

NOTE ON ACID ATTACK
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1. ON GENDER NEUTRAL LAW

Although acid attacks are predominantly used by men against women, there are recorded instances of women being the perpetrator and men as the victims of acid attack. While it is important that this amendment be introduced as part of the package of criminal law amendments relating to sexual assault, we believe the framing of the penal provision on acid attack must be gender neutral. Unlike rape and other sexual assaults, the physical devastation caused by an acid attack is the same for all victims regardless of their sex/ gender identity and often, so grave that it destroys the face, impairs sight, hearing, eating and other functions, sometimes permanently. While sexual motives (rejection or transgression) are known to be the motive behind most acid attacks, and that these nearly always target women, the offence needs to be defined in gender neutral language. There are cases where men and children accompanying the victim also bear the brunt of the attack. In a few cases, men are similarly targeted with acid for revenge. We need to also consider the possibility of using acid in hate crimes targeting the persons on account of their gender identity or sexual orientation.

The law on acid crimes and control has been in force for 10 years in Bangladesh, and for 2 years in Pakistan. These laws, though enacted in response to gender specific crimes, are framed in a gender neutral manner. Accounts from Bangladesh indicate that gender neutrality has helped respond to male victims who suffer collateral damage when women are targeted. Penal provisions to prosecute intentional infliction of such aggravated bodily harm cannot be prosecuted differentially on the basis of sex; and further, a woman perpetrator of the crime must be treated with as much severity as a man.

1.1 Evidence of male victims and of female perpetrators:

Reports from Pakistan, Bangladesh and Cambodia suggest that there are cases where men have been victims of acid attack, as well as cases where women have been the attackers. Similar cases from India have also being reported in the media in recent times (Please see **Annexure II**). Acid Survivors Trust International (ASTI), an international trust working in Pakistan, Cambodia, Bangladesh, Nepal and Uganda, with acid victim survivors (both men and women), carry stories of survivors, most of them women. Acid Survivor organisations in South Asia and internationally extend support to male victims as well. Gender disaggregated data is available in the web-link from Bangladesh and Pakistan below.

There is increasing evidence that men are also victims of acid attack, and that women have also been perpetrators. A 19 month old baby boy was attacked with acid by his aunt because of inheritance issues in Pakistan. Similarly, a 29 year old man was attacked by a jealous

former colleague (<http://www.acidviolence.org/index.php/survivors/>). Reports from Cambodia indicate that acid attacks are largely carried out by older wives against younger wives/ girlfriends of their husbands. The national chapters of the Acid Survivor Trust in Pakistan and Bangladesh, carry figures of male victims on their website – it is a gendered crime, but male victims exist and are reportedly increasing.

Following are a list of news articles and statistics referring to male victims and female perpetrators. Some reports suggest, this is on the rise.

- <http://www.dailymail.co.uk/news/article-2142246/Pakistan-Mystery-sudden-surge-acid-attacks-MEN-WOMEN.html>
- <http://www.acidsurvivors.org/statistics.html>
- <http://acidsurvivorspakistan.org/survivors-stories>
- <http://www.nytimes.com/2001/07/22/world/vengeance-destroys-faces-and-souls-in-cambodia.html>
- <http://dawn.com/2012/04/28/corroding-lives/>

In **India** too, there are reports of men being attacked with acid. Following is an illustrative list of cases from India showing women as perpetrators of attack and men as victims. Please see Annexure II for details of these cases.

- <http://www.indianexpress.com/news/woman-throws-chemical-on-commuter-flees-with-purse/1063215/>
- <http://www.ndtv.com/article/cities/daughter-throws-acid-on-mother-s-face-over-family-dispute-264710>
- <http://www.ndtv.com/article/cities/woman-throws-acid-on-lover-s-face-188652>
- <http://www.ndtv.com/article/cities/woman-throws-acid-on-three-siblings-over-property-dispute-57386>
- http://articles.timesofindia.indiatimes.com/2011-09-05/delhi/30115437_1_vineet-acid-bottle-pcr-van
- <http://www.indianexpress.com/news/acid-attack-victim-15-dies-outside-addl-cp-s-office/970048/2>
- http://articles.timesofindia.indiatimes.com/2012-07-30/mumbai/32940995_1_acid-attack-doodhnath-verma-basmati-devi

1.2 The legal provisions in other countries are gender neutral:

Pakistan and Bangladesh have specific statues on acid crimes. In Bangladesh, the Acid Control Act of 2002 and the Acid Crime Control Act of 2002 are gender neutral, i.e. the attacker and the victim are ‘person’ and not him/her in specific. Similarly, Pakistan’s Acid Control and Acid Crime Prevention Act, 2010 provisions are gender neutral (http://www.na.gov.pk/uploads/documents/1302318969_628.pdf).

