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An Analysis of the Legal Regime against Acid Attack Offences: Emphasis on Indian Legislative Approach

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ABSTRACT

It has been 7 years since the legislation specifically dealing with acid attack offences was released, given the sociological conditions in India which allowed perpetrators to easily escape the repercussion of throwing acid on a person, the most common victim being a woman who had suffered such a fate for spurning the advances of a man, rejected dowry demands, or had been insolent in following her husband's lead. Whatever the reason, even internationally it has been accepted that acid attacks are a gender-based violence.

This paper intends to pursue the international developments in the fight against acid attacks, especially in countries such as India, Cambodia and Bangladesh, which have been focal points for crimes of these stature. The paper explains the practical repercussions on the body and mind of the victim, and the loss of social and economic life which is a near about certain outcome of the attack. The paper tracks the legislative cases before and after the passing of the Criminal Amendment Act, 2013 in India and exploring whether there has been a change in the standards of inclusivity in the society after the passing of the legislation. The paper further seeks to understand whether the compensatory and retributive framework has changed in the recent judgements of the judiciary. Lastly, the paper tracks the position of acid attack legislatures in various countries, record the progressive changes therein, and determine whether India may take inspiration from the other hot spots in curbing the rampant acid attack offences in India.

I. INTRODUCTION

Violence against women has ranged across the territorial boundaries of states and cut through the vast passages of civilization. Among various such crimes against women, acid attack has morphed into one of the most heinous and brutal of crimes which violates the physical body as well as inflicts mental trauma on the victim. Formally known as vitriolage, acid, when thrown upon a person pertains to an intimate crime with a constituent of premeditation and intention to disfigure the victim. Though not exclusively a gender specific crime in principle,

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it can typically be seen that in most cases this horrendous crime is committed by men, women being the classic victims of such acts. Shockingly, India being one of the states with high instances of Acid attack offences, the Indian Penal Code did not have a legislation to deal with this offense. It was sparsely and inadequately covered within the section describing the offense of grievous hurt until the government brought into force the Criminal Amendment Act, 2013.

Even with the inclusion of sections 326A and 326B several discrepancies can be seen within the legislation dealing with acid attack offences in India. It is imperative to understand the lacunae within the legislation that prevents it from acting as a sufficient deterrence to acid attack offenders, if there is a hope of uprooting such a crime from the society.²

II. INTERNATIONAL RESPONSE TOWARD ACID VIOLENCE

The convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) constitutes acid attacks as a gender based violence, since it constituted as an attack of women by the virtue of their identity as a woman or because it affects them disproportionately.³The convention describes gender based violence which is a repercussion of discriminatory traditional attitudes towards women and India, along with Cambodia, Bangladesh and various other countries, having ratified this convention is obligated to work towards combatting all kind of discrimination and violence against women.⁴Though men and children are also the victims of acid attacks, acid attacks have a gender dimensions in countries like India, Pakistan, Cambodia and Bangladesh, where women are majorly the sufferers.

Article 51 of the Indian constitution provides for India's international human rights obligation through international instruments, which are mandatory for the parliament to implement unless a contradictory law has been passed.⁵The Right to life under Article 21 creates an obligation on the Indian parliament to formulate laws for the protection of life. Acid attacks constitute as a grave offence upon the body and psych of the victims. Upon various instances these attacks prove to be lethal for the victim or may later result in the death of the victims due to subsequent infections, mismanaged surgeries or suicides. Therefore, it becomes imperative that depending on the situations of the case, acid attacks may be prosecuted as

²S. Senthilir, *Acid Is Not An Answer To Anything*, Economic and Political Weekly, Vol. 48, No. 13 33, 33-35 (Mar 13, 2013)

³ United Nations Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No. 35 on gender based-violence against women, updating general recommendation No. 19* ¶ C/CG/35 (July 14, 2017).

⁴ United Nations Treaty Collection Database, <https://treaties.un.org/>.

