall be paid to the victim within 15 days of occurrence of such incident to facilitate immediate medical attention and the rest 2 lakhs must be given within two month as early as possible.

The role of judges is also immense. He should see that the cases are expeditiously settled down and proper relief is given to the victims. Indian judiciary has come along way to tackle acid attacks but the problem still persists. Only time will change the mindset of the people.

ACID VIOLENCE IN OTHER ASIAN COUNTRIES

Acid attacks have been witnessed in various part of the world. In this paper, the researcher attempts to analyze the legal position of **Bangladesh, Pakistan and Cambodia**. Indian position has already been discussed earlier in this paper.

Bangladesh

Acid attack in Bangladesh is a growing phenomenon and takes a drastic scene at times. Hence, to combat the acid attack, Bangladesh Government has enacted specific legislation in the year 2002. They are the **Acid Crime Control Act (ACCA)** and the **Acid Control Act (ACA)**. The ACCA highlights the provisions regarding to penalty and also creates special court procedures for acid attack cases. They are: the ACA allows courts to impose the death penalty for acid attacks. The level of punishment is tried to the parts of the body affected. If the victim dies or loses sight or hearing, of if the victim's face, breasts or sexual organs are damaged, the attacker faces the death penalty or life imprisonment, As well a fine of Tk. 50,000.⁴³ Even they Have punishments for attempting to throw acid without physical or mental suffering. Those accused are given an imprisonment of 3 and 7 years and a fine of Tk. 50.000 can also be imposed.⁴⁴ They also have certain provisions regarding investigation. Police must investigate the acid attacks within 30 days, but can be given a 60 days extension. If the investigation is not completed within the time frame, the courts may request that the police department designate another investigating officer to complete the investigation within the prescribed period and may take steps against the investigating officer.⁴⁵ The act also punishes the unlicensed production, import, transport storage, sale and use of acid by a prison term of 3 to 10 years and a fine up to Tk. 50,000.⁴⁶ Though, the implementation of these stringent rules remains a challenge in Bangladesh.

Pakistan

Acid attacks are also at a high in Pakistan, and is speedily increasing day by day. Pakistan acid attacks are basically by the husbands against their wives who have "dishonoured them." In 2011, Pakistani Parliament made amendments to the existing laws that criminalized such attacks, stipulating a minimum sentence of 14 years in prison, a maximum sentence of life sentence and fines upto 1million Pakistani rupees (\$10,000). After the suicide of an acid attack victim last year, pressure mounted on the Government to introduce more stringent laws. The landmark case of *Naila Farhat* ,gained enormous publicity and the perpetrator was sentenced to 12 years imprisonment and was ordered to pay 1.2 million rupees as damages. This was an exceptional decision in the history of acid attack in Pakistan. Later, abilltitled "**Acid throwing and burn Crime Bill, 2012**", was introduced in the Parliament in Pakistan.

⁴³ Section 5 (b) of the Acid Crime Control Act, 2002.

⁴⁴ Section 6 of the Acid Crime Control Act, 2002.

⁴⁵ Section 11 of the Acid Crime Control Act, 2002.

⁴⁶ Section 23 of the Acid Crime Control Act, 2002.

Cambodia

According to the data collected by the Canadian Acid Survivors Charity(CASC) on people treated in hospital for acid attack, there have been 271 acid violence victims between 1985 to 2010 in Cambodia. The number is alarming increasing day by day. The Royal Government of Cambodia has taken some positive steps to combat this horrific practice. A new law was passed in 2011 which incorporated penalties and death for the accused that disable the victim's life. In case of death by acid attack, the perpetrator is awarded a life imprisonment. Acid law also provides that unless a person or legal entity has a license or letter issued by the concerned ministry or responsible authority, they shall not be allowed to import, transport, distribute, buy, sell or store or use acid.⁴⁷Article 14 of the Acid Law includes penalties or fines for those operating without a license. It also includes an obligation on the part of the responsible or the relevant authority to immediately bring the victim to any medical centre or hospital and provide treatment free of cost.⁴⁸ But here also the problem lies in the implementation. Yet another trend has been seen in Cambodia is that this law has rarely been used in the Courts. In early 2013, the **Pnom Penh Municipal Court** for the first time sentenced a perpetrator of acid violence under the new law.⁴⁹

Therefore, from the above discussion it can be concluded that, though pertinent laws on acid attack are prevalent in almost all the countries, but they bear no fruits without any effective implementation machinery. For a law to be effective, all the organs of the state needs to work efficiently hand in hand, otherwise the pain and sufferings of the victims will be everlasting.