Pakistan’s penal code (Macaulay’s colonial code as in India) introduces the provision under section 326A under the classification of ‘hurt’ and ‘grievous hurt’. The preamble of the Pakistan amendment bill recognises the need to prevent and protect women and children, but

the provisions are gender neutral. It is used for male victims too, few though they may be. Further, the Act also states that the Court can direct the attacker, on an application by the victim, to pay monetary relief to meet the expenses incurred by the victim, which shall not be limited to loss of earning and medical expenses.

2. GREVIOUS HURT AS FOCUS OF THE OFFENCE, RATHER THAN ACID

An interesting difference between the provision in the Pakistan law and India's proposed CLAB, 2012 is that the Pakistan provision covers a injury caused by a wide range of substances that have the same effect: corrosive substance, acid, explosive or arsenic substance so as to not limit it to any one substance that is popular today, but may be replaced at a future date by a substance that is similarly '*deleterious to the human body*'. That is the operative portion that seems important here - whatever the substance be, if the impact is *deleterious to the human body*, it needs similar redress.

The Justice Verma Committee on Amendments to Criminal Law (GoI, 2013) has commented extensively on acid attack and has also proposed a formulation of the provision addressing the same. One of the notable features of the formulation proposed by the Committee is that the primary focus of the offence is on causing damage, deformity, maiming or disfiguration to the body, and not the means through which is done. The formulation recommended by the Committee uses the phrase, *by using any other means to achieve a similar purpose and effect*, (Page 435, Verma Committee Report) which considerably expands the reach of the provision, while being primarily concerned with criminalizing the infliction of harm caused by acid.

Weapons other than acid have been used to destroy the faces of young women have been used and will be used even if acid sale is controlled. News reports indicated serial attacks in New Delhi by motorbike borne blade-slashers who attacked women's faces.

<http://www.hindustantimes.com/India-news/NewDelhi/Slashers-attack-girl-in-Mongolpuri/Article1-680634.aspx>

3. CRIMINAL JUSTICE TO INCLUDE REPARATION

3.1 Medical treatment, support services and reparation for full recovery of the victim:

In addition to making acid attack an offence, criminal law also needs to address the need for reparation to the victim. Reparation goes beyond monetary compensation and includes the provision of support to facilitate the victim's full recovery and subsequent reintegration in the society. The need for medical treatment is immediate and the victim requires long term counselling and reparative therapy to deal with the physical harm caused and its traumatizing consequences. The CLAB 2012 provides for a maximum fine of Rs. 10 lacs to be imposed on the accused if convicted. This amount may not be sufficient in all cases to meet with all the needs of the victim. We feel that the law must not put a limit to the amount of compensation

payable to the victim and it should be left to the discretion of the court to compute that amount taking into consideration relevant details. We therefore support the formulation proposed by the Justice Verma Committee in its report, which states that the accused shall be *liable to pay compensation to the victim, adequate to meet at least the medical expenses incurred by the victim.*

Further, we strongly feel that providing compensation to the victim, which is only one part of what reparation demands, must be the responsibility of the State and must be paid immediately after the filing of the FIR. In the interest of full recovery of the victim and restorative justice, it is important that the compensation does not depend on the outcome or the duration of the legal process. Securing conviction for acid crimes can be a challenging task. Unlike rape, there is no evidence and sometimes no eye witness to discharge the burden of beyond reasonable doubt. Justice therefore cannot be narrowly limited to punitive action upon conviction for a crime that scars and debilitates the victim for life in more ways than one. If the accused is convicted, the State has the option of recovering the amount paid to the victim from the accused.

3.2 Why 357A is better for securing compensation to the victim.

1. Under Section 357A, compensation is payable out of funds created by the State Government while under Section 357, it is payable out of fine recovered from convict.
2. Under Section 357A, compensation is payable even if offender is not traced or identified but under Section 357, it is payable only upon conviction of offender.
3. Under Section 357A, compensation is payable in addition to compensation awarded under Section 357 but under Section 357, there is no such provision.
4. Section 357A is a mandatory provision for compensation whereas Section 357 is discretionary.
5. Under Section 357A, order for compensation is made by District Legal Service Authority or State Legal Service Authority and under Section 357 it is by the Court.
6. Section 357A empowers District Legal Service Authority or State Legal Service Authority to make order for interim relief but under Section 357, there is no such provision.
7. Under Section 357A, no criteria is specified for dependents of victim entitled to compensation but Section 357 only dependents or heirs of victim who are entitled under Fatal Accidents Act can claim compensation.

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