⁵INDIA CONST. art. 51.

attempts to murder,⁶ and strict action must be taken to deter such offences.

International Covenant on Economic, Social, and Cultural Rights (ICESCR) guarantees utmost attainable standard of mental and physical wellbeing through various provisions under Article 12.⁷To ensure this right to health provided in the Covenant, the minimum standard has been specified in the form of the AAAQ framework-accessible, available, acceptable, quality. Availability in the context of acid attack victims demands that facilities for the treatments of burns should be built, paired with competent medical and nursing professionals who shall be readily available to the victims, and for the government to provide rehabilitative services to the victims in the extended future.⁸Accessibility requirements provide that medical facilities shall be physically available for the victims, especially those who are economically unable to pay the expenses or live at great distances and may not generally be able to avail specialised medical services. It ensures that no one is deprived of such services due to general biases arising from caste, sex, gender, creed etc.⁹Acceptability demands that the medical staff should be sensitive to the trauma faced by the victims and subsequent social ostracization that they might face. Additionally, the medical staff should have an awareness of acid attacks being a gender specific crime and the underlying domestic violence that might be attached to it and respond accordingly. Quality requires the medical services to be the latest scientific and medically adequate with appropriate equipment and procedure.¹⁰

The right to be free from any kind of torture and cruel or inhuman treatment is a recognisable, absolute and non-derogable right under international law.¹¹Article 3 of both ICESCR and ICCPR (International Covenant on Civil and Political Rights) states that the provisions of each shall be enforced free for any kind of discrimination based on gender. Thereby, the government of India shall take steps through legislative measures, administrative provisions and programmes to spread training and awareness regarding these crimes to counter the disproportionate repercussions of acid attacks on women so that they can enjoy their rights on an equal basis compared to the male gender.¹²

⁶ Law Commission of India, *226th Report on the Inclusion of Acid Attacks as Specific Offences the Indian Penal Code and a law for Compensation for Victims of Crime* (July 2009), <http://lawcommissionofindia.nic.in/reports/report226.pdf>.

⁸KERRY MCBRRO AND SALINA WILSON, *BURNING INJUSTICE: A RIGHTS ADVOCACY MANUAL FOR LAWYERS, ACTIVISTS AND SURVIVORS ON ACID VIOLENCE IN INDIA*,----- (Human Rights Law Network 1ded 2014).

⁹United Nations Treaty Collection Database, <https://treaties.un.org/>

¹⁰Id. at 5.

¹¹U.N. GA International Covenant on Civil and Political Rights, Dec. 16, 1966, art. 7.

¹²United Nations Committee on Economic, Social and Cultural Rights (CESCR), *General Committee No. 16: The Equal Right on Men and Women to the Enjoyment of All Economic, Social and Cultural Rights* ¶E/C.12/2005/4(Aug. 11, 2005)

Specific scenarios on the basis of the facts of the incident may attract protection from the provisions enshrined in Convention on the Elimination of Racial Discrimination (CERD) and/or the Convention on the Rights of Persons with Disabilities (CPRD). For an instance, if the victims faces discrimination which is based or related to their disability, it directly attracts the liability of the government to ensure justice to the individual.¹³