CONCLUSION

The researcher has established the gravity of acid attack in this paper, focusing extensively on the physical, psychological and economic effects that have on the victims. A discussion has also been carried out on the lacunae in the Indian Law and how essential it is to have a specific law in this regard. This crime appears to be a premeditated one which requires a tremendous ill-will on the part of the perpetrator, and therefore, should be punished severely. In addition to this, a sound compensation for the victim is a vital provision for enforcing justice. Another important aspect which requires immediate consideration is the formation of new rehabilitation schemes. Better job opportunities, training etc, should be imparted to the victims of such crimes, enabling them to atleast meet their day to day livelihood needs. There are some measures which can be taken to curb acid attack.

Women should come forward to improve conditions of the acid attack victims. An other effective measure could be greater awareness and more sensitive and mature handling of these cases by the media. A value-base education is the need of the hour, enactment of new laws, creating institutions and lip service to provide reservation will not take care of this horrendous evil. The fourth estate can be instrumental in raising public and national sentiment against this crime and its perpetrators, which in turn could influence the authorities to take a firm er stand against acid attacks. This crime deserves to get the stringent of punishment as it is more heinous than rape and even murder. In murder, the murderer destroys the physical frame of the victim; and in rape, a rapist degrades and defiles the soul of a helpless female. But in the crime of acid attack, there is destruction of both–the body and the soul. It is our sincere hope that the dismal condition of the legal apparatus with regard to acid attacks can be improved; so that the victim's problems can be assuaged, and the Indian society becomes a safer place for women. It is time to seriously ponder over these above questions.

⁴⁷ Article 5 and 8 of Acid Law.

⁴⁸ Article 10 and 11 of Acid Law.

⁴⁹ Lieng Sarith, "First case prosecuted under the new Acid Law", The Phnom Penh Post, 29-01-2013 (retrieved <http://www.phnompenhpost.com/national/first-case-prosecuted-under-new-acid-law>)

REFERENCES

1. Tony F Marshall, “*Restorative justice: an overview*”, A Restorative Justice Reader edited by Gerry Johnstone 2003.
2. Michelle L., Meloy, Susan L. Miller., “*The Victimization of Women*”, Oxford University Press, 2011.
3. Hari Om Gautam, “*Victims in Criminal justice System*” Regal Pub. 2011.
4. O.W Holmes, “*The Common Law*” 1881.
5. Adolphe Prins, “*Belgian Criminologist wrote about the inequitable treatment accorded to the offender and victim*”.
6. Jane Roberts Chapman, “*Violence against women as a violation of Human Rights*”, available at: <http://www.jstore.org/2976654> accessed on 28/8/2017
7. Jane Welsh, “*It was like burning in hell: A Comparative Study Of Acid Attack*”, 2009.
8. Jane Roberts Chapman, *Violence against Women as a violation of Human Rights*, Available at <http://www.jstor.org/stable/29766541>.
9. Jane Welsh, “*It was like burning in hell: A Comparative Study Of Acid Attack*”, 2009.
10. Afroza Anwary, “*Acid violence and Medical Care on Bangladesh : Women’s Activism as Care Work*”, 17 Gender and Society 305, 306 (2003).
11. Sujoy Dhar, “*India’s acid attack victim*” The Global Times, Feb 27 2017, <http://www.globaltimes.cn/DesktopModules/DnnForge%20%20NewsArticles/Print.aspx?tabid=99andtabmoduleid=94&articleid=805020&moduleid=405andPortalId=0>
12. Lieng Sarith, “*First case prosecuted under the new Acid Law*”, The Phnom Penh Post, 29-01-2013 (retrieved <http://www.phnompenhpost.com/national/first-case-prosecuted-under-new-acid-law>)