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Vitriolage: The Curse of Human Origin

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ABSTRACT

Acid attacks have seen an alarming growth in India over the last decade. The overwhelming majority of the victims are women, and many of them are in the prime of life. While these attacks can be attributed to various factors such as the social weakness of women in a male-dominated society, the situation is exacerbated by the general neglect of the lawmakers. Further, as this offence is bailable in certain situations, the punishment does not act as a sufficient deterrent in most cases. Hundreds of such incidents occur across India every year and many go unreported. In many of the reported cases, the accused is never apprehended. The present article is to stress over the heinous crime of vitriolage with its various impacts over human society and the current legal scenario in India.

Keywords: Vitriolage, Corrosive, Scars, Grievous, Burns.

1. INTRODUCTION

Acid throwing, also called an acid attack or vitriolage, is a form of violent assault (Karmakar, 2003). It is defined as the act of throwing acid on to the body of a person "with the intention of injuring or disfiguring her out of jealousy or revenge" resulting in burning and dissolution of the victim's skin, connective tissue and even bones (Vij 2003; Swanson 2002). The long term consequences of these attacks include blindness and permanent scarring of the face and body, along with far-reaching social, psychological, and economic difficulties (Bandyopadhyay et al., 2003; Bahl et al., 2004). Acid attacks have been documented in many parts of the world but the number of such incidences is on the rise in Bangladesh, India, Pakistan, Afghanistan and Cambodia (Chavis & Meena 2003; Mydans 2001). With reference to the Indian subcontinent, statistics reveal that Bangladesh has the highest number of acid attacks reported

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annually. Between 1999 and 2010 there were about 2,500 reported cases of acid attacks in the country. A peculiar feature of these attacks is that 80% of the reported cases in the subcontinent are on women and close to 70% of these women are under 18 years of age.

In almost all cases of vitriolage, concentrated acid is thrown at the face of the victim. Acid, being a highly corrosive substance, causes burning of the facial tissue in the affected areas (Welsh, 2009). Less severe effects of acid contact with the skin would include redness, permanent hair loss and burning. In higher concentrations, it leads to permanent scarring, disfigurement, destruction of vital body organs, pulmonary disorders, and even death. At times the acid eats through the fat and muscle under the skin and dissolves the bones. Eyelids, lips, and even the nose can burn off completely. An immediate danger is respiratory failure, as the nostrils may close and the neck may swell disproportionately, and the possibility of inhalation of acid vapours (Dasgupta, 2008). The physical injury is irreparable and becomes a breeding ground for other dangerous diseases because of the risk of infection in the resultant dead tissue.

The motivation for acid attacks on women can be attributed to various factors and feelings. Some perpetrators use acid to defile and debase the victim's body in an expression of conscious anger, in an attempt to humiliate them. Others nourish their deep seated feelings of insecurity by expressing authority and power by throwing acid on women, in an effort to exhibit their permanent control over the woman's fate. Alternatively, it can be said that acid attacks are a method of intimidation that men use to keep women in a state of fear.

2. LEGAL ASPECTS

About 80% of all acid attack victims in the Indian subcontinent are women. In light of this fact, it would be foolhardy to suggest that acid attacks are not gender-related. The Law Commission of India has stated that the majority of acid attack victims are women: "particularly young women for spurning suitors, for rejecting proposals of marriage, for denying dowry etc. The attacker cannot bear the fact that he has been rejected and seeks to destroy the body of the woman who has dared to stand up to him." The 226th Report of the Law Commission of India adds that acid attacks "are used as a weapon to silence and control women by destroying what is constructed as the primary constituent of her identity."

Perhaps it is because acid attacks are not considered to be very frequent in India that there is no specific legislation on the subject yet. The current legal provisions under which the accused is charged are all under the Indian Penal Code, 1860 (IPC). They are as follows:

- Section 320 (Grievous hurt)
- Section 322 (Voluntarily causing grievous hurt)
- Section 325 (Punishment for voluntarily causing grievous hurt)
- Section 326 (Voluntarily causing grievous hurt by dangerous weapons or means)

A perpetrator charged under Section 325 may be imprisoned for a term of up to seven years and also fined. Under Section 326, the punishment is a bit harsher. The perpetrator may be imprisoned for life, or for a term extending to ten years, and fined. What is more disturbing is the fact that an offender booked under Section 325 can get bail under the Code of Criminal Procedure 1973. Offences booked under Section 326 however are non-bailable. The Law Commission has vehemently criticized the definition of "grievous hurt" given in Section 320, as its ambit is not well defined. It neither accounts for grave injuries deliberately inflicted on important parts of a woman's body nor covers attacks whereby multiple types of grievous hurt are inflicted, as is the case with acid attacks.

Bearing in mind that most acid attack victims are women, having a special law for them would not be inconsistent with the Indian Constitution. Therefore, the introduction of specific legislation with regard to acid attacks becomes imperative. The 226th Report of the Law Commission of India has suggested the introduction of Section 326A into the IPC to deal specifically with acid attacks; namely:

"326 A. (i) Hurt by acid attack – Whoever burns or maims or disfigures or disables any part or partsof 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.