III. ACID VIOLENCE: A LEGAL RESPONSE IN INDIA

It was found that the penal provisions provided in the IPC were grossly inadequate to deal with the menace that was the offence of acid attack in India. The criminal provisions of grievous hurt in section 320, 322, 325 and 326 were insufficient to deal with the above stated phenomenon.¹⁴ The definition of 'grievous hurt' was legally criticized due to exclusion of various kinds of grievous hurt inflicted upon a woman's body or other offences such as acid attacks where different kinds of hurt occur.¹⁵ For instance, if the perpetrator does not target specific organs of the body mentioned in the section of grievous hurt, they might not be sentenced gravely—for example, an acid attack that blinds the victim would attract the section of hurt for which the maximum punishment stands at three years of imprisonment.¹⁶ The sections of grievous hurt prove restrictive in the sense that the offense is punishable only when one intends to cause and does cause grievous hurt or knows himself likely to cause grievous hurt.¹⁷ Even under section 326 of voluntarily causing grievous hurt, if it involves any corrosive substance, the offence is punishable by a life imprisonment or for a sentence extending to 10 years.¹⁸ Such a punishment is considered to be inadequate for the gravity of offence committed by the perpetrators in acid attacks because hardly, if ever, the perpetrator was sentenced to a punishment for ten years or more. Even when a person is charged with attempt to murder in cases of acid attacks, generally, bail is granted to the perpetrators since it proves very difficult to prove mens rea on their part. It is to be noticed that acid attack was not covered under the purview of grievous hurt if the damage was limited to the skin and no substantial damage was caused to the other organs of the body, or if the damage was reversible.¹⁹ The section failed to account for the stigma and mental injury faced by the victim

¹³ CEDAW, *supra* note 1.

¹⁴ JT. K T THOMAS & M A RASHID, THE INDIAN PENAL CODE: AS AMENDED BY THE CRIMINAL LAW AMENDMENT ACT 2013 252-254 (34th ed, Ratanlal and Dhirajlal, 2014)

¹⁵ Indian Penal code, 1860, No. 45, Act of 1860, sec. 320 (India).

¹⁶ Sital Kalantry & Jocelyn Getgen Kestenbaum, *Combating acid violence in India, Bangladesh and Cambodia*, Avon Global Center for Women and Justice and Dorothea S. Clarke Program in Feminist Jurisprudence (2011).

¹⁷ Dr. Ambika R. Nair, *Acid Attack Violence Against Women: Need of the Hour*, JIRAS Vol.1 Iss.1 112, 107-118 (2014)

¹⁸ Indian Penal Code, 1860, No. 45, Act of 1860, sec. 326 (India).

¹⁹ *Id* at 13.

due to such attacks and in cases where the section of grievous hurt was not applied, the crime fell within the purview of the section of hurt which provides for an imprisonment of 3 years-being grossly inadequate for a crime of such grave nature. In the light of the dilemma of the application of hurt and grievous hurt or trying to fit in the attempt of administering acid as an offence, there arose a dire need of a new legislative provision that would deal with the existing shortcomings of the law.²⁰

Considering the following lacunae that were clearly visible in the former law, Criminal Law Amendment Bill, 2013 was passed on the recommendations of JS Verma Committee to bridge the above stated gap. Two new sections, namely, section 326A(voluntarily causing grievous hurt by acid etc) and section 326B(Voluntarily throwing or attempting to throw acid etc) were inserted in the Indian Penal Code. A step was taken toward the rehabilitation of victims under section 357A in CPC by including a provision for compensating the victims. The inclusion of section 357A was also a laudable step by the parliament for providing immediate and free first aid and medical treatment to the victim by all hospitals, medical or private.²¹

IV. VITRIOLAGE: THE DELUGE OF REPURCUSSIONS

Corrosive substance or vitriol age is thrown upon women for a multitude of reasons which encompass alleged adultery, rejection of marriage proposals, domestic violence, unfulfilled dowry demands or, a reaction to turning down advances of men. Such substances administered to them, invite as a consequence, physical and psychological repercussions which lead to immeasurable hardships.²²

Acid attacks are perceived as one of the most heinous crimes on the person of a human being that cause unprecedented damage to the victim and leaves them in an unsurmountable amount of pain with scarred and mutilated skin. On various instances, acid attacks amount to permanent physical disabilities such as a loss of hearing or blindness, in addition to other physical, economical, psychological and social consequences.²³

The acid causes visible necrosis (death) of the human skin tissue and eats through the bones

²⁰Parvathi Menon & Sanjay Vashishtha, *Vitriolage India-the Modern Weapon of Revenge*, 2 IJHSSI 01, 01-09 (2013)

²¹Nargis Yeasmeen *Acid Attack in the Backdrop of India and Criminal Amendment Act, 2013*, 4 IJHSSI 06, 06-13 (2015)

²²J S Verma, Report of the Committees on The Amendments to Criminal Law,(2013)(Ind), available at https://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf

²³Law Commission of India, 226th Report on The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Victims of Crime, (2008)(Ind) available at <http://lawcommissionofindia.nic.in/reports/report226.pdf>

of the victim. Acid immediately starts destroying the eyes of the victim and may even lead to total dissolution of skull, chin, eyelids etc. Inhalation of acid vapours may swell the neck of the victim and cause death due to indirect strangulation by constricting the airways which renders the victim unable to breathe at all.²⁴ When the burn scars finally heal, they stretch tight across the skin which causes disfigurement and deformation—instances may include permanently flared lips and the chin welding to the chest in case the scars run downward.

Psychologically, the effects are severe and manifold. The victims suffer terror at the time of the attack when they feel their skin melting away, as well as after the attack when they have to live with permanent scars and disfigurement. Insomnia, depression, nightmares and memories of the assault are few of the aftereffects of the attack. The attack on a face is far away from a physical imposition, being central to the communication and interaction of a person with others and therefore has the potential to affect how others perceive us. Since the victim falls outside the recognised standards of appearance, it may lead to the social isolation of the victim which adversely affects his/her psych.²⁵

In many cases unsympathetic and inconsiderate behaviour of the relatives leads to the breaking off of familial ties with them. With the withdrawal of familiar ties arises the problem of economic or financial magnitude. Employers, especially in the service sector are extremely reluctant to provide employment to the survivors, completely disregarding their qualification and competency for the job. The victims are forced to live a life of poverty and destitution. It is ironic to realise that though social and economic rehabilitating is one of the most pressing need for the victim yet it is one which is generally not ventured into. The family members of the victim may be burdened with an impromptu medical bill that reaches into lakhs and the physical appearance of the victim might be distasteful and shameful for the relatives, which is yet another aspect of the social isolation that victims generally face on a daily basis.

In a society where a large number of women are dependent on their husbands for financial support, acid attack reduces the marriageability of the survivor due to hearing loss, blindness and disfigurement, and increases the chances of abandonment for the women that are already married. In cases where the husband himself is the perpetrator, the victims are forced to protect their attackers from the law in fear of their economic situation should he be jailed. Gaining a divorce becomes extremely difficult for women considering the social stigma attached to it, the resulting backlash they might receive, and the economic dependability on

²⁴Idat 2.

²⁵Id at 3.

the husband.

V. JUDICIAL RESPONSE IN INDIA REGARDING ACID VIOLENCE

(A) PRE 2013 CRIMINAL AMENDMENT ACT CASES

In a case in Maharashtra²⁶, the accused threw acid on his sister-in-law who was holding her two and a half year old baby, for failing to provide maintenance to the second wife of her husband. The victim suffered various burns on the left side of her body and both she and her daughter lost their eyesight. Later, the women died due to the shock of burn injuries. The brother-in-law was convicted under section 302,²⁷ where he was to undergo life imprisonment and a fine of 1000 rupees but his sentenced was shortened to a fine of 3000 rupees and a year imprisonment due to the application of section 326 of the IPC. The judge failed to understand the gravity of the offence and did not levy a fine that would be complementary to the crime committed by the offender and the court failed to provide compensation to the daughter who suffered various injuries due to the attack.

In *Devanand v The state*,²⁸ the accused poured acid on her wife's face which caused permanent disfigurement of the face and loss of eyesight in one eye for refusing to cohabit with him. Though the accused was convicted he received a nominal and meagre imprisonment for seven years.