(ii) Intentionally throwing or administering acid – Whoever throws acid on, or administers acid to, any person with the intention of causing burns 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 Lakh."

The Law Commission has also suggested the addition of Section 114B to the Indian EvidenceAct, 1872. It reads:

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"Section 114B. 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 an act is likely to cause such hurt or injury as is mentioned in Section 326A of the Indian Penal Code."

Amendments proposed in the Indian Evidence Act:
Insertion of new Section 114B Presumption as to acid attack:
"When the question is whether a person has committed the act of throwing acid on the woman the Court shall presume, having regard to the circumstances of the case and the statement of the victim, that such person had thrown acid on the woman." The addition of this section will speed up the trial process by doing away with the onus of proving *mens rea*, which lies on the prosecution. The National Commission for Women (NCW) has also suggested the inclusion of Section 357A in the Code of Criminal Procedure 1973 (Cr.P.C.) for the purpose of defraying of expenses, in order to deal with the matter of compensation better. The NCW has submitted another significant proposal of setting up a National Acid Attack Victims' Assistance Board. It has clearly set out the structure and working mechanism of this Board. It provides for complete medical treatment as well as legal advice to the victims. It strongly campaigns for the rehabilitation of these victims and for them to be provided with all the financial support possible.

Finally, one of the most efficacious ways of curbing acid attacks would be to control the sale of acid over the counter. As stated earlier, at present acid is abundantly and cheaply available in Indian markets. The Law Commission has observed that there are no regular inspections of stocks of acid sales as there are for explosives. It would be prudent to appoint government officials for the purpose of keeping track of acid sales and ensuring that it is not purchased for purposes other than scientific and academic research. The government could set up a licensing authority so that only those who have the requisite clearance from the government for having access to acid can purchase it. This would hopefully lead to fewer acid attacks in the near future.

On July 18, 2013, the Supreme Court cracked down on the sale of acid, currently available over the counter, to try and put an end to the regular and horrific attacks on women across the country that lead to disfigurement and death. Among the latest of these incidents was one in Mumbai where an unknown attacker hurled acid at a 23-year-old woman as she got off a suburban train on 2 May and died of her injuries a month later. Anyone buying acid will need to furnish government-approved identity proof and state the reason for the purchase, which has to be recorded by the seller, the court said. The court said compensation by state governments was "grossly inadequate" and set this at Rs.3 lakh to facilitate immediate medical attention and relief. Out of this, Rs.1 lakh will be paid to the victim within 15 days of the incident and the rest will be paid "as expeditiously as possible" and possibly within two months, it added. The Court will resume hearings into the matter after four months when it will focus on the issue of rehabilitation of acid attack victims. Recognizing that the chemical needs to be used at educational institutions, research laboratories, hospitals and government departments, the bench issued guidelines to ensure accountability. All such institutions will now have to maintain a record with the concerned sub-divisional magistrate, with a designated official accountable for possession and safekeeping of acids. Anyone who accesses such storage areas will have to undergo compulsory checking. To harmonize the varying standards in different states, the court relied on the "model rules" submitted by the solicitor general in the previous hearing. The rules detail the kinds of acid that can be sold, concentration levels, the process of and conditions for issuing licences, procurement by individuals and institutions. The court has given the states three months to implement the rules.

3. DISCUSSION

Considering the impact and increasing incidence, the crime appears more atrocious than at first glance. It is a premeditated crime – one which requires tremendous ill-will on the part of the perpetrator – and therefore it should be punished severely. In addition to this, establishing a sound victim compensation scheme in the country for such crimes is vital for the provision of justice. Here therefore are some suggestions:

- For the police to conduct investigations in acid attacks correctly and thoroughly with the use of specially trained gender-sensitive police officers.
- For the respondent to make available immediate and continuing medical facilities to all victims, where doctors and medical staff are trained to deal with the injuries properly.
- To strictly control the production, distribution and storage of toxic acids and regulate the sale of same.
- For the judiciary to conduct speedy trials and issue directions to process compensation.
- To punish the perpetrators appropriately, with a minimum punishment of 10 years imprisonment irrespective of the injury caused and not grant bail in similar cases.
- Imposition of a fine should not be an alternative to imprisonment.

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4. CONCLUSION

An acid attack is more serious than rape because it destroys both physical and mental health. Hence in our view of criminal jurisprudence, acid attacks would appear to be a worse offence than rape and should carry a greater penalty. It is only through a revival of cultural values, moral regeneration, the strengthening of holistic education, and the use of publicity that a change can be made in society. These social evils and burning gender-sensitive issues must be dramatically minimized if not totally eradicated. It is time that society, more importantly the male members of society, played a more proactive role in ensuring the safety of women. The media 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 firmer stand against acid attacks. It is our sincere hope that the dismal condition of the legal apparatus with regard to acid attacks will be improved, so that the victims' problems are recognized and Indian society becomes a safer place for women.

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