In the case of *Ramesh Dey and Other v State of West Bengal*²⁹, the accused persons had made a previous attempt of throwing acid on the victim and they succeeded on the second attempt to exact revenge from her for rebuffing the advances of the primary accused. He, along with his two comrades, went to the victim's house where she was sitting outside with her son and aunt and threw a bottle of acid on her face. The victim died due to extensive burn injuries whereas the aunt and the son also suffered severe burn injuries. The court sentenced the main accused for life imprisonment along with a fine of 5000 rupees under section 302 and section 34 of the IPC. The other two accused were also convicted under section 324 and section 34 and were sentenced to a fine of 1000 rupees and one year rigorous imprisonment each. The appellate court judge set the conviction against the other two accused aside on the contention that there was not enough evidence to prove participation on their part under section 34. Under the given circumstances only the presence of the accused on the crime scene could be proved which attracted no liability for the rest of the accused persons.

²⁶ Gulab Sahiblal Shaikh Vs. The State of Maharashtra, (1998) Bom C.R.(Cri) (India).

²⁷ Indian Penal code, 1860, No. 45, Act of 1860, sec. 302 (India).

²⁸ Devanand v The State, (1987) 1 Crimes 314 (India).

²⁹ Ramesh Dey and Ors. vs. State of West Bengal, (2007) 3 C.H.N 775(India).

In some cases women are targeted for dowry demands or for possession of their properties. As in a case before the Supreme Court,³⁰ where a husband wanted to kill his wife and daughters to gain possession of the property, being the sole beneficiary after their deaths. He poured acid over them along with the help of an accomplice. The deceased received major burn injuries on her face and neck. The post mortem report showed the cause of her death to be the shock resulting from the burns. Both the accused were tried under sec 302 coupled with sec 34 and sentenced to imprisonment for life but no compensation was provided to the victims.

In the case of *State of Karnataka by Jalahalli Police station v Joseph Rodrigues*,³¹ the accused was pestering the victim to join his home office and even upon refusing multiple times he kept up the constant bombardment of the offer.³² Finally he threatened the victim with dire consequences and a few mornings later, he threw sulphuric acid at her face. The attack deeply changed her physical appearance, the complexion of her face and left her blind. This was a landmark case since for the first time, the court provided her a compensation of 200000 rupees along with a fine of 300000 rupees to be paid by the accused to Haseena's parents. The convict was sentenced to imprisonment for life under section 302. Though this judgement is considered to be a landmark one, it is to be noted that there was no monetary support provided for the after effects such as loss of income. Additionally, though the compensation provided was one the highest of that time, it was extremely inadequate to meet the entire medical expense which rounded off to about 20 lakhs for which her parents had to sell their home.³³

In cases such as these we see the very prevalent concept of victimisation at the hands of judiciary itself. It is shocking to note that the court labelled the girl as hideous post attack³⁴ and made statements such as her parents must have preferred seeing her dead than having such a "ghostly" face. The callous projection of such statement by the court, has propagated a discourse that acid attack survivors could not lead a normal, fulfilling life and could contribute to the society or have a satisfactory family life. This is the exact motive with which the perpetrator sets out to throw acid at a victim-the most effective way of ruining person's life is ruining their physical appearance in a society which is harsh toward any blemishes and imperfections.

³⁰ Ram Charittar and Anr. etc. vs. State of Uttar Pradesh (2007) 9 S.C.C. 76(India).

³¹ State of Karnataka by Jalahalli Police Station vs. Joseph Rodrigues S/o V.Z. Rodrigues, (2006) S.C.C. OnLine Kar 494(India).

³² Naveen Ammembala. *I Was Only Seen As A Commodity*, Hindustan Times, July 30, 2012, at 4

³³ Id at 27

³⁴ Burning Injustice *supra* note 5

(B) REVOLUTIONARY JUDGEMENTS OF THE JUDICIARY PERTAINING TO COMPENSATION FOR THE VICTIM

Another landmark judgement with regards to acid attack offences is *Laxmi v Union of India*,³⁵ a girl aged sixteen years was walking down the lane when she heard her name being called out from a motorcycle. As soon as she turned back, the woman on the motorcycle hurled acid on her for not accepting the marriage proposal of their common friend. Her face, arms, and chest was completely burned and it took several major surgeries to even partially heal them. The accused persons were convicted under section 302 of the IPC and sentenced for imprisonment of 10 years and 7 years respectively. Despite having undergone such trauma Laxmi took an initiative for other acid attack survivors and filed a PIL for monitoring sale of acids, providing compensation for the victims and their rehabilitation. Various discrepancies were found in the law as the proceedings went forward.³⁶

It was shocking when the main accused was easily released out of the jail on a bail and it became clear that unless a separate legislation came into existence for this crime, and judges and the general public were made aware of the gravity of such an offence, such bails would continue to be granted in the acid attack offences. Considering the easy availability of the acids in the market and the ginormous cost associated, coupled with a multitude of corrective surgeries, it was imperative that a proper framework of compensation should be made available to the victims and therefore, with the help of her parents, Laxmi filed a petition in the Supreme Court in 2006.

The first important order passed by the Supreme Court in this regard was asking the State Governments about the steps they had taken or resources they had allocated to provide compensation under the newly inserted section 357A under CPC. The government's apathetic response to the various reminders of the Supreme Court regarding banning or at least putting restrictions for the sale of acid was particularly concerning and the government woke up from its slumber only after a particularly gruesome acid attack.³⁷ The government finally following into the footsteps of the Punjab government and declared "acid" to be a "poison" under the Poisons Act, according to which the stocking and sale of the acidic substances shall be regulated. These guidelines were formally adopted by the Supreme Court, some of the provisions being a total compensation of 300000 rupees, one lakh out of which shall be

³⁵ *Laxmi vs. Union of India and Ors.*, (2014) S.C.C. 4 427

³⁶ *Burning Injustice Supra* note 5.

³⁷ *Burning Injustice supra* note 5.

disbursed into their accounts within 15 days.³⁸

Though the directions had been issued for taking into cognizance the sale and stocking of acid, their implementation leaves a lot to be expected. The guidelines instruct the seller to confirm the reason for which the buyer was purchasing the acid but this proved to be a really vague provision since there has been no concrete standard that have been set to prove the genuine requirement of the acid. It is hard headed to assume that a person with a criminal intent would be truthful with the seller and living in a country where unorganised sector is prevalent, it is impossible to maintain cognizance of every retailer. On the contrary, considering the existing economic conditions, a mere fine of a mere fifty thousand is inadequate to act as a deterrent for the seller. Moreover, a compensation of mere 3 lakhs is insufficient for a victim that has suffered immense physical and psychological consequences and will probably have dire prospects for further employment and the resultant social isolation. In certain cases, the acid causes the necrosis of skin which requires expensive plastic surgeries to sufficiently repair the skin tissue. It is highly unreasonable to assume that 3 lakh rupees would be sufficient for such a treatment considering that such treatments tended to drain the entire savings of a person's lifetime.

Additionally, the measures regarding medical treatment can only be implemented if the accidents are reported in a timely manner and the victims are helped by the onlookers to receive the treatment in time. But such a scenario is impeded due to the anxiety in the mind of the general public that they shall be unnecessarily harassed by the agencies should they involve themselves with the victim in any manner. Even after the physical healing is concluded, emotional healing may become an elongated process and though the Supreme Court guidelines contain provisions regarding rehabilitation, they have failed to elaborate upon the in depth provisions considering the treatment for the victim shall be forced to and any assistance the victim shall be entitled to.³⁹

(C) JUDICIAL PRONOUNCEMENTS POST 2013 CRIMINAL AMENDMENT ACT

After the Criminal Amendment Act 2013, several judgments have been passed which analyse if the changes in the legislation have been implemented, one of them being the Parivartan Kendra v Union of India and Others.⁴⁰ In this case, a young Dalit woman of Bihar was harassed by the residents of the village and threatened about mutilation of her face should she not agree to providing them sexual favours. One day, four men of the village climbed the roof

³⁸M. THILAKVATHY & R.K. MAYA, FACETS OF CONTEMPORARY HISTORY, 421 (MJP 238, 2015)

³⁹Roopali Mohan, *Hidden Faces do Not Imply Silence: Acid Attacks as Infarction of Human Rights*, 6 Nirma U.L.J. 67 (2017)

⁴⁰ Parivartan Kendra vs. Union of India & Ors (2016) 3 S.C.C. 571

of her house and poured acid over her face and body. When she was taken to the hospital, she was not provided preliminary first aid or proper medical treatment by the virtue of her being from the Dalit caste. The doctors later declared that she would require at least 15 surgeries and various treatments throughout her life to be able to function properly. In this case the mere compensation of two lakhs forty thousand provided by the Bihar government was grossly inadequate to satisfy even the immediate medical charges of the victim. The outcome of the petition remained that the Supreme Court asked the states and the Union Territories about their compensation scheme for victims. Otherwise, the case remained pending at the Supreme court.⁴¹

In another case of *Sabana Khatun v the State of West Bengal and Others*,⁴² the girl went to meet her partner's family to talk about the prospect of their relationship. His family got very enraged and forcibly poured acid down her throat. Additionally, she was stripped down and the acid was poured over her face and body. She has to be kept in extensive care for 15 days where she could only be fed saline water through the tube. The court shirked its responsibility by providing her an obligatory compensation of 3 lakh rupees. No directions were issued to save the family from the constant threats from the side of the perpetrators, neither were any steps taken regarding the rehabilitation of Sabana's family or her economic prospects.

It can be inferred that even after the Criminal Amendment Act, 2013 no substantial change can be witnessed in the lives of the acid attack survivors. The courts have started considering providing compensation to be alleviation of their responsibility, which in itself proves inadequate in more cases. There is an ever-encompassing need of effective legislations as well as their appropriate application and implementation for bringing an actual change regarding such offences.⁴³

VI. ACID VIOLENCE LEGISLATIONS IN OTHER COUNTRIES

Though there are several countries which witness the incidences of acid attack in their territories, there are a few that stand out from the rest-Bangladesh, Pakistan, Uganda and Cambodia being home to the largest number of acid attack offences which are continuously on the rise.

(A) BANGLADESH

The instances of acid violence were on a rampant rise in the country with convictions falling

⁴¹Id.

⁴² *Sabana Khatun vs. The State of West Bengal & Ors*, (2014) OnLine Cal 1977 (India).

⁴³ Nargis Yasmeen, *Acid Attack in the Back Drop of India and Criminal Amendment Act, 2013*, IJHSSI Vol. 4 Iss. 1 11, 06-12, (2015).

as far as 25 out of the 750 registered cases.⁴⁴Therefore to combat the menace that is the offence of acid attacks the government introduced the *Acid Crime Control Act (ACCA)* and the *Acid control Act (ACC)*. The highlighted provisions of the ACCA are as follows—death penalty can be awarded to the perpetrator for an acid attack.⁴⁵No mental physical or psychological harm is required to attract the attention of the section under the offence of attempting to throw acid.⁴⁶The problem of delay in the investigation process has been solved by attaching a maximum time period within which the investigation shall be completed and a provision for legal action against the negligent conduct of the investigative officer has been provided to ensure proper implementation of the earlier provisions. The Acid Controls Act provides for the regulation, restriction and control of the sale of acid in Bangladesh for which 15 member councils have been set up across the country. These councils are tasked with spreading awareness about the repercussions of the acid crime. Even with formulation of stringent laws, it is difficult to control the sale of acid in Bangladesh. Firstly, it is difficult to find the source of the acid and prosecute the owner. Secondly, it is fairly easy to provide legitimate excuse for purchase on the part of the buyer and for the seller it is extremely easy to alter the records regarding the real sale of acids especially taking into the rampant bribery that is integrated in to the fabric of the judicial system in Bangladesh.⁴⁷

(B) CAMBODIA

The Canadian Acid Survivors Charity collected data according to which 271 people have been a victim of acid attack offences in Cambodia between 1985 to 2010. The Royal Government of Cambodia had passed a legislation in 2011 which provided that death penalty may be awarded should the accused disable the victim, and in cases where the death of the victim is caused the offender may be sentenced for life imprisonment. The law also provides that no person or legal entity shall be allowed transport, import, selling and buying of acidic substances without a license or a letter issued by the concerned ministry. The law also maintains an obligation on the relevant authority to promptly bring the victim to the medical facilities and provide expense free treatment.⁴⁸

VII. CONCLUSION

Though the section of 326A and 326B are enough to cover all kinds of injuries under acid

⁴⁴ Monira Rahman, Executive Director, Acid Survivors Foundation, Bangladesh.

⁴⁵ The Acid Offences Prevention Act, 2002, sec. 4, 2002(Ban).

⁴⁶ The Acid Offences Prevention Act, 2002, sec. 6, 2002(Ban).

⁴⁷ Nargis Yasmeen, *Acid Attack in the Back Drop of India and Criminal Amendment Act, 2013*, IJHSSI Vol. 4 Iss. 1 12, 06-12, (2015).

⁴⁸ Julia Bleckner, "What Hell Feels Like: Acid Violence in Cambodia," (Nov. 19, 2014, 11:58 AM) <https://www.hrw.org/report/2019/02/04/what-hell-feels/acid-violence-cambodia>

attack offences but the parliament should consider other aspects which could work in addition to the existing ones for the proper functioning of the acid attack offences. This model has been borrowed from several legislations of UK

1. Penal punishment shall be provided to the seller and deliverer of the acidic substances who does so with the intention of causing harm.⁴⁹
2. Penal actions against sub divisional magistrates and investigative officers for non-performance of the duty of monitoring the sale of the acids and “malfeasance” shall be enforced
3. Acid regulation Committees shall be set up at District and State Levels. While the District level Committee shall be responsible for monitoring the sale, export, import and production of the acids in the market, the State Committees shall be tasked with supervising the District level committees.
4. Penal and/or pecuniary punishment shall be awarded to the buyer who does not present correct proof of identification or produces forged documents at the time of the purchase of the acidic substance.

Section 357A of the CPC provides that monetary compensation schemes shall be introduced by the state governments in addition to the fine provided under section 326A to the victim.⁵⁰ The current provisions regarding acid attack offences are extremely constricted when it comes to the quantum of damages in view of the gravity and nature of the offence. Though the amount cannot satisfactorily rehabilitate the victim, it must at least allow her to seek the best medical procedure possible which is inconceivable in the mere amount of 3 lakhs which is stated in the current provisions of the Act. The act of acid attack is sometimes considered even more heinous than the offences of rape and crime since the former offence combines the constituents of both the latter crimes-violation of both physical and mental frame of the victim.

Taking aspiration from the law of Austria, the CEDAW concluded that for the effective implementation of the law the states must initially ensure proper investigations and prohibition of any extraneous factors that might impede the investigation and lastly, the law must prosecute and punish such offenders. Companies can play an important role in the reduction of acid attack offences in the country by adopting policies for labelling and safe handling of the acids in the office premises. Another section should be added to the Evidence Act, 1972 that if the person has committed the offence of throwing acid on the victim, an

⁴⁹ Offences Against The Persons Act 1861, 24 & 25 Vict c 100, 1861 (UK).

⁵⁰ Code of Criminal Procedure, 1973, No. 2, Acts of the Parliament 1974 (357B) India

intention of causing such an act or the knowledge that such an act was likely to cause hurt or damage shall be presumed on the part of the offender. It is imperative that awareness about such heinous crimes and their consequences shall be spread among the people and the value-based education be given the status of priority in the country. The dismal conditions of the legal framework shall be improved to alleviate the difficulties faced by the women and produce a safer environment for them.
